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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 177**

**LOCAL GOVERNMENT**

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

*Made* - - - - *19th May 2000*

*Coming into operation* *1st August 2000*

The Department of the Environment in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972<sup>(1)</sup> and now vested in it<sup>(2)</sup>, being a Department designated for the purposes of Articles 164(3) of the Pensions (Northern Ireland) Order 1995<sup>(3)</sup>, in exercise of the powers conferred by Article 164 of that Order and of every other power enabling it in that behalf and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:

**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.

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(1) [S.I. 1972/1073 \(N.I. 10\)](#); Article 14 was amended by Article 12 of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 ([S.I. 1990/1509 \(N.I. 13\)](#))

(2) [S.R. & O. \(N.I.\) 1973 No. 504](#) Article 7(1); [S.I. 1976/424 \(N.I. 6\)](#)

(3) [S.I. 1995/3213 \(N.I. 22\)](#)

- (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(4).

#### **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

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

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(5) 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 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<sup>(6)</sup> 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.

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

### **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.

(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<sup>(7)</sup>; and
- (f) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997<sup>(8)</sup>.

(10) In this regulation—

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

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<sup>(7)</sup> 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)

<sup>(8)</sup> S.I. 1997/1772 (N.I. 15)

- (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.

(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<sup>(9)</sup>;
- (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<sup>(10)</sup>; 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.

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<sup>(9)</sup> S.I. 1984/1821 (N.I. 11)

<sup>(10)</sup> 1950 c. 33 (N.I.)

## ***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.

(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<sup>(11)</sup>, or
- (b) as a juror at an inquest under the Coroners Act (Northern Ireland) 1959<sup>(12)</sup>,

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
- (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—

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<sup>(11)</sup> S.I. 1996/1141 (N.I. 6)

<sup>(12)</sup> 1959 c. 15 (N.I.)

- (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<sup>(13)</sup>.

### **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<sup>(14)</sup>, equals or exceeds the remuneration he

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<sup>(13)</sup> S.I. 1992 No. 807 (N.I. 5)

<sup>(14)</sup> S.I. 1953/197

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
- (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<sup>(15)</sup>; 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<sup>(16)</sup> (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<sup>(17)</sup>;

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

- (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—

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<sup>(16)</sup> 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)

<sup>(17)</sup> S.I. 1993/3016

- (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<sup>(18)</sup> (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—
- (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(19) 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<sup>(20)</sup> (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
    - (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—

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<sup>(20)</sup> 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

- (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<sup>(21)</sup> (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—

- (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<sup>(22)</sup>, 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.

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(21) 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

(22) S.I. 1953/197

### ***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(23).

### ***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

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(23) 1993 c. 49

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 Retirement pension</i>		<i>Retirement grant</i>
	<i>Male</i>	<i>Female</i>	<i>Both sexes</i>
0	0	0	0
1	8	7	2
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<sup>(24)</sup> or section 130 of the Social Security Administration (Northern Ireland) Act 1992<sup>(25)</sup> 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—

- (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<sup>(26)</sup>; or
  - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-Participation — Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960<sup>(27)</sup> (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.

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<sup>(24)</sup> S.I. 1975/1503 (N.I. 15); Article 23 was repealed by the Social Security (Consequential Provisions) (Northern Ireland) Act (1992 c. 9)

<sup>(25)</sup> 1992 c. 8

<sup>(26)</sup> 1966 c. 6 (N.I.); section 55(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28

<sup>(27)</sup> S.R. & O. (N.I.) 1960 No. 181

## **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.

## **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<sup>(28)</sup> 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

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(28) 1993 c. 49

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<sup>(29)</sup>) 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.

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(29) 1971 c. 35 (N.I.)

### **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,
- (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<sup>(30)</sup> 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,

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

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
- (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<sup>(31)</sup> (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<sup>(32)</sup> 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—

- (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.

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<sup>(31)</sup> 1988 c. 1; section 599 was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 11, 18

<sup>(32)</sup> 1967 c. 5 (N.I.)

(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)(33) 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,
- (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)(34) 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—

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(34) 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) 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—
- (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(35) 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<sup>(36)</sup> 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,
  - (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<sup>(37)</sup>;
- (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

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<sup>(36)</sup> S.I. 1995/3213 (N.I. 22)

<sup>(37)</sup> 1993 c. 49

- (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<sup>(38)</sup> and the Pensions Increase Order (Northern Ireland) 1974<sup>(39)</sup>,

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<sup>(40)</sup>, 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),

<sup>(38)</sup> 1971 c. 35 (N.I.)

<sup>(39)</sup> 1974/1267 (N.I. 2)

<sup>(40)</sup> S.R. 1996 No. 619

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—

- (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(41) (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—
- (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<sup>(42)</sup>;
- (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.

#### **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<sup>(43)</sup> (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—

- (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—

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<sup>(43)</sup> 1986 c. 60

“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<sup>(44)</sup>.

## 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

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<sup>(44)</sup> [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

the statement of such accounts duly signed by him, to the Department within 14 days after completion of the audit.

(4) The Department on receipt of the auditor's report and the audited copies of the statement of accounts shall send a copy of such report and statement of accounts to the Secretary of the Committee who shall—

- (a) lay such copy of the report and statement of accounts before the next meeting of the Committee; and
- (b) forward a copy of such report and statement of accounts as aforesaid to each employing authority.

(5) The local government auditor may require—

- (a) the production before him of all books and documents of the Committee which he thinks necessary for the purpose of the audit;
- (b) any person holding or accountable for any such book or document to appear before him at the audit or any adjournment thereof; and
- (c) any such person to make and sign a declaration as to the correctness of the book or document.

(6) The Committee shall annually at such time as the Department may direct make to it a report of 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)(**45**) 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

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

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;
- (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<sup>(46)</sup> 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—

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<sup>(46)</sup> 1911 c. 28; 1920 c. 75; 1939 c. 21; 1989 c. 6.

- (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.

### *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<sup>(47)</sup> (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<sup>(48)</sup> ("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<sup>(49)</sup> 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<sup>(50)</sup>, 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.

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<sup>(47)</sup> 1993 c. 49

<sup>(48)</sup> 1971 c. 35 (N.I.)

<sup>(49)</sup> S.I. 1974/1267 (N.I. 2)

<sup>(50)</sup> S.R. 1985 No. 259



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

## 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

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE A1

## Regulation A2

**General Definitions**

- “The Act of 1865” means the Union Officers' Superannuation (Ireland) Act 1865**(51)**;
- “The Act of 1869” means the Local Officers' Superannuation Act (Ireland) 1869**(52)**;
- “The Act of 1875” means the County Surveyors' Superannuation Act (Ireland) 1875**(53)**;
- “The Act of 1919” means the Local Government (Ireland) Act 1919**(54)**;
- “The Act of 1937” means the Local Government Superannuation Act 1937**(55)** or the Local Government Superannuation (Scotland) Act 1937**(56)**;
- “The Act of 1943” means the Belfast Corporation Act (Northern Ireland) 1943**(57)**;
- “The Act of 1950” means the Local Government (Superannuation) Act (Northern Ireland) 1950**(58)**;
- “The Act of 1953” means the Local Government Superannuation Act 1953**(59)**;
- “The Acts of 1937 to 1953” means the Act of 1937 and the Act of 1953;
- “The Act of 1959” means the National Insurance Act (Northern Ireland) 1959**(60)**;
- “The Act of 1972” means the Superannuation Act 1972**(61)**;
- “The Act of 1975” means the Social Security (Northern Ireland) Act 1975**(62)**;
- “The 1950 regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1950**(63)**;
- “The 1962 regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1962**(64)**;
- “The 1981 regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981**(65)**;
- “The 1992 regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1992**(66)**;
- “Actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries;
- “Added period payment” means a payment made for the purposes of regulation C9, regulation C4 or C5 of the 1992 regulations, regulation 43 or 49 of the 1981 regulations, and includes any additional years which, having been granted thereunder or under any similar provision contained in any other enactment or scheme or any similar provision in a local Act scheme;
- “Added years” means an additional period which a person has become entitled to count as membership by virtue of—

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**(51)** 1865 c. 26

**(52)** 1869 c. 79

**(53)** 1875 c. 56

**(54)** 1919 c. 19

**(55)** 1937 c. 68

**(56)** 1937 c. 69

**(57)** 1943 c. (i) (N.I.)

**(58)** 1950 c. 10 (N.I.)

**(59)** 1953 c. 25

**(60)** 1959 c. 21 (N.I.)

**(61)** 1972 c. 11

**(62)** 1975 c. 15

**(63)** S.R. & O. (N.I.) 1950 No. 103 (p. 423)

**(64)** S.R. & O. (N.I.) 1962 No. 210

**(65)** S.R. 1981 No. 96; amended by other instruments listed in Schedule 21 to the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 547)

**(66)** S.R. 1992 No. 547; amended by other instruments listed in Schedule M3 to these Regulations.

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- (a) paragraph 2(b) of Schedule C5 so far as it applies to the payments mentioned in paragraph 1(4) of that Schedule;
- (b) regulation D6(2) of the 1992 regulations;
- (c) regulation 43 or 49 of the 1981 regulations;
- (d) any other period allowed under any similar provision contained in any other enactment or scheme, which a member has become entitled to count as membership under or by virtue of any enactment by a member in relation to any such non-local government employment such as is mentioned in regulation 69 of the 1981 regulations;

“Additional contributory payment” means a payment made under—

- (a) paragraph 1(3) of Schedule C5 as it applies in relation to the payments mentioned in paragraph 1(4) of that Schedule; or
- (b) regulation 38 of the 1981 regulations or regulation C10(2) of the 1992 regulations.

“Additional voluntary contributions provision” and “Additional voluntary contributions scheme” have the meanings given in regulation C24;

“Admission agreement” has the meaning given in regulation B6;

“Admission agreement employee” has the meaning given in regulation B6(3);

“Appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with regulations made under section 3 of the Pension Schemes (Northern Ireland) Act 1993<sup>(67)</sup>;

“Appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993;

“Approved non-local government employment” means employment in which a person participates in an approved non-local government scheme;

“Approved non-local government scheme” means a non-local government scheme—

- (a) which is approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988<sup>(68)</sup>, or
- (b) which is approved by the Commissioners of Inland Revenue for the purposes of these regulations;

“Assembly” means the Northern Ireland Assembly;

“Base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

“Belfast Corporation” means the council of the former county borough of Belfast;

“The Belfast Corporation Superannuation Scheme” means the superannuation scheme made by the Belfast Corporation under section 5A of the Act of 1950, on 4th August 1964 or 20th April 1951 (both as amended) as the circumstances require;

“Child” has the meaning given in regulation G1;

“The commencement date” has the meaning given in regulation A1;

“The Committee” means the Northern Ireland Local Government Officers' Superannuation Committee established under section 1 of the Act of 1950;

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<sup>(67)</sup> 1993 c. 49

<sup>(68)</sup> 1988 c. 1

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“Contracted-out employment” shall be construed in accordance with section 4 of the Pension Schemes (Northern Ireland) Act 1993 and “contracted-out”, in relation to a scheme, shall be construed in accordance with that section;

“The contractual hours” has the meaning given in regulation B3(4);

“The contractual weeks” has the meaning given in regulation B3(4);

“Contributory employee” means a person who was entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937;

“Death grant” means a death grant payable under Part E;

“The Department” means the Department of the Environment;

“Disqualifying break of service” means a continuous period of 12 months or longer during no part of which was the person concerned a member, a pensionable employee, or a contributory employee;

“Earnings factors” means the earnings factors referred to in section 12 of the Pension Schemes (Northern Ireland) Act 1993;

“Eligible child” has the meaning given in regulation G2;

“Employee” has the meaning given in regulation B1(2);

“Employer’s contribution” means a sum payable under regulation L9(1);

“Employing authority” has the meaning given in regulation B15;

“Employment” shall be construed as including office;

“Enactment” shall be construed as including any instrument made under an Act;

“Equivalent pension benefits” has the meaning given by sections 55(1)(a) and 56(1) of the Insurance Act;

“Existing officer” means a person who was employed by a local authority immediately before 1st April 1950 in one or more than one office pensionable under—

- (a) any of the enactments set out in the first column of the second Schedule to the Act of 1950; or
- (b) any such enactment as extended or applied by any of the enactments set out in the second column of the said Schedule; or
- (c) any local Act which made provision for the superannuation of any officers of a local authority otherwise than by means of a scheme involving the payment of contributions by those officers,

and includes also any officer of the Northern Ireland Fire Authority constituted under the Fire Services (Amendment) Act (Northern Ireland) 1950<sup>(69)</sup>, who before being appointed such an officer was an officer of a fire authority constituted under the Fire Services Act (Northern Ireland) 1947<sup>(70)</sup>;

“Fees” includes other payments in the nature of fees;

“The former regulations” means the 1992 regulations, or as the circumstances require, the 1981 regulations, the 1962 regulations or the 1950 regulations and shall be deemed also, in the case of a member who immediately before 1st April 1973 was subject to the Belfast Corporation Superannuation Scheme to include the provisions of that Scheme;

“The fund” means the superannuation fund established under the 1950 regulations;

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<sup>(69)</sup> 1950 c. 4 (N.I.)

<sup>(70)</sup> 1947 c. 10 (N.I.)

“Government department” has the meaning given in section 176 of the Pension Schemes (Northern Ireland) Act 1993;

“Guaranteed minimum pension” means a guaranteed minimum pension under sections 10 and 13 of the Pension Schemes(Northern Ireland) Act 1993 (minimum pensions for earners, widows and widowers), so far as it is attributable to earnings factors for the tax year 1988-89 or for subsequent tax years, increased in accordance with the requirements of section 105 of that Act (annual increase of guaranteed minimum pension);

“Ill-health retirement grant” has the meaning given in regulation D8;

“The Great Britain Acts” means the National Insurance Acts 1965 to 1974<sup>(71)</sup>;

“The Insurance Act” means the National Insurance Act (Northern Ireland) 1966<sup>(72)</sup>;

“Insurance code” means the Insurance Act, the Great Britain Acts or the Isle of Man Act;

“Interchange rules” means rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948<sup>(73)</sup> (pensions of persons transferring to different employment) and any similar instrument made, or having effect as if made, under any other Act which makes similar provision;

“The Isle of Man Act” means the National Insurance (Isle of Man) Act 1961 (an Act of Tynwald);

“Judicially separated” means judicially separated in circumstances in which the husband is not required by the order of any competent court to contribute to the support of his wife, and any such reference and any similar reference to judicial separation includes a reference to separation by an order made under the Domestic Proceedings (Northern Ireland) Order 1980<sup>(74)</sup>, having by virtue of that Order the effect of a decree of judicial separation;

“Latest retirement age” and “LRD” have the meanings given in regulation B2;

“LGPS employer” has the meaning given in regulation B1 (and must be construed in accordance with regulation B6(3));

“Local Act” includes a provisional order confirmed by Parliament;

“local Act scheme” has—

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

“Local Authority” has the meaning assigned to it by Article 2 of the Order of 1972 and shall include the Northern Ireland Housing Executive;

“Local Act contributor” has the same meaning as in the Act of 1937 and includes a person who, although not in the employment of a local Act authority, was entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme;

“Local government employment” means—

- (a) in relation to any time before 1st March 1993, employment by virtue of which the person employed was, or is deemed to have been, a contributory employee or a local Act contributor; and

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<sup>(71)</sup> 1965 c. 51; 1966 c. 6; 1967 c. 73; 1969 c. 4; 1969 c. 44; 1971 c. 50; 1972 c. 57; 1974 c. 14

<sup>(72)</sup> 1966 c. 6 (N.I.)

<sup>(73)</sup> 1948 c. 33

<sup>(74)</sup> S.I. 1980/563 (N.I. 5)

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- (b) in relation to any time after 28th February 1993, employment by virtue of which the person employed is or has been, or is or has been deemed to be, a pensionable employee (within the meaning of the 1992 regulations) or a local Act contributor.

“Manual worker” is an employee who is not an officer;

“Member” shall be construed in accordance with Part B;

“Non-local government scheme” means an occupational pension scheme or other arrangements for superannuation, not being—

- (a) the superannuation scheme provided for in regulations made under the Act of 1950; or
- (b) the superannuation scheme provided in regulations for the time being in force under Article 9 of the Order of 1972.

