

SCHEDULE 3

Regulation 214

Transitional provisions

PART 1

Interpretation

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1. In this Schedule—

“closing date”, in relation to a transition member, means—

- (a) for a member who is not a protected member, the scheme closing date; or
- (b) for a tapered protection member, the closing date for that member;

“exception” means an exception to section 18(1) of the Act;

“existing scheme rules” means the provisions of the existing scheme, an existing club scheme or an existing public service scheme;

“full protection member”, in relation to the existing scheme, has the meaning given in Part 2;

“protected member” means a full protection member or tapered protection member;

“protection period”—

- (a) for a full protection member, has the meaning given in Part 2;
- (b) for a tapered protection member, has the meaning given in Part 3;

“public service scheme” means a scheme under section 1 of the Act;

“scheme closing date”, in relation to the existing scheme, means 31st March 2015;

“tapered protection member”, in relation to the existing scheme, has the meaning given in Part 2;

“tapered protection closing date” has the meaning given in paragraph 5;

“transition date” means—

- (a) for a tapered protection member of an existing scheme, the day after the tapered protection closing date;
- (b) for a transition member by virtue of the application of paragraph 13 who is not a protected member of an existing scheme, the day after the scheme closing date.

Meaning of “active member of existing scheme”

2.—(1) For the purpose of this Schedule, a person (P) is an active member of the existing scheme on a given date if on that date—

- (a) P is in pensionable service under the existing scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) A person who is an active member of the existing scheme on the scheme closing date ceases to be an active member of that scheme on the earlier of—

- (a) the day on which a retirement pension (other than a phased retirement pension) becomes payable to P under the existing scheme; or
- (b) the day on which P begins a gap in service which—

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- (i) begins after the scheme closing date; and
- (ii) exceeds 5 years.

Meaning of “continuity of service”

3. A transition member (P) has continuity of service unless P has a gap in service exceeding 5 years which—

- (a) begins on or before the closing date; and
- (b) ends on the day on which P becomes an active member of this scheme.

Gap in service after scheme closing date

4. In relation to any period after the scheme closing date, a person (P) is not on a gap in service while P is in pensionable service under—

- (a) another public service scheme; or
- (b) a new public body pension scheme⁽¹⁾.

Meaning of “closing date” for a tapered protection member

5.—(1) The closing date for a tapered protection member is a date between 31st May 2015 and 31st January 2022 (inclusive) determined by the scheme manager by reference to a table published for that purpose.

- (2) The closing date must fall on the last day of a month.

PART 2

Exceptions for full protection members

Meaning of —full protection member

6.—(1) A person (P) is a full protection member of an existing scheme on the scheme closing date if—

- (a) on that date, P is an active member of the existing scheme;
- (b) on 31st March 2012, P was an active member of the existing scheme; and
- (c) unless P dies, P would reach normal pension age under the existing scheme before 2nd April 2022.

(2) P ceases to be a full protection member when P ceases to be an active member of the existing scheme.

Exception for full protection member during protection period

7.—(1) The protection period for a full protection member (P) is the period which—

- (a) begins on the day after the scheme closing date; and
- (b) ends when P ceases to be a full protection member.

(2) Section 18(1) of the Act does not apply to P during the protection period.

(3) During the protection period—

(1) See section 30(5) of the Act for the meaning of “new public body pension scheme”.

- (a) P's pensionable service is pensionable service under the existing scheme; and
- (b) benefits are to be provided under that scheme to or in respect of P in relation to that pensionable service.

Full protection member not eligible to join this scheme

8. While a person (P) is a full protection member, P is not eligible to be a member of this scheme.

PART 3

Exceptions for tapered protection members

Meaning of “tapered protection member”

9.—(1) A person (P) is a tapered protection member of an existing scheme on the scheme closing date if—

- (a) on that date, P is an active member of the existing scheme;
 - (b) on 31st March 2012, P was an active member of the existing scheme; and
 - (c) unless P dies, P would reach normal pension age under the existing scheme between 2nd April 2022 and 30th September 2025 (inclusive).
- (2) P ceases to be a tapered protection member on whichever of the following days occurs first—
- (a) P's closing date; or
 - (b) the day on which P ceases to be an active member of the existing scheme.

Exception for tapered protection members during protection period

10.—(1) The protection period for a tapered protection member is the period which—

- (a) begins on the day after the scheme closing date; and
 - (b) ends when P ceases to be a tapered protection member.
- (2) Section 18(1) of the Act does not apply to P during the protection period.
- (3) During the protection period—
- (a) P's pensionable service is pensionable service under the existing scheme; and
 - (b) benefits are to be provided under that scheme to or in respect of P in relation to that pensionable service.

