
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 188

The Local Government Pension Scheme
Regulations (Northern Ireland) 2014

PART 1

MEMBERSHIP, CONTRIBUTIONS AND BENEFITS

PRELIMINARY PROVISIONS

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme Regulations (Northern Ireland) 2014 and, save as is mentioned in paragraph (2), shall come into operation on 1st April 2015.

(2) Regulation 2(3) (introduction and interpretation, actuarial guidance) shall come into operation on 1st September 2014 for the purpose of enabling the Department to issue actuarial guidance.

Introduction and interpretation

2.—(1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of persons working in local government employment, and in these Regulations is referred to as “the Scheme”.

(2) The Scheme manager responsible for the administration of pensions and other benefits payable under these Regulations, is the Northern Ireland Local Government Officers’ Superannuation Committee, and in these Regulations is referred to as “the Committee”.

(3) The Department may, after consultation with the Government Actuary’s Department, issue actuarial guidance to the Committee.

(4) Schedule 1 (interpretation) contains definitions of expressions used in these Regulations which apply for their interpretation unless the context indicates they have a different meaning.

MEMBERSHIP

Active membership

3.—(1) Subject to regulation 6 (restriction on eligibility for active membership), a person is eligible to be an active member of the Scheme in an employment, if—

- (a) employed by an employing authority; or
- (b) employed by an admission body within the meaning of paragraph 2 of Part 1 (admission bodies) of Schedule 2 (admission agreements with admission bodies) and is designated in the admission agreement, or belongs to a class of employees that is designated in the admission agreement by the admission body as being eligible for membership of the Scheme.

(2) Subject to paragraph (3), a person eligible to be an active member of the Scheme in an employment becomes an active member on the day that person's employment begins or (if later) the day the person becomes eligible for membership.

(3) A person who would, apart from this paragraph, be an active member of the Scheme by virtue of paragraph (2) who is employed under a contract of employment of less than three months does not become an active member on the day specified in paragraph (2) but becomes an active member—

- (a) on the member's automatic enrolment date;
- (b) if the person applies to become a member, on the first day of the first payment period following the application; or
- (c) on the first day of the payment period following an extension to the contract of employment which means that the contract of employment is to be for three months or more;

whichever is the earlier.

(4) A person who is eligible to be an active member of the Scheme in an employment, but who is not an active member of the Scheme in that employment—

- (a) may apply in writing to the person's employing authority to join the Scheme, and becomes an active member of the Scheme in that employment on the first day of the payment period following the application; but in any event,
- (b) becomes an active member of the Scheme in an employment on the automatic enrolment date or automatic re-enrolment date relating to that employment.

(5) Subject to paragraph (6) and regulation 7(5) (ending active membership, person whose membership is less than three months treated as never having been a member), an active member has qualifying service for a period of two years if—

- (a) that member has spent two years as an active member of the Scheme;
- (b) a transfer value payment has been received in respect of rights accrued in a different occupational pension scheme or under a European Pensions Institution and the length of service in respect of which that person accrued benefits in that scheme was two or more years;
- (c) the aggregate of the period the person has spent as an active member of the Scheme and of a different occupational pension scheme or European Pensions Institution in respect of which a transfer value payment has been accepted, is two years;
- (d) a transfer value payment has been received in respect of rights accrued in a scheme or arrangement that does not permit a refund of contributions to the member;
- (e) the member has paid National Insurance contributions whilst an active member of the Scheme and ceases active membership after the end of the tax year preceding that in which the member attains pensionable age;
- (f) the member already holds a deferred benefit or is in receipt of a pension (other than a survivor's pension or pension credit member's pension) under these Regulations;
- (g) a transfer value payment has been made to a qualifying recognised overseas pension scheme; or
- (h) the member ceases active membership at age 75.

(6) The following periods do not count as periods of qualifying service for the purposes of these Regulations—

- (a) any period for which contributions have been returned to the member;
- (b) any period of membership derived from a non-contributory pension scheme or arrangement from which a transfer value payment has been received and which is

attached to the membership in respect of which contributions have been returned under regulation 20 (rights to return of contributions);

- (c) any period in respect of which rights have been transferred to another registered pension scheme other than a qualifying recognised overseas pension scheme;
- (d) any period in respect of which the member has been deprived of benefits under regulation 102 (forfeiture of pension rights after conviction for employment-related offences).

Eligibility of councillors

4. These Regulations apply to councillor members in respect of their councillor membership as they apply to active members with the modifications set out in Schedule 4.

Employees of admission bodies

5.—(1) The Committee may make an admission agreement with any admission body.

(2) Any such admission agreement with an admission body shall make provision for the relevant matters set out in Part 2 (admission agreements) of Schedule 2 (admission agreements with admission bodies).

(3) These Regulations apply to employment with an admission body in which the employee is an active member, in the same way as if the admission body were an employing authority.

Restriction on eligibility for active membership

6.—(1) If a person's employment entitles that person to belong to another public service pension scheme, or would so entitle that person were it not for the person's age, that employment does not entitle that person to be a member, unless that other scheme was made under Article 9 of the 1972 Order.

(2) An employee of an employing authority may not be a member of the Scheme if that employee is a member of another occupational pension scheme in relation to that employment.

(3) A person shall not become a member of the Scheme after the day before that person's 75th birthday.

(4) Retained or volunteer membership with a fire and rescue authority (within the meaning given to that term by Article 3 of the Fire and Rescue Services (Northern Ireland) Order 2006(1)) on terms under which the retained or voluntary member is or may be required to engage in fire-fighting does not entitle the retained or voluntary member to be a member of the Scheme.

(5) Any person who, as a member of staff of the University of Ulster, is eligible to participate in the Universities' Superannuation Scheme is not entitled to be a member of the Scheme.

(6) Paragraph (1) does not apply to a member on reserve forces service leave who is entitled to be a member of the Armed Forces Pension Scheme, if that member makes an election to that member's employing authority to remain a member of the Scheme.

Ending active membership

7.—(1) A person ceases to be an active member in an employment if that person ceases to be eligible for membership of the Scheme through that employment, and membership in that employment ceases from the date that eligibility ceases.

(2) A person ceases to be an active member in an employment from the date specified in a written notice that the person wishes to leave the Scheme, given by that person to that person's employing authority.

(3) But an active member who gives notice under paragraph (2) specifying no date, or a date earlier than the date the notice is given, or a date prior to the end of a payment period for which the payroll has already closed, ceases to be an active member in that employment at the end of the payment period during which the notice is given.

(4) A person ceases to be an active member when that person attains the age of 75.

(5) A person who, by virtue of a written notice given under paragraph (2), ceases to be an active member of the Scheme before being an active member of the Scheme for three months is to be treated as not having been an active member, except where the employment is one in which the member is working reduced hours or is employed on a reduced grade following an election under regulation 31(6) (retirement benefits, flexible retirement pensions).

Deferred members

8.—(1) A person is a deferred member of the Scheme, in relation to an employment, if—

- (a) the person has qualifying service for a period of at least two years;
- (b) the person is no longer an active member of the Scheme in relation to that employment;
- (c) the person has not started to receive any pension under the Scheme in relation to that employment; and
- (d) the person has not reached the age of 75.

(2) A person may be a deferred member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member, in the same or a different category of membership, in relation to a different period of membership.

Pensioner members

9.—(1) A person is a pensioner member of the Scheme if that person—

- (a) was an active member of the Scheme;
- (b) was a deferred member of the Scheme; or
- (c) was a pension credit member of the Scheme,

and is in receipt of a benefit from the Scheme relating to that membership.

(2) A person may be a pensioner member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member, in the same or a different category of membership, in relation to a different period of membership.

Pension credit members and survivor members

10.—(1) A person is a pension credit member of the Scheme if that person has been given a pension credit in the Scheme as a consequence of a pension debit in relation to a member of the Scheme.

(2) A person is a survivor member of the Scheme if that person is entitled to a benefit under regulations 41, 43 to 45, 47 to 50 or 52 to 55 (survivor benefits).

CONTRIBUTIONS

Contributions

11.—(1) Subject to regulation 12 (temporary reduction in contributions), an active member shall pay contributions to the Scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment, for each employment in which the member is an active member (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement date of that membership).

(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate (specified in the third column) applicable to the band of pensionable pay (specified in the second column) into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

Table 1

<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment</i>
1	£0 - £14,000	5.5%
2	£14,001 to £21,300	5.8%
3	£21,301 to £35,600	6.5%
4	£35,601 to £43,000	6.8%
5	£43,001 to £85,000	8.5%
6	More than £85,000	10.5%

(3) Where there is a change in employment, or a material change to the terms and conditions of a member's employment, which affects the member's pensionable pay in the course of a financial year, the employing authority may determine that a contribution rate reflecting the different pay range should be applied and the employing authority shall inform the member of the contribution rate applicable and the date from which it is to be applied.

