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STATUTORY INSTRUMENTS

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**1995 No. 1019**

**PENSIONS**

**The Local Government Pension Scheme Regulations 1995**

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| <i>Made</i>                   | - - - - | <i>6th April 1995</i>  |
| <i>Laid before Parliament</i> |         | <i>11th April 1995</i> |
| <i>Coming into force</i>      | - -     | <i>2nd May 1995</i>    |

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

**PART A**  
**PRELIMINARY**

**Citation and commencement**

**A1.** These Regulations may be cited as the Local Government Pension Scheme Regulations 1995 and shall come into force on 2nd May 1995 (and in these regulations that date is referred to as “the commencement date”).

**Interpretation**

**A2.**—(1) In these regulations, unless the context otherwise requires, the expressions defined in Schedule A1 have the meanings given to them by that Schedule.

(2) In these regulations, unless the context otherwise requires, any reference to a Part of these regulations includes a reference to any Schedules to these regulations referred to in that Part, in so far as they apply for its purposes.

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(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

## PART B

### MEMBERSHIP

#### *Eligibility*

#### **General eligibility of employees of LGPS employers**

**B1.**—(1) Subject to the provisions of this Part, a person is only eligible to be a member of the occupational pension scheme constituted by these regulations (in these regulations referred to as “the Scheme”) if—

- (a) he is an employee of a body specified in Part I of Schedule B1; or
  - (b) he is an employee of a body specified in Part II of that Schedule and that body has by a statutory resolution—
    - (i) specified him as being so eligible, or
    - (ii) specified a class of employees to which he belongs as being so eligible.
- (2) In these regulations—
- (a) “employee” means an employee whether permanent or temporary; and
  - (b) the bodies specified in Schedule B1 are referred to as “LGPS employers”.

#### **Age restrictions: meaning of “latest retirement age” and “LRD”**

**B2.**—(1) A person is only eligible to be a member of the Scheme if he has attained the age of 16 years.

- (2) A person applying to his employer to join the Scheme who—
- (a) has attained the age of 50 years (or would, on or by the date on which he would otherwise become a member of the Scheme have attained that age), and
  - (b) was first employed by the employer and eligible to be a member by virtue of that employment before he attained that age,

is not eligible to be a member of the Scheme if he is given notice in writing to that effect by his employer.

(3) Subject to paragraph (4), a person is not eligible to be a member of the Scheme after he has attained the age of 65 and in these regulations, in relation to any person, “latest retirement age” means that age and “LRD” means the date by which he attains that age.

- (4) A person is only eligible to be a member of the Scheme on and after his LRD if—
- (a) his total period of membership does not exceed the maximum referred to in paragraph (6); and
  - (b) at least one of the conditions mentioned in paragraph (5) is satisfied in relation to him.

(5) The conditions mentioned in paragraph (4) are—

- (a) at least one of the following has become payable to him—
  - (i) a pension which is liable to be reduced or suspended under Schedule D5 (re-employed pensioners),
  - (ii) an ill-health retirement grant under regulation D8, or under regulation E4 of the 1986 regulations or regulation E20 of the 1974 regulations,
  - (iii) a short service grant under the Benefits regulations;

- (b) he has received or is entitled to receive compensation under any enactment for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with an LGPS employer, in the like manner and to the like extent as it would have been if he had remained eligible to belong to the occupational pension scheme to which he belonged or was eligible to belong immediately before suffering the loss.
- (6) The maximum referred to in paragraph (4)(a) is—
- (a) in the case of a Class A member (as defined in paragraph 1(1) of Schedule C5) 40 years, and
  - (b) in the case of a Class B member or a Class C member (as so defined), the aggregate of—
    - (i) his total period of membership before he attained the age of 60 years (disregarding any period in excess of 40 years), and
    - (ii) his total period of membership since he attained that age (but not exceeding 5 years plus any period by which the period mentioned in paragraph (i) fell short of 40 years);and in paragraph (4) and this paragraph “total period of membership” has the meaning given in regulation B14, except that it also includes any additional period of membership which the member has been treated as being entitled to count for the purposes of regulation D7 (enhancement in cases of retirement on grounds of ill-health) or any corresponding earlier provision.

### **Restrictions by reference to working hours: “part-time” and “variable-time” employees**

**B3.**—(1) If an employee is in two or more employments under a single LGPS employer, he is eligible to be a member of the Scheme in respect of all (but not less than all) of the employments.

(2) A person who is a variable-time employee of an LGPS employer specified in Part I of Schedule B1 or paragraph 1 or 2 of Part II of that Schedule is only eligible to be a member of the Scheme in respect of that employment if—

- (a) he is a member of the Scheme also in respect of whole-time or part-time employment with an LGPS employer who is so specified; or
  - (b) having been such a member at the same time as being a member in respect of his variable-time employment, he has ceased to hold the whole-time or part-time employment; or
  - (c) he is not also in the whole-time or part-time employment of an LGPS employer who is so specified and his employer has by a statutory resolution—
    - (i) specified him as being so eligible, or
    - (ii) specified a class of employees to which he belongs as being so eligible.
- (3) For the purposes of these regulations—
- (a) an employee is a variable-time employee if in accordance with his terms of office or contract of employment he is to be treated as such for the purposes of the Scheme and either—
    - (i) his remuneration is calculated by reference to his obligations in his employment (rather than necessarily by reference to the number of hours he has worked), or
    - (ii) he hold an office or employment the functions of which are only exercisable on an occasional basis;
  - (b) an employee is a whole-time employee if his contractual hours are not less than the number of hours which, in accordance with his terms of employment, is the number of contractual hours for a person employed in that employment on a whole-time basis; and

- (c) an employee is a part-time employee if he is neither a whole-time employee nor a variable-time employee.
- (4) In these regulations—
- “the contractual hours” means—
- (i) the number of hours the employing authority are entitled to require the employee to work in each of the contractual weeks, or
  - (ii) if there is a cyclical variable in those hours, the average of those hours over the cycle; or
  - (iii) if there is any variation in those hours which is not cyclical, the average of those hours over the weeks in such period (not exceeding 12 months) as the employing authority consider appropriate, being a period for which, assuming that there will be no unpaid leave of absence, a wage or salary is payable to the employee; and
- “the contractual weeks” means the number of weeks in every period of 12 months for which (on that assumption) a wage or salary is payable to the employee.

#### **Certain office-holders etc. to be treated as employees of LGPS employers**

**B4.** Schedule B2 shall have effect for the purpose of deeming certain persons to be employees of LGPS employers and, unless the context otherwise requires, references in these regulations to employment by or under such employers, and all related expressions, shall be construed accordingly.

#### **Separate employments etc.**

**B5.—**(1) Where a person holds two or more separate employments under one LGPS employer then, unless the context otherwise requires, these regulations apply in relation to each of those employments as if the other or others were held by him under another LGPS employer.

(2) Where the duties of a whole-time employee of a LGPS employer include the additional duty of a returning officer at local government elections or of an acting returning officer then, unless the context otherwise requires, these regulations apply—

- (a) if he became a pensionable employee under the 1974 regulations on 1st April 1974 and immediately before that date was in the whole-time employment and had duties in it which included one or both of the additional duties, in relation to each additional duty as if it were a separate variable-time employment with an LGPS employer other than that with whom he is in the whole-time employment, and
  - (b) otherwise, in relation to that additional duty as if it were (or, if there are two additional duties, in relation to them both, as if they were) a separate variable-time employment with such an LGPS employer.
- (3) For the purposes of paragraph (2)—
- (a) the duty of an acting returning officer includes any duties of a returning officer at a European Parliamentary election which are required by regulations made under paragraph 2 of Schedule 1 to the European Parliamentary Elections Act 1978<sup>(2)</sup> to be discharged by an acting returning officer; and
  - (b) the references to a part-time employee and whole-time employment include references to a part-time employee whose contractual hours are at least 30, and to part-time employment in which the contractual hours are at least 30, respectively.
- (4) A medical inspector of immigrants appointed under the Immigration Act 1971<sup>(3)</sup> who—

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(2) 1978 c. 10.

(3) 1971 c. 77.

(a) receives his remuneration in that appointment from an LGPS employer specified in Part I of Schedule B1, and

(b) is also a member of the Scheme in relation to any employment,

is eligible to be a member of the Scheme in respect of the appointment and shall be deemed to be an officer in the employment of the authority from whom he receives his remuneration in the appointment.

### **Eligibility of employees of certain non LGPS employers**

**B6.** Schedule B3 has effect as respects the eligibility for membership of the Scheme of employees of certain persons who are not LGPS employers and, where under that Schedule any person is deemed to be employed by an LGPS employer, then, unless the context otherwise requires, references in these regulations to employment by or under such an employer, and all related expressions, shall be construed accordingly.

### **Power to extend eligibility to employees of other bodies (“admission agreements”)**

**B7.**—(1) Subject to the following provisions of this regulation, an administering authority may make an agreement (in these regulations referred to as “an admission agreement”) with any body specified in Schedule B4 (“the employing body”), providing for employees of the employing body to be eligible to be members of the pension fund maintained by the administering authority.

(2) Subject to paragraph (4), an admission agreement may provide for employees, or any specified class or classes of employees, of the employing body to be members of the Scheme.

(3) Subject to paragraph (4) and regulation B10(3), these regulations apply to a person who is such an employee as is mentioned in paragraph (“an admission agreement employee”) and has become a member of the Scheme as if the employing body were an LGPS employer.

(4) An admission agreement may not provide for any person to be a member if he would be ineligible to be a member by virtue of regulation B2(1) or (3), B3, B8 or B9 if he were an employee of an LGPS employer.

(5) Except as provided in paragraphs (6) and (7), an admission agreement may not modify the application of these regulations to any employee so that he has any greater or lesser rights or liabilities than those he would have if he became a member of the Scheme by virtue of regulation B1.