Tapered protection member not eligible to join this scheme

11. While a person (P) is a tapered protection member, P is not eligible to be a member of this scheme.

PART 4

Transition members becoming active members of this scheme

Meaning of “transition member”

12. A person to whom paragraph 13 applies is a transition member.

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Active members of the existing scheme

13. This paragraph applies to a person (P) if—

- (a) P is a member of the existing scheme by virtue of his or her pensionable service under that scheme before the transition date; and
- (b) P is a member of this scheme by virtue of his or her pensionable service under this scheme on or after the transition date.

Transition members with continuity of service

14. A transition member (P) who has continuity of service becomes an active member of this scheme—

- (a) if P is in pensionable service on the transition date, on that date; or
- (b) on re-entering pensionable service after the transition date.

Transition members without continuity of service

15. A transition member (P) who does not have continuity of service becomes an active member of this scheme when P re-enters pensionable service on or after the transition date.

PART 5

Receipt of club transfer values

Application of Part

16.—(1) This Part applies to a member who applies under these Regulations for a club transfer value to be accepted from an existing club scheme (“the sending scheme”).

(2) This Part does not apply if—

- (a) the person (P) has reached 75;
- (b) retirement benefits have become payable to P under this scheme or under the sending scheme; or
- (c) the sending scheme was a money purchase arrangement to which P’s previous employer made no contribution.

Member with full protection

17.—(1) This paragraph applies if a full protection member of the existing scheme applies to the scheme manager for a club transfer value to be accepted.

(2) On receipt of the application, the scheme manager must accept payment of the club transfer value if it is offered.

(3) The club transfer value must be paid into the existing scheme.

Member with tapered protection or no protection

18.—(1) This paragraph applies if a tapered protection member or a transition member who is not a protected member applies to the scheme manager for a club transfer value to be accepted.

(2) On receipt of the application, the scheme manager must accept payment of the club transfer value if it is offered.

- (3) Payment of the club transfer value—
 - (a) must be accepted into the existing scheme if the payment relates to pensionable service before the transition date;
 - (b) must be accepted into this scheme if the payment relates to pensionable service on or after the transition date.

PART 6

Payment of benefits to transition members

CHAPTER 1

General

Reaching normal pension age

19.—(1) If a transition member (P) who applies for payment of retirement benefits under both schemes has reached normal pension age under the existing scheme but has not reached normal pension age under this scheme, the benefits payable under this scheme are to be actuarially reduced.

(2) If P has not reached normal pension age under the existing scheme or under this scheme, the benefits payable under both schemes are to be actuarially reduced.

- (3) If P has reached normal pension age—
 - (a) under the existing scheme, the benefits payable under that scheme are to be actuarially enhanced under the existing scheme rules (if applicable); or
 - (b) under both schemes, the benefits payable under both schemes are to be actuarially enhanced (if applicable).

Application of existing scheme rules

20.—(1) The existing scheme rules apply in relation to the calculation of benefits payable in respect of pensionable service under the existing scheme.

(2) The existing scheme rules apply in relation to the payment of additional pension with a retirement pension under the existing scheme.

Determination of final salary

21. For the purpose of calculating benefits payable under the existing scheme to or in respect of a transition member with continuity of service, the member's final salary is determined by reference to Schedule 7 to the Act.

Annual rate of pension

- 22.** The annual rate of pension payable to a transition member is found by adding—
- (a) the annual rate of pension payable under the existing scheme; and
 - (b) the annual rate of pension payable under this scheme.

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CHAPTER 2

Application for payment of benefits

Application for payment of age retirement pension

23.—(1) When a transition member (P) applies for payment of an age retirement pension under this scheme, P must also apply under regulation E36 of the 2005 Regulations for payment of retirement benefits in respect of pensionable service under the existing scheme.

(2) A transition member (P) who has not reached normal pension age under this scheme may apply under regulation 159 for payment of age retirement benefits in respect of P's pensionable service under the existing scheme without applying for payment of P's retirement benefits in respect of pensionable service under this scheme.

Application for payment of phased retirement pension

24.—(1) When a transition member (P) makes a phased retirement application under this scheme, P may also elect under regulation C4B of the 2005 Regulations⁽²⁾ to receive phased retirement benefits in respect of pensionable service under the existing scheme.

(2) P may elect to receive phased retirement benefits under the existing scheme without making a phased retirement application under this scheme.

(3) The phased retirement proportion specified in a phased retirement application under this scheme may be different from the fraction of reckonable service specified in an election under the existing scheme.

Application for payment of premature retirement pension

25.—(1) When a transition member (P) applies for payment of a premature retirement pension under this scheme, P must also apply under regulation E36 of the 2005 Regulations for payment of retirement benefits in respect of pensionable service under the existing scheme.

