

SCHEDULE

Regulation 6

NEW SCHEDULE 7 TO THE LOCAL GOVERNMENT  
PENSION SCHEME (SCOTLAND) REGULATIONS 1998

“SCHEDULE 7

Regulation 133A

COUNCILLOR MEMBERS

MEMBERSHIP

**ELIGIBILITY**

*Joining the Scheme*

1. In regulation 6(6) (joining the Scheme), omit “or” at the end of sub-paragraph (a) and after sub-paragraph (b) add—

“; or

(c) councillors.”.

**CONTRIBUTIONS**

*Pay*

2. For regulation 12 (meaning of “pay”) substitute—

**“Meaning of “pay”**

12.—(1) A councillor member’s pay in any year is the total of all payments of remuneration to him by the local authority under the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007<sup>(1)</sup>, including any payments made in respect of a councillor’s functions as convenor or vice-convenor of a joint board.

(2) All references to “pay” in these Regulations in respect of a councillor member and his councillor membership shall be construed in accordance with paragraph (1).

(3) “Career average pay” in these Regulations shall mean an amount equal to the total of a councillor member’s pay for each year or part year of his active membership divided by the number of those years or part years.

(4) When calculating a councillor member’s career average pay, the pay for any year other than the final year shall be increased in proportion to the increase in the Retail Price Index from the last day of that year up to the last day of the month in which the councillor member’s active membership ends.

(5) “Year” means the 12 months ending with 31st March save that in respect of the year ending with 31st March 2008, it means the period from the coming into force of these Regulations until 31st March 2008.

(6) “Final year” means the year during which, or at the end of which, the councillor member’s active membership ends.

(7) “Retail Price Index” means the index of retail prices for the United Kingdom published by the Office of National Statistics.

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(1) S.S.I. 2007/70

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(8) No sum may be taken into account in calculating pay unless income tax liability has been determined on it.”.

## BENEFITS

### *Preliminary*

3. For regulation 19 (calculations) substitute—

#### “Calculations

19.—(1) The amount of any benefit payable as a result of a councillor’s membership is calculated by multiplying his career average pay by the appropriate multiplier.

(2) The appropriate multiplier for a pension is—

$$\frac{\text{total councillor membership}}{80}$$

(3) The appropriate multiplier for a retirement grant is—

$$\frac{3 \times \text{total councillor membership}}{80}$$

(4) A councillor member may elect in writing to the appropriate administering authority before any benefits become payable to increase the retirement grant payable under paragraph (3) by commuting his pension, or a part thereof, at a rate of £12 for every £1 of annual pension entitlement surrendered.

(5) But the total amount of the member’s retirement grant, including any sum received—

- (a) in accordance with an election under paragraph (4);
- (b) as benefits provided in the form of a lump sum in accordance with regulation 63;  
or
- (c) as additional lump sum benefits in accordance with regulation 65,

shall not exceed 25% of the capital value of his accrued rights.

(6) For the purposes of this regulation, a member’s accrued rights include rights accrued in respect of any payments made by him in accordance with Chapter IV of Part III (Additional Voluntary Contributions).

(7) The capital value of a member’s accrued rights shall be calculated as shown in guidance issued by the Government Actuary.

(8) However, benefits payable—

- (a) to a pension debit member are adjusted as provided in regulation 19A; and
- (b) on or after the death of a pensioner member are calculated by multiplying the amount of his former retirement pension by the multiplier specified in the regulation that confers the benefit in question.

(9) Where a benefit crystallisation event has not occurred before the day after a member’s 65th birthday in respect of any benefit under the Scheme, that benefit shall be increased at such a rate as is shown as appropriate in guidance issued by the Government Actuary.

(10) Unless otherwise indicated, references to the amounts of pensions are to their annual rate.

(11) The amount of a deceased person’s former retirement pension is the amount of the pension he would have received immediately before his death, but for—

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- (a) regulation 30 (other early leavers: deferred retirement benefits and elections for early payment);
- (b) regulation 49 (commutation: exceptional ill-health); or
- (c) regulation 110 (application of abatement policy in individual cases).

