

SCHEDULE 2

Regulations 5, 6 and 7(1)

RE-EMPLOYMENT OF MEMBERS (SCHEDULE D5 TO THE 2000 REGULATIONS ETC.)

Interpretation

1. In this Schedule—

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

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

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

“rejoining deferred member” means any person who—

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

Active and rejoining pensioners: general

2. Despite regulation 3—

- (a) the saved provisions shall continue to apply; and
- (b) Part II (except regulations 51 and 52) and Parts III and V of the 2002 Regulations shall not apply,

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

Re-employment and abatement

3.—(1) Where immediately before the commencement date Part I of Schedule D5 to the 2000 Regulations (reduction of retirement pensions) applies to any person by virtue of one or more new employments with employing authorities which continue on that date—

- (a) that Part of that Schedule shall cease to apply to him if after that date there is a period of more than one month during which he is not employed by any of those employing authorities; and
- (b) if after such a period the member enters employment with any employing authority, regulations 112 and 113 of the 2002 Regulations (abatement) shall apply instead as respects that employment.

(2) Regulations 112 and 113 of the 2002 Regulations shall apply instead of Part I of Schedule D5 to the 2000 Regulations to a rejoining pensioner and a rejoining deferred member.

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Combined benefits

4.—(1) An active deferred member, an active pensioner or a former active pensioner may not make an election under Part II of Schedule D5 to the 2000 Regulations on or after the commencement date, but he may make an election under regulation 31(1) of the 2002 Regulations.

(2) A rejoining pensioner or a rejoining deferred member or a former such person may not make an election under Part II of Schedule D5 to the 2000 Regulations on or after the date on which he becomes an active member again, but he may make an election under regulation 31(1) of the 2002 Regulations.

(3) Where an election has been made under Part II of Schedule D5 to the 2000 Regulations on or after the commencement date by a person who later becomes unable to make such an election by virtue of sub-paragraph (2)—

- (a) that election shall continue to have effect; and
- (b) that Part of that Schedule shall continue to apply,

unless he makes an election under regulation 31(1) of the 2002 Regulations affecting the pension in question.

(4) If he does so, regulation 31(1) to (8) of the 2002 Regulations shall apply and the saved provisions shall cease to apply to him as respects the pension in question.

Separate benefits and dependants' benefits

5.—(1) This paragraph applies where an active pensioner, a rejoining pensioner, an active deferred member or a rejoining deferred member or a former such person does not make an election under regulation 31(1) of the 2002 Regulations.

(2) Regulation 31(9) of those Regulations shall apply in relation to him instead of paragraph 16 of Schedule D5 to the 2000 Regulations.

(3) When he dies, regulation 50 of the 2002 Regulations (dependants of re-employed pensioners) shall apply instead of Part IV of Schedule D5 to the 2000 Regulations.

(4) But, if he made an election under paragraph 9(1) of Schedule D5 to the 2000 Regulations which continues in effect until his death, regulation 50 of the 2002 Regulations shall apply as if the single pension to which he became entitled by virtue of that election was an unreduced retirement pension within regulation 50(1) of those Regulations.

(5) This sub-paragraph applies if when he dies, by virtue of regulation 50 of the 2002 Regulations, all the benefits payable on his death (except short-term pensions payable under the old provisions or the 2002 Regulations) are calculated on the assumption that he has made an election under regulation 31(1) of the 2002 Regulations.

Members with preserved rights

6.—(1) Where immediately before the commencement date there is an election in force in respect of a member's benefits under regulation D12(1)(c) of the 2000 Regulations (elections to remain entitled to preserved benefits under regulation D11(1) of those Regulations), for these Regulations he shall be treated as a deferred member (and not as an active member) as respects his rights to preserved benefits and the membership in question (but see the following provisions of this paragraph).

(2) Sub-paragraph (1) is without prejudice to regulation 34(5) of the 2002 Regulations and applies despite the fact that the member—

- (a) continues as an active member by virtue of regulation 3; or
- (b) becomes an active member again on or after the commencement date (whether immediately before he does so he is a deferred member or a pensioner member).

(3) Sub-paragraph (1) ceases to apply to a person falling within sub-paragraph (2)(b) as respects any part of his former membership which he elects under regulation 34(1) of the 2002 Regulations to aggregate with later membership.

(4) Sub-paragraph (1) also ceases to apply if any person falling within that sub-paragraph makes an election under regulation 31(1) of the 2002 Regulations.

(5) Where sub-paragraph (4) applies, the member shall cease to be entitled to count under the saved provisions any period of membership to which he is entitled under the old provisions but as respects which he elected under regulation D12(1)(c) of the 2000 Regulations to remain entitled to preserved benefits.

(6) He shall instead be entitled to count that period as a period of membership for the purposes of regulation 8(1)(d) of the 2002 Regulations.

(7) But regulations 8 to 10 shall apply as to the adjustment of the length of that period as if it had been a period which he was entitled to count by virtue of regulation 6.

Elections for aggregation: members rejoining the day before the commencement date

7. Where on the day before the commencement date a member was eligible to make an election under regulation D12(1)(c) of the 2000 Regulations by reason of having re-entered local government employment in the period of three months ending at that time, but had not done so—

- (a) he may make an election under regulation 34(1) of the 2002 Regulations at any time whilst he remains an active member in that employment; but
- (b) if he does not make such an election before he ceases to be such a member in that employment, he shall be treated for the purposes of these Regulations as if he had made an election under regulation D12(1)(c) of the 2000 Regulations on the day before the commencement date as respects all the membership as to which he could have made that election.

Limitations on benefits

8.—(1) Where an active pensioner, a rejoining pensioner, an active deferred member or a rejoining deferred member has not made an election under regulation 31(1) of the 2002 Regulations—

- (a) Part III of Schedule C4 to the 2000 Regulations (limitations on benefits) shall continue to apply as respects the benefits derived from his membership before the commencement date; and
- (b) Schedule 4 to the 2002 Regulations shall only apply as respects his membership after that date.

(2) Sub-paragraph (1) ceases to apply to an active deferred member or a rejoining deferred member as respects any part of his former membership which he elects under regulation 34(1) of the 2002 Regulations to aggregate with later membership; and accordingly Schedule 4 to the 2002 Regulations shall apply as respects all benefits payable to or in respect of him in relation to the membership aggregated.

Continuity of elections by certain rejoining deferred members

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

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

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- (ii) before becoming entitled to the immediate payment of benefits under the 2000 Regulations;
 - (b) immediately before ceasing to be an active member was making payments under an election made under regulation C9 or C13 of the 2000 Regulations; and
 - (c) elects under regulation 34(1) of the 2002 Regulations.
- (2) Where sub-paragraph (1) applies the member may pay his employing authority in the employment in which he is an active member an amount equal to the amount which would have been payable if he had continued to be an active member and to make those payments.
- (3) That amount must be paid before the expiry of the period of three months beginning with the date he becomes an active member again.
- (4) If he pays his employing authority that amount—
- (a) that payment shall be treated as having been made under regulation 57 of the 2002 Regulations; and
 - (b) that election shall be treated as having been made under that regulation as respects so much of the period of membership as he may not count by virtue of regulation 7 (and accordingly the amount of his additional contributions shall be determined under regulation 57 of the 2002 Regulations).
- (5) Sub-paragraph (1) does not apply if the member—
- (a) has received a return of contributions which includes additional contributions under regulation C9 of the 2000 Regulations made under the election mentioned in sub-paragraph (1)(b); or
 - (b) has requested such a return of contributions.