(6) An admission agreement may provide that any previous period of employment of an employee by the employing body is to count to such extent as there specified as a period of deemed membership of the Scheme.

(7) An admission agreement made with the Commission for the New Towns may provide that a percentage (not exceeding 4.4 per cent.) of the remuneration of employees of a description specified in the agreement shall be treated as not being remuneration for the purposes of these regulations.

(8) An admission agreement—

(a) shall provide that the agreement shall cease to have effect if the employing body ceases to be a body specified in Schedule B4; and

(b) may make such other provision for, and contain such incidental provisions relating to, its cessation as the parties consider appropriate.

(9) On making an admission agreement an administering authority shall immediately inform the Secretary of State of the name of the employing body and the date from which the agreement takes effect.

(10) An admission agreement may be made by an appropriate administering authority with an employing body whether or not that body exercises its functions in the same part of the United Kingdom as the appropriate administering authority exercise their functions.

### **Ineligibility of employees eligible to join other statutory schemes**

**B8.**—(1) A person is not eligible to be a member of the Scheme by virtue of any employment which also entitles him to belong to another occupational pension scheme provided by or under an enactment.

- (2) The reference in paragraph (1) to an enactment—
- (a) includes an enactment in a local Act, but
  - (b) excludes section 7 of the Superannuation Act 1972.

### **Other cases of ineligibility**

**B9.** Schedule B5 (which specifies certain exceptions to eligibility under regulation B1) shall have effect.

## *Joining and leaving the Scheme*

### **Applications for membership**

**B10.**—(1) Subject to the following provisions of this Part, a person who wishes to become a member of the Scheme shall apply to do so by notice given in writing to his employer or future employer.

(2) Subject to paragraph (3), an employee is deemed to have made an application to become a member, unless—

- (a) before commencing his employment, or
- (b) in the case of a person to whom this paragraph began to apply after he commenced his employment, before the date on which it began to apply to him,

he notified his employer in writing that he did not wish to become a member of the Scheme.

- (3) Paragraph (2) does not apply—
- (a) to a person who is an eligible employee by virtue of regulation B7,
  - (b) to a person whose employment is of a casual nature, or
  - (c) a person who has previously been a member of the Scheme but has ceased to be a member after giving notification under regulation B12.

(4) Where a person who has ceased to be employed in an employment in which he was a member at the time of cessation commences a new employment in which he is eligible for membership, he is deemed to have made an application to become a member unless, before commencing his new employment, he notified his employer in writing that he did not wish to be a member of the Scheme.

(5) An application for membership may be withdrawn at any time before the applicant becomes a member.

### **Admission to the Scheme**

**B11.**—(1) A person who has or is deemed to have applied under regulation B10 and is eligible to be a member of the Scheme shall become a member of it on the appropriate day.

- (2) In this regulation, “the appropriate day” means—
- (a) in the case of a person who has applied under regulation B10(1) at least one month before the date on which he commences his employment (or such lesser period before that date as his employer allows), the date on which he commences his employment or such later date as he has specified in his application;

- (b) in any other case where an application is made under that regulation, the first day of the first payment period following the application;
  - (c) in the case of a person who is deemed to have applied under regulation B10(2)—
    - (i) if he is a person to whom that paragraph applied on the date when he commenced his employment, that date, and
    - (ii) otherwise, on the date on which it began to apply to him.
- (3) In paragraph (2)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

### **Leaving the Scheme**

**B12.**—(1) Subject to the provisions of these regulations, a person shall cease to be a member of the Scheme if—

- (a) he wishes to do so, or
- (b) he ceases to be eligible for membership.

(2) A person who wishes to cease to be a member of the Scheme shall so notify his employer in writing.

(3) Subject to paragraphs (5) and (6), a person giving a notification under paragraph (2) shall cease to be a member of the Scheme—

- (a) in a case where a date of cessation (being a date not earlier than the date of the notification) is specified in the notification, from that date, and
- (b) otherwise, from the first day of the first, or if the LGPS employer so determines, the second payment period following the notification.

(4) In paragraph (3)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

(5) Where a person gives a notification under paragraph (2) within three months after first becoming a member of the Scheme, he shall be treated as never having been a member.

(6) Where—

- (a) a person to whom regulation C8 (absence on reserve forces service) applies has given notification under paragraph (2) before ceasing his former employment or beginning his leave of absence in order to perform his relevant service (within the meaning of that regulation), and
- (b) he is still a member immediately before he commences his relevant service,

then, subject to paragraph (7), the notification shall be of no effect.

(7) A person may elect that paragraph (6) is not to apply, by notice given in writing to the appropriate administering authority before the end of the period of 12 months beginning with the end of his relevant service (or within such longer period as they may allow), and they shall take all practicable steps to secure that a person entitled to make such an election is notified of his entitlement.

(8) Any contributions paid by a person with respect to a period during which, by virtue of a notification under paragraph (2), he is not a member of the Scheme shall be returned to him.

### **Rejoining the Scheme**

**B13.**—(1) Subject to paragraph (3), a person who has once given a notification under regulation B12 may subsequently apply to become a member of the Scheme again.

(2) An application under paragraph (1) shall be made by notice in writing given to the applicant’s employer or future employer.

(3) A person who has made an application under paragraph (1) and subsequently gives another notification under regulation B12(2) may only make a further application under paragraph (1) if his employer or future employer consents or—

- (a) he is beginning a new employment with a new employing authority by virtue of which he is eligible to be a member of the Scheme, and
- (b) he applies before or within the period of three months beginning with the day on which he begins that employment.

(4) Regulation B11 shall apply to an application under paragraph (1) as it applies to an application under regulation B10(1).

### *Membership periods*

#### **Periods of membership: “total period of membership”**

**B14.**—(1) For the purposes of these regulations, in relation to any member the following periods count as periods of membership, in relation to an employment in which he is a member—

- (a) any period for which he has paid (or is treated as having paid) contributions under regulation C4, C5 or C6, (but subject to the provisions of regulation C7(5) and (6));
- (b) any period during which he is absent from duty by reason of illness or injury (whether or not he has paid such contributions for it);
- (c) any period which he is entitled to count as such by virtue of regulation C8;
- (d) any period which he is entitled to count as such by virtue of regulation B7(6), B16, B17, or C9;
- (e) any period which he is entitled to count as such by virtue of regulation K14(1)(a);
- (f) any other period which he is entitled to count as such under paragraph 7 of Schedule M4 and, in particular—
  - (i) any period he became entitled to count as reckonable service by virtue of regulation D1(1)(b) to (h) of the 1974 regulations, or regulation D4 to D7, D8A, D9 or D13 or Part F of the 1986 regulations,
  - (ii) any period of added years,
  - (iii) any period which by virtue of the interchange rules became reckonable under the former regulations,
- (g) any other period which he is entitled to count as such under Schedule C6.

(2) For the purposes of these regulations, a member’s “total period of membership” is the aggregate of the periods he is entitled to count under paragraph (1) (disregarding any period which he is entitled to count under more than one of paragraphs (a) to (g), but subject—

- (a) to Part I of Schedule B6 (which provides for the exclusion of certain periods of membership for certain purposes);
- (b) to Part II of that Schedule (which provides for the inclusion for certain purposes in the total period of membership of certain periods, which are not periods of membership in relation to the employment in which a person is a member, as respects certain benefits in respect of that employment); and
- (c) to Schedule C5 (which provides for the limitation of periods, of membership for certain purposes).



### **Length of period of membership: calculation of benefit**

**B15.**—(1) For the purpose of calculating the amount of any benefit under these regulations—

- (a) a period of membership in excess of a number of complete years shall be counted as the appropriate fraction of a year (and accordingly references to the length in years of membership shall be taken as references to the number of complete years and any fraction of a year in the period of membership); and
- (b) subject to paragraph (3), a period of membership in part-time service in local government employment shall be treated as though it had been a proportionately reduced period of membership in whole-time local government employment.

(2) In paragraph (1)— “the appropriate fraction” means the fraction of which—

- (a) the numerator is the number of complete days comprised in the excess; and
- (b) the denominator is 365; and

“proportionately reduced” means reduced in the proportion which the number of contractual hours during the period of part-time service in the employment, bears to the number of contractual hours of that employment if it were on a whole-time basis.

(3) Paragraph (1)(b) does not apply to the calculation of an increase in retirement grant under paragraph 1 of Schedule D2 (preservation of right under the 1974 regulations to increase in standard retirement grant), or in determining a member’s total period of membership for the purposes of regulation D7(2) (qualification for enhancement of pension in cases of ill-health) and is subject to paragraph 4 of Schedule D3 (additional membership in such cases).

### **Special power of employing authority to increase period of membership.**

**B16.**—(1) Subject to paragraphs (2) and (3), if the body employing an employee who is eligible to be a member of the Scheme (in these regulations referred to as “the employing authority”) are satisfied that, having regard to the interests of the efficient exercise of their functions, there are exceptional reasons for doing so they may resolve to add an additional period of membership to a member’s period of membership.

(2) A resolution under paragraph (1)—

- (a) may only be passed before or within 6 months after the person becomes a member in the authority’s employment, and
- (b) may not be passed after he has attained the age of 59 years, unless he did so after becoming such a member.

(3) The additional period is to be specified in the resolution and is not to exceed the maximum period which would be applicable under regulation C10(1) (taking the references in regulation C10(6)(a) and

- (b) to the date of the election as references to the date of the resolution and, in the case of a person who at the date of the resolution had not become a member in the employment of the authority, treating him as if he had on that date become such a member on the scale of remuneration at which the employment was offered to him).

(4) Where the employing authority have passed a resolution under paragraph (1) and the member—

- (a) remains in his employment under that authority until his NRD (within the meaning of regulation C3(1)),
- (b) on ceasing to hold that employment before his NRD is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body, or

(c) dies while in that employment,

the additional period specified in the resolution may be counted as a period of membership.