“Non-participating employment” has the same meaning as in section 55 of the Insurance Act or the corresponding provision of the Great Britain Acts or the Isle of Man Act;

“Normal retirement age” and “NRD” have the meanings given in regulation C2(1);

“Occupational pension scheme” means an occupational pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993 other than—

- (a) a retirement benefits scheme (as defined in section 611 of the Income and Corporation Taxes Act 1988) which is not of a description mentioned in section 596(1)(a), (b) or (c) of that Act,
- (b) an additional voluntary contributions scheme,
- (c) an appropriate policy,
- (d) a personal pension scheme, or
- (e) a self-employed pension arrangement;

“Officer” means an employee whose duties are wholly or mainly administrative, professional, technical or clerical;

“The Order of 1972” means the Superannuation (Northern Ireland) Order 1972(75);

“Part-time employee” has the meaning given in regulation B3(3) and “part-time” shall be construed accordingly;

“Payment in lieu of contributions” means a payment made in lieu of contributions under the Act of 1959, the Insurance Act, the Great Britain Acts or the Isle of Man Act;

“Pensionable employee” has the same meaning as in the 1992 regulations;

“Pensionable remuneration” shall be construed in accordance with regulation D1;

“The Pensions Order” means the Pensions (Northern Ireland) Order 1995(76);

“Personal pension scheme” means a personal pension scheme (within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993 which has been approved by the Commissioners of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 or provisionally approved under section 655(5) of that Act;

“Preserved benefits” has the meaning given in regulation D11, but also includes benefits to which a person—

- (a) was entitled immediately before 1st March 1993 by virtue of regulation 19 of the 1981 regulations, or
- (b) was entitled immediately before the commencement date by virtue of regulation E2(1) (c) of the 1992 regulations,

(75) S.I. 1972/1073 (N.I. 10)

(76) S.I. 1995/3213 (N.I. 22)



and which have not yet become payable;

“Reckonable service” has the same meaning as in Part D of the 1992 regulations;

“The reference banks” means the seven largest institutions for the time being which—

- (a) are authorised by the Bank of England under the Banking Act 1987<sup>(77)</sup>;
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
- (c) quote a base rate in sterling;

and for the purpose of this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in Article 4 of the Companies (Northern Ireland) Order 1986<sup>(78)</sup>), as shown in the audited end-of-year accounts last published before that time;

“Relevant absence” and “relevant contribution period” have the meanings given by regulation C7;

“Remuneration” has the meaning given in regulation C1;

“Retirement annuity contract” has the meaning given in regulation K1;

“Retirement grant” means a retirement grant payable under Part D;

“Retirement pension” means a retirement pension payable under Part D;

“The Scheme” has the meaning given in regulation B1;

“Scheme managers” means—

- (a) in relation to a statutory scheme, the Government department concerned or police or fire authority administering the scheme; and
- (b) in any other case, the expression means the person responsible for the management of a non-local government scheme;

“Self-employed pension arrangement” has the same meaning as in section 176 of the Pension Schemes (Northern Ireland) Act 1993;

“Service”—

- (a) in Part K has the meaning given by regulation K1, and
- (b) elsewhere, means service rendered to a LGPS employer,

and service rendered by an employee of a LGPS employer whose services are placed at the disposal of a Minister of the Crown or a government department in pursuance of any enactment is to be treated as service rendered to the LGPS employer;

“Spouse’s pension” means a spouse’s pension payable under Part F and “widow’s pension” and “widower’s pension” shall be construed accordingly;

“Standard retirement pension” and “standard retirement grant” have the meanings given in regulation D2;

“State pensionable age” means—

- (a) in the case of a man, 65, and
- (b) in the case of a woman, 60;

“Statutory pension entitlement” has the meaning given in regulation D3;

“Statutory scheme” means a scheme established under Article 3 of the Order of 1972 or other arrangements for superannuation maintained in pursuance of regulations made, or having effect

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<sup>(77)</sup> 1987 c. 22

<sup>(78)</sup> S.I. 1986/1032 (N.I. 6); Articles 4 and 4A were substituted for Article 4 by Article 62(1) of S.I. 1990/1504 (N.I. 10)

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as if made, under Articles 11 and 12 of that Order or section 25 of the Police Act (Northern Ireland) 1970<sup>(79)</sup> or a Fireman's Pension Scheme made under Article 10 of the Fire Services (Northern Ireland) Order 1984<sup>(80)</sup>;

"Superannuable membership" has the meaning given in paragraph 1 of Schedule B1;

"Tax year" means the 12 months beginning with 6th April in any year;

"Total period of membership" has the meaning given in regulation B13;

"Trade dispute" has the meaning given in regulation C7(9);

"The Transitional Provisions Regulations" means The National Insurance (Non-Participation — Transitional Provisions) (Northern Ireland) Regulations 1975<sup>(81)</sup>;

"Variable-time employee" has the meaning given in regulation B3(3) and "variable-time" shall be construed accordingly;

"War service" shall be construed in accordance with regulation F2 of the 1992 regulations;

"Whole-time employee" has the meaning given in regulation B3(3) and "whole-time" shall be construed accordingly.

## SCHEDULE B1

Regulation B13(2)

### Relevance of membership for purposes of scheme

#### Part I

#### Exclusion of Certain Membership for Certain Purposes

##### Disregard of "superannuable membership" in determining entitlement to benefits

1.—(1) Subject to sub-paragraph (2), for the purpose of determining entitlement to any benefit, no account shall be taken of any kind of superannuable membership, that is to say—

- (a) any period of added years,
- (b) any additional period of membership which counts as such by virtue of regulation B6(6), B15, or C9 of these regulations or regulations D4 to D7 or D13 of the 1992 regulations,
- (c) any period which by virtue of interchange rules became reckonable under former regulations only for the purpose of calculating the amount of benefits, or
- (d) subject to sub-paragraph (2), any period of membership which counts as such by virtue of regulation K15(1)(a) (transfer values).

(2) Such membership as is mentioned in paragraph (1)(d) is to be taken into account for the purpose of determining entitlement under regulation D18.

##### Death grants

2. The period of membership mentioned in paragraphs (2) and (3) of regulation E5 does not include a period in respect of which—

<sup>(79)</sup> 1970 c. 9 (N.I.)

<sup>(80)</sup> S.I. 1984/1821 (N.I. 11)

<sup>(81)</sup> S.R.1975 No. 48 as amended by the National Insurance(Non-participation — Transfer of Functions) (Transitional) Regulations (Northern Ireland) 1983 (S.R. 1983 No. 16)

- (a) a return of contributions has been made, or
- (b) payment under regulation C13 has been or is to be treated as having been completed.

**Return of contributions: reduction of membership as respects preserved benefits**

3. Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation D12(1)(a) does not apply, for the purposes of—

- (a) regulation D2 (“standard retirement pension” and “standard retirement grant”),
- (b) regulation D7(2) (entitlement to additional period in cases of retirement for ill-health), and
- (c) Schedule D2 (retirement grants),

his period of membership shall be taken to be the period of membership which he is entitled to count after he receives the return of contributions, excluding any period of membership to which the return of contributions relates.

**Re-employed pensioners: disregard of certain former membership**

4.—(1) Subject to Part II of Schedule D5 (combined benefits), a member who—

- (a) has entered the employment of a LGPS employer after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the Insurance Act), or
- (b) has entered such employment after becoming entitled to a benefit under regulation D11 and has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits),

is not entitled to count as a period of membership any period—

- (a) of which account has been taken for the purpose of determining whether he was entitled to that benefit, or
- (b) of which account has been or is to be taken for the purpose of calculating its amount.

(2) Subject to Part II of Schedule D5, a member who—

- (a) ceased after 5th April 1975 and before 9th February 1979 to hold a local government employment (“the first employment”),
- (b) within one month and one day after ceasing to hold the first employment—
  - (i) entered the employment in which he is a member, and
  - (ii) became a member in relation to that employment, and
- (c) in respect of his ceasing to hold the first employment received a return of contributions under the 1981 regulations,

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

(3) Subject to Part II of Schedule D5, a member who—

- (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11, and
- (b) in respect of his ceasing to hold that employment received a return of the whole of the aggregate amount of his contributions to the fund (within the meaning of regulation C22),

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

(4) Subject to Part II of Schedule D5, a member who—

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- (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11,
- (b) in respect of his ceasing to hold that employment received a return of part of the aggregate amount mentioned in paragraph (3)(b),
- (c) did not enter the employment in which he is a member after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the Insurance Act), and
- (d) has not given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits),

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

(5) Subject to paragraph (6), a member who—

- (a) before entering the employment in which he is a member was in another local government employment (“the first employment”), and
- (b) in respect of his ceasing to hold the first employment received a return of contributions under the 1981 regulations, the 1992 regulations or these regulations,

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

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

(7) Where—

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

the member is not entitled to count as a period of membership any period in respect of which the transfer value was paid.

(8) A woman who exercises, in accordance with Article 111 of the Employment Rights (Northern Ireland) Order 1996<sup>(82)</sup> a right to return to work after being absent from work wholly or partly because of pregnancy or confinement is, unless she has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits), to be treated as not having entered a local government employment in any of the circumstances mentioned in this paragraph.  
Regulation B13(2)

## Part II

### Relevance of Former and Related Membership For Certain Purposes

**Total period of membership to include former and related membership for some purposes of entitlement etc.**

5. In the following provisions, namely—

- (a) paragraphs (a) and (b) of the definition of “normal retirement date” in regulation C2(1);
- (b) regulation C21(1) (return of contributions);
- (c) regulation D3 (statutory pension entitlement);

<sup>(82)</sup> S.I. 1996/1919 (N.I. 16)

- (d) regulation D7(2) (entitlement to additional period under Schedule D3 in cases of early retirement on grounds of ill-health);
- (e) regulation D8(1) (entitlement to ill-health retirement grants);
- (f) regulation F2(2)(a) (amount of member's spouse's long-term pension);

the references to a member's total period of membership include the periods to which this Part applies by virtue of paragraphs 6 to 11.

### **Former “qualifying service”**

6. Any period which any person was immediately before the commencement date entitled to count as qualifying service for any purpose (or would have been so entitled if he had been a member), shall, subject to the following provisions of this Part count as a period to which this Part applies for that purpose (or if he is not such a member, shall so count if he becomes a member in relation to it) and shall so count as a period of the same length as it then counted for that purpose.

### **Previous service of certain variable-time employees**

7. In the case of a person who—
- (a) while a member in the whole-time or part-time employment of a LGPS employer becomes a variable-time employee of any such employer, and
  - (b) while remaining a member in the whole-time or part-time employment becomes a member in the variable-time employment,

any period which at the time he becomes a member in the variable-time employment he is entitled to count as a period of membership or as a period to which this Part applies in relation to the whole-time or part-time employment counts as a period to which this Part applies in relation to the variable-time employment.

### **Previous service of certain re-employed pensioners**

- 8.—(1) In the case of a person who—
- (a) has become entitled to a retirement pension under the Scheme, (otherwise than by virtue of regulation D18(1)), and
  - (b) enters further employment with any LGPS employer in which he becomes a member,

the period in respect of which he became entitled to the retirement pension counts as a period to which this Part applies in relation to the further employment.

- (2) In the case of a person who—
- (a) after becoming entitled on ceasing to hold an employment (“the first employment”) to a retirement pension by virtue of regulation E2(1)(c) of the 1992 regulations (or any corresponding previous provision) enters further employment with a LGPS employer in which he becomes a member; and
  - (b) in respect of his ceasing to hold the first employment has received a return of the whole or a part of the aggregate amount of his contributions (within the meaning of regulation C22) to the fund,

the period in respect of which the return of contributions was made counts as a period to which this Part applies.

- (3) In sub-paragraph (1) “retirement pension” includes—
- (a) an ill-health grant under regulation D8 of these regulations or under regulation E4 of the 1992 regulations, and

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- (b) an annual pension under the former regulations.

### **Previous service of certain part-time employees**

9.—(1) In the case of a person who—

- (a) became a member by virtue of an election under paragraph 5 of Part II of Schedule 2 to the 1981 regulations made before 1st October 1990 or by virtue of paragraph 4 of that Part, or
- (b) became a member in a whole-time employment at any time after 31st March 1974 and before 1st October 1990 and had previously been in a part-time employment under a LGPS employer,

any previous period of employment under a LGPS employer after the material date, except a period which was followed by one of 12 months or more during which he was not employed by such an employer counts as a period to which this Part applies in relation to the employment in which he is a member.

(2) For the purpose of sub-paragraph (1), “the material date” is the earliest date from which, if paragraph 5 of Part II of Schedule 2 to the 1981 regulations had come into force on 1st April 1974, an election or, as the case may be, a deemed election by him could have effect.

### **Transfers in**

10. Any period which a person is entitled to count under regulation K15(1)(b) counts as a period to which this Part applies.

### **Excluded periods**

11. Paragraph 4(5) and (7) have effect as respects the counting of a period as a period to which this Part applies as they have effect as respects the counting of periods of membership.

## **SCHEDULE C1**

Regulation C1

### **Further provisions concerning meaning of “remuneration”**

#### **Part-timers**

1. For the purpose of calculating a member’s standard contributions under regulation C3, the remuneration of a part-time employee for any period (other than a period during which he was absent from duty by reason of illness or injury with reduced or no remuneration) is to be taken to be the remuneration he would have received if during that period he had worked no more and no less than the contractual hours.

#### **Statutory payments during absence**

2. Subject to paragraph 3(b), for the purpose of calculating a member’s standard contributions under regulation C3, any reduction in remuneration by reason of the actual or assumed enjoyment by the employee during any period of absence from duty of any statutory entitlement shall be disregarded.

3. For the purposes of regulation C6—

- (a) a woman's remuneration includes any statutory maternity pay payable to her under the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(83)</sup>, and
- (b) in calculating the contributions which an employee would have been required to make under regulation C3,

regard shall be had to any reduction in her remuneration during a period of maternity absence by reason of the actual or assumed enjoyment of such statutory maternity pay.

4. In regulation C7 "remuneration" does not include any guarantee payment under the Employment Rights (Northern Ireland) Order 1996.

5. For the purpose of calculating the amount of any benefit payable under these regulations to a person to whom regulation C8 applies, his remuneration in respect of any period of his relevant service (as defined in that regulation) shall be deemed to be the amount by reference to which the calculation would have been made if he had continued to be employed in his former employment.

#### **Additional periodical payments: "remuneration for the time being"**

6.—(1) Subject to sub-paragraph (2), for the purposes of regulations C11(1) and C15(1), in relation to any additional periodical payment falling to be paid by a member, his remuneration for the time being is the remuneration received by him for the interval at the end of which the payment falls to be paid.

(2) For the purposes of sub-paragraph (1)—

- (a) a member is to be taken to have received for any period for which, while a contract of employment subsisted, he was absent from duty with reduced or no remuneration (otherwise than by reason of illness or injury) the remuneration that he would have received but for his absence from duty, and
- (b) any reduction in remuneration by reason of the actual or assumed enjoyment by the member during any period of absence from duty (other than a period of maternity absence), of any statutory entitlement shall be disregarded.

#### **Power to agree notional remuneration**

7.—(1) A LGPS employer may from time to time enter with the bodies or persons representative of any class or description of its employees into an agreement specifying the method by which there shall be determined—

- (a) an amount representing the whole of the remuneration, in respect of the period during which the agreement remains in force, of a member of that class or, as the case may be, an employee of that description, or
- (b) such part of his remuneration in respect of that period as is so specified.

(2) Where such an agreement is in force, then the whole or, as the case may be, the specified part of the remuneration of an employee who is a member of the class or, as the case may be, is of the description specified, shall, in respect of the period during which that agreement remains in force and the employee remains in employment with the LGPS employer in question as an employee of that class or description, be deemed for the purposes of these regulations to be the amount determined in accordance with the method specified.

(3) Where a LGPS employer enters into an agreement under sub-paragraph (1), it shall notify in writing all its employees who are members of a class or, as the case may be, an employee of a description, to which the agreement relates, including in the notification a conspicuous statement

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<sup>(83)</sup> 1992 c. 7 (N.I.)

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directing the attention of the employee to the place where he may obtain information about details of the agreement.

- (4) The notification required by sub-paragraph (3) shall be sent to an employee—
- (a) if he is in the employment of the LGPS employer on the date the agreement was made, as soon as is reasonably practicable after that date; and
  - (b) if he enters the employment later, within three months after entering it.

## SCHEDULE C2

Regulations C11(2), C15(2) and paragraph  
4 additional

### Appropriate percentages: calculation of payments of Schedule C4

#### Part I

#### Payments Under Regulation C11

#### Table A

Males

*Members to whom regulation D2(2) does not apply*

<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the normal retirement age below</i>						<i>65</i>
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	
26	0.58						
27	0.60						
28	0.62						
29	0.64						
30	0.66						
31	0.68						
32	0.71						
33	0.74						
34	0.77						
35	0.80						
36	0.84	0.83					
37	0.88	0.87	0.82				
38	0.93	0.91	0.86	0.81			
39	0.98	0.96	0.90	0.85	0.80		
40	1.03	1.01	0.95	0.90	0.84	0.80	



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Age on next birthday after election	Percentage to be used by reference to the normal retirement age below						
	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
41	1.09	1.07	1.00	0.95	0.89	0.84	0.81
42	1.16	1.14	1.06	1.00	0.94	0.88	0.85
43	1.23	1.22	1.13	1.06	0.99	0.93	0.89
44	1.31	1.30	1.20	1.12	1.05	0.98	0.93
45	1.40	1.39	1.28	1.19	1.11	1.04	0.98
46	1.51	1.49	1.37	1.27	1.18	1.10	1.04
47	1.64	1.61	1.48	1.36	1.26	1.17	1.11
48	1.79	1.75	1.61	1.47	1.35	1.25	1.18
49	1.97	1.92	1.76	1.60	1.45	1.34	1.26
50	2.18	2.13	1.93	1.75	1.57	1.44	1.35
51	2.42	2.38	2.12	1.92	1.71	1.56	1.45
52	2.74	2.69	2.36	2.11	1.88	1.70	1.57
53	3.15	3.09	2.66	2.33	2.08	1.86	1.71
54	3.68	3.62	3.05	2.63	2.31	2.05	1.87
55	4.44	4.36	3.57	3.02	2.60	2.28	2.06
56	5.53	5.45	4.30	3.53	2.98	2.56	2.29
57	7.40	7.28	5.36	4.23	3.49	2.94	2.58
58	11.08	10.90	7.17	5.30	4.18	3.43	2.95
59	22.25	21.88	10.70	7.06	5.21	4.12	3.45
60			21.50	10.55	6.95	5.12	4.12
61				21.11	10.37	6.83	5.14
62					20.41	10.18	6.84
63						20.14	10.25
64							20.32

Table B

Females

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*Members to whom regulation D2(2) does not apply*