(4) On the first day of the pay period in which 1st April 2016 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the second column of the table in paragraph (2) are increased by applying the appropriate increase, rounding the result down to the nearest £100 and adding £1 to the first figure in each band apart from band 1.

(5) In paragraph (4) "the appropriate increase" means the amount (where it is greater than zero) by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2015 to which the 1971 Act applied.

(6) For the purposes of identifying which is the applicable contribution rate under this regulation or regulation 12 (temporary reduction in contributions) any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;

- (f) reserve forces service leave; or
- (g) absence due to a trade dispute.

Temporary reduction in contributions

12.—(1) An active member may elect to pay reduced contributions in an employment for a period by giving written notice to that active member's employing authority that the active member wishes to do so.

(2) Where a notice is given under paragraph (1), from the next available payment period following the giving of the notice, the contribution rate payable by the active member on that active member's pensionable pay in relation to that employment is 50% of that which would otherwise be payable under regulation 11 (contributions).

(3) An active member may cancel the election under paragraph (1) at any time by giving written notice to that active member's employing authority to this effect.

(4) Where a notice is given under paragraph (3), the contribution rate payable on the active member's pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from the next available payment period following the giving of the notice.

(5) An active member's election under paragraph (1) is cancelled from the first available pay period after—

- (a) the automatic re-enrolment date; and
- (b) going on to no pay as a result of sickness or injury provided that the active member is still on no pay at the beginning of that pay period,

and the contribution rate payable on the active member's pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from that date.

(6) An active member may make a further election under paragraph (1) at any time when that active member is liable to make contributions as is provided by regulation 11 (contributions).

(7) The employing authority of any active member who elects to pay reduced contributions under paragraph (1) shall give that active member information about the effect on that active member's likely benefits consequent to that election.

Contributions during absence from work

13.—(1) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work on child-related leave in accordance with regulation 14 (contributions during child-related leave).

(2) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence on reserve forces service leave in accordance with regulation 15 (contributions during reserve forces service leave).

(3) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work because of illness or injury in accordance with regulation 16 (contributions during absence for illness or injury).

(4) A person remains an active member of the Scheme during any absence from work—

- (a) of the description mentioned in paragraphs (1) to (3);
- (b) due to a trade dispute; or
- (c) with permission from the member's employing authority;

and if in receipt of pay, continues to accrue earned pension in accordance with regulation 25(4) or (5) (active member's pension accounts).

Contributions during child-related leave

14.—(1) An active member on child-related leave shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received (including statutory pay).

(2) The pay in paragraph (1) does not include any amount that reduces the active member's actual pensionable pay on account of possible entitlement to statutory pay.

(3) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that active member is treated for the purposes of these Regulations as if that active member had paid contributions for that unpaid period under paragraphs (1) and (2).

Contributions during reserve forces service leave

15.—(1) An active member on reserve forces service leave shall pay contributions in accordance with regulation 11 (contributions) or regulation 12 (temporary reduction in contributions).

(2) The contributions under paragraph (1) are payable on the active member's assumed pensionable pay calculated under regulation 23 (assumed pensionable pay).

Contributions during absence for illness or injury

16.—(1) An active member away from employment by reason of illness or injury shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the active member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period, that active member—

- (a) is treated for the purposes of these Regulations as if that active member had paid contributions for that period under paragraph (1); and
- (b) if that active member has an arrangement under regulation 18 (additional pension contributions) which was entered into prior to the commencement of the period of absence, that active member is treated for the purposes of these Regulations as if that active member had paid contributions under regulation 18.

Employing authority contributions during absences

17.—(1) An employing authority shall, in respect of an active member on child-related leave, pay contributions in accordance with regulation 73(4) (contributing body's contributions) on the assumed pensionable pay of that member.

(2) An employing authority shall pay contributions in accordance with regulation 73(4) where an active member is absent from employment by reason of illness or injury.

(3) When an active member goes on reserve forces service leave—

- (a) the employing authority shall give the following information in writing to the member—
 - (i) the assumed pensionable pay on which the member is liable to pay contributions in accordance with regulation 11 (contributions) or 12 (temporary reduction in contributions),
 - (ii) details of any pensionable pay being paid by the employing authority to the member during the absence,

- (iii) the rate of the employer's contribution, being the common rate of the employer's contribution as adjusted by the individual adjustment of that employer's contribution, as specified for the time being in the employing authority's current rates and adjustment certificate, and
 - (iv) details of the Committee;
- (b) employer contributions at the rate of the employer's contribution specified in the employing authority's rates and adjustment certificate are payable to the Committee on the member's assumed pensionable pay less any pensionable pay being paid to the member during the absence.
- (4) Where an active member—
- (a) on reserve forces service leave;
 - (b) on child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the member receives no pay;
 - (c) absent from work due to illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; or
 - (d) absent from work with permission from the member's employing authority,

has an arrangement under regulation 18 (additional pension contributions) the employing authority's contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) shall remain payable if that regulation applies; or has a SCAVC arrangement under regulation 19 (additional voluntary contributions) the employing authority's contributions to that SCAVC shall continue to be paid.

(5) Subject to paragraph (6), if an active member who is absent from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave, elects to enter into an arrangement to pay additional contributions under regulation 18 (additional pension contributions), the member's employing authority shall pay contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) to meet two-thirds of the cost of the arrangement.

(6) The amount that an employing authority can be required to pay under paragraph (5) may not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving assumed pensionable pay for the period of absence from work up to a maximum period of thirty-six months.

(7) In paragraphs (4)(d) and (5) the expression "absent from work with permission" does not include an absence due to a trade dispute.

Additional pension contributions

18.—(1) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay additional pension contributions ("APCs") by regular contributions in accordance with paragraph (2), and a member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work), unless the Committee determines in any particular case that it would not be practical to allow APCs to be paid by regular contributions.

(2) Where APCs are to be paid by regular contributions, the arrangements mentioned in paragraph (1)—

- (a) shall, when entered into, be for a complete year or number of years with a minimum period of one year;

- (b) shall specify the amount of extra contribution to be paid each Scheme year;
- (c) shall, where the active member has more than one active member's pension account, specify which account the APC is to be attached to;
- (d) shall specify the amount of additional pension to be credited to the active member's pension account at the end of the scheme year; and
- (e) may be funded in whole or in part by the member's employing authority.

(3) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay APCs by lump sum contribution in accordance with paragraph (4), and an active member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulation 13(4)(b) or 13(4)(c) (contributions during absence from work).

(4) Where APCs are to be paid by a lump sum contribution, the arrangements mentioned in paragraph (3)—

- (a) shall specify the amount of extra contribution to be paid;
- (b) shall, where the active member has more than one active member's pension account, specify which account the APC is to be attached to;
- (c) shall specify the amount of additional pension to be credited to the active member's pension account at the end of the scheme year; and
- (d) may be funded in whole or in part by the active member's employing authority.

(5) The amount of additional annual pension that is to be credited to the active member's pension accounts pursuant to arrangements under this regulation shall not exceed the additional pension limit.

(6) The additional pension limit is £6,500 from 1st April 2015 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2014 to which the 1971 Act applied.

(7) The amount of the contributions to be paid in respect of arrangements under this regulation is to be determined in accordance with actuarial guidance issued by the Department based on—

- (a) the age of the active member at the time the arrangements commence; and
- (b) the gender of the active member.

(8) Actuarial guidance issued by the Department under paragraph (7) may be revised at any time and if so, from the 1st April following any such revision, any contributions payable are to be based on the revised actuarial guidance.

(9) An application by an active member to make arrangements under this regulation shall—

- (a) be made in writing to the Committee, and a copy sent to the active member's employing authority if that active member is not employed by the Committee; and
- (b) where those arrangements are under paragraph (1), state the length of the period, in whole years ending before the active member's normal pension age, over which the active member wishes to pay additional pension contributions.

(10) The Committee may require an active member to produce a report by a registered medical practitioner of the results of a medical examination, undertaken at the active member's own expense, and may refuse an application to make arrangements under paragraphs (1) to (4) if it is not satisfied that the active member is in reasonably good health.

(11) Arrangements made under paragraph (1) continue until any of the following occurs—

- (a) the period entered into has expired;
- (b) they are terminated by the active member giving one month's written notice to the Committee;

- (c) the member begins to pay reduced contributions under regulation 12 (temporary reduction in contributions) unless the arrangement was to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work);
- (d) the member ceases to be an active member of the Scheme;
- (e) the member draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions);
- (f) the member leaves the employment; or
- (g) the active member dies.

(12) If arrangements entered into under paragraph (1) terminate for any reason and new arrangements are entered into under that paragraph, the amount of contributions payable is determined under paragraph (7) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Department in force at that date.