(5) In any other case where the employing authority have passed such a resolution the member is entitled to count as a period of membership the appropriate proportion of the additional period of membership specified in the resolution.

(6) In paragraph (5) “the appropriate proportion” means the proportion which the period during which the member has been in the employment of the employing authority bears to the period during which the member would have been in that employment if he had remained in it until his NRD (within the meaning of regulation C3(1)).

### **Special power of City of London bodies to increase period of membership**

**B17.**—(1) Where a member who is employed by a City of London employing body

- (a) was immediately before 1st October 1977 a contributor of the superannuation fund maintained by the Common Council under their local Act scheme;
- (b) on 1st October 1977 became a member; and
- (c) on ceasing to hold his employment under the City of London employing body becomes entitled to a retirement pension (otherwise than by virtue of regulation D9 or D11),

the body may, in consideration of special circumstances, resolve to add an additional period of membership of not more than 10 years to his period of membership.

(2) On passing a resolution under paragraph (1) a City of London employing body (other than the Common Council) shall immediately send a copy of it to the Common Council.

(3) In this regulation “City of London employing body” means—

- (a) the Common Council,
- (b) the magistrates' courts committee for the City of London,
- (c) the probation committee for the City of London probation area, or
- (d) the Board of Governors of the Museum of London.

## **PART C**

### **MEMBERS' CONTRIBUTIONS**

#### *Preliminary definitions*

#### **Meaning of “appropriate pension fund”**

**C1.**—(1) In these regulations “appropriate pension fund” means—

- (a) subject to paragraph (b), in relation to an employee of an administering authority, the fund maintained by that authority;
- (b) in relation to the persons mentioned in Part I of Schedule C1, the fund maintained by the London Pensions Fund Authority;
- (c) in relation to the persons mentioned in Part II of Schedule C1, the funds mentioned in relation to them in that Part;
- (d) in relation to an employee of a company under the control of a body described in Part 1 of Schedule B1, the fund which, in accordance with this regulation, is the appropriate pension fund in relation to an employee of that body;

- (e) in relation to an admission agreement employee, the fund maintained by the administering authority who are a party to the admission agreement by virtue of which he is eligible to be a member;
- (f) in relation to a person whose case does not fall within paragraphs (a) to (e), the fund maintained by the administering authority within whose area lies the greater part of the area of his employing authority.

(2) Where paragraph (1)(d) of this regulation or paragraph 6(1)(a) of Schedule C1 applies to any employees of a LGPS employer, the Secretary of State may, after consultation with the bodies appearing to him to be concerned, by direction substitute as the appropriate pension fund in relation to those employees (or any of them) the fund maintained by some other administering authority (“the substituted fund”).

(3) A direction under paragraph (2) may—

- (a) require the making of financial adjustments between the funds, whether by way of a payment to the substituted fund or of a transfer of assets or both, or
- (b) contain provision as to the transfer of liabilities to the substituted fund and any other consequential and incidental matters.

(4) Where an administering authority have under regulation L3(1) established a further fund—

- (a) references in paragraphs (1) to (3) and in Schedule C1 to “the fund” are to be construed as references to the fund maintained by that authority under regulation L1, and
- (b) in relation to a person to whom these regulations apply by virtue of an admission agreement with a body identified in the notice required by regulation L3(2), the appropriate pension fund is the further fund.

(5) Except in regulation C24, references in these regulations to the making of contributions in respect of any person are, unless the context otherwise requires, references to the making of contributions to the fund which is the appropriate pension fund in relation to that person.

### **Meaning of “remuneration”**

**C2.—**(1) Subject to paragraphs (2) and (3) and Schedule C5 (limitations on contributions and benefits), in these regulations “remuneration”, in relation to an employee, means the total of—

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his employment, and
- (b) the money value of any benefits provided for him by reason of his employment,

and any other payment or benefit specified in his contract of employment as being a pensionable emolument.

(2) “Remuneration” does not include—

- (a) payments for non-contractual overtime;
- (b) any travelling or subsistence allowance or any other allowance paid to an employee in respect of expenses incurred in relation to the employment;
- (c) any payment made to an employee in consideration of loss of holidays;
- (d) any payment accepted by an employee in lieu of notice to terminate his contract of employment;
- (e) any payment made to an employee as an inducement not to terminate his employment before the payment is made;
- (f) subject to paragraph 7 of Schedule C2, the money value to the employee of the provision of a motor vehicle or any payment accepted by him in lieu of such provision; or

- (g) in the case of an employee or former employee of the Commission for the New Towns, any payment made to him, under any scheme relating to the termination of the employment of employees by the Commission, in respect of the completion before a specified date of specified functions.

(3) Schedule C2 shall have effect for the purpose of making further provision as to the meaning of “remuneration”(including provision for the amount of notional remuneration to be agreed collectively).

### **Meaning of “normal retirement age” and “NRD”**

**C3.**—(1) In these regulations in relation to any member, “normal retirement date” or “NRD”, means

- (a) in the case of a member who by his 60th birthday has a total period of membership of at least 25 years, that birthday;
- (b) in the case of a member who first has such a total period of membership by a date after his 60th birthday but before his 65th birthday, the day after that date; and
- (c) in the case of a member who does not fall within paragraph (a) or (b), his 65th birthday;

and “normal retirement age” means his age at the commencement of his NRD.

(2) Where for any purpose of the regulations it is necessary to determine a person’s NRD or normal retirement age before he attains that age, it shall be assumed that his local government employment and membership of the Scheme will be continuous.

### *Standard contributions*

#### **Member’s standard contributions**

**C4.**—(1) Subject to regulations C5 to C7 and C27, a member shall, at such intervals as the appropriate administering authority may determine, make contributions in respect of every employment in relation to which he is a member—

- (a) in the case of a manual worker, at the rate of five per cent. of his remuneration in the employment, and
- (b) in the case of an officer, at the rate of six per cent. of that remuneration.

(2) In this regulation—

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

“manual worker” means an employee who is not an officer.

### *Effect of absences on contributions*

#### **Leave of absence from duty**

**C5.**—(1) A member who is on leave of absence from duty in an employment with reduced or no remuneration (otherwise than by reason of illness or injury) shall not make any contribution under regulation C4 in respect of the employment for the period of his absence.

(2) Unless regulation C6 (maternity leave) applies to a member who is so absent, the member shall—

- (a) for a period of 30 days beginning on the first day of the leave of absence, or
- (b) if the period of absence is shorter, for the period of it,

make contributions of amounts equal to the contributions he would have been required to make under regulation C4 on the remuneration he would have received during that period but for the leave of absence.

(3) If the member gives notice in writing for the purpose to the employing authority not later than 30 days after—

- (a) the day on which he returns to duty, or
- (b) the day on which he ceases to be employed by that authority,

whichever is the earlier, he shall make such contributions as are mentioned in paragraph (2) relating to the period of 36 months, or the period of his absence, if shorter.

(4) Where the leave of absence was given to enable the employee to attend—

- (a) for jury service in pursuance of a summons under the Juries Act 1974(4), or
- (b) as a juror at an inquest under the Coroners Act 1988(5),

and such attendance continues after the expiration of the period of 30 days mentioned in paragraph (2), the employee shall be deemed to have given such a notice as is mentioned in paragraph (3).

(5) This regulation does not apply where the leave of absence is given to enable the employee to perform relevant service (within the meaning of regulation C8 (absence on reserve forces service)).

### **Maternity absence**

**C6.**—(1) This regulation applies to a person who—

- (a) has a period of maternity absence; and
- (b) immediately before that period was a member or had applied under regulation B10 or B13 to become a member.

(2) A person to whom this regulation applies—

- (a) in relation to any period (“the relevant period”) which is, or is part of, a period maternity absence for which she is entitled to receive remuneration, shall make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4, if her remuneration in the employment were equal to the remuneration which she is entitled to receive for the relevant period; and
- (b) in relation to any period (“the unpaid period”) which is, or is part of, a period of maternity absence and for which she is not entitled to receive remuneration, may elect to make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4 if for the unpaid period her remuneration in the employment were equal to the remuneration she was entitled to receive immediately before the beginning of the unpaid period.

(3) An election under paragraph (2)(b) shall be made by notice in writing to the employing authority given before the expiry of the period of 30 days beginning with the earlier of—

- (a) the day on which the member returns to duty; and
- (b) the day on which she ceases to be employed by that authority.

(4) Paragraph (2) does not affect the right of an employee to give notice under regulation B12 (leaving the Scheme) during a period of maternity absence.

(5) In this Part “period of maternity absence” means any period throughout which a woman—

- (a) is absent from duty by reason of pregnancy or confinement; and

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(4) 1974 c. 23.

(5) 1988 c. 13.

(b) may exercise the right under her contract of employment to return to work.

(6) For the purposes of this regulation references to “the relevant period” and “the unpaid period” do not include any period before the day on which the application under regulation B10 or B13 to become a member first has effect.

### **Absence owing to trade dispute**

**C7.**—(1) This regulation applies to a person who—

- (a) has been absent from duty, otherwise than on leave of absence, for a period of one or more days during and in consequence of a trade dispute, and
- (b) was a member immediately before—
  - (i) that period, or
  - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods;

and in this regulation a period for which a person to whom this regulation applies was so absent is referred to as a “relevant absence”.

(2) Subject to paragraph (4) and regulation C27, if a person to whom this regulation applies gives notice in writing that he wishes this paragraph to apply (or, in case within paragraph (7), his personal representatives do so) an amount equal to 16 per cent. of the difference between—

- (a) the person’s remuneration (if any) for the relevant contribution period, and
- (b) the remuneration he would have received for that period if it had not included any relevant absence or part of a relevant absence,

is payable in respect of the relevant contribution period to the authority to whom notice was given; and in this regulation “relevant contribution period” means a period which—

- (i) is coextensive with one of the intervals at which a person to whom this regulation applies was required under regulation C4 to make standard contributions, and
- (ii) includes all or part of a relevant absence.