<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
26	0.59						
27	0.61						
28	0.63						
29	0.65						
30	0.68						
31	0.71						
32	0.74						
33	0.77						
34	0.80						
35	0.83						
36	0.87	0.86					
37	0.91	0.90	0.85				
38	0.96	0.94	0.89	0.83			
39	1.01	0.99	0.93	0.87	0.82		
40	1.07	1.05	0.98	0.91	0.86	0.80	
41	1.13	1.11	1.03	0.96	0.90	0.84	0.80
42	1.20	1.18	1.09	1.01	0.95	0.88	0.84
43	1.28	1.26	1.16	1.07	1.00	0.93	0.88
44	1.37	1.34	1.23	1.14	1.06	0.98	0.93
45	1.46	1.43	1.31	1.21	1.12	1.04	0.98
46	1.57	1.54	1.40	1.29	1.19	1.11	1.04
47	1.70	1.67	1.51	1.38	1.27	1.18	1.11
48	1.85	1.82	1.64	1.49	1.36	1.26	1.18
49	2.03	1.99	1.79	1.62	1.46	1.35	1.26
50	2.24	2.20	1.96	1.77	1.58	1.45	1.35
51	2.50	2.46	2.17	1.94	1.72	1.57	1.45
52	2.83	2.78	2.42	2.14	1.89	1.71	1.57
53	3.24	3.19	2.73	2.38	2.09	1.87	1.71
54	3.80	3.73	3.13	2.69	2.33	2.06	1.87
55	4.58	4.50	3.67	3.08	2.63	2.30	2.06

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Age on next birthday after election	Percentage to be used by reference to the normal retirement age below						
	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
56	5.73	5.64	4.40	3.60	3.02	2.59	2.30
57	7.66	7.53	5.51	4.33	3.54	2.96	2.59
58	11.47	11.26	7.36	5.40	4.24	3.47	2.96
59	22.86	22.45	11.05	7.20	5.30	4.15	3.46
60			22.15	10.79	7.05	5.17	4.14
61				21.64	10.59	6.89	5.17
62					20.72	10.24	6.87
63						20.34	10.29
64							20.46

Table C

Males

Members to whom regulation D2(2) applies

Age on next birthday after election	Percentage to be used by reference to the normal retirement age below						
	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
46	1.60	1.58	1.44	1.33	1.23	1.14	1.08
47	1.74	1.71	1.55	1.43	1.32	1.22	1.15
48	1.90	1.86	1.68	1.54	1.42	1.31	1.23
49	2.09	2.04	1.83	1.66	1.53	1.40	1.31
50	2.31	2.26	2.01	1.81	1.65	1.50	1.40
51	2.57	2.52	2.22	1.99	1.79	1.62	1.50
52	2.91	2.85	2.48	2.20	1.96	1.76	1.62
53	3.34	3.28	2.80	2.45	2.16	1.92	1.76
54	3.90	3.83	3.21	2.76	2.41	2.12	1.92
55	4.72	4.62	3.76	3.16	2.72	2.37	2.12
56	5.88	5.77	4.53	3.69	3.11	2.67	2.36
57	7.87	7.73	5.66	4.44	3.63	3.04	2.66
58	11.82	11.59	7.56	5.55	4.36	3.56	3.04

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<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
59	23.73	23.27	11.30	7.42	5.43	4.27	3.56
60			22.73	11.10	7.26	5.32	4.26
61				22.23	10.84	7.09	5.32
62					21.32	10.57	7.09
63						20.93	10.64
64							21.10

Table D

Females

*Members to whom regulation D2(2) applies*

<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
46	1.76	1.72	1.57	1.44	1.32	1.21	1.14
47	1.91	1.86	1.69	1.54	1.41	1.29	1.21
48	2.08	2.03	1.83	1.66	1.51	1.38	1.29
49	2.28	2.23	1.99	1.80	1.62	1.48	1.38
50	2.52	2.47	2.18	1.96	1.75	1.59	1.48
51	2.81	2.75	2.41	2.15	1.91	1.72	1.59
52	3.18	3.12	2.69	2.37	2.10	1.87	1.72
53	3.64	3.57	3.04	2.64	2.32	2.05	1.87
54	4.27	4.18	3.50	2.98	2.58	2.26	2.05
55	5.14	5.05	4.09	3.41	2.91	2.52	2.26
56	6.44	6.31	4.91	4.00	3.33	2.84	2.52
57	8.61	8.43	6.14	4.80	3.90	3.26	2.84
58	12.89	12.63	8.21	5.99	4.68	3.80	3.24
59	25.72	25.16	12.32	7.99	5.85	4.55	3.79
60			24.72	11.97	7.78	5.68	4.53
61				24.05	11.69	7.57	5.65

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Age on next birthday after election	Percentage to be used by reference to the normal retirement age below						65
	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	
62					22.83	11.24	7.52
63						22.33	11.28
64							22.44

## Part II

Lump sum cost of each added year which cannot be bought by annual contributions because of the 15 per cent. limits

Table E

Males

*Class B and Class C members to whom regulation D2(2) does not apply*

Age on next birthday after election	Percentage of Salary payable at next birthday after election by member with normal retirement age below						65
	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	
40	18.60	18.40	17.90	17.50	17.10	16.70	16.50
41	18.70	18.40	18.00	17.60	17.20	16.70	16.50
42	18.80	18.50	18.00	17.60	17.20	16.80	16.60
43	18.90	18.60	18.10	17.70	17.20	16.80	16.60
44	19.00	18.70	18.20	17.80	17.30	16.90	16.70
45	19.10	18.80	18.30	17.90	17.40	16.90	16.70
46	19.20	18.90	18.40	18.00	17.50	17.00	16.80
47	19.30	19.00	18.50	18.10	17.60	17.10	16.90
48	19.40	19.10	18.60	18.20	17.70	17.20	17.00
49	19.50	19.20	18.70	18.30	17.80	17.30	17.10
50	19.70	19.40	18.80	18.40	17.90	17.40	17.20
51	19.90	19.60	19.00	18.50	18.00	17.50	17.30
52	20.10	19.80	19.20	18.70	18.10	17.60	17.40
53	20.30	20.00	19.40	18.90	18.30	17.70	17.50
54	20.50	20.20	19.60	19.10	18.50	17.80	17.60

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<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
55	20.70	20.40	19.80	19.30	18.70	18.00	17.80
56	20.90	20.60	20.00	19.50	18.90	18.20	18.00
57	21.20	20.90	20.20	19.70	19.10	18.40	18.20
58	21.50	21.20	20.50	19.90	19.30	18.60	18.40
59	21.80	21.50	20.80	20.10	19.50	18.80	18.60
60			21.10	20.40	19.70	19.10	18.80
61				20.70	19.90	19.30	19.00
62					20.10	19.50	19.30
63						19.70	19.60
64							19.90

Table F

Females

*Class B and C members to whom regulation D2(2) does not apply*

<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
40	19.40	19.10	18.60	18.00	17.40	16.90	16.60
41	19.60	19.30	18.70	18.10	17.50	17.00	16.70
42	19.70	19.40	18.80	18.20	17.60	17.10	16.80
43	19.80	19.50	18.90	18.30	17.80	17.20	16.90
44	19.90	19.60	19.00	18.40	17.90	17.30	17.00
45	20.10	19.70	19.10	18.50	18.00	17.40	17.10
46	20.20	19.90	19.20	18.60	18.10	17.50	17.20
47	20.40	20.00	19.40	18.80	18.20	17.60	17.30
48	20.50	20.20	19.50	18.90	18.30	17.70	17.40
49	20.60	20.30	19.60	19.00	18.40	17.80	17.50
50	20.80	20.40	19.80	19.20	18.60	17.90	17.60

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<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
51	21.00	20.60	19.90	19.30	18.70	18.00	17.70
52	21.10	20.80	20.10	19.40	18.80	18.20	17.90
53	21.30	21.00	20.30	19.60	19.00	18.30	18.00
54	21.50	21.20	20.40	19.80	19.10	18.40	18.10
55	21.70	21.40	20.60	19.90	19.20	18.60	18.20
56	21.90	21.60	20.80	20.10	19.40	18.70	18.30
57	22.10	21.80	21.00	20.30	19.60	18.80	18.50
58	22.30	22.00	21.20	20.50	19.80	19.00	18.70
59	22.60	22.20	21.40	20.70	20.00	19.20	18.90
60			21.70	20.90	20.20	19.40	19.10
61				21.20	20.40	19.60	19.30
62					20.50	19.80	19.50
63						20.00	19.80
64							20.10

Table G

Males

*Class B and Class C members to whom regulation D2(2) applies*

<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
46	20.20	19.90	19.30	18.70	18.20	17.60	17.30
47	20.40	20.00	19.40	18.80	18.30	17.70	17.40
48	20.60	20.20	19.50	18.90	18.40	17.80	17.50
49	20.80	20.40	19.60	19.00	18.50	17.90	17.60
50	21.00	20.60	19.80	19.20	18.60	18.00	17.70
51	21.20	20.80	20.00	19.40	18.70	18.10	17.80
52	21.40	21.00	20.20	19.60	18.80	18.20	17.90

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<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
53	21.60	21.20	20.40	19.80	19.00	18.30	18.00
54	21.80	21.40	20.60	20.00	19.20	18.50	18.10
55	22.00	21.60	20.80	20.20	19.40	18.70	18.30
56	22.30	21.90	21.00	20.40	19.60	18.90	18.50
57	22.60	22.20	21.30	20.60	19.80	19.10	18.70
58	22.90	22.50	21.60	20.80	20.00	19.30	18.90
59	23.20	22.80	21.90	21.10	20.30	19.50	19.10
60			22.30	21.40	20.60	19.80	19.40
61				21.80	20.90	20.10	19.70
62					21.10	20.30	20.00
63						20.50	20.30
64							20.70

Table H

Females

*Class B and Class C members to whom regulation D2(2) applies*

<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
46	22.60	22.20	21.40	20.70	19.90	19.20	18.80
47	22.70	22.30	21.50	20.80	20.00	19.30	18.90
48	22.90	22.50	21.60	20.90	20.10	19.40	19.00
49	23.10	22.70	21.80	21.00	20.20	19.50	19.10
50	23.30	22.90	22.00	21.10	20.30	19.60	19.20
51	23.50	23.10	22.20	21.30	20.40	19.70	19.30
52	23.70	23.30	22.40	21.50	20.60	19.80	19.40
53	23.90	23.50	22.60	21.70	20.80	19.90	19.50
54	24.10	23.70	22.80	21.90	21.00	20.10	19.60



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<i>Age on next birthday after election</i>	<i>Percentage of Salary payable at next birthday after election by member with normal retirement age below</i>						
	<i>60</i>	<i>Over 60 and under 61</i>	<i>61 and under 62</i>	<i>62 and under 63</i>	<i>63 and under 64</i>	<i>64 and under 65</i>	<i>65</i>
55	24.30	23.90	23.00	22.10	21.20	20.30	19.80
56	24.50	24.10	23.20	22.30	21.40	20.50	20.00
57	24.80	24.30	23.40	22.50	21.60	20.70	20.20
58	25.10	24.60	23.60	22.70	21.80	20.90	20.40
59	25.40	24.90	23.90	22.90	22.00	21.10	20.60
60			24.20	23.20	22.30	21.30	20.80
61				23.60	22.60	21.50	21.10
62					22.80	21.70	21.40
63						21.90	21.70
64							22.00

### Part III

#### Payments under Regulation C15

Table J

#### *Males*

<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the specified birthday below</i>					
	<i>60</i>	<i>61</i>	<i>62</i>	<i>63</i>	<i>64</i>	<i>65</i>
25	0.07					
26	0.07					
27	0.07					
28	0.07					
29	0.08					
30	0.08					
31	0.08					
32	0.08					
33	0.09					
34	0.09					

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<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the specified birthday below</i>					
	<i>60</i>	<i>61</i>	<i>62</i>	<i>63</i>	<i>64</i>	<i>65</i>
35	0.09					
36	0.10					
37	0.10	0.10				
38	0.11	0.10	0.10			
39	0.12	0.11	0.10	0.09		
40	0.12	0.11	0.11	0.10	0.09	
41	0.13	0.12	0.11	0.10	0.10	0.09
42	0.14	0.13	0.12	0.11	0.10	0.10
43	0.14	0.13	0.12	0.12	0.11	0.10
44	0.15	0.14	0.13	0.12	0.11	0.11
45	0.16	0.15	0.14	0.13	0.12	0.11
46	0.17	0.16	0.15	0.14	0.13	0.12
47	0.19	0.17	0.16	0.15	0.14	0.13
48	0.21	0.19	0.17	0.16	0.15	0.14
49	0.23	0.21	0.18	0.17	0.16	0.15
50	0.25	0.23	0.20	0.18	0.17	0.16
51	0.28	0.25	0.22	0.20	0.18	0.17
52	0.32	0.28	0.25	0.22	0.20	0.18
53	0.37	0.32	0.28	0.24	0.22	0.20
54	0.43	0.36	0.31	0.27	0.24	0.22
55	0.52	0.42	0.36	0.31	0.27	0.24
56	0.65	0.51	0.42	0.35	0.30	0.27
57	0.87	0.63	0.50	0.41	0.34	0.30
58	1.30	0.84	0.62	0.49	0.40	0.35
59	2.62	1.26	0.83	0.61	0.48	0.41
60		2.53	1.24	0.82	0.60	0.48
61			2.48	1.22	0.80	0.60
62				2.40	1.20	0.80
63					2.37	1.21
64						2.39

Table K

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*Females*

<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the specified birthday below</i>					
	<i>60</i>	<i>61</i>	<i>62</i>	<i>63</i>	<i>64</i>	<i>65</i>
21	0.015					
22	0.016					
23	0.016					
24	0.016					
25	0.017					
26	0.017					
27	0.018					
28	0.019					
29	0.019					
30	0.020					
31	0.021					
32	0.022					
33	0.023					
34	0.024					
35	0.024					
36	0.026					
37	0.027	0.025				
38	0.029	0.026	0.024			
39	0.030	0.027	0.026	0.024		
40	0.031	0.029	0.027	0.025	0.024	
41	0.033	0.030	0.028	0.026	0.025	0.024
42	0.035	0.032	0.030	0.028	0.026	0.025
43	0.038	0.034	0.031	0.029	0.027	0.026
44	0.040	0.036	0.034	0.031	0.029	0.027
45	0.043	0.039	0.036	0.033	0.030	0.029
46	0.046	0.041	0.038	0.035	0.032	0.030
47	0.050	0.045	0.041	0.037	0.034	0.032
48	0.054	0.048	0.044	0.040	0.037	0.034
49	0.060	0.053	0.048	0.043	0.040	0.037
50	0.066	0.058	0.052	0.047	0.043	0.040

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<i>Age on next birthday after election</i>	<i>Percentage to be used by reference to the specified birthday below</i>					
	<i>60</i>	<i>61</i>	<i>62</i>	<i>63</i>	<i>64</i>	<i>65</i>
51	0.074	0.064	0.057	0.051	0.046	0.043
52	0.083	0.071	0.063	0.056	0.050	0.046
53	0.095	0.080	0.070	0.062	0.055	0.050
54	0.112	0.092	0.079	0.069	0.061	0.055
55	0.135	0.108	0.091	0.078	0.068	0.061
56	0.169	0.129	0.106	0.089	0.076	0.068
57	0.225	0.162	0.127	0.104	0.087	0.076
58	0.337	0.216	0.159	0.125	0.102	0.087
59	0.672	0.325	0.212	0.156	0.122	0.102
60		0.651	0.317	0.207	0.152	0.122
61			0.636	0.311	0.203	0.152
62				0.609	0.301	0.202
63					0.598	0.303
64						0.602

### SCHEDULE C3

Regulation C24

#### **Additional voluntary contributions**

##### **Making and variation of elections**

- 1.—(1) An election by a member to pay contributions under regulation C24 shall specify—
  - (a) the amount of the additional contributions which he wishes to pay (expressed either as a percentage of his remuneration or as a sum payable at the times mentioned in paragraph 4); and
  - (b) the proportion (if any) of the contributions which he wishes to be used to provide benefits payable in the event of death.
- (2) A member who has made an election under regulation C24 may at any time elect—
  - (a) to vary the amount of his contributions or the proportion of them that he is to continue to pay which are to be used to provide benefits payable on death; or
  - (b) to discontinue those contributions.
- (3) An election by a member under regulation C24 or this paragraph shall be made by notice given in writing to the member's employing authority.

### **Payment and amount of AVCs**

2.—(1) The Committee may require, before any contributions are first made pursuant to the election, that the amount of the contributions payable under regulation C24 in any tax year shall be not less than the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations (Northern Ireland) 1987<sup>(84)</sup>.

(2) The amount of the contributions payable in any tax year is limited in accordance with paragraph 5 of Schedule C4.

3. No contributions shall be payable under regulation C24 with respect to any period—

- (a) during which the person contributing is not a member, or
- (b) subject to paragraph 4, after the time when he ceases to be employed by the employing authority to which notice was given under paragraph 1.

4. Contributions under regulation C24 shall normally be payable on the member's usual pay day.

### **Functions of employing authorities and the Committee**

5.—(1) As soon as an employing authority receives a notice under paragraph 1 it shall forward it to the Committee.

(2) The Committee shall give effect to a notice under paragraph 1 as soon as reasonably practicable, and in any event—

- (a) in the case of a notice under paragraph 1(1), so that the member may begin to pay his contributions under paragraph 4 before the expiry of the period of six months beginning with the date on which he gives notice, and
- (b) in the case of a notice under paragraph 1(2), so that the member may pay his contribution at the varied amount or in the varied proportions, or, as the case may be, cease to pay his contributions, before the expiry of the period of three months beginning with that date.

6.—(1) Where a notice under paragraph 1 specifies that all or part of the contributions are to be used to provide benefits payable in the event of death, the Committee shall make arrangements for the provision of those benefits under a pension policy.

(2) The pension policy shall provide that the Committee is to make payments to the insurance company with which the policy is entered into of the same amounts as the contributions to be used as mentioned in sub-paragraph (1) within one month of the day on which they are payable by the member under paragraph 4.

(3) The policy shall—

- (a) be subject to the conditions mentioned in paragraphs 2 and 3 of this Schedule;
- (b) allow the member to vary his election under paragraph 1(2);
- (c) make provision for the arrangements mentioned in paragraphs 10 to 14 and 21 in the event of a change of employment by the member or, as the case may be, potential overpayment.

(4) Where—

- (a) a person to whom regulation C8 applies was before the commencement of his relevant service (as defined in that regulation) paying contributions to be used to provide benefits payable in the event of death, and
- (b) he has not elected to discontinue those contributions,

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<sup>(84)</sup> S.R. 1987 No. 286

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the Committee shall continue to make the appropriate payments in respect of him during the period of his relevant service in accordance with the arrangements made under this paragraph.