(13) If additional contributions are paid in accordance with arrangements made under this regulation, and are not refunded under regulation 20 (rights to return of contributions), that member's active member's pension account shall be credited with the amount specified in those arrangements as additional pension at the end of the Scheme year in which the contributions are paid, or at the date the arrangements terminate, if earlier.

(14) If an active member who is paying APCs is granted ill-health retirement benefits in relation to the pension account to which the arrangements are attached, before the end of the period the arrangements made under paragraph (1) were due to cease ("the APC period"), that member is to be treated as having paid the contributions required from the date the active member is granted ill-health retirement benefits, up to the end of the APC period and the additional pension bought by those contributions is to be included in the active member's pension account for the year of leaving.

(15) If an active member fails to pay all the additional contributions due under arrangements made under paragraph (1), and paragraph (14) does not apply to that member, that member's active member's pension account shall be credited, in the scheme year when the contributions ceased, with additional pension of an amount to reflect the pension acquired in that year calculated in accordance with actuarial guidance issued by the Department.

(16) Where an arrangement is one to which regulation 17(5) (employing authority contributions during absences) applies, application by an active member to make the arrangements under this regulation shall be made before the expiry of a period of thirty days beginning with the day on which the active member returns to work.

(17) Where an active member to whom regulation 13(4) (contributions during absence from work) applies has an arrangement under this regulation which was entered into prior to the commencement of the period of absence, the APCs under that arrangement—

- (a) shall be paid by the active member during any period of child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the active member receives no pensionable pay;
- (b) shall be paid by the active member during any period of reserve forces service leave where regulation 15(1) (contributions during reserve forces service leave) applies;
- (c) shall be paid by the active member during any period of absence for illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; and
- (d) shall be paid by the active member during any period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work).

Additional voluntary contributions

19.—(1) An active member may enter into arrangements to pay additional voluntary contributions (“AVCs”) or to contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”) in respect of an employment.

(2) The arrangements mentioned in paragraph (1) shall be a scheme established under an agreement between the Committee and a body approved for the purposes under the 2004 Finance Act (“the AVC provider”), registered in accordance with the 2004 Finance Act and administered in accordance with the 2004 Finance Act, the 2004 Pensions Act and the Pensions (Northern Ireland) Order 2005(2).

(3) Where an active member wishes to make contributions to an arrangement under paragraph (1) that active member, or the AVC provider authorised by the active member to act on that active member’s behalf, shall specify in a written notice given both to the Committee and the active member’s employing authority, if the active member is not employed by the Committee—

- (a) the percentage of pensionable pay or the amount that the member wishes to contribute from pensionable pay in respect of an employment in each pay period (but see paragraph (4)); and
- (b) whether any of the contributions are to be used to provide life assurance benefits payable upon death in service as an active member and, if so, the proportion or amount to be so used.

(4) Where a member is paying AVCs for life assurance and where the pensionable pay in a pay period, net of any deductions made by the employing authority, is less than the AVC due, the member may pay the contribution due by way of a payment directly to the AVC provider or to the employing authority for onward transmission to that body in order to ensure that the life assurance cover continues.

(5) A member may vary the amount specified in, or cease contributing to, an arrangement by service of a further written notice given to the member’s employing authority and the Committee by the member or by the AVC provider authorised by that member to act on that member’s behalf.

(6) For the purposes of regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(3) the retirement date used for the purposes of Schedule 6 to those regulations is, where no acceptable date has been specified for that purpose by the member, normal pension age or, if the member has already attained normal pension age, age 75.

(7) If a member draws benefits under regulation 31(1), (2), (4), (5), (7), (10), (11), (12) (retirement benefits) or regulation 36 (early payment of retirement pension on ill-health grounds: active members) or, if a member who draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions) makes an election to draw the realisable value in the AVC arrangement at the same time, that member shall notify the Committee in writing that the realisable value, under arrangements made under this regulation,—

- (a) is to be taken in full or in part by the member as a lump sum, and where only part is taken as a lump sum, the member shall specify the amount to be so taken; or
- (b) to the extent that the realisable value has not been taken as a lump sum, it is to be used—
 - (i) to purchase additional pension under the Scheme, the amount of which is to be determined by the Committee in accordance with actuarial guidance issued by the Department; or
 - (ii) to purchase an annuity from one or more insurance companies (within the meaning of section 275 of the 2004 Finance Act.

(2) S.I. 2005/255 (N.I. 1).

(3) S.R. 2014 No. 79

(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of a lump sum, that sum does not form part of the total amount referred to in regulation 34(2) (election for lump sum instead of pension).

(9) A person with an arrangement under paragraph (1) who becomes a deferred member of the Scheme is entitled to a deferred AVC account with the AVC provider.

(10) A member shall transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 108 (rights to payment out of pension fund).

(11) Where a member aggregates a deferred member's pension account or a deferred refund account with an active member's pension account, the realisable value in any deferred AVC account shall be transferred to an arrangement under this regulation and the member may make an election to make further payments to the arrangement.

(12) If—

- (a) an active member who is paying contributions to an AVC or SCAVC for the purpose of life assurance dies;
- (b) an active member who is paying contributions to an AVC or SCAVC other than for the purpose of life assurance dies;
- (c) a deferred member dies and has a deferred AVC account attached to the deferred member's pension account;
- (d) a pension credit member, who has been awarded a share of a member's AVC account, dies before drawing benefits; or
- (e) a member who has made an election under paragraph (7)(b)(ii) dies before the annuity has been purchased,

the Committee shall decide that any life assurance sum due under sub-paragraph (a), and the realisable value of any arrangement under sub-paragraphs (b) to (e) should be paid to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.

(13) Where a member has attained the age of 75 at the date of death, any tax chargeable under section 206 of the 2004 Finance Act (special lump sum death benefits charge) is to be deducted from the payment due under paragraphs (12) or (14).

(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the Committee did not know about the member's death within that period, beginning with the date on which the Committee could reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall shall be paid to the member's personal representatives.

(15) Regulations 80 (first instance decisions - general) and 102 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 21(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member.

Rights to return of contributions

20.—(1) If a person's qualifying service in the Scheme determined under regulation 3(5) (active membership) is for less than two years, that person is entitled, when that active membership ceases, to be repaid by the Committee—

- (a) any contributions paid under or in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) in relation to that active membership;

- (b) any additional contributions paid by the person under regulation 18 (additional pension contributions) in relation to that active membership;
 - (c) the realisable value of any AVC or SCAVCs paid by the person, or SCAVCs paid by the employing authority under a salary sacrifice scheme, under regulation 19 (additional voluntary contributions) in relation to that active membership (other than such contributions paid for life assurance cover or additional survivor benefits); and
 - (d) any contributions included in a transfer value payment received from a registered pension scheme or from a pension scheme or arrangement of a European Pensions Institution that could have been refundable under that arrangement.
- (2) Where a person is entitled to repayment under paragraph (1)(c), the realisable value of any SCAVC contributions paid by the employing authority are repayable to the employing authority (other than contributions specifically paid for additional life assurance cover, in respect of additional survivor benefits or paid by the employing authority under a salary sacrifice scheme).
- (3) A person entitled to repayment under paragraph (1)(a), (b) or (d) is also entitled to interest on the sum due under those paragraphs if repayment is not made before the expiry of one year beginning with the date active membership ceased.
- (4) Interest due under paragraph (3) is calculated at one per cent above base rate on a day to day basis from the date active membership ceased and compounded with three-monthly rests.
- (5) The Committee shall refund contributions to a person entitled under paragraph (1) when the person requests payment, or on the expiry of a period of five years beginning with the date the person's active membership ceased if no request is made before then or, if the person attains age 75 before then, on the day before attaining age 75.
- (6) If a person entitled to a repayment under paragraph (1) dies before the payment is made, the Committee shall pay the sum due to the person's estate.
- (7) The Committee may deduct any tax due under the 2004 Finance Act or certified amount due under section 57 (deduction of contributions equivalent premium from refund of scheme contributions) of the 1993 Act from any repayment under paragraph (1) and where any such deduction is made shall ensure that the money withheld is used to discharge the tax liability or is included in the contributions equivalent premium liability due under section 51 (payment of state scheme premiums on termination of certified status) of the 1993 Act.
- (8) This regulation is subject to regulation 21 (exclusion of rights to return of contributions).

Exclusion of rights to return of contributions

21.—(1) A person is not entitled to a return of contributions under regulation 20 (rights to return of contributions) if that person—

- (a) becomes an active member of the Scheme again within one month and one day of ceasing active membership in an employment, or before the date a return of contributions has been issued by the Committee, whichever is the later;
- (b) left the employment because of—
 - (i) an offence of a fraudulent character; or
 - (ii) grave misconduct,in connection with the employment;
- (c) benefits from a transfer value payment to another registered pension scheme or to a qualifying recognised overseas pension scheme;
- (d) continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member; or

(e) is an active member and dies in service.