(12) Periods are measured in years and fractions of a year (calculated as specified in regulation 10).

(13) A pensioner member includes a person who would have been entitled to a pension but for regulation 110 (application of abatement policy in individual cases).

(14) Paragraph (13) does not stop a person to whom it applies from also counting as an active member.”.

4. Omit regulations 20 (final pay), 21 (other final pay periods) and 22 (permanent reductions in pay: certificates of protection of pension benefits).

#### *Retirement benefits*

5. In regulation 24A (retirement after 65) in paragraph (1) omit the words “with the consent of his employing authority”.

6. Omit regulation 25 (redundancy etc.).

7. In regulation 26 (ill-health), for paragraph (1) substitute–

“(1) Where a councillor member ceases to be a member of his local authority by reason of being permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body, he is entitled to an ill-health pension and grant (but see paragraph (3)).”.

8. In regulation 27 (amounts of ill-health pension and grant)–

(a) omit paragraphs (4) and (5); and

(b) for paragraph (10) substitute–

“(10) If a councillor member is entitled under regulation 26(3) to an ill-health grant (but not a pension), the amount of the grant is calculated by multiplying the member’s career average pay by–

$$\frac{\text{total councillor membership}}{12}.”$$

9. Omit paragraph (1)(b) of regulation 28 (re-employed pensioners).

10.—(1) Regulation 31(1) (re-employed and rejoining deferred members) shall only apply to a councillor member in respect of any councillor membership where both the former membership and the membership as an active member referred to in that paragraph are councillor membership in the same appropriate fund.

(2) Omit regulation 31(8).

11. Omit regulation 31A (concurrent employments).

12. In regulation 34 (requirements as to time of payment) omit paragraphs (1A) to (1E).

#### *Death grants*

13. In regulation 37 (death grants), for paragraphs (6) to (8A) substitute–

“(6) The death grant of a councillor member shall be twice his career average pay.

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(7) The death grant for a councillor member who is a deferred member at the date of his death is 3 times the annual pension that would have been payable to him if he had retired at the date of his death.

(8) The death grant for a councillor member who is a pensioner member at the date of his death is an amount equal to 5 times his former retirement pension less the amount of any pension paid to him.”.

*Surviving spouses' or civil partners' pensions*

14. In regulation 39 (surviving spouse’s or civil partner’s short-term pension)–

- (a) in paragraph (4), for “final pay” substitute “career average pay”; and
- (b) in paragraph (5), omit “(but see regulation 41)”.

15. In regulation 40 (surviving spouse’s or civil partner’s long-term pension)–

- (a) in paragraph (5), for “the multiplier for” to the end of that paragraph, substitute–

“the long-term pension is–

*the deceased’s total membership x career average pay*

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.”

- (b) in paragraphs (5A) and (6), omit “(but see regulation 41)”;
- (c) in paragraph (6), for “19(3A)” substitute “19(4)”.

16. Omit regulation 41 (reduction of some surviving spouses' or civil partners' pensions).

*Children’s pensions*

17. In regulation 44(4) (children’s short-term pensions), for “final pay” substitute “career average pay”.

18. In regulation 45(7) (children’s long-term pensions), for “19(3A)” substitute “19(4)”.

**OPTIONAL ADDITIONAL BENEFITS**

*Increases of membership and pensions*

19. Omit regulation 51 (power of employing authority to increase total membership).

20. For regulation 54 (payments to increase total membership), substitute–

**“Payments to increase pension**

**54.—(1)** An active councillor member may elect to make additional contributions to the Scheme to increase the pension that would otherwise be payable to him in accordance with regulation 19.

(2) The sum by which the pension may be increased (as at the date that the pension becomes payable) must not exceed £5,000.

(3) The election must be made by giving notice in writing to the appropriate administering authority earlier than the member’s 64th birthday.

(4) If–

- (a) the member’s appropriate administering authority pass a resolution requiring him to satisfy them that he is in reasonably good health by producing to them a

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report by a registered medical practitioner of the results of a medical examination undertaken at the member's own expense; but

(b) they are not so satisfied,

the election is void.

(5) The amounts of the additional contributions must be as shown as appropriate in guidance issued by the Government Actuary.