7.—(1) The Committee shall invest with a relevant body any contributions which are not to be used to provide benefits payable in the event of death.

(2) Subject to sub-paragraph (3) and paragraphs 10 to 16, on the member ceasing to be a member of the Scheme the Committee shall as soon as reasonably practicable apply the accumulated value of the contributions invested as mentioned in sub-paragraph (1) to the provision of additional pension benefits under a pension policy.

(3) If the member dies before such a policy is entered into, the accumulated value shall be payable to his personal representatives.

(4) The contributions invested in accordance with sub-paragraph (1) shall not be used to provide benefits in the form of a lump sum unless—

- (a) the aggregate of the pension benefits provided under Parts D to G and the additional pension benefits provided by the pension policy mentioned in sub-paragraph (2) do not exceed the annual rate or amount referred to in regulation H5; and
- (b) the pension benefits provided under those Parts are being compounded in accordance with that regulation.

8. The benefits under a pension policy entered into under paragraph 6 or 7 shall be money purchase benefits the value of which is reasonable having regard to the amount of the contributions paid.

9. The Committee—

- (a) shall consult the member before entering into a pension policy under paragraph 6 or 7; and
- (b) shall give effect, so far as is practicable and subject to paragraph 8, to his wishes with respect to the benefits to be provided under it.

### **Changes of employment in which membership is continued**

10.—(1) If a member—

- (a) ceases to be employed by the employing authority to which notice was given under paragraph 1(1);
- (b) was making payments of additional contributions up to the date of cessation, and
- (c) before the expiry of the period of one month and one day beginning with that date enters a new employment in which he is also a member;

he may elect that his election to pay contributions under regulation C24 should continue to have effect.

(2) An election under sub-paragraph (1) shall be made by notice given in writing to the member's new employing authority before the expiry of the period of one month beginning with the date on which the new employment begins.

11. As soon as the new employing authority receives a notice of election under paragraph 10 it shall forward it to the Committee.

12.—(1) Subject to sub-paragraph (2), the member shall, with effect from the next pay day after the day on which notice was given under paragraph 10, make payments of contributions under regulation C24 in his new employment under his notice under paragraph 1(1) (as it has effect for the time being).

(2) No payment of contributions under regulation C24 shall be made with respect to the period (if any) between the two employments mentioned in paragraph 10.

13. The Committee shall in respect of contributions made under regulation C24 by the member in his new employment—

- (a) apply any continuing contributions, which are specified to be used to provide benefits payable in the event of death, towards the pension policy mentioned in paragraph 6; and
- (b) continue to invest all contributions paid by him and not specified to be so used in the manner mentioned in paragraph 7.

14. Paragraphs 7(2) and 10 to 16 shall have effect in relation to a cessation of the new employment as if the new employment were the one in relation to which notice was given under paragraph 1(1).

### **Cessation of membership or employment**

15.—(1) Where a person who has given notice under paragraph 1(1) of an election under regulation C24 to his employing authority—

- (a) has ceased to be employed by that authority; or
- (b) has ceased to be a member without ceasing to be so employed,

he may elect to have the accumulated value of the invested additional contributions mentioned in paragraph 7(2), used—

- (i) in the case mentioned in paragraph (a), in one or more of the ways mentioned in sub-paragraph (2); and
- (ii) in the case mentioned in paragraph (b) in one or both of the ways mentioned in paragraphs (b) and (e) of that sub-paragraph.

(2) The ways referred to in sub-paragraph (1) are—

- (a) to subscribe to an occupational pension scheme;
- (b) to subscribe to a personal pension scheme;
- (c) to subscribe to a self-employed pension arrangement;
- (d) to purchase an appropriate policy from one or more insurance companies; or
- (e) to subscribe to an additional voluntary contributions scheme.

16. Where a person receives a refund under regulation C21 as a consequence of ceasing—

- (a) to be employed by an employing authority; or
- (b) to be a member,

he must receive immediate payment of the accumulated value of the invested additional contributions mentioned in paragraph 7(2).

17. Paragraph 3 shall not preclude a member who has again become employed by a LGPS employer (and has not elected under paragraph 10) making a fresh election under regulation C24 by notice under paragraph 1 in relation to his new employment.

### **Separate treatment of AVCs from other contributions**

18. Regulations C21 and C23 (return of contributions) and paragraphs 3 and 4 of Schedule C4 (limitations on contributions) do not apply to contributions payable under (or interest on late payments which relate to contributions under) regulation C24.

19. The making of contributions under regulations C24, and any rights or liabilities arising under a pension policy entered into under paragraphs 6 or 7, shall be left out of account in calculating

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the amount of a transfer value payable under Part K; and regulations H4 (forfeiture etc.) and L9 (recovery or retention) and Part J (decisions and appeals) do not apply in relation to benefits under such a policy.

### **Inward transfer of AVC rights**

20.—(1) A member may, when giving a notice under regulation K14(1), also give written notice to the Committee that he wishes it to accept a transfer value relating to some or all of the rights to benefits arising out of an additional voluntary contributions provision or an additional voluntary contributions scheme to be used to provide money purchase benefits as specified in paragraphs 6, 7 and 8.

(2) Where such a notice is given the transfer value shall be accepted and so used by the Committee, and paragraphs 6 to 9, 18 and 19 shall apply in relation to the transfer value as they apply to contributions, except that for references to a notice under paragraph 1(1) or (2) there shall be substituted a reference to the notice under sub-paragraph (1).

### **Over-provision: calculation and return of surplus funds**

21.—(1) The Committee shall comply—

- (a) with the requirements of regulation 5 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993<sup>(85)</sup>, and
- (b) if the Scheme is the leading scheme in relation to a member, with the requirements of regulation 6 of those regulations, so far as they concern main schemes.

(2) Where any surplus funds fall to be repaid in accordance with regulation 6 of those regulations, the Committee shall make the repayment to the member (or, if he has died, to his personal representatives)—

- (a) where the over-provision relates to the benefit payable in the event of death, out of the accumulated value of the payments made by the Committee with respect to the pension policy under paragraph 6, and
- (b) where any other benefit is abated, out of the accumulated value of the additional contributions mentioned in paragraph 7(2).

(3) In this paragraph—

“leading scheme” and “main schemes” have the meanings given in regulation 2 of those regulations; and

“surplus funds” has the meaning given in regulation 6 of those regulations.

### **Supplemental**

23. In this Schedule—

“insurance company” means—

- (a) a body authorised under section 3 or 4 of the Insurance Companies Act 1982<sup>(86)</sup> to carry on long term business and acting through a branch or agency in the United Kingdom;
- (b) an EC company which is lawfully carrying on long term business, or providing long term insurance, in the United Kingdom; or

<sup>(85)</sup> S.I. 1993/3016

<sup>(86)</sup> 1982 c. 50



- (c) friendly society within the meaning of the Friendly Societies Act 1992<sup>(87)</sup> (including any society which is to be treated as a registered friendly society by virtue of section 96(2) of that Act),

and expressions used in paragraph (a) or (b) have the meanings given in the Insurance Companies Act 1982;

“money purchase benefits” has the same meaning as in the Pension Schemes (Northern Ireland) Order 1993<sup>(88)</sup>;

“pension policy” means a contract entered into on behalf of the member by the Committee with an insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Parts D to G; and

“relevant body” means—

- (a) a person within the meaning of section 612 of the Income and Corporation Taxes Act 1988<sup>(89)</sup> for the time being operating a scheme which is an approved scheme for the purposes of Chapter I of Part XIV of that Act and provides benefits in relation to persons who have paid contributions to it which are in addition to those provided in relation to those persons under an occupational pension scheme, or
- (b) building society within the meaning of the Building Societies Act 1986<sup>(90)</sup>.

## SCHEDULE C4

Regulation C26

### Limitations on contributions and benefits

#### Part I

##### General

#### “Class A members”, “Class B members” and “Class C members”

1.—(1) In this Schedule,

“member” includes a former member;

“Class A member” means a member who—

- (a) became a member on or after 1st June 1989 and is not to be treated as a Class B member or Class C member by virtue of sub-paragraph (2); or
- (b) was a Class B member or a Class C member immediately before that date and is deemed to have become a Class A member by virtue of making an election under sub-paragraph (3);

“Class B member” means a member who—

- (a) became a member on or after 17th March 1987 and before 1st June 1989;
- (b) is not to be treated as a Class C member by virtue of sub-paragraph (2); and
- (c) is not deemed to have become a Class A member by virtue of making an election under sub-paragraph (3);

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<sup>(87)</sup> 1992 c. 40

<sup>(88)</sup> 1993 c. 49

<sup>(89)</sup> 1988 c. 1; section 612 was amended by the Finance Act 1994 (c. 9), Section 103(2), Schedule 26, Part V

<sup>(90)</sup> 1986 c. 53

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“Class C member” means a member who—

- (a) became a member before 17th March 1987 or is to be treated as a Class C member by virtue of sub-paragraph (2); and
- (b) is not deemed to have become a Class A member by virtue of duly making an election under sub-paragraph (3).

(2) A person may be treated for the purposes of this Schedule as being a Class B member or a Class C member, notwithstanding that he did not become a member of the Scheme before 1st June 1989 or, as the case may be, 17th March 1987, if on application to them by the Committee the Commissioners of Inland Revenue agree in writing that he may be so treated by virtue of previous membership of a pension scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988.

(3) If a Class B member or a Class C member duly elects by notice in writing to the Committee before the relevant date that he wishes to be treated as a Class A member for the purposes of this Schedule, he shall be deemed to have become a Class A member on 1st June 1989.

(4) For the purposes of sub-paragraph (3) “the relevant date”, in relation to any member, means the date on which he ceases to be a member for any reason (including death).

(5) For the purposes of this paragraph, a person shall only be treated as being a Class B member or a Class C member at any time by virtue of having become a member before 1st June 1989 or, as the case may be, 17th March 1987, if—

- (a) he has continued to be a member throughout a period beginning before that date and ending with that time; or
- (b) the conditions mentioned in sub-paragraph (7) are satisfied in relation to the part of that period when he was not a member.

(6) Where a member who was eligible to become a member at a time when he would have become a Class B member or a Class C member as the case may be applies for membership after that date by virtue of being a person to whom regulation K17 applies, he shall be treated as a Class B or a Class C member as the case may be at any time if—

- (a) he continues to be a member throughout the period beginning with the date when he becomes a member of the Scheme and ending with that time; or
- (b) the conditions mentioned in sub-paragraph (7) are satisfied in relation to the part of that period when he was not a member.

(7) The conditions mentioned in sub-paragraph (5)(b) and (6)(b) are—

- (a) that his membership ceased on his secondment or posting to another employer, at the time of the secondment or posting he had a definite expectation that he would become a member again when it ended, and he again became a member at the end of his secondment or posting;
- (b) his membership ceased by reason of his unpaid absence and he began paying contributions again under regulation C3 within one month of returning to work;
- (c) in the case of a female member, her membership ceased wholly or partly because of pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work in accordance with Article 111 the Employment Rights (Northern Ireland) Order 1996<sup>(91)</sup> (which confers the right to return to work following pregnancy or confinement);
- (d) his membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and within one month of such cessation he returned to work and began paying contributions again under regulation C3; or

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

- (e) that his membership ceased by reason of the member opting out of the Scheme as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986<sup>(92)</sup>.

#### **Remuneration of Class A members: “permitted maximum”**

2.—(1) Subject to paragraph 6, in determining the remuneration of a Class A member for the purposes of these regulations, any payments in excess of the permitted maximum shall be disregarded.

(2) For the purposes of this Schedule “permitted maximum” shall be construed in accordance with section 590C(2) of the Income and Corporation Taxes Act 1988<sup>(93)</sup>.

## **Part II**

### **Limitations on Contributions**

#### **General 15 per cent. limitation**

3.—(1) Subject to paragraph 4, the total contributions to which this paragraph applies, which are paid by a member in any tax year to the fund in respect of all employments in relation to which he is a member, shall not exceed 15 per cent. of his remuneration for that year.

(2) This paragraph applies to all contributions paid by the member—

- (a) under Part C (other than under regulation C24), or
- (b) under Part C of the 1992 regulations, except regulation C11 (in so far as that Part is continued in effect by virtue of Schedule C5 or Schedule M2), including instalments payable under regulation C7(15) of those regulations.

#### **Excess contributions payable by lump sum: Class B and C members**

4.—(1) If the aggregate of the following amounts payable by a Class B member or a Class C member, namely—

- (a) any amount by way of additional contributions in pursuance of—
  - (i) a notice given under regulation 43 of the 1981 regulations, or
  - (ii) an election made under regulation C9(1), C13 or C14,
- (b) the amount of an instalment payable in pursuance of an election under regulation C9 of the 1992 regulations,
- (c) any other amounts payable by him under any of those regulations, and
- (d) the amount payable by him by way of contributions under regulation C3,

exceeds 15 per cent. of his remuneration, he shall satisfy his liability in respect of the excess by payment of a lump sum of an amount determined in such manner as may be approved by the Government Actuary having regard to such factors as he considers appropriate (and he may issue such Tables as he considers appropriate for the purposes of such determinations) to represent the capital value of the excess.

(2) The contributions to which paragraph 3 applies do not include any payment made by a Class B member or a Class C member under regulation C19(5).

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<sup>(92)</sup> 1986 c. 60

<sup>(93)</sup> 1988 c. 1; section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 18(2); subsection (8A) of section 590C was inserted by paragraph 5(3) of that Schedule

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### **Additional voluntary contributions**

5. The amount of the contributions payable under regulation C24 in any tax year, when aggregated with the amount of any other contributions payable under these regulations or to an additional voluntary contributions scheme, within the meaning of that regulation, (whether or not payable under these regulations), shall not exceed the amount allowed to be deducted under subsection (7) of section 592 of the Income and Corporation Taxes Act 1988 as specified in or under subsection (8) or, as the case may be, subsection (8A) of that section.

## **Part III**

### **Limitations on benefits**

#### **Restrictions on “pensionable remuneration”: Class A members with transferred-in membership**

6. Where regulation 5(2) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990<sup>(94)</sup> applies in relation to a member, for the purpose of calculating any benefit in respect of him under these regulations, paragraph 2(1) does not apply to so much of the benefit as is calculated by reference to membership which he is entitled to count by virtue of regulation K15.

#### **“Pensionable remuneration”: retirement grants for Class B members**

7. For the purpose of calculating the retirement grant of a Class B member, his pensionable remuneration shall not exceed £100,000 (or such other sum as may for the time being be specified by the Treasury for the purposes of section 590(3) of the Income and Corporation Taxes Act 1988 as that section continues to have effect as respects Class B members by virtue of paragraph 18(2) of Schedule 6 to the Finance Act 1989<sup>(95)</sup>).

#### **Restrictions on membership period used for calculating amounts of benefits**

8.—(1) Subject to paragraph 10 for the purpose of calculating the amount of any benefit under Part D—

- (a) no account shall be taken of so much of the member’s total period of membership as—
  - (i) in the case of a Class A member, exceeds 40 years; and
  - (ii) in the case of a Class B member or a Class C member, is membership before he attains the age of 60 years and exceeds 40 years, and
- (b) where an amount is recovered or retained under regulation L9 (recovery or retention where former member has misconduct obligation), membership shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation L9(2) by that amount.

(2) For the purposes of sub-paragraph (1)(a), a period which a person is entitled to count as a period of membership by virtue of regulation D7(2) (ill-health) or F6(1)(a) or (b) of the 1992 regulations (war service) shall be treated as membership before attaining the age of 60 years.

(3) Where a retirement grant falls to be reduced under paragraph 1, 2(1) or 3(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse’s pension), any period of

<sup>(94)</sup> [S.I. 1990/2101](#); a relevant amending instrument is [S.I. 1993/3220](#)

<sup>(95)</sup> [1989 c. 26](#)

membership to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person's period of membership.

9. Subject to paragraph 10 where the aggregate length of—

- (a) the total period of membership in relation to the relevant employment (excluding any membership which is to be left out of account by virtue of paragraph 8(1)(a)), and
- (b) any earlier period which was taken into account in the calculation of a retirement pension, an annual pension under the former regulations, or a superannuation allowance under Part I of the Act of 1937, or in respect of which any pension was granted under a local Act scheme,

exceeds—

- (i) in the case of a Class A member, 40 years, or
- (ii) in the case of a Class B or Class C member, 45 years,

then, for the purpose of calculating any benefit the period mentioned in paragraph (a) is reduced by a period equal to the excess.

10. Where—

- (a) the calculation of any benefit in respect of a member is by reference to membership which he is entitled to count by virtue of regulation K15; and
- (b) the aggregate of—
  - (i) the period mentioned in regulation K15(1)(a) which he is entitled to count as a period of membership, and
  - (ii) the period of membership in relation to the relevant employment (excluding any period in excess of 40 years)

exceeds 40 years

that aggregate shall be used for the calculation of the amount of any benefit under Part D subject to any overriding limit on the maximum total benefits, whether in the form of annual pension payments or a lump sum, that may be provided on retirement for the purposes of approval by the Commissioners of Inland Revenue under Chapter 1 of Part XIV of the Income and Corporation Taxes Act 1988<sup>(96)</sup>.

## Death grants

11.—(1) Subject to sub-paragraph (2), for the purpose of calculating the amount of a death grant under Part E no account shall be taken of so much of the member's total period of membership as—

- (a) in the case of a Class A member, exceeds 40 years; and
- (b) in the case of a Class B member or a Class C member, is membership before he attains the age of 60 years and exceeds 40 years.

(2) Where a death grant is reduced under regulation E5, any period of membership to be left out of account under sub-paragraph (1) is to be taken from the beginning of the period of membership.