(2) Where paragraph (1)(e) applies the employing authority may direct payment out of the pension fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, nominated co-habiting partner or any of the member's dependants.

Meaning of “pensionable pay”

22.—(1) Subject to regulation 23 (assumed pensionable pay), an employee's pensionable pay is the total of—

- (a) all the salary, wages, fees and other payments paid to the employee; and
- (b) any benefit specified in the employee's contract of employment as being a pensionable emolument.

(2) But an employee's pensionable pay does not include—

- (a) any sum which has not had income tax liability determined on it;
- (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
- (c) any payment in consideration of loss of holidays;
- (d) any payment in lieu of notice to terminate a contract of employment;
- (e) any payment as an inducement not to terminate employment before the payment is made;
- (f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
- (g) any payment in consideration of loss of future pensionable payments or benefits;
- (h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation of other employees; or
- (i) any payment made by the employing authority to a member on reserve forces service leave.

Assumed pensionable pay

23.—(1) During the period the circumstances specified in paragraph (2) apply in relation to an employment, the pensionable pay that an active member is, in relation to that employment, treated as receiving for the purposes of these Regulations (including this regulation), other than regulations 11 to 16 (contributions), is that member's assumed pensionable pay calculated in accordance with paragraphs (4) and (5).

(2) The circumstances are that the member—

- (a) is on leave due to sickness or injury and is on reduced contractual pay or no pay;
- (b) is on child-related leave; or
- (c) is absent on reserve forces service leave.

(3) Paragraph (2)(c) does not apply in respect of any period of employment which qualifies the member for benefits under any other occupational pension scheme in respect of that employment.

(4) The annual rate of assumed pensionable pay for an employment for a scheme year is—

- (a) where the member is paid monthly—
 - (i) the pensionable pay the member received relating to that employment in the three most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-

- health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
 - (ii) less any lump sum received, during that period, that is not payable every pay period;
 - (iii) with the resulting sum being grossed up to an annual figure;
 - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(a)(i) should be added.
- (b) where the member is paid otherwise than monthly—
- (i) the pensionable pay the member received relating to that employment in the twelve most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
 - (ii) less any lump sum received, during that period, that is not payable every pay period;
 - (iii) with the resulting sum being grossed up to an annual figure;
 - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(b)(i) should be added.
- (5) For the purposes of paragraph (4) a “regular lump sum” is a payment for which the member’s employer determines there is an expectation that such a payment would be paid on a regular basis.
- (6) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment on the first day of the second Scheme year which commenced after the first date on which the member is treated as receiving assumed pensionable pay.

PENSION ACCOUNTS

Pension accounts

- 24.—(1) The Committee shall open and maintain one or more pension accounts for each member of the Scheme.
- (2) A separate pension account shall be opened in relation to each employment where a member is or was employed in two or more Scheme employments.
- (3) A pension account—
- (a) shall contain such matters as are required by these Regulations;
 - (b) shall identify which one of the following categories of pension account it is—
 - (i) an active member’s pension account;
 - (ii) a deferred member’s pension account;
 - (iii) a deferred refund account;
 - (iv) a retirement pension account;
 - (v) a flexible retirement pension account;
 - (vi) a pension credit account; or
 - (vii) a survivor member’s pension account,but subject to that,
 - (c) may be kept in any form that the Committee considers appropriate.
- (4) The Committee shall close a pension account if—

- (a) a transfer value payment is made in respect of the member if the effect of the transfer is that the member is no longer entitled to benefits from the account;
- (b) a refund of contributions is paid under regulation 20 (rights to return of contributions);
- (c) all the benefits in the account are forfeited under regulation 102 (forfeiture of pension rights after conviction for employment-related offences);
- (d) the member dies;
- (e) the last survivor entitled to a benefit from a survivor member's pension account ceases to be entitled to a benefit from that survivor member's pension account (by reason of death or upon ceasing to be an eligible child); or
- (f) due to aggregation of the benefits in the pension account with a different pension account, it is no longer required.

(5) Where a member with an active member's pension account also has a deferred refund account, the benefits in the deferred account shall be aggregated with the active member's pension account and the deferred refund account closed.

(6) Where an active member with concurrent employments ceases an employment and does not have qualifying service for a period of two years, the active member's pension account in respect of that employment shall be closed and the benefits in that active member's pension account shall be aggregated with the ongoing active member's pension account and, if there is more than one such account, the one chosen by the member.

(7) Where an active member with concurrent employments ceases an employment with entitlement to a deferred pension, the benefits in the deferred member's pension account shall be aggregated with those in the ongoing active member's pension account and, if there is more than one such active member's pension account, the one chosen by the member unless—

- (a) within twelve months of the date the concurrent employment ceased; or
- (b) within such longer period as the employing authority in relation to the ongoing active member's pension account permits,

the member makes an election to the Committee to retain the deferred member's pension account.

(8) Where a deferred member again becomes an active member, the benefits in the deferred member's pension account shall be aggregated with those in the active member's pension account unless—

- (a) within twelve months of the active member's pension account being opened; or
- (b) within such longer period as the employing authority in relation to that active member's pension account permits,

the member makes an election to the Committee to retain the deferred member's pension account.

(9) The member's choice of pension account under paragraphs (6) or (7) shall be made in writing, by the member to the Committee, within twelve months of the closure of the active member's pension account and, in the absence of an election from the member, the Committee may make the determination on the member's behalf.

(10) Where a deferred member's pension account or a deferred refund account is to be aggregated with an active member's pension account, and the gap between the member's last day of membership to which the deferred member's pension account or deferred refund account relates and the first day of active membership to which the active member's pension account relates does not exceed five years, the balance in the deferred member's pension account or deferred refund account shall be recalculated, before aggregation, as if the amount in that account had been increased by the revaluation adjustment and not the index rate adjustment.

Active member's pension accounts

25.—(1) At the beginning of each Scheme year, an active member's pension account in relation to an employment shall specify the opening balance for that year.

(2) At the end of each Scheme year—

- (a) the balance mentioned in paragraph (1); plus
- (b) the amount of earned pension, if any, for the Scheme year; plus
- (c) the amount of any additional member pension acquired during the Scheme year pursuant to arrangements made under regulation 18(1) or (3) (additional pension contributions); plus or minus, as the case may be;
- (d) the sum resulting from any pension account adjustment during the Scheme year;

shall be aggregated and the revaluation adjustment for that Scheme year shall be applied at the beginning of the next Scheme year in accordance with actuarial guidance issued by the Department.

(3) The revalued balance calculated under paragraph (2) becomes the new opening balance for the following Scheme year.

(4) Except where regulation 12 (temporary reduction in contributions) applies, the amount of earned pension for a Scheme year is 1/49th of the member's pensionable pay received in that year (irrespective of whether it relates to work carried out in that year).

(5) Where regulation 12 (temporary reduction in contributions) applies, the amount of earned pension for a Scheme year is 1/98th of the member's pensionable pay received in that year while that regulation applies (irrespective of whether it relates to work carried out during that year).

(6) Other than to correct an error in a pension account, an adjustment to a pension account ("pension account adjustment") can only arise as a consequence of—

- (a) an award of additional pension under regulation 32 (award of additional pension);
- (b) a transfer value payment being made or received;
- (c) a pension debit being made;
- (d) a Scheme pays election;
- (e) a transfer into the member's pension account from a different account upon aggregation of those accounts; or
- (f) an adjustment of the description mentioned in regulation 105 (adjustment of accounts following forfeiture, etc.);

(7) If an active member's pension account is closed before the end of a Scheme year, any pension account adjustment applicable to that active member's pension account shall be made immediately before the date that account is closed, but no revaluation adjustment is to be made to that account for that Scheme year.

(8) If a member starts to draw benefits under regulation 31(6) (retirement benefits, flexible retirement pensions) any pension account adjustment applicable to the active member's pension account if appropriate, shall be made immediately before the date on which benefits start to be paid.

(9) Where—

- (a) a pension debit as is mentioned in paragraph (6)(c) is made, or
- (b) the joint liability amount specified in a notice given in relation to an election as mentioned in paragraph (6)(d) is met by the pension fund,

the Committee shall reduce the balance in the member's account to reflect the reduction in the value of the member's rights, calculated in accordance with actuarial guidance issued by the Department.

(10) Where pensionable pay relating to a period before a member ceased to be an active member is paid after the period of active membership has ended, it is to be treated as if it were received on the day before the active member's account was closed.

Deferred member's pension account and deferred refund account

26.—(1) If a member ceases to be an active member and becomes a deferred member in relation to an employment—

(a) the active member's pension account shall be closed; and

(b) a deferred member's pension account shall be opened.