Application for payment of early retirement pension

26. When a transition member (P) applies for payment of an early retirement pension under this scheme, P must also apply under regulation E36 of the 2005 Regulations for payment of retirement benefits in respect of pensionable service under the existing scheme.

Application for payment of ill-health pension

27. A transition member (P) who applies for payment of an ill-health pension under this scheme is entitled to receive any benefits in respect of pensionable service in the existing scheme as part of the ill-health pension payable under this scheme.

Entitlement to payment of total incapacity pension

28. A transition member who becomes entitled to payment of a total incapacity pension under this scheme is not entitled to payment of a total incapacity pension under regulation E10A of the 2005 Regulations⁽³⁾.

(2) Regulation C4B was added by S.S.I. 2007/189 and amended by S.S.I. 2008/227.

(3) Regulation E10A was added by S.S.I. 2007/189 and amended by S.S.I. 2008/227 and S.S.I. 2014/69.

Calculation of retirement benefits after ill-health pension ceases to be payable

- 29.**—(1) This paragraph applies to a transition member (P) if—
- (a) P is entitled to receive benefits payable under this scheme; and
 - (b) P was in receipt of a previous ill-health pension following an application which was received by the Scottish Ministers before 1st April 2007.
- (2) When this paragraph applies, regulation E17 of the 2005 Regulations applies with the modification that “(including pensionable service under the Teachers’ Pension Scheme (Scotland) Regulations 2014)” is inserted after “reckonable service”.

Reduction of ill-health pension and total incapacity pension

- 30.**—(1) This paragraph applies to a transition member (P) if—
- (a) P is entitled to receive benefits payable under this scheme, including total incapacity pension; and
 - (b) P was in receipt of previous ill-health pension following an application which was received by the Scottish Ministers before 1st April 2007.
- (2) When this paragraph applies, the scheme manager may determine after taking advice from the scheme actuary that either or both of the following benefits are reduced—
- (a) P’s total incapacity benefits under this scheme;
 - (b) part of P’s ill-health benefits under regulation E17 of the 2005 Regulations (including any by reference to paragraph 29).

Entitlement to payment of a short-service serious ill-health grant

31. A transition member who becomes entitled to payment of a short-service serious ill-health grant under this scheme is not entitled to payment of a short-service serious ill-health grant under regulation E21 of the 2005 Regulations.

Application for payment of a surviving adult pension

- 32.**—(1) When the surviving adult of a transition member applies for payment of a surviving adult pension under this scheme, the surviving adult must also apply under regulation E36 of the 2005 Regulations for payment of an adult pension under the existing scheme.
- (2) The enhancement of a surviving adult pension—
- (a) is applied under regulation 142; but
 - (b) is not applied under regulation E31 of the 2005 Regulations.

Calculation of a surviving adult pension of a surviving adult of a transition member

- 33.**—(1) This paragraph applies to a surviving adult pension payment to a surviving adult of a transition member.
- (2) The short-term rate of surviving adult pension—
- (a) is payable under this scheme; but
 - (b) is not payable under regulation E28 of the 2005 Regulations.

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Long-term rate of a surviving adult pension of a surviving adult of a transition member

34. The rate of a surviving adult pension of a surviving adult (S) of a transition member is the sum of—

- (a) the surviving adult pension under this scheme;
- (b) the adult pension under the 2005 Regulations;
- (c) any enhancement S is entitled to under regulation 139; and
- (d) any enhancement S is entitled to under Schedule 6 to the 2005 Regulations.

Reduction of surviving adult pension

35.—(1) This paragraph applies if the surviving adult (S) of a transition member applies—

- (a) for payment of a surviving adult pension under this scheme; and
- (b) for payment of an adult pension under the 2005 Regulations.

(2) When this paragraph applies, the scheme manager may determine after taking advice from the scheme actuary that either or both of the following enhancements of surviving adult pension benefits are reduced—

- (a) S's enhancement of a surviving adult pension under regulation 139;
- (b) S's enhancement of a surviving adult pension under Schedule 6 to the 2005 Regulations.

Application for payment of an additional (surviving adult) pension

36. When the surviving adult of a transition member applies for payment of an additional (surviving adult) pension under this scheme, the surviving adult must also apply under regulation E36 of the 2005 Regulations for payment of an additional pension under the existing scheme.

Application for payment of a child pension

37.—(1) When the eligible child of a transition member applies for payment of a child pension under this scheme, the eligible child must also apply under regulation E36 of the 2005 Regulations for payment of a child pension under the existing scheme.