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<sup>(96)</sup> 1988 c. 1; the relevant parts of Part I of Chapter XIV were amended by the Finance Act 1988 (c. 39), Schedule 3, paragraph 18, Schedule 13, paragraph 6; the Finance Act 1989 (c. 26), Schedule 6 paragraphs 3(1), (2), (3), (4), 18(2), (3); the Finance Act 1991 (c. 31), section 36(2), (3) and Schedule 19, Part V and the Finance Act 1993 (c. 34), section 107(4), (5), (6), (8)

## SCHEDULE C5

Regulation C27

**Provisions concerning outstanding payments due under previous regulations****Continuation of certain payments**

1.—(1) Without prejudice to Schedule M2 to these regulations, where immediately before the commencement date any payments remained to be made (or were deemed to be due) under a provision of the 1992 regulations which is re-enacted in these regulations, they shall be deemed to be payments due under the corresponding provision of these regulations.

(2) Without prejudice to the generality of sub-paragraph (1), any payments remaining to be made under a provision of the 1992 regulations specified in column (1) of the Table below (including any payments treated as being made under any such provision by virtue of regulation C10(1) of those regulations), shall be deemed to be payments due under the provision of these regulations specified in column (2).

Table

<i>Column (1)</i> <i>1992 regulations</i>	<i>Column (2)</i> <i>These regulations</i>
Regulation C2	Regulation C5
Regulation C3	Regulation C7
Regulation C5	Regulation C9
Regulation C9	Regulation C13
Regulation C11	Regulation C24

(3) Subject to any contrary provision made by these regulations and, in particular, the following provisions of this Schedule, where—

- (a) immediately before 1st March 1993 any payments remained to be made under regulation C10 of the 1992 regulations, or
- (b) immediately before the commencement date any payments remained to be made under a provision of the 1992 regulations specified in paragraph (4) (including any payments treated as being made under any such provision by virtue of regulation C10(1) of those regulations),

then, notwithstanding the revocations made by these regulations—

- (i) those payments remain payable;
- (ii) in so far as any provisions which immediately before the commencement date have effect in relation to those payments are not re-enacted in these regulations, they shall be deemed to have continued in effect in relation to those payments (with such modifications as may be appropriate); and
- (iii) where any such provisions are so re-enacted, the corresponding provision of these regulations shall continue to have effect in relation to them.

(4) The payments mentioned in paragraph (3)(b) are payments under the following provisions of the 1992 regulations—

- (a) regulation C6 (additional payments by certain pensionable employees in respect of previous service);
- (b) regulation C7 (additional payments in respect of previous part-time service);

- (c) regulation C9 (payments to avoid reduction of retiring allowance or death grant, where election to make payment by lump sum or instalments).
- (5) The following provisions of this Schedule are without prejudice to the generality of this paragraph.

**Counting of extra membership periods on completion of payments begun under earlier provisions**

- 2. Without prejudice to paragraph 7 of Schedule M2—
  - (a) where paragraph 1(1) applies, on the making or, as the case may be, the completion or discontinuance of any payments deemed to be due under regulation C9, a member is entitled to count additional membership in accordance with regulation C9(1);
  - (b) on the making or as the case may be the completion or discontinuance of any such payments as are mentioned in paragraph 1(4) or paragraph 1(5) (“the relevant event”) a member is entitled to count additional membership to the same extent as if the relevant event had occurred—
    - (i) in the case of the payments mentioned in paragraph 1(4), before 1st March 1993; and
    - (ii) in the case of the payments mentioned in paragraph 1(5), before the commencement date.

**Part-timers buying additional periods**

3.—(1) Notwithstanding any other provision in these regulations where immediately before the commencement date paragraph 6 of Schedule 9 to the 1981 regulations (amount payable by a part-time employee purchasing additional periods of reckonable service to be calculated by reference to remuneration in a single comparable whole-time employment) is deemed to have applied in accordance with sub-paragraph (3) as respects the amount to be paid by an employee, then, subject to regulation C12(5)—

- (a) the period which he is entitled to count as a period of membership, and
- (b) the payments to be made by him,

shall continue to be calculated in the same manner as was applicable immediately before the commencement date.

(2) Where—

- (a) immediately before the commencement date a pensionable employee in whole-time employment was making payments under regulation C5 of the 1992 regulations in order to reckon an additional period as reckonable service, and
- (b) on that date that employment ceases to be whole-time and becomes part-time employment by virtue only of the amendment of any definitions by these regulations,

then—

- (i) nothing in these regulations shall affect the period which he is entitled to count as a period of membership by virtue of his having made payments before the commencement date calculated in accordance with the 1992 regulations, and
- (ii) without prejudice to any variation of the election which may be agreed between him and his employing authority or to any relevant change in his circumstances after that date—
  - (I) payments made by him on or after that date shall be made by reference to his actual remuneration for the time being, but

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(II) the period of membership which he is entitled to count by virtue of them shall continue to be calculated on the same basis as if his employment were a whole-time employment.

(3) Paragraph 6 of Schedule 9 to the 1981 regulations is deemed to have applied from the 1st March 1993 to immediately before the commencement date.

#### **Additional payments by certain members in respect of previous service**

4. Without prejudice to the previous provisions of this Schedule the revocation of regulation C6 of the 1992 regulations (additional payments by certain members in respect of previous service) shall not affect its operation as respects anything which immediately before the commencement date remains to be done under that regulation, and payments made under that regulation are to be treated for the purposes of these regulations as if they consisted of contributions made under regulation C3 in respect of employment in relation to which the person was a member.

5.—(1) Without prejudice to the previous provisions of this Schedule, a person who has made, or whose widow or widower has made, one or more payments under regulation C7(15) or (19) of the 1992 regulations is entitled to count as a period of membership in whole-time service an additional period of an amount equal to the appropriate proportion of the additional period specified in the notice of election under regulation C7(5) of the 1992 regulations.

(2) In sub-paragraph (1) the “appropriate proportion” means the proportion which the person’s contractual hours of employment as at the relevant date (within the meaning of paragraph 2 of Schedule 10 to the 1992 regulations) bears to the contractual hours of a comparable whole-time employment as at that date.

(3) Where a person has become entitled under sub-paragraphs (1) and (2) to count an additional period as a period of membership in whole-time service by virtue of a lump sum payment having been made in accordance with regulation C7(19) of the 1992 regulations—

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

(4) Regulation C17 (notice to discontinue contributions) applies to payments under regulation C7(15) of the 1992 regulations as it applies to the payments there mentioned, and a person who so discontinues such payment shall be entitled to count under sub-paragraphs (1) and (2) as membership in whole-time service an additional period equal to the appropriate proportion of the length of the period of membership in whole-time service which he would have been entitled to count under that paragraph if payment had been completed.

(5) Where a person began to make payments under regulation C7(15) of the 1992 regulations but ceases to be a member before he has completed payment of the sum payable by him under regulation C8(9) of those regulations—

- (a) if he so ceases on his death or on ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body, he shall be treated as having completed payment of that sum;
- (b) except where paragraph (c) applies, if he so ceases for any other reason he shall be entitled to count under sub-paragraphs (1) and (2) as membership in whole-time service an additional period equal to the appropriate proportion of the period of membership in whole-time service which he would have been entitled so to count if payment had been completed; and



- (c) if he so ceases by reason of his ceasing to be employed by a LGPS employer and within one month after the date on which he so ceases he pays the Committee a capital sum equal to the total of the instalments remaining unpaid, he shall then be treated as having completed payment.

(6) In sub-paragraphs (4) and (5) “appropriate proportion” means the proportion which the aggregate of the total amount paid by way of instalments under paragraph (15) of regulation C7 of the 1992 regulations and this paragraph and the amount paid or payable by the employing authority under paragraph (13) or, as the case may be, paragraph (14) of that regulation and under this paragraph bears to the total sum payable by him and his employing authority under those provisions.

### **Incomplete payments under provisions saved by this Schedule**

6. Regulation C20 (effect of opting out of membership on certain additional payments) applies where a person is by virtue of this Schedule continuing to make additional periodical payments in pursuance of the 1992 regulations or the 1981 regulations as it applies where he has elected to make payments under regulation C9, C13 or C14.

7. Regulation C19(7) shall apply to a person who has given notice under paragraph (2) of regulation C8 of the 1992 regulations (discontinuance of payments under regulation C5 of those regulations on making an election under regulation C7 of those regulations) as if payment of additional contributions under regulation C8 had been discontinued under regulation C18.

### **Continuing provision relating to payments originally made under the 1981 regulations**

8. Without prejudice to paragraph 1, Schedule 10 to the 1981 regulations shall be deemed to have continued to have effect in relation to any payments under regulation 43 of the 1981 regulations which remain payable by virtue of paragraph 1.

### **Reduction of added years**

9. Notwithstanding the revocation of regulation D8 of the 1992 regulations (reduction of added years reckonable on payment as reckonable service), in so far as that regulation is capable of continuing to have effect it shall continue to do so.

### **Reduction of returned contributions in certain cases**

10. Notwithstanding the revocation of regulation C17 of the 1992 regulations (reduction of returned contributions following payment in lieu of contributions), in so far as that regulation is capable of continuing to have effect it shall continue to do so.

## **SCHEDULE D1**

Regulation D1

### **Further provisions about pensionable remuneration**

#### **Increase of pensionable remuneration where not all relevant period is a period of membership**

1. Where a person is entitled to count as a period of membership in relation to the employment which he ceases to hold only part of the year specified in regulation D1(2)(a), his pensionable remuneration is his remuneration during that part multiplied by 365 and divided by the number of days in that part.

### **Optional alternative relevant periods**

2.—(1) Where the circumstances mentioned in any of paragraphs 3 to 5 apply, then if—

- (a) the member or former member so elects, or
- (b) in the event of his death, the Committee so determines,

for the purposes of regulation D1 the relevant period is the period mentioned in that paragraph.

(2) An election under sub-paragraph (1) shall be made by a notice in writing given by the member or former member to the Committee not later than one month after he is notified under regulation J4 of his entitlement to a benefit.

(3) Where a person dies while still in local government employment or without having made an election under sub-paragraph (1), the Committee may give a determination in respect of any matter as to which an election under sub-paragraph (1) may have been made by him.

3. Subject to paragraphs 4 and 5, where a person is not entitled to count the whole of the period which would otherwise be the relevant period under regulation D1(2)(a) as a period of membership because he has been absent from duty (otherwise than by reason of illness or injury), the relevant period is the last 365 days which he is entitled to count as a period of membership.

4.—(1) Where a reduction in a member's remuneration is certified as material under this paragraph, then the relevant period is—

- (a) such one of the last 5 of the 13 years ending with the day on which he ceases to be a member, or
- (b) such consecutive 3 of those 13 years,

as he may elect (or, in a case within paragraph 2(3), as may be determined by the employing authority).

(2) Where by virtue of this paragraph the relevant period is a period of 3 consecutive years, the member's pensionable remuneration is the aggregate of his remuneration during that period divided by three.

(3) Subject to sub-paragraph (7), where a member suffers a material reduction in remuneration he is entitled to be issued with a certificate to that effect by the employing authority.

(4) A member suffers a reduction in remuneration if—

- (a) the remuneration of an employment which he continues to hold is reduced, or
- (b) he is transferred to another employment under the same LGPS employer at a reduced remuneration.

(5) Subject to sub-paragraph (6), a reduction in remuneration is only material if it is such that the member's pensionable remuneration would be likely to be less if the relevant period were the period applicable under regulation D1(2)(a) than if it were the period applicable under sub-paragraph (1).

(6) A reduction in remuneration is not material if—

- (a) it did not result from circumstances beyond the member's control, or
- (b) it was temporary, or
- (c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.

(7) The employing authority may issue a certificate without an application from the member, but need not issue a certificate if he does not apply for one within 12 months after the date of reduction.

(8) A certificate issued under this paragraph is to specify the date of the material reduction and the authority is to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying sub-paragraph (1).

5. Where the member's pensionable remuneration would be higher if either of the two years immediately preceding the period applicable under regulation D1(2)(a) were the relevant period instead of that period, the relevant period is whichever of those years yields the highest amount.

### **Periods of absence**

6. If during the 13 years ending with the day mentioned in regulation D1(2)(a) the member's remuneration was reduced or suspended during absence from duty—

- (a) if the reduction or discontinuance was by reason of illness or injury, or
- (b) if it was otherwise than by reason of illness or injury and he—
  - (i) made contributions under regulation C5 (leave of absence), C6 (maternity absence) or a payment under regulation C7 (absence due to trade dispute), or
  - (ii) contributed under regulation 14(4) or (5) of the 1981 regulations or the corresponding provisions of the former regulations,

he is for the purposes of regulation D1 and this Schedule to be treated as having received for any period in respect of which he made such contributions or payment the remuneration which he would have received but for the reduction or discontinuance.

### **Part-timers**

7. Subject to regulations E7 and F1(3) and paragraph 9(2) of Schedule M2, for the purposes of regulation D1 and this Schedule, 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.

### **Multiple employments**

8. Where—

- (a) a person was at any time employed in a single local government employment ("the first employment"),
- (b) he becomes entitled to a benefit in relation to one of two or more concurrent local government employments ("the second employment"), and
- (c) his remuneration in the first employment becomes material for the purpose of calculating that benefit,

that remuneration shall for that purpose be reduced to such amount as bears the same relation to it as the annual rate of remuneration of the second employment at the date when he ceased to hold that employment bears to the total of the annual rates of remuneration of all the concurrent employments at that date.

### **Fee earners**

9. Where the whole or a part of the member's remuneration consists of fees, his pensionable remuneration in respect of them is the annual average of the fees earned by him—

- (a) during the period of three years ending with the last day of the period which is the relevant period for the purposes of regulation D1,
- (b) during such more favourable period, of more than three but not more than five years, ending with the last day of the period which is the relevant period for the purposes of regulation D1, as his last employing authority may allow, or

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- (c) if he was entitled to receive fees during part only of the period mentioned in paragraph (a), during that part of the period.

### **Employees with notional remuneration**

10.—(1) Where—

- (a) any of a member's remuneration during the period which is the relevant period for the purposes of regulation D1 was determined in accordance with an agreement under paragraph 7 of Schedule C1 (notional remuneration),
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) are within the relevant limits, and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

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

(2) For the purposes of sub-paragraph (1) earnings are within the relevant limits if they—

- (a) exceed by more than 50 per cent. the lower earnings limit at the end of the relevant period, and
- (b) do not exceed the upper earnings limit at the end of that period.

(3) In this paragraph “lower earnings limit” and “upper earnings limit” have the same meaning as in the Pension Schemes (Northern Ireland) Act 1993.

## **SCHEDULE D2**

Regulation D2(3)

### **Retirement Grants**

#### **Reduction in standard retirement grant on account of contingent spouse's pension**

1. Subject to paragraph 4, where—

- (a) a person who is a married man has a period of membership before 1st April 1972; and
- (b) a widow's pension may become payable in respect of him under Part F,

the standard retirement grant is reduced by two-eightieths of his pensionable remuneration, multiplied by the length in years of that period of membership.

2.—(1) Subject to paragraph 4, where—

- (a) a woman has a period of membership of which notice has been given under paragraph 1(1) of Schedule F1 and which is or is treated for the purposes of this paragraph as being a period of membership before 1st April 1972, and

(b) either—

- (i) she is a married woman and a widower's pension may become payable under Part F in respect of that service, or
- (ii) she is a widow or a woman whose marriage has been dissolved and the death or, as the case may be, the dissolution occurred after 31st March 1972,

the standard retirement grant is reduced by three one hundred and sixtieths of the pensionable remuneration, multiplied by the length in years of any such membership as is mentioned in paragraph (a).

(2) For the purposes of this paragraph a period of membership which a person is entitled to count under regulation K15 shall be treated as being a period of membership after 31st March 1972 if the relevant transfer value was accepted after 5th April 1988.

3.—(1) Subject to paragraph 4, where the person—

(i) is a widower;

(ii) is judicially separated from his wife; or

(iii) is a man whose marriage has been dissolved;

the standard retirement grant is reduced by two eightieths of his pensionable remuneration, multiplied by the length in years of any period of membership before 1st April 1972, or, if earlier, the date of the death, separation or dissolution.

4. In calculating any reduction under paragraph 1, 2 or 3, 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.

#### SCHEDULE D3

Regulation D7(2)

#### **Additional membership in cases of ill-health**

##### **“Relevant service” and “relevant membership period”**

1.—(1) For the purposes of this Schedule—

(a) a member’s relevant service is so much of his contributing service and non-contributing service as did not consist of years added to his service—

(i) under regulation 43 of the 1981 regulations, or

(ii) the corresponding provisions of the former regulations,

(b) a member’s relevant membership period is the total of—

(i) any period of membership deriving from relevant service which became reckonable service by virtue of regulations 39 and 40(1)(a) of the 1981 regulations, and

(ii) any subsequent period of membership (other than a period excluded by sub-paragraph (2)),

(c) in sub-paragraph 1(b)(ii) “subsequent period of membership” does not include an additional period purchased by lump sum or additional contributions except, subject to sub-paragraph (d) below, the additional period was purchased on or after 1st November 1991 under regulation 11 of the Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991<sup>(97)</sup> or regulation C7 of the 1992 regulations, and

(d) where the additional membership period to which a person is to be treated as being entitled would be a longer period if, in calculating a person’s relevant membership period, an additional period purchased under regulation 11 of the Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991 or under regulation C7 of the 1992 regulations were to be disregarded instead of being taken into account, the additional period so purchased shall be disregarded.

(2) The subsequent period of membership mentioned in sub-paragraph (1)(b)(ii) does not include an additional period purchased by a lump sum or additional contributions unless—

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<sup>(97)</sup> S.R. 1991 No. 418 inserted regulation 46A into the 1981 regulations

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- (a) it was purchased on or after 1st November 1991 under regulation 46A of the 1981 regulations or under regulation C7 of the 1992 regulations as continued in effect by Schedule C5, and
- (b) taking that period into account results in an increase in the additional period.