(2) The deferred member's pension account shall specify the opening balance in that account.

(3) On the day the deferred member's pension account is opened, the opening balance is the amount of pension the member has accrued.

(4) The amount of pension the member has accrued is—

(a) the opening balance for the member's last active Scheme year; plus

(b) the amount of earned pension, if any, from the first day of the member's last active Scheme year until the last day of active membership; plus

(c) any additional pension acquired during that period pursuant to arrangements made under regulation 18(1) or (3) (additional pension contributions); plus or minus, as the case may be,

(d) any pension account adjustment applicable during that period.

(5) Except where regulation 12 (temporary reduction in contributions) applied, the amount of earned pension for the period mentioned in paragraph (4)(b) is 1/49th of the pensionable pay received during that period (irrespective of whether it relates to work carried out in that period).

(6) Where regulation 12 (temporary reduction in contributions) applied to any of the period mentioned in paragraph (4)(b), the amount of earned pension is 1/98th of the member's pensionable pay received while that regulation applied (irrespective of whether it relates to work carried out in that period).

(7) The balance in the member's account at the end of the Scheme year in which the member becomes a deferred member is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became a deferred member, in accordance with actuarial guidance issued by the Department.

(8) The revalued balance calculated under paragraph (7) is the opening balance for the following Scheme year and thereafter, subject to paragraph (9), the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(9) If a deferred member's pension account is closed before the end of a Scheme year, any pension account adjustment applicable to the pension account shall be made immediately before the date the pension account is closed.

(10) Other than to correct an error in a deferred member's pension account, the only pension account adjustment that can arise under this regulation is an adjustment as a consequence of a matter specified in regulation 25(6) (active member's pension accounts, adjustments).

(11) If a member ceases to be an active member without becoming entitled to any benefits because that member has less than two years qualifying service—

(a) the active member's pension account shall be closed; and

(b) a deferred refund account shall be opened.

(12) Paragraphs (3) to (10) of this regulation apply to deferred refund accounts as they apply to deferred member's pension accounts.

Retirement pension accounts: active members

27.—(1) When an active member becomes entitled to immediate payment of a full retirement pension in relation to an employment—

- (a) the active member's pension account shall be closed; and
 - (b) a retirement pension account shall be opened.
- (2) The retirement pension account shall specify—
- (a) the amount of accrued pension;
 - (b) the amount of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
 - (c) the early payment reduction or deferred payment enhancement (if any) and the amount of pension to which that reduction or enhancement is to be applied;
 - (d) the commutation amount (if any);
 - (e) the amount of any pension adjustment; and
 - (f) the amount of pension payable from time to time and the date from which it is to be paid.

(3) Subject to paragraph (4), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount that would have been specified under regulation 26(4) (deferred member's pension account and deferred refund account) if a deferred member's pension account had been opened for that member.

(4) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in paragraph (2)(d).

(5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax) or as a result of a pension sharing order.

(6) The balance in the member's retirement pension account at the end of the Scheme year in which the member becomes a pensioner member is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became a pensioner member, in accordance with actuarial guidance issued by the Department.

(7) The revalued balance calculated under paragraph (6) is the opening balance for the following Scheme year and, thereafter, the balance is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(8) For the purposes of this regulation a full retirement pension means a retirement pension other than a pension payable under regulation 31(6) (retirement benefits, flexible retirement pensions).

Retirement pension accounts: deferred members and pension credit members

28.—(1) When a deferred member becomes entitled to immediate payment of a retirement pension—

- (a) the deferred member's pension account shall be closed; and
- (b) a retirement pension account shall be opened.

(2) The retirement pension account shall specify—

- (a) the amount of accrued pension;
 - (b) the amount of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
 - (c) the early payment reduction, or deferred payment enhancement (if any), and the amount of pension to which that reduction or enhancement applies;
 - (d) the commutation amount (if any);
 - (e) the amount of any pension adjustment; and
 - (f) the amount of pension payable from time to time and the date from which it is to be paid.
- (3) Subject to paragraph (4), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount specified in that member's deferred member's pension account immediately before it was closed.
- (4) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in paragraph (2)(d).
- (5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for—
- (a) any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax); or
 - (b) a pension sharing order.
- (6) The balance in the member's retirement pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.
- (7) This regulation applies in relation to pension credit members who become entitled to immediate payment of a retirement pension as it applies to deferred members with the following modifications—
- (a) all references to deferred members are to be read as references to pension credit members; and
 - (b) the reference to accrued pension in paragraph (2)(a) is to be read as a reference to the amount of pension credit in the pension credit member's account.

Flexible retirement pension accounts

- 29.**—(1) When an active member is entitled to immediate payment of a retirement pension under regulation 31(6) (retirement benefits, flexible retirement pensions) in relation to an employment—
- (a) a flexible retirement pension account shall be opened; and
 - (b) the balance in the active member's pension account shall be reduced by the amount of accrued pension transferred into the member's flexible retirement pension account.
- (2) The flexible retirement pension account shall specify—
- (a) the amount of accrued pension transferred from the active member's pension account;
 - (b) the amount of any additional pension (if any) purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
 - (c) the early payment reduction or deferred payment enhancement (if any) and the amount of pension to which that reduction or enhancement is to be applied;
 - (d) the commutation amount (if any);
 - (e) the amount of any pension adjustment; and

- (f) the amount of pension payable from time to time and the date from which it is to be paid.
- (3) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in (2)(d).
- (4) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for an adjustment as a consequence of a matter specified in regulations 25(6) (active member's pension accounts) and 27(5) (retirement pension accounts: active members).
- (5) The balance in the member's flexible retirement pension account at the end of the Scheme year in which the member became entitled to the immediate payment of a retirement pension under regulation 31(6) (retirement benefits, flexible retirement pensions), is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became entitled to that retirement pension, in accordance with actuarial guidance issued by the Department.
- (6) The revalued balance calculated under paragraph (5) is the opening balance for the following Scheme year and, thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

Pension credit accounts

- 30.**—(1) When a person becomes a beneficiary of a pension sharing order, a pension credit account shall be opened.
- (2) The pension credit account at the date it is opened shall be credited, from the member's pension account that is to be debited, with an amount in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Department.
- (3) The amount credited under paragraph (2) is the opening balance for the following Scheme year and, thereafter, the balance in the pension credit account each year is adjusted by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.
- (4) The amount in a pension credit account may be adjusted by amounts calculated in accordance with actuarial guidance issued by the Department as a result of a further pension sharing order.
- (5) The pension credit account shall be debited by the amount calculated in accordance with actuarial guidance issued by the Department to account for any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax).

BENEFITS

Retirement benefits

- 31.**—(1) Subject to paragraph (3) a member who attains normal pension age and is not an employee in local government employment is entitled to, and shall take, immediate payment of a retirement pension without reduction.
- (2) A member to whom paragraph (1) applies and who has concurrent employments may draw a pension in relation to an employment so long as the member is not an employee in local government employment.
- (3) A member to whom paragraph (1) applies may elect to defer payment of a retirement pension to a date after that member's normal pension age up to the date when that member attains the age of 75.

(4) A member who starts to receive payment of a retirement pension from a date after that member's normal pension age is entitled to enhancement of the pension by the amount shown as appropriate in actuarial guidance issued by the Department.

(5) A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government employment in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Department.

(6) An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the employing authority's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government employment on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Department.

(7) Where an active member who has attained the age of 55 or over is dismissed from an employment by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency, that member is entitled to, and shall take immediate payment of—

- (a) retirement pension relating to that employment payable under regulation 18 (additional pension contributions), adjusted by the amount shown as appropriate in actuarial guidance issued by the Department; and
- (b) any other retirement pension relating to that employment payable under these Regulations, without reduction.

(8) An employing authority, former employer which is an employing authority or, where a member's employer or former employer has ceased to be an employing authority, the Committee, may agree to waive in whole or in part any reduction that would, apart from this paragraph, be required by paragraphs (5) or (6).

(9) In paragraphs (1) to (7) of this regulation the expression "member" means a member with qualifying service for a period of two years and does not include a pension credit member.

(10) Subject to paragraph (11), a pension credit member who attains normal pension age is entitled to, and shall take, immediate payment of a retirement pension deriving from the pension credit, without reduction, irrespective of whether that pension credit member is also an employee in local government employment.

(11) A pension credit member may elect to defer payment of a retirement pension deriving from a pension credit to a date after that member's normal pension age and, if the member does so, is entitled to immediate payment of a retirement pension from any date up to the date when that member attains the age of 75, enhanced by the amount shown as appropriate in actuarial guidance issued by the Department, irrespective of whether the pension credit member is also an employee in local government employment.