(3) An authority shall pay to the appropriate pension fund any sum they receive by way of full or part payment of the amount mentioned in paragraph (2).

(4) Notice under paragraph (2) shall be given in writing to the authority who are or, as the case may be, were last the employing authority in relation to the person to whom the notice relates, before the expiry—

- (a) of the period of three months beginning with the day after the last day of the relevant contribution period,
- (b) where all or part of more than one relevant contribution period is included in a relevant absence which occurred in consequence of a single trade dispute, of the period of three months beginning with the last day of the last of the relevant contribution periods, in respect of which the notice is given, or
- (c) in the case of a notice within paragraph (7), of the period of twelve months beginning with the date of the deceased employee’s death, or
- (d) within such longer period as the authority may allow;

and, in any case where the notice relates to more than one relevant contribution period included in a relevant absence which occurred in consequence of a single trade dispute, the notice is of no effect unless it is given in respect of all the relevant contribution periods.

(5) A period of absence from duty without remuneration (otherwise than on leave of absence) does not count as a period of membership unless—

- (a) it was a relevant absence, and
- (b) the amount specified in paragraph (2) has been paid in respect of every relevant contribution period all or part of which was included in that relevant absence.

(6) Where the amount specified in paragraph (2) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may count as a period of membership, whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

(7) Where a person to whom this regulation applies dies before the end of the period of three months specified in paragraph (4)(a) without giving notice under paragraph (2), his personal representatives may give that notice.

(8) For the purposes of paragraph (1)—

- (a) where—
  - (i) a person’s contract of employment is terminated in consequence of a trade dispute, and
  - (ii) not later than the day after the end of the trade dispute, he again becomes an employee of the same LGPS employer and a member,notwithstanding the termination, he is to be treated as having been absent from duty;
- (b) it is immaterial whether or not—
  - (i) the person was participating in or financing or otherwise directly interested in the trade dispute, or
  - (ii) the employing authority were a party to the trade dispute.

(9) In this regulation “trade dispute” has the meaning given by section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992(6).

#### **Absence on reserve forces service**

**C8.**—(1) Subject to the following provisions, this regulation applies where a person—

- (a) ceases to be employed in the employment in which he is a member; or
- (b) is granted leave of absence from duty in such an employment,

in order to perform relevant service; and, in relation to such a person, references to his former employment and employer are to that employment and his employer in that employment.

(2) Subject to paragraph (3), where this regulation applies—

- (a) if the person is entitled under any provision of these regulations to pay additional contributions, make payment by instalments or make any other payment (except by lump sum) to the appropriate pension fund, he shall be treated for the purposes of these regulations as if he has paid them throughout the period of his relevant service;
- (b) if (and only if) during any period of the person’s relevant service the total of—
  - (i) his pay for performing relevant service (including marriage, family and similar allowances), and
  - (ii) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(7), equals or exceeds the remuneration he would have received if he had continued to be employed in his former employment, he shall pay to the appropriate pension fund all such contributions and payments as would have been payable under these regulations if he had so continued; and

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(6) 1992 c. 52.

(7) 1951 c. 65.

- (c) subject to regulation C25, all contributions and payments so made shall be treated for the purposes of these regulations as if made under the provision under which they would have been made if he had so continued.
- (3) Paragraph (2) does not apply to contributions payable under regulation C24 (additional voluntary contributions), but if—
- (a) before the commencement of his relevant service the person was paying such contributions which were not to be used to provide benefits payable in the event of death, and
  - (b) he has not elected to discontinue making those contributions,
- he may continue to make those contributions during the period of his relevant service.
- (4) Where this regulation applies to a person then, subject to paragraph (6)—
- (a) the period of relevant service shall be counted as a period of membership in relation to his former employment;
  - (b) if during that period he dies or attains his normal retirement age, he shall be deemed to have been serving in that employment at that time; and
  - (c) if during that period he becomes incapable of discharging the duties of that employment by reason of permanent ill-health, injury or infirmity of mind or body, he shall be deemed to have been so serving at the time when he ceased to perform relevant service.
- (5) Where—
- (a) a person to whom this regulation would otherwise apply is not a member when he ceases his employment or begins his leave of absence from it, but
  - (b) before doing so he has duly made an application under regulation B10 or B13 to become a member,
- then—
- (i) that application shall continue to have effect despite his so ceasing or his leave of absence so beginning and this regulation shall apply to him as if he were a member at that time, but
  - (ii) the period before the date on which his application takes effect shall be excluded from his relevant service.
- (6) This regulation does not apply to any person in respect of any period of relevant service—
- (a) after the date on which he elects to receive a return of contributions under regulation C21; or
  - (b) if he elects that it is not to do so by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of relevant service to which the notice relates (or within such longer period as they may allow).
- (7) Subject to paragraph (6), in this regulation “relevant service” means service (other than for the purposes of training only)—
- (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
  - (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or
  - (c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980<sup>(8)</sup>;
- and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking—

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(8) 1980 c. 9.



- (i) to accept a permanent commission or a commission for a fixed term; or
  - (ii) to serve for the purposes of periodical training.
- (8) In paragraph (7)—
- (a) “reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the Royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force;  
“service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—
  - (b) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied; or
  - (c) in respect of that and other service.

*Additional payments to improve benefits*

**Payments to increase membership: calculation of all benefits**

**C9.**—(1) Subject to the following provisions, if a member elects at any time to make additional periodical payments under this regulation, then, in relation to the relevant employment, he may count as a period of membership (but not for the purposes of determining entitlement to any benefit)—

- (a) if he completes the additional payments, the period in respect of which payment was made; and
  - (b) if he begins making the additional payments but does not complete payment, an additional period calculated in accordance with regulation C19.
- (2) The additional payments—
- (a) are payable from the member’s next birthday after the date of the election at such intervals as the appropriate administering authority may determine; and
  - (b) cease to be payable on the day before—
    - (i) his NRD; or
    - (ii) if his NRD is not his birthday, the last birthday before his NRD.
- (3) An employee may not make an election under paragraph (1) if—
- (a) the appropriate administering authority have resolved that he should undergo a medical examination at this own expense and he has not done so to their satisfaction; or
  - (b) he was precluded by regulation D13(5)(b) of the 1974 regulations from making an election under that regulation.
- (4) An election under this regulation shall be made by notice in writing given to the appropriate administering authority.

**Maximum length of additional periods to be purchased under regulation C9**

**C10.**—(1) Subject to regulation C27, the maximum length of the period in respect of which payment may be made under regulation C9 in respect of a person is the length (expressed in years and fractions of a year) of the period (if any) by which his potential period of membership falls short of the relevant maximum number of years at the appropriate time.

(2) In paragraph (1) “potential period of membership”, in relation to any person, means the period which (apart from the payment) he would be entitled to count as a period of membership in relation to his local government employment if he continued in it until he attained the age of 65.

(3) Subject to paragraph (4) and to Schedule C5 (limitations on contributions and benefits), “the relevant maximum number of years”, in relation to any person, means 40 years.

(4) In the case of a person (other than an excluded member) who at the appropriate time was entitled to, or had received, superannuation benefits in respect of any local government employment or under any non-local government scheme, the relevant maximum number of years specified in paragraph (3) in relation to him is to be reduced, in accordance with the certificate of an actuary, to the extent necessary to ensure that the aggregate of—

- (a) the relevant income benefits; and
- (b) the pension equivalent of the relevant capital benefits,

will not exceed two-thirds of his pensionable remuneration.

(5) In paragraph (4)—

“excluded member” means a member whose pensionable remuneration in the first year of his employment during which he is a member does not exceed one quarter of the permitted maximum for the purposes of section 590C of the Income and Corporation Taxes Act 1988<sup>(9)</sup> (earnings cap) for the year or assessment in which that first year ends);

“pension equivalent” has the meaning given in regulation 5(5)(b) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993<sup>(10)</sup>;

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

- (i) the actuarial value, expressed as an annuity payable to him, of the pension benefits mentioned in paragraph (4);
- (ii) the part of his retirement pension attributable to his period of membership before his NRD; and
- (iii) the actuarial value, expressed as an annuity payable to him, of the part of his retirement grant attributable to such membership; and

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

- (i) his retirement grant; and
- (ii) any lump sum comprised in the pension benefits mentioned in paragraph (4).

(6) For the purposes of paragraphs (4) and (5)—

- (a) it is to be assumed that the person will, until his NRD, continue in the same local government employment and on the same terms and condition is (including, in particular, his scale of remuneration) as at the date of the election;
- (b) any period of membership on or after the date of the election is to be disregarded; and
- (c) regard is to be had to any advice from the Commissioners of Inland Revenue as to the calculation of the value of the earlier benefits.

(7) The appropriate time is—

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<sup>(9)</sup> 1988 c.1; section 590C was inserted by the Finance Act 1989 (c. 26), section 75, Schedule 6, paragraphs 1, 4, 18(2) and amended by the Finance Act 1993 (c. 34).

<sup>(10)</sup> S.I. 1993/3016.

- (a) except where paragraph (b) applies, the first day of the earliest period that the person is entitled to count as a period of membership in relation to his local government employment; or
- (b) if that period is—
  - (i) a period of service under an officer of a LGPS employer or former local authority; or
  - (ii) a period during which the person was subject to a non-local government scheme other than one which was or become a statutory scheme,the first day of the earliest period of local government employment that the person is entitled to count as a period of membership in relation to his local government employment.

#### **Amounts of payments under regulation C9**

**C11.**—(1) The amount to be paid by way of additional periodical payments by a member who has made an election under regulation C9(1) in respect of an additional period is the appropriate percentage of his remuneration for the time being, multiplied by the length of that period.