### **Calculation of additional membership period**

2.—(1) Subject to paragraphs 3 and 4, the additional membership period is—

- (a) in a case where the length of the relevant membership period is less than 10 years, a period equal to the length of the relevant membership period; and
- (b) in any other case—
  - (i) the period by which the length of the relevant membership period falls short of 20 years, or
  - (ii) if longer, 6 243/365 years.

(2) The additional membership period is not to exceed the period by which the member's period of membership would have been increased if he had continued in the employment which he has ceased to hold until—

- (a) he attained the age of 65 years, or
- (b) if earlier, the date when his period of membership amounted to 40 years.

### **Alternative additional periods**

3.—(1) Subject to paragraph 4, where before entering the employment which he has ceased to hold the person had, on ceasing to hold a previous employment, become entitled to benefits—

- (a) under regulation D7(1) or regulation E2(1)(b)(i) of the 1992 regulations, or
- (b) under regulation 9(1)(a)(i) of the 1962 regulations, and regulation 18(1)(b)(i) of the 1981 regulations,

the additional period in relation to a person shall be a period calculated as mentioned in paragraph 2, but—

- (i) on the assumption that his relevant membership period includes his relevant membership period (or, as the case may be, the period of his relevant service) in relation to the previous employment, and

(ii) with the deduction of the appropriate period.

(2) In sub-paragraph (1)(ii) “the appropriate period” means—

- (a) in the case mentioned in sub-paragraph (1)(a), the additional period which became reckonable in relation to the previous employment by virtue of regulation D7(2) and this Schedule or, as the case may be, regulation E3(9) of and Schedule 9 to the 1992 regulations, and
- (b) in the case mentioned in sub-paragraph (1)(b), if the person's retirement pension in respect of a previous employment was calculated under the proviso to regulation 10(1) of the 1962 regulations before the amendment of those regulations by the Local Government (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1973<sup>(98)</sup>—
  - (i) the period by which his relevant service fell short of 20 years, or
  - (ii) the period by which it would have been increased if he had continued in the previous employment until he reached the age of 65 years, as the case may be.

<sup>(98)</sup> S.R. & O. (N.I.) 1973 No. 242

## Part-timers

### 4.—(1) Where—

- (a) the whole of a member's relevant membership period is in respect of part-time service, and
- (b) the reduction under regulation B14(1)(b) is by the same proportion in respect of the whole period,

the additional membership period shall be determined in accordance with paragraphs 1 to 3 by reference to the period which would be the relevant membership period if the reduction required by regulation B14(1)(b) were not made ("the unreduced period"), and then the period resulting from the application of those provisions shall be reduced as mentioned in that regulation.

### (2) Where—

- (a) the whole of a member's relevant membership period is in respect of part-time service, and
- (b) different proportionate reductions fall to be made under section B14(1)(b) in respect of different parts of the relevant membership period,

the additional membership period shall be determined in accordance with paragraphs 1 to 3 by reference to the period which would be the relevant membership period if the reductions required by regulation B14(1)(b) were not made ("the unreduced period"), and then—

- (i) the period resulting from the application of those provisions shall be apportioned between the different parts mentioned in sub-paragraph (b) in proportion to the respective lengths of the parts of the unreduced period attributable to each of them,
- (ii) each such apportioned part of the unreduced period shall be reduced as mentioned in that regulation, and
- (iii) those reduced periods shall be aggregated together.

(3) Subject to sub-paragraph (4), where part only of a member's relevant membership period is in respect of part-time service, the additional membership period for the whole of his relevant membership period shall be determined in accordance with paragraphs 1 to 3 (and, in so far as the membership in respect of part-time service is concerned, by reference to the unreduced period), and then the period resulting from the application of those provisions ("the aggregate unreduced period") shall be reduced by multiplying it by the fraction of which—

- (a) the numerator is the member's relevant membership period, determined, in so far as any membership in respect of part-time service is concerned, with the reduction required by regulation B14(1)(b) (and, where different proportionate reductions fall to be made under regulation B14(1)(b) in respect of different parts of the relevant membership period, determining the overall reduction as mentioned in sub-paragraph (2) above), and
- (b) the divisor is the aggregate unreduced period.

### (4) Where—

- (a) apart from this sub-paragraph, sub-paragraph (3) would apply, and
- (b) the member's relevant membership includes not less than 13  $\frac{121}{365}$  years in respect of whole-time service,

then sub-paragraph (3) shall not apply.

(5) Where a member is in part-time service and his contractual hours are determined as mentioned in sub-paragraph (iii) of the definition of "contractual hours" in regulation B3(4), (non-cyclical fluctuation) then, for the purposes of this paragraph—

- (a) the lengths of the parts of the relevant membership period by reference to which different proportionate reductions fall to be made under regulation B14(1)(b) shall be determined by reference to the periods mentioned in that sub-paragraph, and

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- (b) the reduction under that regulation in respect of any such period shall be made by reference to the contractual hours over that period as determined under that sub-paragraph.

#### SCHEDULE D4

Regulation D14(7)

##### **Procedure for surrender of part of retirement pension**

1. The Committee shall send to each person who becomes eligible to surrender part of his retirement pension, on his first becoming so eligible, a notice stating—

- (a) that provision has been made by these regulations for the surrender of part of a retirement pension to a spouse or dependant; and
- (b) that he may, on application to the Committee, obtain further information on the subject.

2.—(1) Subject to sub-paragraph (3), where a person wishes to make a surrender he may within the relevant period notify the Committee in writing of his wish to surrender a part of that retirement pension.

(2) In sub-paragraph (1) “the relevant period” in relation to a member or former member, means—

- (a) in the case of a person who on ceasing to hold his employment becomes entitled to a retirement pension (in this Schedule referred to as “a retiring employee”) not more than two months before or within one month after the date on which he ceases to be employed; and
- (b) in the case of a person who would, if he were to retire from his employment, become entitled to a retirement pension (in this Schedule referred to as “a continuing employee”), within two months before or at any time after becoming a continuing employee and while he is still employed.

(3) Where the Committee is satisfied that it has not been reasonably practicable for a retiring employee to notify his wish to surrender a part of a retirement pension within the relevant period owing to circumstances beyond his control, it may extend that period to a date not more than six months after the date on which he ceases to be employed.

3.—(1) Subject to sub-paragraphs (2) and (3), where the Committee receives a notification given by a person under paragraph 2, it shall—

- (a) immediately arrange for him to be examined at his own expense by a registered medical practitioner nominated by it and for a report to be given to it by the practitioner stating whether, in his opinion that person is in good health for his age; and
- (b) require the person to furnish at his own expense—
  - (i) a certificate of his birth (except where the date of birth has been duly recorded by the Committee and is not disputed);
  - (ii) where the beneficiary is the person’s spouse, the spouse’s birth certificate and their marriage certificate;
  - (iii) where the beneficiary is a dependant, the dependant’s birth certificate and such evidence as may be appropriate to prove dependency,

and any other information or evidence which the Committee considers necessary.

(2) Where the report under sub-paragraph (1)(a) is to the effect that the person is not in good health, the Committee shall notify him accordingly and offer him an opportunity of a further examination at his own expense by some other registered medical practitioner nominated by it with a view to that practitioner reporting to it on the state of the person’s health.



(3) If for any reason a birth or marriage certificate cannot be supplied as mentioned in sub-paragraph (1), the Committee may accept such other evidence of birth or marriage as it thinks fit in order to determine the age or, as the case may be, the marital status of the person concerned.

4.—(1) Subject to the provisions of this Schedule, unless

- (a) the Committee is of the opinion, on consideration of a report obtained by it under paragraph 3, that the person to whom the report relates is not in good health; or
- (b) it is of the opinion that the evidence produced concerning marriage or dependency is not satisfactory,

it shall—

- (i) allow the surrender of such part of the retirement pension as is specified in the person's notification and as is in conformity with this Schedule; and
- (ii) grant to the beneficiary named in the notification a pension, payable in the event of the beneficiary's surviving the person and to be calculated in accordance with regulation D14(4).

(2) Where—

- (a) a person is named as spouse in the notification given under paragraph 2; and
- (b) the Committee is dissatisfied with the evidence of marriage, but is satisfied, on the evidence already before it or after making such further inquiries as it thinks necessary, that the named person is a dependant of the person who gave the notification,

it shall treat the notification as if the person named in it as spouse had been named as a dependant of the person giving the notification.

(3) A decision by the Committee to allow a surrender by a retiring employee shall not be made before the date on which he ceases to be employed, and a decision by the Committee to allow a surrender by a continuing employee shall not be made before the date on which he becomes such an employee.

(4) As soon as is reasonably practicable after deciding whether to allow a surrender of any part of the retirement pension of a person who has given it a notification under paragraph 2, the Committee shall—

- (a) notify him of its decision; and
- (b) if it has allowed a surrender, furnish him—
  - (i) with a statement as to the amount of the pension to which the beneficiary may become entitled after his death; and
  - (ii) if the person who gave the notification under paragraph 2 is a retiring employee, with a statement as to the amount of the reduced retirement pension to which he is entitled.

(5) A notification of a decision not to allow a surrender shall state the grounds for the decision.

(6) A notification sent to a person under sub-paragraph (4) shall, if it has been posted in a prepaid envelope addressed to him, be deemed to have been received by him at the time at which a letter would be delivered in the ordinary course of post.

5. A person who has given a notification under paragraph 2 of his wish to surrender a part of his retirement pension may, at any time before he has received notification from the Committee of its decision, cancel or amend that notification by a notice in writing addressed to the Committee and posted in a prepaid envelope to, or left at its offices.

6.—(1) A notification given by a person under paragraph 2 shall become null and void if—

- (a) the beneficiary dies before the person receives notification from the Committee that his surrender has been allowed; or

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- (b) the person dies at any time before midnight on the day on which the Committee decides to allow the surrender.
- (2) Subject to sub-paragraph (1), a surrender allowed in pursuance of a notification given by a person shall have effect as from the date on which the person ceases to hold his employment.

## SCHEDULE D5

Regulations D15, E6, F1, F9

### Re-employed pensioners

#### Part I

#### Reduction of Retirement Pension

##### Application of Part I

1.—(1) Subject to sub-paragraph (3), this Part applies to a person who, since becoming entitled to a retirement pension in relation to a former employment, has entered a new employment with a LGPS employer.

(2) In this Part “retirement pension” includes an annual pension under the former regulations and a retirement pension under the 1992 regulations.

(3) This Part does not apply where the new employment is employment by virtue of which the person is entitled to participate in benefits provided under regulations made under Article 11 of the Order of 1972<sup>(99)</sup> (superannuation of teachers).

##### General reduction rule

2. Subject to paragraphs 3, 7 and 9, while the person holds the new employment the annual rate of the retirement pension is reduced—

- (a) if the annual rate of remuneration of the new employment, equals or exceeds the indexed annual rate of remuneration of the former employment, to zero; and
- (b) otherwise, by the amount (if any) which is necessary to secure that the potential receipts during the new employment do not exceed the indexed annual rate of remuneration of the former employment.

3. Where within the last 12 months of the former employment the person held another concurrent employment with any LGPS employer, which he has ceased to hold without becoming entitled to a retirement pension in relation to it, and either—

- (a) he has ceased to hold the concurrent employment after ceasing to hold the former employment; or
- (b) he has ceased to hold the concurrent employment first, and entered the new employment within 12 months after ceasing to hold the concurrent employment,

then—

- (i) if he does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced; and

<sup>(99)</sup> S.I. 1972/1073 (N.I. 10)

- (ii) in any other case, paragraph 2 applies as if the indexed annual rate of remuneration of the former employment included the indexed annual rate of remuneration of the concurrent employment.

4. In paragraphs 2 and 3—

- (a) references to the indexed annual rate of remuneration of the former or, as the case may be concurrent employment are to the sum of—
  - (i) the annual rate of that remuneration; and
  - (ii) the amount (if any) by which, immediately before the first day of the new employment, that remuneration would have been increased if it had been the rate of an official pension (within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971)(100) beginning on and payable from the day after the last day of the former or, as the case may be, the concurrent employment; and
- (b) “the potential receipts during the new employment” means the sum of—
  - (i) the annual rate of remuneration of the new employment;
  - (ii) the reduced rate of the retirement pension; and
  - (iii) the amount (if any) by which that reduced rate would, immediately before the first day of the new employment, have been increased under that Act, if it had then been the rate of the retirement pension (assuming that pension had by then qualified for increases under that Act).

5.—(1) For the purposes of this Part, subject to sub-paragraph (2), the annual rate of remuneration of an employment is—

- (a) if it is a former employment in respect of which the person is entitled to a retirement pension under these regulations, the 1981 regulations or the 1992 regulations—
  - (i) in the case of fixed-rate emoluments, the rate of any such emoluments on the last day of the period which is the relevant period for the purposes of regulation D1; and
  - (ii) in the case of fees, the average rate of any fees during the period by reference to which pensionable remuneration fell to be calculated under paragraph 9 of Schedule D1;
- (b) if it is a former employment in respect of which the person is entitled to a retirement pension otherwise than as mentioned in sub-paragraph (a)—
  - (i) in the case of fixed-rate emoluments, the rate of any such emoluments on the last day of employment; and
  - (ii) in the case of fees, the average rate of any fees during the period, within the last three years of employment, during which fees were receivable.
- (c) in the case of the new employment—
  - (i) in the case of fixed-rate emoluments, the annual rate of such emoluments on the first day of employment;
  - (ii) in the case where fees are receivable but were not receivable in the former employment, a rate agreed by the person and the body employing him or, in default of agreement, a rate determined by the Department;
  - (iii) in the case where fees are receivable and were receivable in the former employment, subject to sub-paragraph (3), the annual rate of those fees, ascertained in accordance with sub-paragraphs (a)(ii) and (b)(ii).

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(2) For the purposes of sub-paragraph (1)(a) and (b), where—

- (a) the person's remuneration in the former employment was at any material time reduced or discontinued by reason of his absence from duty; and
- (b) the absence was due to illness or injury or he made contributions or payments under regulation 14(4) of the 1981 regulations, the corresponding provisions of the former regulations, regulation C2 or C3 of the 1992 regulations or regulation C5, C6 or C7 ,

then—

- (i) any reduction or discontinuance of fixed-rate emoluments is to be disregarded, and
  - (ii) any fees are to be averaged over a period of the same length as the period mentioned in sub-paragraph (1)(a) or (b), but ending immediately before the reduction or discontinuance.
- (3) If the annual rate of remuneration of the new employment ascertained in accordance with this paragraph is less than that of the former employment, the annual rate of any fees ascertained in accordance with sub-paragraph (1)(c)(iii) is to be reduced proportionately.

#### **Alteration of terms in new employment**

6. If—

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

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

#### **Proportional reduction in cases of two or more pensions**

7. If this Part applies to two or more retirement pensions, each is reduced in proportion to its amount.

#### **Duty to inform employers of application of Part I**

8. A person who has become entitled to a retirement pension shall—

- (a) inform any LGPS employer with whom he proposes to accept a new employment that he is so entitled; and
- (b) immediately he enters a new employment notify the Committee in writing that he is doing so.

## **Part II**

### **Combined Benefits**

#### **Election for application of Part II**

9.—(1) Subject to sub-paragraph (2) and paragraphs 10 and 14, where—

- (a) a person has become entitled to a retirement pension (“the first pension”),
- (b) after becoming so entitled he entered further employment which was or became local government employment, and
- (c) he has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (“the second pension”),

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

(2) Sub-paragraph (1) does not apply if the first pension is a pension—

- (a) to which the person became entitled under regulation D18, or
- (b) which is reduced under regulation D13.

(3) In this Part “retirement pension” includes an annual pension under the former regulations and a retirement pension under the 1992 regulations.

### **New entitlement to single pension**

10. Subject to paragraphs 11 to 13, a person to whom this Part applies is to be treated as having, on the date on which the second pension became or becomes payable—

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

11. If in conjunction with the first pension the person was entitled to a retirement grant—

- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation D2(2)(ii) from the calculation of the retirement grant,
- (b) if he has not received the grant before becoming entitled as mentioned in paragraph 10(b), he ceases to be entitled to it,
- (c) if he has received the retirement grant—
  - (i) he is only entitled to payment of the excess, if any, of the lump sum over the retirement grant, and
  - (ii) if the retirement grant exceeds the lump sum, he is only entitled to the annual pension if, within three months after giving notice under paragraph 9, he pays an amount equal to the excess to the Committee.

12. If—

- (a) the first pension was, and
- (b) the second pension would not have been,

subject to reduction under Part V of the 1981 regulations or regulation H2 the annual pension is subject to reduction by the same amount as the first pension.

13. If part of the first pension was surrendered under regulation D14—

- (a) the annual pension is to be treated as having been surrendered to the same extent, and
- (b) any resulting pension becoming payable on the person’s death is to be paid by the Committee.

14. In relation to a person who—

- (a) before 1st April 1972—
  - (i) became entitled to an annual pension under the former regulations, and
  - (ii) again became a contributory employee, and
- (b) has not since he again became a contributory employee had a disqualifying break in service,

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this Part has effect as if references to the first retirement pension were references to that annual pension and references to a retirement grant were references to a retiring allowance under the former regulations.

## Part III

### Separate Benefits

#### Application of Part III

- 15.—(1) This Part applies to a person who—
- (a) has become entitled to a retirement pension (a “previous pension”),
  - (b) after becoming so entitled entered further local government employment,
  - (c) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an “additional pension”), and
  - (d) has not become entitled to the annual pension mentioned in Part II.
- (2) In this Part “retirement pension” includes—
- (a) a retirement pension under the 1992 regulations, and
  - (b) an annual pension under the former regulations.

#### Modifications to usual benefit rules

- 16.—(1) If—
- (a) on the person’s ceasing to hold an employment in relation to which he became entitled to a previous pension (a “previous employment”) regulation D7 applied, and
  - (b) paragraph 3 of Schedule 9 to the 1992 regulations applied,
- regulation D7(2) does not apply on his ceasing to hold any further employment.
- (2) If regulation D7 did not apply on the person’s ceasing to hold a previous employment, but does apply on his ceasing to hold a further employment, paragraph 2(1) of Schedule D3 applies with the substitution for paragraphs (a) and (b) of the words “6 243/365 years”.