(12) A pension credit member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension deriving from the pension credit, reduced by the amount shown as appropriate in actuarial guidance issued by the Department, irrespective of whether the pension credit member is also an employee in local government employment.

(13) In this regulation references to the amount—

- (a) "reduced" at paragraphs (5) and (12) and "adjusted" at paragraph (6), refer to the "early payment reduction"; and
- (b) "enhancement" at paragraph (4) and "enhanced" at paragraph (11), refer to the "deferred payment enhancement".

Award of additional pension

32.—(1) An employing authority may resolve to award—

- (a) an active member; or
- (b) a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the employing authority under regulation 18 (additional pension contributions)), not more than the additional pension limit payable under other provisions of these Regulations from the pension account to which the additional pension is attached, provided that, in the case of a member falling within sub-paragraph (b), the resolution to award additional pension is made within six months of the date the member's employment ended.

(2) The additional pension limit is £6,500 from 1st April 2015 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2014 to which the 1971 Act applied.

(3) An award of addition pension under—

- (a) paragraph (1)(a) is to be credited to the relevant active member's pension account in the Scheme year in which the resolution to award the additional pension is made; and
- (b) paragraph (1)(b) is to be treated as credited to the relevant active member's pension account on the day before the date of termination of employment.

Commencement of pensions

33.—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable, begins with the day after the date on which the employment ends.

(2) Subject to paragraphs (3) and (4), in the case of a deferred member, the first period for which payment begins is the member's normal pension age unless that member gives written notice to the Committee to defer payment (but any such deferral shall not extend beyond the day before the member's 75th birthday).

(3) Where a member elects under regulation 31(3), (5), (11) or (12) (retirement benefits) to have a pension paid from a date other than normal pension age, the first period for which retirement pension is payable begins on the date the member specifies in a written notice to the Committee.

(4) When, in a written notice to the Committee, a member elects under regulation 31(6) (retirement benefits, flexible retirement pensions) to receive immediate payment of all or part of that member's benefits, if the member's employing authority consents to the payment, the first period for which retirement pension is payable begins on the date of the reduction in hours or grade.

(5) A notice given under paragraph (3) shall be given not less than three months before the beginning of the period specified, and a notice given under paragraph (4) shall be given within three months of the reduction in hours or grade.

(6) A member may give a further notice under paragraph (3) altering the date specified in an earlier notice, but any such further notice shall be given not less than three months before the beginning of the period specified in the further notice.

(7) The Committee may agree to accept different time limits to those specified in paragraphs (5) and (6).

(8) Where a member is entitled to early payment of pension due to ill-health under regulation 36 (early payment of retirement pension on ill-health grounds: active members), the first period for

which retirement pension is payable is the day after the date on which the member's employment is terminated.

(9) Where a member is entitled to early payment of pension due to ill-health under regulation 37 (early payment of retirement pension on ill-health grounds: deferred members), the first period for which the retirement pension is payable begins on the date of the determination that the member is permanently incapable under that regulation.

Election for lump sum instead of pension

34.—(1) Subject to paragraph (5), a member entitled to a retirement pension under the Scheme may by written notice given to the Committee before any benefits in relation to the benefit crystallisation event become payable, commute the retirement pension payable, or part thereof, at a rate of £12 for every £1 of annual pension commuted.

(2) But the total amount of the member's commuted sum shall not exceed 25% of the capital value of the member's accrued rights under all local government pension provision in relation to that benefit crystallisation event, excluding any sum received as benefits provided in the form of a lump sum from any AVC arrangement entered into before 1st April 2015 referred to in regulation 19(7)(a) (additional voluntary contributions).

(3) For the purpose of paragraph (2), an AVC arrangement is to be regarded as entered into on whichever is the earlier of the date the AVC election form is received by the Committee or the date the AVC election form is received by the member's employing authority.

(4) The capital value of a member's accrued rights shall be calculated in accordance with actuarial guidance issued by the Department.

(5) Paragraph (1) does not apply to—

- (a) a pension credit member where the member of the Scheme to whom the pension sharing order applied has made an election under this regulation before the valuation date used when implementing the pension sharing order; or
- (b) any additional pension purchased by the member under regulation 19(7)(b)(i) (additional voluntary contributions).

Commutation and small pensions

35.—(1) Any authorised payments within the meaning of section 164 (authorised member payments) of the 2004 Finance Act listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

- (a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of that Act;
- (b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of that Act; or
- (c) a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009(4).

(2) Any payment under paragraph (1) shall be calculated in accordance with actuarial guidance issued by the Department.

(4) [S.I. 2009/1171](#); regulations 11 and 12 were amended by [S.I. 2011/1751](#)

(3) If a member receives a payment under this regulation, any pension account relating to that payment shall be closed and the member is entitled to no further benefits in relation to that pension account and no survivor benefits are subsequently payable upon the death of the member.

ILL-HEALTH RETIREMENT

Early payment of retirement pension on ill-health grounds: active members

36.—(1) Where an active member who has qualifying service for a period of two years or more ceases local government employment on the grounds that—

- (a) the member's ill-health or infirmity of mind or body renders the member permanently incapable of discharging efficiently the duties of the employment the member was engaged in; and
- (b) the member, as a result of ill-health or infirmity of mind or body, has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age,

the Committee may, at the request of the employing authority, determine that the member's retirement pension comes into payment before the member's normal pension age in accordance with this regulation.

(2) If a member satisfies the conditions in paragraphs (1)(a) and (1)(b) then the member shall take early payment of a retirement pension.

(3) The amount of the retirement pension that a member who satisfies the conditions mentioned in paragraphs (1)(a) and (1)(b) receives is determined by which of the benefit tiers specified in paragraphs (4) and (5) that member qualifies for, calculated in accordance with regulation 39 (calculation of ill-health pension amounts).

(4) A member is entitled to Tier 1 benefits if that member is unlikely to be capable of undertaking any gainful employment before normal pension age.

(5) A member is entitled to Tier 2 benefits if that member—

- (a) is not entitled to Tier 1 benefits; and
- (b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.

(6) Before determining whether a member who has ceased to hold a local government employment is entitled to a benefit under this regulation, the Committee shall obtain a certificate, in accordance with regulation 38 (role of the IRMP), from an IRMP qualified in occupational health medicine who is appointed by the Committee.

Early payment of retirement pension on ill-health grounds: deferred members

37.—(1) Where a deferred member who has qualifying service for a period of two years or more, because of ill-health or infirmity of mind or body—

- (a) becomes permanently incapable of discharging efficiently the duties of the employment that the member was engaged in at the date the member became a deferred member; and
- (b) has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age,

may make a written request to the Committee to receive payment of a retirement pension immediately, whatever the member's age.

(2) In order to consider a request under paragraph (1), the Committee shall obtain a certificate, in accordance with regulation 38 (role of the IRMP), from an IRMP qualified in occupational health medicine who is appointed by the Committee.

Role of the IRMP

38.—(1) A decision as to whether a member is entitled to early payment of retirement pension under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or 37 (early payment of retirement pension on ill-health grounds: deferred members), shall be made by the Committee after it has obtained a certificate from an IRMP as to—

- (a) whether or not the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the employment the member was engaged in, because of ill-health or infirmity of mind or body;
- (b) whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age, and how long the member is unlikely to be capable of undertaking gainful employment; and
- (c) where a member had reduced working hours and had reduced pay as a consequence, whether that reduction in working hours was wholly or partly as a consequence of the ill-health or infirmity of mind or body.

(2) Where the IRMP is considering an application under regulation 36 (early payment of retirement pension on ill-health grounds: active members), the IRMP shall further determine whether, as a result of that condition, the member—

- (a) is unlikely to be capable of undertaking any gainful employment before reaching normal pension age; or
- (b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.

(3) A certificate from an IRMP, obtained under paragraphs (1) and (2), shall include a statement that—

- (a) that IRMP has not previously advised, or given an opinion on or otherwise been involved in the particular case for which the certificate has been requested; and
- (b) that IRMP is not acting, and has not at any time acted, as the representative of the member, the employing authority or any other party in relation to the same case.

(4) The Committee and the IRMP shall have regard to guidance given by the Department when carrying out their function under this regulation, when making an ill-health determination.

Calculation of ill-health pension amounts

39.—(1) Subject to paragraphs (4) and (5), Tier 1 benefits are calculated by adjusting the active member's pension account as follows—

- (a) An amount is added to the balance in the account for the year in which the member's employment was terminated, equivalent to the amount of earned pension the member would have accrued between the day following the date of termination and normal pension age, if that member had been treated as receiving assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay), for each year and fraction of a year in that period and treating any election under regulation 12 (temporary reduction in contributions) as lapsed at the date of the termination of the member's employment; and
- (b) retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.