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

- (a) “the appropriate percentage”, in relation to a member, is the percentage in the relevant Table in Part I of Schedule C3 appropriate to his age on his next birthday after the date of the election and to his normal retirement age; and
- (b) the lengths of periods are to be expressed in complete years and any fraction of a year.

#### **Purchase by part-time employees of additional periods under regulation C9**

**C12.**—(1) Subject to the following provisions of this regulation, where a person makes an election under regulation C9 in relation to a part-time employment to make additional payments in respect of a period—

- (a) the period he may count as a period of membership under paragraph (1) of that regulation, is the appropriate fraction of the period he would be entitled to count in respect of that period if he were a whole-time employee (“the notional whole-time period”);
- (b) the maximum which applies in his case by virtue of regulation C10, is the appropriate fraction of the maximum which would apply in his case if he were a whole-time employee; and
- (c) the amount to be paid by him in accordance with regulation C11 shall be calculated in the same manner as if he were a whole-time employee purchasing the notional whole-time period, but taking his remuneration as his actual remuneration for the time being (and not the remuneration he would have been paid for a single comparable whole-time employment).

(2) In paragraph (1) “appropriate fraction”, in relation to an employee, means the fraction of which the numerator is the number of his contractual hours and the denominator is the number of contractual hours of a single comparable whole-time employment.

(3) Where—

- (a) any person has made an election under regulation C9 which has effect in relation to part-time employment; and
- (b) that employment ceases to be part-time and becomes whole-time employment;

then—

- (i) he may continue to pay contributions under the election in relation to the whole-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the part-time employment; and
  - (ii) the additional period in respect of the contributions paid in relation to the whole-time employment shall be calculated on the same basis as if he had been in that whole-time employment when he made the election.
- (4) Where—
- (a) any person has made an election under regulation C9 which has effect in relation to whole-time employment; and
  - (b) that employment ceases to be whole-time and becomes part-time employment;
- then—
- (i) he may continue to pay contributions under the election in relation to the part-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the whole-time employment; and
  - (ii) the additional period in respect of the contributions paid in relation to the part-time employment shall be calculated on the same basis as if he had been in that part-time employment when he made the election.
- (5) The previous provisions of this regulation do not apply to an election made by a person under regulation C6 of the 1986 regulations (or having effect as if so made) but, if he so elects by notice in writing to the appropriate administering authority, then—
- (a) payments made by him on and after the date when the election takes effect shall be made by reference to his actual remuneration for the time being; and
  - (b) the period of membership which he is entitled to count by virtue of them shall be calculated on the same basis as if the previous provisions of this regulation had always applied in respect of his election.
- (6) A person may not make an election under paragraph (5) after the beginning of the period of one year ending with his NRD.

### **Payments to avoid reduction of retirement grant and death grant**

**C13.**—(1) Subject to the following provisions of this regulation, a member—

- (a) whose retirement grant would be subject to reduction under paragraph 2, 3(1) or 4(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse's pension); or
- (b) whose death grant would be subject to reduction under regulation E5 (surviving spouse deductions from certain death grants),

may, by notice in writing given to the appropriate administering authority, elect to make additional periodical payments under this regulation in order to avoid all or part of the reduction—

- (i) in his retirement grant; and
- (ii) in any death grant that may become payable under Part E.

(2) A notice under paragraph (1) shall specify whether the reduction is to be avoided in respect of the whole or only a specified part—

- (a) in the case of male member, of his membership before 1st April 1972 or before any earlier date on which—
  - (i) he became a widower; or
  - (ii) he was judicially separated from his wife; or

- (iii) his marriage was dissolved;
  - (b) in the case of a female member who has given notice under paragraph 1(1) of Schedule F1, of her membership which is or is treated for the purposes of paragraph 3(2) of Schedule D2 as being membership—
    - (i) before 1st April 1972;
    - (ii) after 31st March 1972 but before 6th April 1988; and
  - (c) in the case of a female member who has made such an election as is mentioned in paragraph 2 of Schedule F1, of her membership before 1st April 1972.
- (3) An election may not be made in respect of a period of membership of less than one year unless—
- (a) the whole of the person's period of membership—
    - (i) in the case of a person described in paragraph (2)(a) or (c), before 1st April 1972; or
    - (ii) in the case of a person described in paragraph (2)(b), before 6th April 1988; or
  - (b) where he has previously made an election in respect of part of that membership, the remainder of it, amounts to less than one year.
- (4) An election under this regulation may be made by any person from time to time, but not—
- (a) if in the particular case the appropriate administering authority so resolve, without his having, at this own expense, undergone a medical examination to their satisfaction; nor
  - (b) after making an election under regulation C8(5)(b) of the 1986 regulations (or any corresponding previous provision) to make payment by instalments.
- (5) Where—
- (a) this regulation applies to a woman by virtue of her having made such an election as is mentioned in paragraph 2 or Schedule F1;
  - (b) she has made (or is treated as having made) an election under paragraph (1) or regulation C8 of the 1986 regulations (or any corresponding previous provision);
  - (c) this regulation subsequently applies to her by virtue of paragraph 3(1) of Schedule D2; and
  - (d) she makes a further election under paragraph (1),
- then—
- (i) any payments made under this regulation pursuant to the election referred to in paragraph (b) shall be deemed to have been made pursuant to the further election, and
  - (ii) any additional sums payable by her pursuant to the further election shall be determined accordingly by the fund's actuary.

#### **Payments to increase widower's pension by counting membership before 6th April 1988**

**C14.**—(1) Subject to the following provisions of this regulation, a member who—

- (a) is a married woman,
- (b) is entitled to count a period of membership before 6th April 1988, and
- (c) was not a member on 27th July 1989 or has not been a member continuously since that date,

may, by notice in writing given to the appropriate administering authority, elect to make additional periodical payments in order to count all or part of her period of membership before 6th April 1988 as membership for the purposes of calculating a widower's pension in accordance with regulation F8(2)(b)(iii).

(2) A notice under paragraph (1) shall specify whether it relates to the whole or only a specified part of the women's period of membership which is membership—

- (a) before 1st April 1972, or
- (b) after 31st March 1972 but before 6th April 1988, or is treated as being such membership for the purposes of paragraph 3(2) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse's pension).

(3) A notice under paragraph (1) may not be given in respect of a period of less than one year unless—

- (a) the whole of the woman's period of membership before 6th April 1988, or
- (b) where she has previously given a notice in respect of part of that membership, the remainder of it,

amounts to less than one year.

(4) Notice under paragraph (1) may be given by a member on more than one occasion but, unless the appropriate administering authority otherwise agree, it shall be given before the expiry of the period of 12 months beginning—

- (a) with the date of any marriage or re-marriage, or
- (b) if her husband becomes permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, with the date on which a medical certificate to that effect is received by the appropriate administering authority.

(5) For the purposes of paragraph (1)(c), the reference to a woman having been a member continuously includes a reference to a woman who, having ceased to be a member became or becomes a member again—

- (a) within one month of so ceasing, or
- (b) within one month of returning to work in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978<sup>(11)</sup> (which confer the right to return to work following pregnancy or confinement).

#### **Amounts of payments under regulations C13 and C14**

**C15.**—(1) The amount to be paid by a member who has under regulation C13 or C14 elected to make additional periodical payments in respect of a period of membership specified in the notice of election is—

- (a) in the case of a male member, the appropriate percentage of his remuneration for the time being, multiplied by the length of that period;
- (b) in the case of a female member who made such an election as is mentioned in paragraph 2 of Schedule F1, the appropriate percentage of her remuneration for the time being, multiplied by four times the length of the period of membership before 1st April 1972 specified in her notice of election; and
- (c) in the case of a female member who has given notice under paragraph 1 of Schedule F1 or regulation C14, the aggregate of—
  - (i) the appropriate percentage of her remuneration for the time being, multiplied by three times the length of the period of membership specified in her notice of election which is membership before 1st April 1972; and

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<sup>(11)</sup> 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

(ii) the appropriate percentage of her remuneration for the time being, multiplied by the length of the period of membership specified in her notice of election which is membership after 31st March 1972 but before 6th April 1988.

(2) For the purposes of this regulation “the appropriate percentage” is—

(a) in the case of a male member, the percentage specified in the relevant Table in Part III of Schedule C3 appropriate to his age on his next birthday after the date of the election and, in the case of paragraph (1)(a), to his specified birthday; and

(b) in the case of a female member, the percentage specified in the relevant Table in that Part of that Schedule appropriate to her age on her next birthday after the date of the election and, in the case of the paragraph (1)(b) or (c), to her specified birthday;

and in this paragraph “specified birthday” means the birthday specified in accordance with regulation C16(1).

(3) For the purposes of this regulation the lengths of periods are to be expressed in complete years and any fraction of a year.

(4) References in paragraph (1)(c)(i) and (ii) to a period of membership which is a period before 1st April 1972 or, as the case may be, after 31st March 1972 but before 6th April 1988 include references to a period treated for the purposes of paragraph 3(2) of Schedule D2 as being such a period.

#### **Further provisions as to making of payments under regulations C13 and C14**

**C16.**—(1) A member shall specify in a notice of election to make additional periodical payments under regulation C13 or C14 the birthday (“the specified birthday”) up to which additional payments are to be paid, which may be—

(a) his 65th birthday, or

(b) any earlier birthday which is or is after his NRD.

(2) Such additional periodical payments are to be paid, at such intervals as the appropriate administering authority may determine, from the member’s next birthday after the date of the election.

#### **No elections to make payments after 64**

**C17.** A person may not make an election under regulation C9, C13 or C14 if he has attained the age of 64.

#### *Incomplete payments and return of contributions*

#### **Notice to discontinue payments**

**C18.** Payment in accordance with regulation C9(2) or C16(2) may be discontinued if the member notifies the appropriate administering authority and the employing authority in writing that he wishes it to be discontinued.