#### Benefits on and after death

- 17.—(1) Subject to sub-paragraph (2), if when the person dies regulation E3(2) applies, it applies with the omission of the words from “the greater of” to the end of paragraph (a).
- (2) If the person who dies became entitled to a previous pension or to an additional pension—
- (a) by virtue of regulation D9, in a case where there was no entitlement under any previous regulation of Part D,
  - (b) by virtue of regulation D11, or
  - (c) by virtue of regulation E2(1)(c) or (e) of the 1992 regulations,
- then—
- (i) if his previous and additional pension benefits equal or exceed his relevant previous or additional pensionable remuneration, there is no entitlement under Part E to a death grant in relation to the further employment, and

- (ii) otherwise, the amount of that death grant (as calculated in accordance with that Part) is reduced by the amount, if any, by which it exceeds the difference between the amount of those benefits and that remuneration.
- (3) For the purposes of sub-paragraph (2)—
  - (a) a person's "previous and additional pension benefits" are the total of—
    - (i) every death grant payable in relation to any previous employment, calculated in accordance with Part E,
    - (ii) payments made in respect of every previous pension,
    - (iii) every retirement grant to which the person became entitled in conjunction with any previous pension,
    - (iv) any payments made in respect of the additional pension, and
    - (v) any retirement grant to which the person became entitled in conjunction with the additional pension,including in each case any increase under the Pensions (Increase) Act (Northern Ireland) 1971, and
  - (b) a person's "relevant previous or additional pensionable remuneration" is the greater of—
    - (i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension (within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971) beginning on and payable from the day after the last day of the relevant previous employment, and
    - (ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated.

## Part IV

### Surviving Spouses' and Children's Benefits

- 18.—(1) This paragraph applies where—
- (a) a person was entitled to a retirement pension (other than one which was reduced under regulation D13),
  - (b) after becoming so entitled he entered further local government employment,
  - (c) he dies in the further employment, and
  - (d) if he had then ceased to be employed (otherwise than by reason of his death) he would have been entitled to give notice under paragraph 9.
- (2) Where this paragraph applies—
- (a) any benefits payable in respect of the person (except any surviving spouse's or children's short-term pension) are to be calculated, and
  - (b) any surrender of part of a retirement pension has effect,
- as if immediately before his death he had become entitled to benefits under Part II or, if it is more favourable to the person entitled to receive the benefits in question, Part III.
19. Where—

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- (a) a person was entitled to an annual pension under the former regulations or a retirement pension under the 1992 regulations or these regulations,
- (b) after becoming so entitled he entered further local government employment,
- (c) the pension was on that account reduced or suspended, and
- (d) he dies in the further employment,

any benefits payable in respect of him (except any surviving spouse's or children's short-term pension) are to be calculated as if immediately before his death he had become entitled to benefits under Part III.

20. Where—

- (a) a surviving spouse is entitled to a spouse's short-term pension under regulation F1,
- (b) if the deceased had ceased to hold his employment on the date of his death (otherwise than by reason of death), he would have been entitled to a retirement pension under Part D (whether or not payable immediately), and
- (c) the deceased's local government employment was a new employment for the purposes of Part I,

then the annual rate of the short-term pension is a rate equal—

- (i) if the retirement pension was not reduced under Part I, to the total of the deceased's pensionable remuneration in the new employment and the annual rate of the retirement pension, or
- (ii) if the retirement pension was so reduced, to the total of the deceased's pensionable remuneration in the new employment and the annual rate, if any, at which the retirement pension was payable.

21.—(1) Where—

- (a) a surviving spouse is entitled to a spouse's long-term pension under regulation F2, and
- (b) the deceased's local government employment was a new employment for the purposes of Part I,

then the annual rate of the long-term pension is the greater of—

- (i) the aggregate of—
  - (I) half the annual rate of the member's retirement pension, and
  - (II) half the annual rate of the retirement pension to which the member would have been entitled in respect of the new employment if on the date of death the entitlement had arisen under regulation D7, and
- (ii) half the annual rate of the retirement pension to which the member would have been entitled if—
  - (I) on the date of death the member had become entitled under that regulation, and
  - (II) notice had been given under paragraph 9.

(2) For the purposes of sub-paragraph (1)—

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

shall be disregarded.



## SCHEDULE F1

Regulation F8

### **Elections as respects widowers' pensions etc.**

1.—(1) A married woman who—

- (a) was a member on 27th July 1989 and has since that date continuously been a member, and
- (b) is entitled to count a period of membership before 1st April 1972,

may, subject to sub-paragraph (3), give notice in writing to the Committee of any additional period which she wishes to count for the purposes of calculating any widower's long-term pension payable in respect of her.

(2) For the purposes of sub-paragraph (1), the reference to a woman having continuously been a member includes a reference to a woman who, having ceased to be a member—

- (a) became or becomes a member again within one month of so ceasing, or
- (b) became or becomes a member again within one month of returning to work in accordance with Article 111 of the Employment Rights (Northern Ireland) Order 1996<sup>(101)</sup> (which confers the right to return to work following pregnancy or confinement).

(3) The additional period of which notice may be given by a woman under sub-paragraph (1) shall not exceed the length of her period of membership which is not, or is not treated for the purposes of regulation F7(3) as being, membership after 31st March 1972.

(4) Notice given under sub-paragraph (1) shall be irrevocable, but, subject to the provisions of this paragraph, notice may be given on more than one occasion.

### **Elections under regulation E12 of the 1992 regulations**

2.—(1) Where any woman—

- (a) duly elected under regulation E12(1)(b) or (2)(b) of the 1992 regulations (election by wife of dependant and permanently incapacitated husband), or
- (b) was a person to whom regulation E12(1)(a) of those regulations (unmarried woman with potentially eligible child) applied immediately before she ceased to be a pensionable employee (within the meaning of those regulations),

then, subject to sub-paragraph (2), the provisions of Part D relating to the amount of the retirement pension and the retirement grant, Parts F and G and paragraph 3 of Schedule BI apply in relation to her as if she were a man, and where sub-paragraph (a) applies, as if the husband in relation to whom the election was made were a woman.

(2) Sub-paragraph (1) does not apply if—

- (a) the woman has given notice under paragraph 1(1) that she wishes to count any of her membership before 1st April 1972 for the purposes of calculating a widower's long-term pension, or
- (b) if she ceases to be married to the husband in respect of whom the election under regulation E12(1) or (2)(b) of the 1992 regulations was made.

3. Where a woman died before 6th April 1988, Part G only applies in respect of her if—

- (a) she was a person to whom regulation E12(1)(a) of the 1992 regulations (unmarried woman with potentially eligible child) applied, or
- (b) in respect of whom an election under regulation E12(1)(b) or (2)(b) of the 1992 regulations had effect immediately before her death.

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<sup>(101)</sup> S.I. 1996/1919 (N.I. 16)

## SCHEDULE K1

Regulation K13

**Revival of rights for certain community scheme transferees****Persons to whom this Schedule applies**

1.—(1) This Schedule applies where—

- (a) a person became employed by a Community institution after having been employed in local government employment,
- (b) the scheme managers of the Communities' scheme were paid a transfer value under regulation K2 in relation to his previous service in local government employment,
- (c) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension, and
- (d) the Committee has been paid the appropriate transfer sum for the credit of the fund.

(2) In this paragraph “Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme.

(3) In sub-paragraph (1)(d) “appropriate transfer sum” means the aggregate—

- (a) of a sum equal to the amount of the transfer value which the scheme managers received, and
- (b) if the period beginning with the date on which the transfer value was received by the scheme managers and ending on the date on which the sum mentioned in sub-paragraph (a) was paid is at least 6 months, of compound interest on that sum for that period—
  - (i) at the rate of 6 per cent. with yearly rests for each complete period of a year ending before 1st April 1977, and
  - (ii) at the rate of 2.25 per cent. with three-monthly rests for each complete period of three months beginning after 31st March 1977.

**Persons who ceased local government employment on or after 1st March 1993**

2. Where—

- (a) the person ceased to be employed in his local government employment on or after 1st March 1993; and
- (b) apart from regulations K2 to K12, he would have been entitled to a pension (other than a pension under regulation D16 (guaranteed minimum pensions for members in contracted-out employment etc.) or D18 (equivalent pension benefits)) in respect of the service to which the transfer value relates,

then, subject to paragraph 4, he and those claiming through him shall have the same rights as they would have had by virtue of these regulations, the 1992 regulations and the 1981 regulations (so far as applicable) if the payment of the transfer value had not been requested or made.

3.—(1) Where—

- (a) the person ceased to be employed in his local government employment on or after 1st March 1993; and
- (b) he would not, apart from regulations K2 to K12, have been entitled to a pension (other than a pension under regulation D16 (guaranteed minimum pensions for members in contracted-out employment etc.) or regulation D18 (equivalent pension benefits)) in respect of the service to which the transfer value relates,

then, subject to paragraph 4, he and those claiming through him shall have the same rights as they would have had by virtue of these regulations, the 1992 regulations and the 1981 regulations (so far as applicable) on the assumptions mentioned in sub-paragraph (2).

(2) The assumptions referred to in sub-paragraph (1) are—

(a) that on the termination of his local government employment he had been entitled to count—

(i) an aggregate of two years' reckonable service and qualifying service (as defined by the 1992 regulations), or

(ii) where the termination occurred on or after the commencement date a total period of membership of two years, and

(b) that the payment of the transfer value had not been requested or made.

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

(a) a return of contributions, or

(b) the payment of any benefit for any period ending on or before the date on which the person left his employment with the Community institution.

### **Interpretation of references to those claiming through a person**

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

## **SCHEDULE K2**

Regulation K20

### **Mis-sold Pensions**

#### **Prescribed persons**

1. For the purposes of regulation K20(2) (prescribed persons to whom information may be provided) the persons are—

(a) a person who is or has been an authorised person within the meaning of the Financial Services Act 1986(102) (“the 1986 Act”)(“an authorised person”);

(b) an appointed representative within the meaning of section 44 of the 1986 Act (“an appointed representative”);

(c) a recognised self-regulating organisation within the meaning of the 1986 Act;

(d) a recognised professional body within the meaning of the 1986 Act;

(e) the Securities and Investments Board;

(f) the Investors Compensation Scheme Limited;

(g) a professional indemnity insurer of an authorised person or an appointed representative;

(h) The Chartered Accountants Compensation Scheme Limited;

(i) The Solicitors Indemnity Fund Limited;

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- (j) A person or body arbitrating or adjudicating in, or investigating or considering, a complaint brought by such an individual as is mentioned in Article 164 of the Pensions Order against an authorised person or an appointed representative;
  - (k) A person or body appointed to act on behalf of any of the above.
2. For the purposes of regulation K20(3) (persons on whom fees may be imposed) the persons are any person listed in sub-paragraphs (a) to (d) and (f) to (i) of paragraph 1 and any person or body appointed to act on behalf of any of those persons.
3. A restitution payment in relation to an individual shall be an amount equal to the total of:—
- (a) the amount that would be necessary to purchase service in the Scheme on the material date equal to the opted out period on the basis of a transfer in from a scheme which is not a club scheme, such amount—
    - (i) to include the value of any rights under the Pensions (Increase) Act (Northern Ireland) 1971, and
    - (ii) to be determined by the Committee on such basis as shall be approved from time to time by the Government Actuary, and
  - (b) the transfer value (if any) previously paid out of the Scheme under regulation K2, or the corresponding provisions of the former regulations, to the personal pension scheme in respect of the transferred out service increased by interest at a rate approved from time to time by the Government Actuary for that purpose over the period from the date on which such a transfer value was paid out of the Scheme to the date on which it is assumed, for the purpose of calculating the restitution payment, that a transfer value will be paid to the Scheme (“the calculation date”).
4. The amount, if any, calculated by virtue of paragraph 3(b) shall be at least equal to the amount of the cash equivalent transfer value which would be payable by the Scheme in respect of the transferred out service if the Scheme were to pay a cash equivalent transfer value in respect of that service immediately after the calculation date.
5. In this Schedule—
- (a) “material date” means the date on which the Committee receives a request to provide the calculation of the restitution payment;
  - (b) “opted out period” and “transferred out service” have the same meaning as in regulation K17(7).

## SCHEDULE L1

Regulation L13

### The Committee

#### Part I

#### Constitution of the Committee

1. The Committee shall consist of a chairman appointed by the Head of the Department and the following other members—
- (a) five members appointed by the Head of the Department after consultation with such organisations as may be recognised by him as representative of LGPS employers; and

- (b) five members appointed as aforesaid after consultation with such organisations as may be recognised by the Head of the Department as representative of the classes of officers of LGPS employers affected by the regulations.

2.—(1) Subject to the provisions of paragraphs 2(2) and 5, the term of office of a member of the Committee shall be 4 years from the date of his appointment.

(2) The Head of the Department may extend the term of office of a member of the Committee by a maximum period of 18 months.

3. The quorum of the Committee shall be 6, or such other number as the Committee may, with the approval of the Department, determine.

4. The Committee may act notwithstanding any vacancy in its number so long as the number of vacancies does not exceed the number of remaining members.

5. A casual vacancy occurring in the membership of the Committee shall be filled by the Head of the Department after consultation with the Committee and a person so appointed shall hold office for the residue of the term of the member in whose place he is so appointed.

6. A member of the Committee may resign his membership by giving notice in writing, signed by him, to the Head of the Department.

7. Where any member of the Committee is absent from the meetings thereof for more than 6 months consecutively (except for a reason approved by the Head of the Department) or becomes bankrupt or makes a composition with his creditors or is convicted of an indictable offence, the Committee shall forthwith by resolution declare the office to be vacant and shall notify that fact in such manner as it thinks fit, and thereupon the office shall become vacant.

8. A member of the Committee on vacating his office at the expiration of the term thereof shall (subject to the foregoing provisions of this Schedule) be eligible for re-appointment.

9. No defect in the appointment of any person acting as a member of the Committee shall vitiate any proceedings of the Committee in which he has taken part.

## Part II

### Powers of the Committee

10. The Committee, which shall be a body corporate with perpetual succession and a common seal, and with capacity to acquire and hold land, shall subject to paragraphs 2 to 8, perform such functions as may be assigned to it by these regulations.

11. The Committee may appoint a sub-committee or an officer employed by the Committee to discharge, with or without restrictions or conditions as the Committee thinks fit, any of the functions assigned to the Committee by the Local Government Pension Scheme(Management and Investment of Funds) Regulations (Northern Ireland) 2000(**103**).

12. The number of members of a sub-committee appointed under paragraph 11, and their term of office shall be fixed by the Committee or in the case of an officer his term of office shall be fixed by the Committee.

13. A sub-committee appointed under paragraph 11 shall consist of members of the Committee and may include officers of the Committee appointed under paragraphs 20 and 21.

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14. A sub-committee or an officer appointed under paragraph 11 shall report to the Committee at each of its meetings setting out all actions taken under such appointment.

15. The Committee may revoke any appointment made under paragraph 11, or any restriction or condition imposed under paragraph 11 or anything fixed under paragraph 12.

16. Any arrangements made by the Committee for the discharge of the functions specified in the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000 by a sub-committee or officer shall not prevent the Committee from exercising those functions.

17. The seal of the Committee shall be authenticated by the signatures of 2 of the members and of the secretary or some other person authorised by the Committee to act in that behalf.

18. Every document purporting to be an instrument issued by the Committee and to be sealed with the seal of the Committee authenticated in the manner provided by paragraph 17, or to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and, unless the contrary is proved, shall be deemed to be such instrument without further proof.

19. Subject to the provisions of these regulations, the Committee shall have power to regulate its own procedure.

20. The Committee may with the approval of the Department appoint persons to hold any of the following offices—

Secretary to the Committee;

Deputy Secretary to the Committee;

such other offices under the Committee as the Department may designate in writing.

21. In addition to the appointments mentioned in paragraph 20, the Committee may appoint such other officers as may be required for the performance of the functions of the Committee.

22.—(1) The Committee may make arrangements with any district council, area board or public body for the exercise of any superannuation function by the Committee on behalf of the district council, area board or public body on such terms as may be provided for by the arrangements.

(2) For the purposes of this paragraph, “area board” means an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986<sup>(104)</sup> or a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(105)</sup>.

23. Section 18(2) of the Interpretation Act (Northern Ireland) 1954<sup>(106)</sup> shall apply to any appointment made by virtue of paragraphs 20 or 21 as if each of these paragraphs were an enactment referred to in the said section 18(2) but a person shall not be removed from any office mentioned in paragraph 20 without the written concurrence of the Department.

## Part III

### Expenses And Allowances Payable By The Committee

24. The expenses of the Committee, including payments in respect of reasonable out-of-pocket expenses incurred by the members in connection with the discharge of their duties as such, shall be defrayed out of the fund.

<sup>(104)</sup>S.I. 1986/594 (N.I. 3); Article 3 was amended by the Education Reform(Northern Ireland) Order 1989 (S.I.1989 No. 2406 (N.I. 20))

<sup>(105)</sup>S.I. 1972/1265 (N.I. 14)

<sup>(106)</sup>1954 c. 33 (N.I.)

25. The Committee may, in addition to any payment made under paragraph 24, pay to the Chairman of the Committee such allowance as it considers to be reasonable.

26. The Committee may in addition to any payments made under paragraphs 24 or 25, pay to a member of the Committee a financial loss allowance in connection with service as a member of the Committee, but such allowance shall not exceed the amount of financial loss allowance as the Department may from time to time determine under section 36 of the Local Government Act (Northern Ireland) 1972(107).