(2) Subject to paragraphs (4) and (5), Tier 2 benefits are calculated by adjusting the active member's pension account as follows—

- (a) for the year in which the member's employment was terminated, by adding one quarter of the sum calculated in accordance with paragraph (1)(a); and

- (b) retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.
- (3) Benefits payable under regulation 37 (early payment of retirement pension on ill-health grounds: deferred members) are the retirement pension that would be payable to the member if that member had reached normal pension age on the date from which benefits are awarded.
- (4) Where a member entitled to Tier 1 benefits subsequently becomes an active member of the Scheme, no addition is to be made under paragraph (1)(a) or (2)(a) to any Tier 1 or Tier 2 benefits that the member becomes entitled to after that subsequent period of membership.
- (5) Where a member entitled to Tier 2 benefits ("the initial ill-health retirement") subsequently becomes an active member of the Scheme, the addition made under paragraph (1)(a) or (2)(a) to any Tier 1 or Tier 2 benefits that the member becomes entitled to after that subsequent period of membership is modified in accordance with paragraph (6).
- (6) The number of years for which a member to whom paragraph (5) applies is treated as having received assumed pensionable pay for the purposes of paragraph (1)(a) or (2)(a) shall not exceed—
 - (a) the number of years at the date of the initial ill-health retirement up to the member's normal pension age at that time, less
 - (b) a quarter of the number of years calculated in accordance with sub-paragraph (a), less
 - (c) the number of years during which the member has been an active member of the Scheme after the initial ill-health retirement.
- (7) For the purposes of this regulation—
 - (a) in calculating assumed pensionable pay in accordance with regulation 23(4) (assumed pensionable pay), account is only taken of any reduction in the pensionable pay the member received if an IRMP has certified that the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body; and
 - (b) no adjustment is to be made to any sum by virtue of regulation 23(6) (assumed pensionable pay, adjustments) for any period after the date of termination of employment under regulation 36 (early payment of retirement pension on ill-health grounds: active members).

SURVIVOR BENEFITS

Survivor benefits: active members

Death grants: active members

- 40.**—(1) If an active member dies before attaining the age of 75 the Committee shall pay a death grant.
- (2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member at any time.
 - (3) The death grant is three times the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death.
 - (4) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—
 - (a) beginning with date of the member's death; or
 - (b) where the Committee did not know about the member's death within that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

Survivor benefits: partners of active members

41.—(1) If an active member dies leaving a surviving spouse, civil partner or nominated co-habiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The Committee shall close the active member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been entitled to draw a pension on the date of the member's death,
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme Pays Election;
 - (iii) the pension excluded additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
 - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
- (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(5) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's pension account was opened, in accordance with actuarial guidance issued by the Department.

(6) The revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year and, thereafter, the balance in that survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

Meaning of "nominated co-habiting partner"

42.—(1) "Nominated co-habiting partner" means a person nominated by a member in accordance with the terms of this regulation.

(2) A member (A) may nominate another person (B) to receive benefits under the Scheme by giving the Committee a declaration signed by both A and B that the condition in paragraph (3) has been satisfied for a continuous period of at least two years which includes the day on which the declaration is signed.

(3) The condition is that—

- (a) A is able to marry, or form a civil partnership with, B;
 - (b) A and B are living together as if they were husband and wife or as if they were civil partners;
 - (c) neither A nor B is living with a third person as if they were husband and wife or as if they were civil partners; and
 - (d) either B is financially dependent on A or A and B are financially interdependent.
- (4) A nomination has no effect if the condition in paragraph (3) has not been satisfied for a continuous period of at least two years which includes the day on which the declaration is signed.
- (5) A nomination ceases to have effect if—
- (a) either A or B gives written notice of revocation to the Committee;
 - (b) A makes a subsequent nomination under this regulation;
 - (c) either A or B marries, forms a civil partnership or lives with a third person as if they were husband and wife or as if they were civil partners; or
 - (d) B dies.
- (6) B is A's surviving nominated partner if—
- (a) the nomination has effect at the date of A's death; and
 - (b) B satisfies the Committee that the condition in paragraph (3) was satisfied for a continuous period of at least two years immediately prior to A's death.
- (7) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.
- (8) In this regulation “member” means an active member or a former active member who has become a deferred or pensioner member in accordance with these Regulations or the 2009 Regulations.

Survivor benefits: children of active members

43.—(1) If an active member dies leaving one or more eligible children, those eligible children are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) The Committee shall open a survivor member's pension account for the eligible child or children, in accordance with regulation 44 (survivor benefits: children of active member where pension is payable to partner of an active member) or regulation 45 (survivor benefits: children of active member where no pension is payable to partner of active member) from the day following the member's death.

(3) The children's pension shall be calculated in accordance with regulation 44 or regulation 45.

(4) The balance in the survivor member's pension account, at the end of the Scheme year in which the survivor member's pension account was opened, is adjusted at the beginning of the following Scheme year by the valuation adjustment applicable to the Scheme year in which the survivor member's pension account was opened, in accordance with actuarial guidance issued by the Department.

(5) The revalued balance calculated under paragraph (4) is the opening balance of the survivor member's pension account for the following Scheme year and, thereafter, the balance in that survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

Survivor benefits: children of active member where pension is payable to partner of an active member

44.—(1) If a pension is payable to a partner of an active member under regulation 41(1) (survivor benefits: partners of active members), the Committee shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4), but if the pension payable under regulation 41(1) (survivor benefits: partners of active members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 45(3) or (4) as from the day following the date the pension under regulation 41(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been entitled to draw a pension on the date of the member's death;
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn, or following a Scheme Pays Election, or any pension debit applied on account of a pension sharing order;
 - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and
 - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320;
- (b) a sum equivalent to 1/320th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is calculated by adding together the amounts in sub-paragraphs (a) and (b), and is payable to those children in equal shares—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been able to draw a pension on the date of the member's death;
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
 - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
 - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
- (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's

death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 41(1) (survivor benefits: partners of active members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

Survivor benefits: children of active member where no pension is payable to partner of active member

45.—(1) If, on the day following the member's death, no pension is payable to a partner of an active member under regulation 41(1) (survivor benefits: partners of active members), the Committee shall close the active member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been entitled to draw a pension on the date of the member's death;
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
 - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
 - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240;
- (b) a sum equivalent to 1/240th of the member's annual assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is calculated by adding together the amounts in sub-paragraphs (a) and (b), and is payable to those children in equal shares—

- (a) the pension that the member would have been entitled to draw if—
 - (i) the member had been entitled to draw a pension on the date of the member's death;
 - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
 - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
 - (iv) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and

- (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120;
 - (b) a sum equivalent to 1/120th of the member's annual assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3).

Survivor benefits: deferred members

Death grants: deferred members and pension credit members

- 46.—(1) If a deferred member dies the Committee shall pay a death grant.
- (2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.
- (3) The death grant is the amount the member would have been entitled to receive as retirement pension annually if—
- (a) the member had been able to draw a pension on the date the member died; and
 - (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn,
- multiplied by five.
- (4) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—
- (a) beginning with the member's death; or
 - (b) where the Committee did not know about the member's death before the expiry of that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

- (5) This regulation applies to pension credit members (including persons entitled to a pension credit who die before the Committee awards a pension credit) as it applies to deferred members with the modification that for the amount of death grant calculated under paragraph (3), the amount calculated under paragraph (3)(a) and (b) is multiplied by five.

Survivor benefits: partners of deferred members

- 47.—(1) If a deferred member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.
- (2) The Committee shall close the deferred member's pension account and shall open a survivor member's pension account from the day following the member's death.
- (3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).
- (4) The amount of a pension payable under paragraph (3) is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been able to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme pays election,
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (d) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (e) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.

(5) If the member ceased to be an active member, became a deferred member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(6) Where—

- (a) paragraph (5) applies, the revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year;
- (b) paragraph (5) does not apply, the balance under paragraph (3) is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

Survivor benefits: children of deferred members

48.—(1) If a deferred member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) The Committee shall open a survivor member's pension account for the eligible child or children, in accordance with regulation 49 (survivor benefits: children of deferred member where pension is payable to a partner of deferred member) or regulation 50 (survivor benefits: children of deferred member where no pension is payable to partner of deferred member) from the day following the deferred member's death.

(3) The children's pension shall be calculated in accordance with regulation 49 or regulation 50.

(4) If the member ceased to be an active member, became a deferred member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member died, in accordance with actuarial guidance issued by the Department.