#### **Uncompleted periodical payments**

**C19.**—(1) This regulation applies where—

(a) a member has made an election under regulation C9(1), C13 or C14 to make additional periodical payments,

(b) he has commenced payment,

- (c) before the presumed termination date a relevant event occurs, and
  - (d) in the case of payments under regulation C9(1), any payment made to him under regulation C21 does not include the amount already paid by him under regulation C9(2).
- (2) In paragraph (1) “presumed termination date” means—
- (a) in the case of an election under regulation C9(1), the member’s NRD, and
  - (b) in the case of an election under regulation C13 or C14, the birthday specified under regulation C16(1).
- (3) For the purposes of this regulation the relevant events are—
- (a) the discontinuance of payment under regulation C18, and
  - (b) where there has been no such discontinuance of payment—
    - (i) the member’s ceasing to hold his employment, and
    - (ii) the death of the member while in local government employment.
- (4) Where the relevant event is—
- (a) the death of the member, or
  - (b) his ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body,

he is to be treated as having completed payment in accordance with regulation C9(2) or, as the case may be, C15 and C16.

- (5) Where—
- (a) the relevant event is the member’s ceasing to hold his employment,
  - (b) condition (a) or (b) in regulation D6(2) is satisfied,
  - (c) his employment ends not less than 12 months after the date of receipt of his notice of election, and
  - (d) he gives notice in writing for the purpose of the appropriate administering authority not later than the expiry of the period of three months beginning on the day after the last day of his employment,

then, if he pays to the appropriate pension fund, within the period of one month beginning on the date on which he is notified by that authority of the amount calculated by the fund’s actuary to represent the capital value of the additional periodical payments remaining to be paid, a sum equal to that amount, he shall be treated as having completed payment in accordance with regulation C9(2) or, as the case may be, C15 and C16.

(6) An administering authority may accept a notice given under paragraph (5)(d) notwithstanding that paragraph (5)(c) is not satisfied.

- (7) Subject to paragraph (9), where—
- (a) the relevant event is discontinuance of payment under regulation C18, or
  - (b) the relevant event is the member’s ceasing to hold his employment and neither paragraph (4)(b) nor paragraph (5) applies,

the period of membership in respect of which the election was made is to be treated as having been the appropriate proportion of the period in respect of which it was originally made.

(8) In paragraph (7) “appropriate proportion” means the proportion which the length of the period during which additional payments have been paid bears to the length of the period during which they were to have been paid (each period being expressed in complete years and any fraction of a year).

(9) Where, apart from this paragraph, paragraph (7)(b) would apply and the member, having elected to make additional payments under C9(1), C13 or C14—



- (a) has within 12 months after ceasing to hold his employment again entered local government employment, without having—
  - (i) become entitled in relation to the first employment to the payment of any benefit,
  - (ii) received any payment under regulation C21 which includes the amount already paid by him under regulation C9, C13 or, as the case may be, C14, or
  - (iii) made a request for earlier payment under regulation C21(6).
- (b) has not made an election for the purposes of regulation D12(1)(c) (retention of right to preserved benefits), and
- (c) within three months after his again entering local government employment pays to his new employing authority an amount equal to any additional periodical payments that would have been payable if he had not ceased to hold the first employment,

then, the election under regulation C9(1), C13 or, as the case may be, C14 continues to have effect as if the relevant event had not occurred.

#### **Effect of opting out of membership on certain additional payments**

**C20.**—(1) Where a member—

- (a) is making additional periodical payments by virtue of having made an election under regulation C9(1), C13 or C14, and
- (b) gives notification in accordance with regulation B12 (leaving the Scheme),

then—

- (i) no further additional periodical payments shall be payable from the day on which he ceases to be a member; and
- (ii) the benefits to which he is entitled in relation to those payments shall be calculated in accordance with regulation C19(7) and (8) as if the payments had been discontinued under regulation C18.

(2) Paragraph (1) shall not preclude a person who has elected under regulation B12 making a further election under regulation C9(1), C13 or C14 after again becoming a member.

#### **Return of member's contributions in certain cases**

**C21.**—(1) If a member who is entitled to count a total period of membership of less than 2 years—

- (a) ceases to be employed by a LGPS employer and on so ceasing does not become entitled to a retirement pension (or only does so by virtue of regulation D19); or
- (b) ceases to be a member by virtue of a notification under regulation B12,

and does not, within one month and one day after so ceasing, become a member again in the employment of that or any other LGPS employer (except one by whom he is concurrently employed when he so ceases), then, subject to paragraphs (4) and (5), he is entitled to receive a payment under paragraph (2).

(2) A payment under this paragraph is a payment out of the appropriate pension fund of a sum equal to—

- (a) the aggregate amount of the person's contributions to the fund, and
- (b) if he ceased to be employed for any reason other than—
  - (i) his voluntary resignation, or
  - (ii) his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct,

compound interest on the amount mentioned in paragraph (a), calculated, to the date on which he ceased to be employed, at the appropriate rate for the period, increased where appropriate as mentioned in regulation K17.

(3) For the purposes of paragraph (2), “the appropriate rate” means nine per cent. per annum with yearly rests on 31st March.

(4) Paragraph (1) does not apply to a person who ceases to be employed in consequence of—

- (a) an offence of a fraudulent character, or
- (b) grave misconduct,

in connection with his employment, but the employing authority may direct the payment out of the appropriate pension fund—

(i) to him, or

(ii) where paragraph (a) applies, to him or to his spouse or any dependant of his,

of a sum equal to the whole or a part of the aggregate amount of his contributions to the fund.

(5) No payment shall be made under this regulation to a person—

- (a) who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation D8, or under regulation E4 of the 1986 regulations or regulation E20 of the 1974 regulations, or
- (b) in relation to whom a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the appropriate pension fund.

(6) A payment to a person under paragraph (1) shall be made—

- (a) at the end of the period of 12 months following the termination of his employment, or
- (b) in accordance with any written request received by the administering authority for earlier or later payment, (not being earlier than one month and two days after—
  - (i) the termination of the employment, or
  - (ii) in the case of a person referred to in paragraph (1)(b), the notification given under regulation B12).

(7) The administering authority shall deduct from any payment under this regulation any tax to which they may become chargeable under section 598 of the Income and Corporation Taxes Act 1988<sup>(12)</sup> (charge to tax on repayment of employee’s contributions) and returned contributions may be subject to reduction under paragraph 11 of Schedule C6.

### **Meaning of “aggregate amount of contributions” for purposes of regulation C21**

**C22.**—(1) In regulation C21 references to the aggregate amount of a person’s contributions to a pension fund include references to the contributions and amounts specified in paragraph (2) in so far as they—

- (a) have not been returned to the person or, if returned, have subsequently been repaid by him,
- (b) are attributable to a period of membership which might have counted under these regulations in relation to the employment he has ceased to hold, and
- (c) are not attributable to any earlier period of membership in respect of which a benefit has been paid under Part D, E, F or G of these regulations or the corresponding provisions of the 1986 regulations or the 1974 regulations.

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(12) 1988 c. 1; section 598 was amended by the Occupational Pensions Schemes (Rate of Tax) Order (S.I. 1988/504) and the Finance Act 1989 (c. 26), section 75, Schedule 6, Part I.

- (2) The contributions and amounts mentioned in paragraph (1) are—
- (a) any contributions or payments paid by him to any pension fund—
    - (i) under regulation C4, C5 or C6, or
    - (ii) under regulation C2, C3 or C3A of the 1986 regulations; and
  - (b) any amount paid by him—
    - (i) by way of additional contributory payments or added period payments, or
    - (ii) under regulation C7, C13 or C14, or
    - (iii) under regulation C4, C6A, C7, C7A, C8 or C8A of the 1986 regulations.

### **Effect of return to local government on right to a return of contributions**

- C23.** A person's right to a payment under regulation C21 is extinguished if—
- (a) after leaving local government employment with a right to such a payment he returns to such employment without having received the payment, and
  - (b) he has not given written notice to his previous fund authority—
    - (i) before the expiry of the period of three months beginning with the date on which he returns to such employment, or
    - (ii) within such longer period as his previous fund authority and, if different, his new fund authority may allow,
- that he wishes to receive an immediate payment.

*AVCs*

### **Additional voluntary contributions**

**C24.—**(1) Subject to regulation C27, a member may at any time elect to pay contributions under this regulation in addition to those provided for by the previous regulations in this Part.

- (2) Schedule C4 shall have effect—
- (a) in relation to such an election and in relation to contributions payable under this regulation; and
  - (b) in relation to receipt of a transfer value in respect of an additional voluntary contributions provision or an additional voluntary contributions scheme (so far as permitted by regulation K13(2)(b)(i)).

- (3) In these regulations—

“additional voluntary contributions provision” means a provision of an occupational pension scheme approved by the Commissioners of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988<sup>(13)</sup> (which provides for the payment by employees of voluntary contributions);

“additional voluntary contributions scheme” means a scheme approved by the Commissioners of Inland Revenue under that section, to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme.

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(13) 1988 c. 1; section 591 was amended by the Finance Act 1988 (c. 39), section 146, Schedule 13, Part I, paragraphs 1, 6, and the Finance Act 1994 (c. 9), sections 107, 258, Schedule 26, Part V.

### *Deduction and recovery of contributions*

#### **Deduction and recovery of member's contributions**

**C25.**—(1) An employing authority may deduct from the remuneration payable by them to a person—

- (a) contributions or payments payable by him under regulations C4, C5 and C6,
  - (b) any amount payable by him under regulation C7,
  - (c) any instalments or additional periodical payments payable by him to the appropriate pension fund, and
  - (d) contributions payable by him under regulation C24.
- (2) The former employer of a person—
- (a) by whom sums are payable under regulation C8(2), or
  - (b) in respect of whom any sums are paid under paragraph 6(4) of Schedule C4,

may deduct those sums from any payment the employer makes to that person under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(14), so far as those sums are payable in respect of the period in respect of which that payment is made.