27. A member of the Committee entitled to a financial loss allowance under paragraph 26 shall make a claim for such allowance in such form as the Committee may direct to the Secretary of the Committee and shall make a declaration that—

- (a) he has not or will not make any claim for allowances from any other body in respect of the approved duty to which the claim refers;
- (b) the amounts claimed are strictly in accordance with the provisions of this Part; and
- (c) he has necessarily incurred or suffered the financial loss claimed for the purpose of enabling him to perform an approved duty.

28. A claim for a financial loss allowance shall be submitted to the Committee within 4 months, or such longer period as the Committee may in exceptional circumstances allow, from the date of the approved duty in respect of which the allowance is claimed.

29. In this Part—

“approved duty” means attendance at a meeting of the Committee or of any sub-committee thereof or the doing of anything approved by the Committee for the purpose of, or in connection with, the discharge of the functions of the Committee; and

“financial loss allowance” means a payment in respect of any loss of earnings necessarily suffered or any additional expenses (other than expenses on account of travelling or subsistence) necessarily suffered or incurred by a member for the purpose of enabling him to perform any approved duty.

## SCHEDULE M1

Regulation M1

### Modification in special cases

#### Certain female nurses, physiotherapists, midwives and health visitors

In their application to members to whom regulation 50 of the 1981 regulations applied these regulations shall have effect subject to the modifications in the following paragraphs—

- (1) regulation B2(4) shall have effect as if for the figure “65” there was substituted the figure “60”;
- (2) regulation C2(1)(a) and (c) shall have effect as if for the words “60th birthday” there were substituted the words “55th birthday”;
- (3) paragraph 8(1)(a)(ii) of Schedule C4 shall have effect as if for the words “60 years” there were substituted the words “55 years”.

## SCHEDULE M2

Regulation M6

**Transitional and Transitory Provisions****Part I****General Provisions**

1. In this Schedule “the revoked instruments” means the statutory instruments revoked by these regulations.

2.—(1) The substitution of these regulations for the revoked instruments does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision of the revoked instruments has effect, if it could have been done under or for the purposes of the corresponding provision of these regulations, as if done under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in these regulations or any other instrument or document to a provision of these regulations shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the revoked instruments has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any instrument or document to a provision of the revoked instruments shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of these regulations.

(5) Any document made, served or issued on or after the commencement date which contains a reference to any of the revoked instruments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of these regulations.

(6) Where any provision of the revoked instruments (“the replacement provision”) re-enacted, with or without modification, a previous provision revoked by the revoked instruments (“the previous provision”), then, so far as is necessary to prevent the continuity of the law from being affected, any reference in these regulations to the replacement provision shall, so far as the context permits, be construed as including a reference to that previous provision.

3. Where—

- (a) these regulations revoke a provision (“the commencement provision”) relating to the coming into force of another provision (including a commencement provision deeming another provision to have had effect from a date earlier than that which would otherwise apply), and
- (b) the effect of that other provision is reproduced in a corresponding provision of these regulations,

the revocation does not affect the operation of the commencement provision, in so far as it is not specifically reproduced in these regulations but remains capable of having effect, in relation to the corresponding provision of these regulations.

4.—(1) The revocation by these regulations of any provision previously revoked subject to savings does not affect the continued operation of those savings.

(2) The revocation by these regulations of a saving to which a previous revocation of a provision is subject does not affect the operation of the saving in so far as it is not specifically reproduced in these regulations but remains capable of having effect.



(3) The revocation by these regulations of a provision which has effect as respects another provision of the revoked instruments (being a provision which is not reproduced in these regulations but continues in effect by virtue of this Schedule or the Interpretation Act (Northern Ireland) 1954 does not affect its operation as respects that other provision.

5. Where by virtue of Part II a reference in these regulations to anything has effect as respects any time before the commencement date as if it were a reference to another thing, then where any provision of the revoked instruments continues in effect (by virtue of this Schedule or otherwise) on and after that date, any reference in that provision to that other thing shall, so far as is necessary to give effect to it, have effect on and after that date with the appropriate modification.

## Part II

### Specific Provisions

#### Membership

6.—(1) References in these regulations to a member shall have effect as respects any time before the commencement date as references to a pensionable employee (and related expressions shall have effect accordingly).

(2) Nothing in these regulations affects the date of the commencement of the membership of any person who is a member immediately before the commencement date.

(3) Where immediately before the commencement date any person—

- (a) is eligible to be and is a member of the Scheme, or
- (b) has the right to make an election to join the Scheme,

by virtue of any provision of the 1992 regulations which is revoked by these regulations and is not re-enacted by them or is re-enacted with modifications, he shall notwithstanding the revocation or modification remain eligible to be a member, or as the case may be to make such an election, subject to the same terms and conditions as under that provision.

(4) Without prejudice to the previous provisions of this paragraph—

- (a) no person who is a member of the Scheme immediately before the commencement date shall be ineligible for membership of the Scheme by virtue of anything in regulation B3 (definitions of whole-time, part-time and variable-time employment);
- (b) notwithstanding the revocation of paragraph 3 of Part III of Schedule 2 to the 1992 regulations, any person to whom that paragraph applied immediately before the commencement date shall continue to be treated as there mentioned.

#### Existing reckonable service etc.

7. Without prejudice to any other provision in these regulations, any period which immediately before the commencement date counted as a period of reckonable service for any purpose of the Scheme (including any period which counted by virtue of regulation E25 or E27 of the 1992 regulations)—

- (a) shall continue to be counted for that purpose as a period of membership of the same length as it then counted for that purpose,
- (b) if it counted as service in whole-time employment or part-time employment, shall count as membership in whole-time employment or, as the case may be, membership in part-time employment, and

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- (c) if it counted as service before or after a particular date, shall count as membership before or, as the case may be, after that date.

### **War service**

8. The revocation of Part F (war service) and regulation N4 (decisions by the Committee as to such service) of the 1992 regulations shall not affect—

- (a) any right to which a person is or would apart from the revocation become entitled under or by virtue of that Part; or
- (b) any decision made under that regulation or under regulation N8 (appeals) of those regulations as respects such a decision;

but, in so far as they continue to have effect by virtue of this paragraph, references in those provisions to reckonable service shall be taken, where appropriate, to be references to periods of membership.

### **Remuneration**

9.—(1) Nothing in these regulations shall affect the meaning of “remuneration” as respects the calculation of any benefit in respect of a person who has ceased to be a member of the Scheme before the commencement date.

(2) Where, apart from paragraph 7(b), a period of reckonable service in whole-time employment before the commencement date would count on and after that date as a period of membership in part-time employment, then for the purpose of calculating any benefit by reference to that period of service, paragraph 7 of Schedule D1 shall not apply (and accordingly the benefit shall be calculated, in so far as it relates to that period, by reference to pensionable remuneration which has not been increased by virtue of that paragraph).

### **Continuation of options under regulation S2 of the 1992 regulations**

10. Nothing in these regulations shall affect the rights of any person who duly elected under regulation S2 of the 1992 regulations (application of those regulations to benefits in respect of former employments).

### **Resolutions**

11. Where by virtue of any provision of these regulations which is not derived from a corresponding provision of the 1992 regulations, a resolution under these regulations is to make any particular provision or to be made in accordance with any procedure, then any corresponding resolution made under those regulations and continuing to have effect after the commencement date—

- (a) shall be deemed to have complied with that procedure, and
- (b) may be varied so as to make that particular provision.

## SCHEDULE M3

Regulation M7

**Subordinate legislation revoked**

<i>Year and Number</i>	<i>Title</i>	<i>Extent of revocation</i>
<a href="#">1992/547</a>	Local Government (Superannuation) Regulations (Northern Ireland) 1992	The whole regulations, except Part L and Schedule 19 and the other provisions of the regulations in so far as they continue to be required for the purposes of Part L and Schedule 19
<a href="#">1991/492</a>	Local Government (Superannuation) (Reserve Forces) Regulations (Northern Ireland) 1991	All the Regulations
<a href="#">1998/337</a>	Local Government Superannuation (Interchange) Regulations (Northern Ireland) 1998	All the Regulations
<a href="#">1998/41</a>	Local Government (Superannuation and Compensation) (Institutions of Further Education) Regulations (Northern Ireland) 1998	Regulation 3 of Part II
<a href="#">1998/133</a>	Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1998	All the Regulations
<a href="#">1999/218</a>	Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1999	All the Regulations
<a href="#">2000/23</a>	Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 2000	All the Regulations

## SCHEDULE M4

Regulation M8

**Consequential Amendments**

1. In regulation L5 of the 1992 regulations for “regulation E2”, “regulation E19(4)” and “regulation E19(2)” substitute respectively “Part D of the Local Government Pension Scheme Regulations (Northern Ireland) 2000”(108), “paragraph 4(1) of Schedule D1 to the Local

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(108) S.R. 2000 No. 177

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Government Pension Scheme Regulations (Northern Ireland) 2000” and “regulation D1 of the Local Government Pension Scheme Regulations (Northern Ireland) 2000”.

2. In the Local Government (Superannuation) (Milk Marketing Board for Northern Ireland) Regulations (Northern Ireland) 1997(109)—

(a) in regulation 1(2)—

(i) in the definition of “admitted employee” for “Regulation B5(2)” substitute “regulation B6(3)”; and

(ii) in the definition of “the principal Regulations” for “the Local Government (Superannuation) Regulations (Northern Ireland) 1992” substitute “the Local Government Pension Scheme Regulations (Northern Ireland) 2000”.

(b) in regulation 2 for “Regulation B5(10)” substitute “regulation B6(9)” and for “Regulation B5” substitute “regulation B6”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These regulations retitle and consolidate, with amendments, the provisions of the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 547), (“the 1992 regulations”) as amended.

Part L (injury allowances) of the 1992 regulations has not been reproduced in these regulations as the allowances are not payable by the Committee out of the pension fund. For the time being therefore that part is not revoked by these regulations.

The principal changes are as follows—

1. Regulation B2(1) reduces the minimum age of entry to the Scheme from 18 to 16 with effect from 1st October 1989.

2. Regulation B3(3)(b) defines a whole-time employee as an employee whose contractual number of hours is not less than the number of hours stipulated as whole-time in his contract of employment. There are saving provisions in Schedule M2 in respect of Scheme membership before the commencement date of these regulations (“the commencement date”).

3. Regulation B3(4)(ii) deals specifically with employees who work only those hours they are directed to work by their employers and whose contractual hours consequently vary in a non-cyclical fashion.

4. With the exception of casual employees and re-entrants who must apply to join from the commencement date, Scheme membership is automatic for all whole-time and part-time employees irrespective of the number of hours per week or weeks per year they are working unless they opt, in writing, not to join or subsequently opt out (regulation B9).

5. With retrospective effect from 1st April 1990 Scheme membership is automatic for all whole-time employees working at least 30 hours per week unless they opt, in writing, not to join or subsequently opt out (regulation B9(2)).

6. Any period of employment on or after the commencement date during which a Scheme member is absent from duty through illness or injury (whether or not contributions have been paid) counts as a period of Scheme membership (regulation B13(1)(b)).

7. Part-time Scheme members who work or have worked less than 15 hours per week are given the opportunity to pay contributions to count local government employment since 1st January 1993 as Scheme membership. Employers' contributions will also be payable by employers and former employers in respect of Scheme members who elect to pay such contributions (regulation C4).

8. From the commencement date the definition of "remuneration" includes any payment or benefit specified in an employee's contract of employment as being a pensionable emolument (regulation C1).

9. With effect from 1st January 1993 regulation C6 implements, in respect of the local government pension scheme, the requirements of the Directive on the implementation of the principle of equal treatment for men and women in occupational social security schemes in relation to maternity leave (86/378/EEC, O.J. No. L225, 12.8.86, p. 40). The regulation provides for a female member on maternity absence to pay contributions on the rate of remuneration she is receiving during her absence (and to elect to pay contributions at the rate she was receiving at her last payment date) to count the period for which contributions have been paid as Scheme membership. (The EC Directive can be obtained from The Stationery Office Ltd, 16 Arthur Street, Belfast.)

10. With effect from 2nd May 1995 regulation C12 and paragraph 3(1) of Schedule C5, make provision for part-time employees to purchase part-time added years. However, part-timers currently buying whole-time added years will continue to do so unless they elect under regulation C12(5) to change their original election.

11. With effect from 2nd May 1995 the treatment of the enhancement of benefits on ill-health retirement for members with part-time Scheme membership is clarified. The additional period to be awarded is determined by reference to the actual length of the person's Scheme membership and then proportionately reduced to its whole-time equivalent when calculating benefits. In the case of a person whose employment consists of a mixture of whole-time and part-time Scheme membership the additional period to be awarded is determined by reference to the formula in paragraph 4(3) of Schedule D3 unless a total of 13 years 121 days' actual whole-time Scheme membership has been completed, in which case the formula is not applied (regulation D7(2) and Schedule D3, paragraph 4(4)).

12. Regulations D9(2), D11(2)(e) and D16(3) provide, with effect from 2nd May 1995, that women retiring on or after age 60 with less than 25 years' total membership are not required to accept immediate payment of Scheme benefits although, like men, they may opt to do so. Also, from the same date male members will no longer be prevented from electing to receive their retirement benefits before state pension age if their reduced pension is less than their guaranteed minimum.

13. Regulation D16(5) removes an inequality whereby the pension of a man retiring at or after age 60 with less than 25 years' total membership, calculated in respect of membership from 17th May 1990, is subject to an actuarial reduction of up to 33% whereas that of a woman is not. A woman's pension in respect of Scheme membership commencing on or after 6th April 1978 during which she has been contracted-out of the State Earnings Related Pension Scheme has been protected as a consequence of a requirement of the Social Security Pensions (Northern Ireland) Order 1975. The new regulation provides that a man's pension will enjoy the same protection as that of a woman in respect of his Scheme membership from and including 17th May 1990. The amendment also provides that the protection for both men and women lasted only in respect of membership to 30th April 1995.

14. Regulation E1 increases the death grant payable on death in service on or after 2nd May 1995 to two times rather than one times pensionable remuneration.

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**15.** As from the commencement date the Committee will have absolute discretion to decide who should receive a death grant (regulation E8).

**16.** Spouses' pensions will no longer cease to be payable following remarriage or cohabitation on or after the commencement date (regulations F1 to F5).

**17.** With effect from the commencement date the spouse of a female member who retires or dies in service will have the automatic right to a widower's pension in respect of his wife's Scheme membership after 31st March 1972 (regulation F7). A member with Scheme membership before 1st April 1972 may elect to include part or all of that membership (Schedule F1) in the calculation of the widower's pension but her lump sum retirement grant will normally be paid at a reduced rate in respect of any period so included (Schedule D2, paragraph 3). This reduction can be avoided or, if appropriate, the period included, by the payment of extra contributions to the Scheme.

**18.** With effect from 6th April 1988 the widower of a female member who dies after 5th April 1988 and before the commencement date is entitled to a pension based on her service after that date (regulation F11).

**19.** Regulation G3(3) provides that children's long-term pensions are comparable where no spouse's long-term pension is payable irrespective of who is caring for the children.

**20.** With effect from 6th April 1988, regulation G8(3) provides that pensions are payable for eligible children of female members. Also, from that date there is no longer a requirement that Scheme members must have completed a minimum period of total membership before their children are eligible for a pension.

**21.** With effect from 6th April 1988 regulation G9 makes provision for minimum amounts of children's long-term pensions to be awarded.

**22.** Regulation H1 provides for the addition of interest on the late payment of benefits and returns of contributions.

**23.** With effect from 2nd May 1995, regulation H6 provides for a member's pension, other than his guaranteed minimum, to be commuted on retirement and paid to him as a lump sum when the member is in exceptionally serious ill-health. The Committee must be satisfied by medical advice that the expectation of life at retirement is less than one year. Commutation does not affect any spouse's or children's pensions payable after the death of the retired member.

**24.** From the commencement date, the Committee can, only award ill-health retirement benefits, or the early payment of preserved benefits on ill-health grounds, when a certificate, confirming that the person will be permanently incapable until, at the earliest, age 65, is provided by an independent registered medical practitioner qualified in occupational health medicine (regulation J1).

**25.** To comply with Article 50 of the Pensions (Northern Ireland) Order 1995 regulations J5 to J10 introduce arrangements for the resolution of disputes between a prospective member, member, deferred pensioner, pensioner, spouse or dependant on the one hand and the Committee on the other. A matter involving a disagreement relating to the Scheme must first be referred by the complainant to a person appointed by the Committee to review the first decision. If the complainant is dissatisfied with his decision, he may apply to the Committee for the decision to be reconsidered.

**26.** Effective from 9th April 1997, regulation K17 makes provision in respect of members who were eligible to be Scheme members previously but who instead paid contributions to a personal pension plan as a result of which they have suffered loss, and the contravention is actionable under section 62 of the Financial Services Act 1986.

Schedule C4 reflects overriding legislation introduced by the Finance (No 2) Act 1987 and the Finance Act 1989 and identifies different categories of members depending upon whether the individual joined, or is deemed to have joined, the Scheme before 17th March 1987, on or after

17th March 1987 and before 1st June 1989, or on or after 1st June 1989 or has elected to be treated as having joined the Scheme on that date and clarifies—

- (a) that the limit on an employee's contributions under the Scheme, other than additional voluntary contributions, is linked to remuneration as defined in the regulations and not to the employee's taxable earnings,
- (b) that irrespective of age the maximum Scheme membership is limited to 40 years for the purposes of the calculation of benefits for members who joined or have elected to be treated as having joined the Scheme on or after 1st June 1989,
- (c) that pensionable remuneration is limited to £100,000 for the purposes of calculating the retirement grant in the case of a person who joined the Scheme on or after 17th March 1987 and before 1st June 1989,
- (d) that pensionable remuneration for the purposes of determining the contributions payable by, and the calculation of benefits payable to or in respect of members who joined the Scheme on or after 1st June 1989, cannot exceed the "permitted maximum" under the Finance Act 1989.

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express powers to make regulations retrospective in effect. These regulations are to a certain extent retrospective, however, no one will be adversely affected by the retrospective provisions.