(6) If a member continues paying the additional contributions until his last birthday before his NRD (or if this NRD is his birthday, that date), his pension is increased by the sum specified in the election.

(7) If a member ceases to pay the additional contributions before the date specified in paragraph (6), his pension is increased by the sum calculated in accordance with guidance issued by the Government Actuary.

(8) The additional contributions are payable from the member's next birthday after his election.”.

21. After regulation 55 (part-time employees) insert—

**“Payment in respect of pre-eligibility councillor service by certain councillor members**

**55A.—**(1) This regulation applies to a councillor member who—

(a) is elected at the ordinary election held on 3rd May 2007; and

(b) had previously been a councillor for one or more periods of time between 1st January 1995 and 3rd May 2007.

(2) The period of time mentioned in paragraph (1)(b) or, where the councillor member had been a councillor for more than one such period, the aggregate of those periods of time is referred to in this regulation as “pre-eligibility councillor service”.

(3) A councillor member to whom this regulation applies may, by notice in writing given to the appropriate administering authority, elect to make payment to the appropriate fund in order to become entitled to count his pre-eligibility councillor service as membership.

(4) An election under this regulation must be made within 12 months of the date of the ordinary election referred to in paragraph (1)(a).

(5) A notice under paragraph (3) shall specify—

(a) whether payment is to be made in respect of the whole of the councillor member's pre-eligibility councillor service or, if not, the length and dates of the part of that service it is desired to count as membership;

(b) whether payment is to be made by lump sum or by instalments; and

(c) where payment is to be made by instalments, over what period of years the instalments are to be paid; such period not exceeding 5 years or the period between the date of the election and the date on which the councillor member attains the age of 65 years, whichever is the shorter.

(6) The payment required as a result of an election under this regulation shall be calculated by the administering authority in accordance with guidance issued by the Government Actuary.

(7) Where a notice given under paragraph (3) specifies that payment is to be made by instalments, they shall be of equal amounts and be paid at such intervals as the administering authority determines, not being intervals of more than one month.

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(8) If–

- (a) the member’s appropriate administering authority pass a resolution requiring him to satisfy them that he is in reasonably good health by producing to them a report by a registered medical practitioner of the results of a medical examination undertaken at the member’s own expense; but
- (b) they are not so satisfied,

the election is void.

(9) If, before the completion of payment of the instalments specified in a notice given under paragraph (3), the councillor member dies or leaves the employment by reason of being permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body, the payments will be deemed to have been completed.

(10) If, before the completion of payments of the instalments specified in a notice given under paragraph (3), the councillor member leaves the employment other than as specified in paragraph (9), he may elect to pay the balance of the instalments within 3 months of ceasing employment.

(11) If a councillor member to whom paragraph (10) applies does not make an election in accordance with paragraph (10), he will become entitled to count as membership the proportion of his pre-eligibility councillor service as is specified in guidance issued by the Government Actuary.

(12) Payment of instalments specified in a notice given under paragraph (3) may be discontinued if the councillor member satisfies the administering authority that its continuance would cause financial hardship and, in such circumstances, the councillor will become entitled to count as membership the proportion of his pre-eligibility councillor service as it specified in guidance issued by the Government Actuary.”.

#### *Additional Voluntary Contributions*

- 22. In regulation 63(6) (retirement benefits), for “19(3B)” substitute “19(5)”.
- 23. In regulation 65(1) (elections as to use of accumulated value of AVCs)–
  - (a) in paragraph (1)(c)(i) delete “or 25 (redundancy etc.)”; and
  - (b) in paragraph (6) for “19(3B)” substitute “19(5)”.

#### *Shared Cost Schemes*

- 24. Omit regulations 66 to 71 (shared cost AVC schemes (SCAVCs)).

### **ADMINISTRATION**

#### *Members' contributions*

- 25. Omit regulation 82 (discontinuance of additional contributions).
- 26. Omit paragraphs (4) and (5) of regulation 86 (rights to return of contributions).

#### *Transfers*

- 27. Omit regulations 119, 120 and 126 (bulk transfer arrangements and payments between funds and authorities).”.

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