(5) Where—

- (a) paragraph (4) applies, the revalued balance calculated under paragraph (4) is the opening balance of the survivor member's pension account for the following scheme year;

- (b) paragraph (4) does not apply, the balance under regulation 49(2) (survivor benefits: children of deferred member where pension is payable to partner of deferred member) or 50(2) (survivor benefits: children of deferred member where no pension is payable to partner of deferred member), as the case may be, is the opening balance of the survivor member's pension account for the following scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

Survivor benefits: children of deferred member where pension is payable to partner of deferred member

49.—(1) If a pension is payable to a partner of a deferred member under regulation 47(1) (survivor benefits: partners of deferred members), the Committee shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1), is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4) but if the pension payable under regulation 47(1) (survivor benefits: partners of deferred members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 50(3) or (4) (survivor benefits: children of deferred member where no pension is payable to partner of deferred member) as from the day following the date the pension under regulation 47(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (d) the pension included 15.3125% of any pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (e) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320.

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date of the member's death;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);

- (d) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (e) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.

(5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 47(1) (survivor benefits: partners of deferred members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

Survivor benefits: children of deferred member where no pension is payable to partner of deferred member

50.—(1) If, on the day following the member's death, no pension is payable to a partner of a deferred member under regulation 47(1) (survivor benefits: partners of deferred members), the Committee shall close the deferred member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (d) the pension included 20.41667% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (e) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240.

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (d) the pension included 40.8333% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);

- (e) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and
 - (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120.
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

Survivor benefits: pensioner members

Death grants: pensioner members

51.—(1) If a pensioner member dies before attaining the age of 75, the Committee shall pay a death grant.

(2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.

(3) Subject to paragraph (4), the death grant is ten times the annual amount the member would have been entitled to receive as retirement pension at the date of death if there had been no commutation under regulation 34 (election for lump sum instead of pension), reduced by the amounts of any such commuted lump sum and any pension paid to the member.

(4) Where any pension paid to a member derived from a pension credit, the death grant is ten times the annual amount the member would have been entitled to receive as that pension at the date of death if there had been no commutation under regulation 34 (election for lump sum instead of pension) reduced by the amounts of any such commuted lump sum and any pension paid to that member.

(5) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—

- (a) beginning with the member's death; or
- (b) where the Committee did not know about the member's death before the expiry of that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

Survivor benefits: partners of pensioner members

52.—(1) If a pensioner member (other than a pensioner member where the pension the member was in receipt of was derived from a pension credit) dies leaving a surviving spouse, civil partner or nominated co-habiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The Committee shall close the pensioner member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;
- (b) the pension had not been subject to any actuarial adjustment relating either to the age at which it was drawn or following a Scheme Pays Election;

- (c) there had been no commutation under regulation 34 (election for lump sum instead of pension);
- (d) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (e) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions); and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.

(5) If the member ceased to be an active member, became a pensioner member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(6) Where—

- (a) paragraph (5) applies, the revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year;
- (b) paragraph (5) does not apply, the balance under paragraph (3) is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

Survivor benefits: children of pensioner members

53.—(1) If a pensioner member (other than a pensioner member where the pension the member was in receipt of was derived from a pension credit) dies leaving one or more eligible children, the eligible children are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) The Committee shall open a survivor member's pension account for the eligible child or children, in accordance with regulation 54 (survivor benefits: children of pensioner member where pension is payable to a partner of pensioner member) or regulation 55 (survivor benefits: children of pensioner member where no pension is payable to a partner of pensioner member) from the day following the deferred member's death.

(3) The children's pension shall be calculated in accordance with regulation 54 or regulation 55.

(4) If the member ceased to be an active member, became a pensioner member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(5) Where—

- (a) paragraph (4) applies, the revalued balance calculated under paragraph (4) is the opening balance of the survivor member's pension account for the following Scheme year;

- (b) paragraph (4) does not apply, the balance under regulation 54(2) or 55(2), as the case may be, is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

Survivor benefits: children of pensioner member where pension is payable to partner of pensioner member

54.—(1) If a pension is payable to a partner of a pensioner member under regulation 52(1) (survivor benefits: partners of pensioner members), the Committee shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1), is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4) but if the pension payable under regulation 52(1) (survivor benefits: partners of pensioner members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 55(3) or 55(4) from the day following the date the pension under regulation 52(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/320th of pensionable pay;
- (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320;
- (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme pays election or any pension debit applied on account of a pension sharing order;
- (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
- (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
- (f) the pension included 15.3125% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;
- (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
- (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);

- (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
- (f) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).

(5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 52(1) (survivor benefits: partners of pensioner members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

Survivor benefits: children of pensioner member where no pension is payable to partner of pensioner member

55.—(1) If, on the day following the member's death, no pension is payable to a partner of a pensioner member under regulation 52(1) (survivor benefits: partners of pensioner members), the Committee shall close the pensioner member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/240th of pensionable pay;
- (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240;
- (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
- (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
- (f) the pension included 20.41667% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).

(4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member's earned pension had accrued at a rate of 1/120th of pensionable pay;
- (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120;
- (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);

- (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
 - (f) the pension included 40.8333% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3) as from the date the other child's or children's pension ceased to be paid.

ADJUSTMENTS OF BENEFITS

No double entitlement

56.—(1) Where apart from this regulation any member would be entitled to a pension or lump sum under two or more regulations by reason of the same period of membership—

- (a) that member shall be entitled to benefits under only one regulation;
- (b) the member may choose under which provision benefits are to be paid; and
- (c) if the member does not choose the Committee shall choose, and shall notify the member in writing of the provision under which benefits are to be paid.

(2) A member's choice shall be by notice in writing given to the Committee before the expiry of three months beginning with the day on which the member becomes entitled to choose under which provision the pension or lump sum is to be paid.

(3) Paragraph (1) does not affect the member's rights under the 1993 Act.

(4) This regulation also applies to any survivor benefits payable under regulation 41 (survivor benefits: partners of active members), 43 to 45 (survivor benefits: children of active members), 47 (survivor benefits: partners of deferred members), 48 to 50 (survivor benefits: children of deferred members), 52 (survivor benefits: partners of pensioner members), and 53 to 55 (survivor benefits: children of pensioner members).

Limit on total amount of benefits payable

57.—(1) No person is entitled under any provision of these Regulations to receive benefits the capital value of which exceed that person's lifetime allowance, except in accordance with actuarial guidance issued by the Department, and any benefits to which a person is entitled are reduced accordingly.

(2) In this regulation "lifetime allowance" is to be construed in accordance with section 218 of, and Schedule 36 to, the 2004 Finance Act and, where applicable, is to include primary protection, enhanced protection or fixed protection within the meaning of those provisions.

(3) The capital value of a person's benefits shall be calculated in accordance with actuarial guidance issued by the Department.

Guaranteed minimum pensions

58.—(1) Where a member's local government employment is contracted-out employment and that member has a guaranteed minimum, the member is entitled from the date of attaining pensionable age to payment of a pension at a weekly rate equal to not less than that guaranteed minimum.

(2) But if the member attains pensionable age while in local government employment, the member is not so entitled until leaving that employment, unless paragraph (3) or (4) applies.

(3) If the member—

(a) continues in local government employment for a further period of five years after attaining pensionable age; and

(b) does not then leave that employment,

the member is entitled from the end of the period mentioned in sub-paragraph (a) to payment of so much of the retirement pension as equals that guaranteed minimum.

(4) If the member attains pensionable age while in local government employment but subsequently changes employment to employment which is not local government employment, the member is entitled.

(5) If the member changes employment to employment which is not local government employment and the member attains pensionable age while in that employment, the member is entitled.

(6) Subject to regulation 31(3) (retirement benefits, retirement after normal pension age), where paragraph (3), (4) or (5) applies, the member may consent to a postponement of the entitlement.

(7) For the purposes of this regulation, a person has a guaranteed minimum if that person has such a minimum under section 10 (earner's guaranteed minimum) of the 1993 Act in relation to benefits under these Regulations, and references to entitlement are to the entitlement to payment of a pension in accordance with paragraph (1).

(8) Where the guaranteed minimum pension rule applies, the pension to which a person is entitled under regulations 41 (survivor benefits: partners of active members), 47 (survivor benefits: partners of deferred members) and 52 (survivor benefits: partners of pensioner members) shall be no less than the surviving spouse's, nominated co-habiting partner's or civil partner's guaranteed minimum.

(9) The guaranteed minimum pension rule applies if—

(a) the employment in which the deceased was a member was contracted-out employment; and

(b) the deceased had a guaranteed minimum in relation to benefits under these Regulations.

(10) Paragraph (8) overrides any contrary provision in these Regulations except—

(a) regulation 35 (commutation and small pensions);

(b) regulation 102 (forfeiture of pension rights after conviction for employment-related offences); and

(c) regulation 103 (interim payments directions)

of these Regulations.

(11) In this regulation "contracted out employment" shall be construed in accordance with section 4 of the 1993 Act.

Pension debits

59.—(1) The Committee shall have regard to actuarial guidance issued by the Department as to the reduction of benefits payable under these Regulations in consequence of a pension debit.

(2) The Committee shall make such adjustments to a member's pension accounts as are required to give effect to a pension debit.