(3) If and so far as deductions are not made under paragraph (1) or (2), the appropriate administering authority may recover any sum remaining due—

- (a) as a simple contract debt in any court of competent jurisdiction (but, in the case of a sum payable under regulation C8 or paid under paragraph 6(4) of Schedule C4, only if it is not paid within 12 months of the person ceasing to perform relevant service as defined in that regulation), or
- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these regulations.

#### **Statements as to remuneration not received from employing authority**

**C26.**—(1) A member who receives any part of his remuneration otherwise than from the employing authority shall provide the employing authority with half-yearly statements of his receipts in respect of that part.

- (2) The statements shall—
- (a) relate to the periods 1st April to 30th September and 1st October to 31st March, and
  - (b) be provided not later than 31st October and 30th April respectively.

(3) As soon as is reasonably practicable after receiving a request in writing from the employing authority the member shall provide them with a statutory declaration verifying the correctness of any statement specified in the request.

### *Limitations on payments*

#### **Limitation of payments**

**C27.** Schedule C5 has effect for the limitation, in certain circumstances, of payments under this Part and benefits under other Parts of these regulations.

*Provisions concerning continuing payments under old legislation*

**Provisions concerning outstanding payments due under previous regulations**

**C28.** Schedule C6 shall have effect for the purpose of making provision concerning outstanding payments due under previous regulations.

**PART D**

**RETIREMENT BENEFITS**

*Preliminary definitions*

**“Pensionable remuneration”**

**D1.**—(1) A person’s pensionable remuneration, in relation to a local government employment, is his remuneration for so much of the relevant period as he is entitled to count as a period of membership in relation to that employment.

(2) For the purposes of this regulation, the relevant period is—

- (a) the year ending with the day on which the person ceases to be a member; or
- (b) such other period as in accordance with Schedule D1 is to be regarded as the relevant period.

(3) Paragraph (1) has effect subject to the further provisions concerning pensionable remuneration in that Schedule and in Schedule C5 (limitations on contributions and benefits), and the provisions of paragraph 6 of Schedule M2 (modifications of regulations in respect of certain former contributory employees).

**“Standard retirement pension” and “standard retirement grant”**

**D2.**—(1) Subject to paragraphs (2) and (3), in these regulations, in relation to any person—

- (a) “standard retirement pension” means a pension payable at an annual rate equal to one eightieth of his pensionable remuneration, multiplied by the length in years of his total period of membership; and
- (b) “standard retirement grant” means a lump sum of an amount equal to three eightieths of his pensionable remuneration, multiplied by the length in years of his total period of membership.

(2) In the case of a person who—

- (a) is entitled under regulation B16, B17 or C9 or paragraph 2(a) or 5 of Schedule C6 to count an additional period as a period of membership, and
- (b) had at the appropriate time (within the meaning of regulation C10(7)) attained the age of 45 years,

then—

- (i) the standard retirement pension is increased by one two hundred and fortieth of his pensionable remuneration, multiplied by the length in years of that additional period of membership, and
- (ii) that additional period of membership is excluded from his total period of membership for the purposes of calculating the standard retirement grant.

(3) Paragraphs (1) and (2) are subject to regulations D7(2), D13, D17(5), D19(1), paragraph 3 of Schedule B6 and Schedule C5 (limitations on contributions and benefits); and paragraph (1)(b) is subject to the provisions of Schedule D2 (Part I of which relates to the preservation of rights under the 1974 regulations to increases in retirement grants and Part II of which relates to the reduction in retirement grants on account of contingent spouses' pensions).

**“Statutory pension entitlement”**

- D3.** For the purposes of these regulations, a person has a “statutory pension entitlement” if—
- (a) his total period of membership is not less than two years, or
  - (b) a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the appropriate pension fund in relation to him.

**References to members leaving employment to include optants-out**

**D4.** In this Part any reference to a member ceasing to hold a local government employment (except the reference in regulation D7) includes a reference to a person who was a member in such an employment but ceased to be so by virtue of a notification under regulation B12(2) (leaving the Scheme) ceasing to hold that employment, and other references in these regulations shall be construed accordingly.

*Entitlement to immediate payment of benefits on retirement*

**Retirement on or after NRD**

**D5.** Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement, and
- (b) has attained normal retirement age,

he is entitled—

- (i) to a standard retirement pension, and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment.

**Early entitlement to retirement benefits: redundancy etc.**

**D6.—(1)** Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement,
- (b) has attained the age of 50, and
- (c) satisfies one of the conditions mentioned in paragraph (2),

he is entitled—

- (i) to a standard retirement pension and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment, unless paragraph (3) applies.

- (2) The conditions mentioned in paragraph (1)(c) are—

- (a) that the employing authority certify that he has ceased to hold the local government employment—
  - (i) by reason of redundancy, or
  - (ii) in the interests of the efficient exercise of their functions, or
- (b) that he was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.
- (3) Where—
  - (a) the member's entitlement is by virtue of his satisfying the condition mentioned in paragraph (2)(a),
  - (b) regulation 9 of the Local Government (Compensation for Redundancy) Regulations 1994(15) applies to him, and
  - (c) notification of compensation has been given to him under regulation 15 of those regulations,

he may by notice in writing to his employing authority waive his right under paragraph (1) to immediate payment of the standard retirement pension and standard retirement grant.

#### **Early entitlement to retirement benefits: ill-health**

**D7.**—(1) Subject to the following provisions of this Part, where a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement, and
- (b) is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body,

he is entitled—

- (i) to a standard retirement pension, and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment.

(2) Where the member's total period of membership is at least 5 years, he is to be treated for the purposes of this regulation as being entitled to count as a period of membership an additional period calculated in accordance with Schedule D3.

#### **Ill-health retirement grants**

**D8.**—(1) Where a member who ceases to hold a local government employment—

- (a) is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body,
- (b) regulation D7 does not apply to him because he does not have a statutory pension entitlement, but
- (c) his total period of membership is at least one year,

then, subject to paragraph (3), he is entitled to be paid a lump sum (“an ill-health retirement grant”).

(2) The amount of the ill-health retirement grant is the lesser of—

- (a) one twelfth of the member's pensionable remuneration, multiplied by the length in years of his total period of membership, or

- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the total period of membership he would have been entitled to count if—
  - (i) he had continued as a member of the Scheme until the age of 65, and
  - (ii) any added period payments had been completed.
- (3) Paragraph (1) does not apply if—
  - (a) the member ceased to hold his employment in consequence of any such offence or misconduct as are mentioned in regulation C21(4),
  - (b) apart from this regulation, the member is entitled to any payment out of the appropriate pension fund, other than an injury allowance under regulation 7 of the Benefits regulations or a return of contributions, or
  - (c) the member has received—
    - (i) any return of contributions (other than one in respect of which a payment was made under regulation E20(3) of the 1974 regulations),
    - (ii) a grant under regulation E20 of the 1974 regulations, or
    - (iii) has been granted any gratuity under Part K of the 1986 regulations, section 18 of the Act of 1953, or any local Act;
 and where the grant to which a member would be entitled under paragraph (1), calculated in accordance with paragraph (2), is no more than the net amount he would receive if a return of contributions were made to him (including an increase under regulation K17 where that regulation applies), he shall instead be entitled to such a return of contributions (so increased where appropriate).
- (4) If a person to whom this regulation applies is granted a gratuity under Part K of the 1986 regulations or under a local Act before an ill-health retirement grant is paid to him, he shall cease to be entitled to an ill-health retirement grant.
- (5) Without prejudice to any subsequent decision under regulation J3 (decisions as to benefits), the appropriate administering authority shall notify a person who falls within paragraph (1) (other than one to whom paragraph (3)(a) applies), in writing and as soon as is reasonably practicable, of the amount of the ill-health retirement grant to which, subject to paragraph (4), he would be entitled if he were and remained a person to whom this regulation applies.

### **Retirement at or after 60 but before NRD**

**D9.**—(1) Subject to the following provisions of this Part, if a member who ceases to hold a local government employment after attaining the age of 60 but before his NRD satisfies the relevant conditions, he is entitled—

- (a) to a standard retirement pension (reduced in accordance with regulation D13), and
- (b) to a standard retirement grant (so reduced),

which are payable immediately on his ceasing to hold that employment.

- (2) The conditions referred to in paragraph (1) are—
  - (a) that the member fulfils one of the following requirements, namely—
    - (i) he has a statutory pension entitlement; or
    - (ii) he is treated by virtue of regulation K23(2) as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme; and
  - (b) that he duly makes an election for his retirement benefits to be payable immediately on his ceasing local government employment.



(3) An election under this regulation shall be made by notice in writing to the employing authority given within the period of three months beginning with the day on which the member ceases to hold local government employment or, as the case may be, is treated as doing so.

**No double entitlement.**

**D10.**—(1) Where (apart from this regulation) any person would be entitled to a retirement pension or to a retirement grant under two or more regulations in respect of the same period of membership—

- (a) he may elect by notice in writing, given to the employing authority before the expiry of the period of three months beginning with the day on which he becomes so entitled, under which provision he is to be paid those benefits; and
- (b) if he makes no such election, the employing authority may notify him in writing of the provision.

(2) Paragraph (1) is without prejudice to regulations D17, D19 and D20 and section 13(6) of the Pension Schemes Act 1993(16).