(2) The enhancement of a child pension—

- (a) is applied under regulation 149; but
- (b) is not applied under regulation E31 of the 2005 Regulations.

Calculation of a child pension of an eligible child of a transition member

38.—(1) This paragraph applies to a child pension payment to a child of a transition member.

(2) The short-term rate of child pension—

- (a) is payable under this scheme; but
- (b) is not payable under regulation E29 of the 2005 Regulations.

Rate of a child pension of an eligible child of a transition member

39. The long-term rate of a child pension of an eligible child (C) of a transition member is the sum of—

- (a) the child pension under this scheme;
- (b) the child pension under the 2005 Regulations;

- (c) any enhancement C is entitled to under regulation 149; and
- (d) any enhancement C is entitled to under Schedule 6 to the 2005 Regulations.

Reduction of child pension

40.—(1) This paragraph applies if the eligible child (C) of a transition member applies—

- (a) for payment of a child pension under this scheme; and
- (b) for payment of a child pension under the 2005 Regulations.

(2) When this paragraph applies, the scheme manager may determine after taking advice from the scheme actuary that either or both of the following enhancements of child benefits are reduced—

- (a) C's enhancement of a child pension under regulation 149; and
- (b) C's enhancement of a child pension under Schedule 6 to the 2005 Regulations.

Application for payment of a death in service grant

41.—(1) The beneficiary of a transition member (D) who is entitled to a death in service grant under this scheme is not entitled to a death in service grant under regulation E24 of the 2005 Regulations.

(2) The amount of the death in service grant paid under this scheme must be reduced by the amount of any retirement lump sum paid under regulation E8 of the 2005 Regulations in respect of D's pensionable service under the existing scheme, other than one already recovered.

Application for payment of a death out of service grant

42.—(1) When the beneficiary of a transition member applies for payment of a death out of service grant under this scheme, the beneficiary must also apply under regulation E36 of the 2005 Regulations for payment of a death out of service grant under the existing scheme.

(2) The amount of the death out of service grant paid under this scheme must be reduced by the amount of any retirement lump sum paid under regulation E8 of the 2005 Regulations in respect of D's pensionable service under the existing scheme, other than one already recovered.

Application for supplementary death grant

43. The beneficiary of a transition member who is entitled to a supplementary death grant under this scheme is not entitled to a supplementary death grant under the existing scheme.

Application for payment of benefits for pension credit members

44.—(1) If a transition member (P) has not reached normal pension age under the existing scheme when P applies for payment of a pension credit retirement pension under this scheme, P must also apply for payment of benefits in respect of pensionable service under the existing scheme.

(2) If P has reached normal pension age under the existing scheme, P may apply for payment of a pension credit retirement pension in respect of pensionable service under—

- (a) either the existing scheme or this scheme; or
- (b) both the existing scheme and this scheme.

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PART 7

Provision in relation to existing scheme

Election to opt out of existing scheme continues to have effect

45. A person (P) is taken to have opted out of this scheme in relation to an eligible employment if, on the scheme closing date—

- (a) P is not a protected member of the existing scheme; and
- (b) an election to opt out of the existing scheme in relation to that employment has effect.

Qualifying for retirement benefits under existing scheme

46. In determining whether a transition member with continuity of service is qualified for retirement benefits under the existing scheme, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the existing scheme; and
- (b) the member's qualifying service under this scheme.

Nomination continues to have effect

47. A nomination under regulation E24 (death grants), E26A (nomination of partner) or E27 (nomination of other adult beneficiary) of the 2005 Regulations⁽⁴⁾ has effect as if made under Part 6 of these Regulations.

Repayment of balance of contributions

48. An application by a transitional member (P) for the repayment of the balance of P's contributions under regulation 183 is also an application for any repayment of the balance of contributions due to P under regulations C11 to C13 of the 2005 Regulations.

Residential emoluments

49. Where the money value of residential benefits in kind of a transition member (P) is treated as part of P's contributable salary for the purposes of regulation C1(1)(a) of the 2005 Regulations, this has effect as if an application had been made under regulation 35.

Transfer payments in respect of the existing scheme

50. A transfer payment made in respect of a transition member by the scheme manager must be in relation to any benefits accrued in this scheme and any service accrued under the existing scheme.

Election to pay contributions by a person serving in a reserve force

51.—(1) An election by a transition member (P) to pay contributions made under regulation C9 of the 2005 Regulations has effect as if made under regulation 25.

(2) On becoming an active member of this scheme, P does not begin to accrue service which counts for the purpose of benefits in respect of P's permanent service for the purpose of regulation C9(2) of the 2005 Regulations.

(4) Regulation E26A was added by [S.S.I. 2007/189](#).

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