*Entitlement to deferred benefits: (“preserved benefits”)*

**Entitlement to deferred retirement benefits (“preserved benefits”)**

**D11.**—(1) If a member who ceases to hold a local government employment—

- (a) is not entitled under regulation D5, D6, D7 or D9 to retirement benefits which are payable immediately on his ceasing to hold that employment; and
- (b) fulfils one of the following requirements, namely—
  - (i) he has a statutory pension entitlement; or
  - (ii) he is treated by virtue of regulation K23(2) as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme;

then, subject to regulation D13, he becomes entitled in relation to that employment to a standard retirement pension and a standard retirement grant payable from the appropriate date; and in these regulations benefits to which a person becomes entitled under this paragraph by virtue of fulfilling one of the requirements mentioned in paragraph (b) and which have not yet become payable are called “preserved benefits”.

(2) For the purposes of paragraph (1) “the appropriate date”, in relation to any person, is his 65th birthday or, if earlier, the earliest of the following—

- (a) his NRD;
- (b) any date on which he becomes incapable, by reason of permanent ill-health or infirmity of mind or body, of discharging efficiently the duties of the employment he has ceased to hold;
- (c) any date after he has attained the age of 50 years from which the employing authority determine on compassionate grounds that the benefits are to become payable;
- (d) in the case of a person who has attained the age of 60 years, has ceased to be employed in local government employment and has duly elected to receive payment from the relevant date, that date.

(3) An election under paragraph (2)(d) shall be made by notice in writing to the employing authority given within the period of three months beginning with the relevant date.

(4) In this regulation “relevant date”, in relation to any person, means—

- (a) the date on which he attains the age of 60, or
- (b) if later, the date of his ceasing to be employed in local government employment.

### **Further provisions about preserved benefits**

**D12.**—(1) A person who is entitled to preserved benefits under regulation D11(1) ceases to be entitled to them—

- (a) if—
  - (i) the whole of the aggregate amount of his contributions to the appropriate pension fund has been returned to him (with or without interest) under regulation C21 of these regulations or regulation C12 of the 1986 regulations or regulation C8 of the 1974 regulations, and
  - (ii) after receiving the return of contributions, he has no further right to count any period of membership to which a transfer value accepted under regulation K13 of the regulations or regulation J8 of the 1986 regulations or regulation N7 of the 1974 regulations relates,
- (b) if rights in respect of the period of membership he was entitled to count in relation to the employment he ceased to hold have been transferred to a non-local government scheme, a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy by virtue of the payment of a transfer value,
- (c) if he re-enters local government employment (unless he elects to remain entitled to those benefits), or
- (d) if the body who employed him in the employment which he ceased to hold certify under paragraph 4 of Schedule D1 that on ceasing to hold it he suffered a material reduction in remuneration.

(2) An election by a person for the purposes of paragraph (1)(c) shall be made by giving notice in writing—

- (a) before the expiry of the period of three months beginning with the date on which he re-enters local government employment, or
- (b) such longer period as the administering authority or, where there is a change of fund, the administering authorities of both funds, may allow,

to the appropriate administering authority or, where there is such a change, to both of them.

### *Adjustments to standard benefits*

### **Reduction of pensions payable early by virtue of elections etc.**

**D13.**—(1) This regulation applies where benefits are payable to a person—

- (a) under regulation D9, or
- (b) under regulation D11 in a case where the appropriate date is determined under paragraph (2)(d) of that regulation,

and the member's or former member's pension advancement period is at least one year.

(2) Where this regulation applies, then, subject to regulation D17, the standard retirement pension and standard retirement grant, calculated in accordance with regulation D2 and Schedule D2, are reduced by the appropriate percentage for the member's pension advancement period.

(3) In paragraph (2) "the member's pension advancement period", in relation to a person, means the period remaining from the date from which the benefits became payable to his NRD.

(4) In paragraph (2) “the appropriate percentage” means the percentage shown in the appropriate column in the following Table.

Table

| Pension advancement period (years) | Percentage reduction    |        | Retirement grant Both Sexes |
|------------------------------------|-------------------------|--------|-----------------------------|
|                                    | Retirement pension Male | Female |                             |
| 0                                  | 0                       | 0      | 0                           |
| 1                                  | 8                       | 7      | 2                           |
| 2                                  | 15                      | 13     | 5                           |
| 3                                  | 22                      | 18     | 7                           |
| 4                                  | 28                      | 23     | 9                           |
| 5                                  | 33                      | 27     | 11                          |

(5) Where the member’s pension advancement period is not an exact number of years, the necessary interpolations shall be made in the Table.

### **Surrender of part of retirement pension in favour of spouse or dependant**

**D14.**—(1) Subject to the following provisions of this regulation and to regulation D17, a person who—

- (a) has become entitled to receive payments in respect of a retirement pension, or
- (b) holds local government employment and has attained normal retirement age,

may surrender, as from the relevant date, in favour of his spouse or any dependant of his (“the beneficiary”), a part of the retirement pension which is or may become payable to him, and a person who has surrendered part of a retirement pension may surrender further parts of it.

(2) The part of the retirement pension surrendered on any occasion—

- (a) shall be an exact number of pounds, and
- (b) shall secure for the beneficiary a pension of at least £97.50 per annum.

(3) The surrendered part (together with any parts previously surrendered) shall not exceed—

- (a) the amount which would result in the reduction of the retirement pension to less than the rate of the pension which would become payable to the beneficiary, or
- (b) one third of the retirement pension, or
- (c) where Schedule D6 (former teachers) applies, one third of the retirement pension receivable after reduction under that regulation.

(4) Where a person who has made a surrender under this regulation dies, an annual pension at a rate which is (according to tables to be prepared from time to time by the Government Actuary) actuarially equivalent at the relevant date to the value of the surrendered part of the retirement pension becomes payable to the beneficiary.

(5) For the purposes of this regulation “the relevant date” means—

- (a) the date of becoming entitled to receive payments in respect of the retirement pension; or

(b) in the case of a person who dies while still in local government employment, immediately before the date on which he died.

(6) Where the person surrendering holds local government employment and has attained normal retirement age, references in paragraphs (2) and (3) to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.

(7) Schedule D4 shall have effect for the purpose of making further provision as respects the procedure for surrenders under this regulation.

### **Adjustments to retirement pensions and grants for certain re-employed pensioners**

**D15.** Schedule D5 shall have effect for the purpose of making provision as to the retirement benefits in respect of certain pensioners who are re-employed by LGPS employers; and the provisions of this Part have effect subject to Part I of that Schedule (reduction of retirement pensions), Part II of that Schedule (combined benefits) and Part III of that Schedule (separate benefits).

### **Reduction of retirement pensions of certain former teachers.**

**D16.** The provisions of Schedule D6 shall have effect as respects the reduction in pensions of certain former teachers.

*Overriding provisions (contracting-out and Finance Act requirements, etc.)*

### **Guaranteed minimum pensions for members in contracted-out employment, etc.**

**D17.—**(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and
- (b) the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993<sup>(17)</sup> in relation to benefits under these regulations,

then paragraphs (2) to (4) apply as respects the member's employment.

(2) The member who ceases to hold his local government employment is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum (unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate).

(3) If the member—

- (a) attains state pensionable age while in local government employment;
- (b) continues in the same employment for a further period of 5 years; and
- (c) does not then cease to hold it,

then he is entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum (unless he consents to a postponement of the entitlement).

(4) The guaranteed minimum referred to in paragraphs (2) and (3) shall, so far as it is attributable to earnings factors for the tax year 1988 89 or for subsequent tax years, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993.

(5) A person's retirement pension is not to be reduced under regulation D13 to less than the aggregate of—

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(17) 1993 c. 48.

- (a) any minimum rate of equivalent pension benefits applicable under the Insurance Acts, and
  - (b) the annual rate obtained by multiplying one eightieth of the person's pensionable remuneration by the length in years of the whole period of the person's membership in contracted-out employment during the period beginning with the relevant date and ending with 30th April 1995.
- (6) In paragraph (5) "the relevant date" means—
- (a) in the case of a man, 17th May 1990; and
  - (b) in the case of a woman, 6th April 1978.
- (7) Where a person's local government employment is or was contracted-out employment, a surrender under regulation D14 (together with any previous surrenders) shall not result—
- (a) in the annual rate of the retirement pension being less than one eightieth of the pensionable remuneration, multiplied by the length in years of the whole period of his membership in contracted-out employment after 5th April 1978, or
  - (b) (disregarding the effect of the preceding paragraphs) in the weekly rate of the retirement pension being less than his guaranteed minimum, if any.
- (8) Where a person making a surrender under regulation D14—
- (a) is in local government employment,
  - (b) has attained normal retirement age, and
  - (c) has a statutory pension entitlement,
- references in paragraph (7) to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.
- (9) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—
- (a) regulation D15 and Part I of Schedule D5 (reduction of retirement pension in the case of certain re-employed pensioners);
  - (b) regulation H4 (forfeiture of rights); and
  - (c) regulation H5 (commutation of small pensions).

### **Revaluation of guaranteed minimum in certain cases**

- D18.**—(1) This regulation applies where—
- (a) a person has ceased to be a member; and
  - (b) the guaranteed minimum in relation to his pension is appropriately secured (within the meaning of section 19 of the Pension Schemes Act 1993).
- (2) The earnings factors of such a person shall be determined for the purposes of section 14(2) of that Act—
- (a) by reference to the last order under section 21 of the Social Security Pensions Act 1975<sup>(18)</sup> or section 148 of the Social Security Administration Act 1992<sup>(19)</sup> to come into force before the end of the tax year in which he ceased to be a member; and
  - (b) without reference to the last such order to come into force before the end of the final relevant year.

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<sup>(18)</sup> 1975 c. 60; section 21 was repealed by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3(1) and Schedule 1.

<sup>(19)</sup> 1992 c. 5.

(3) The weekly equivalent mentioned in section 14(2) of the Pension Schemes Act 1993 is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 55(5) of that Act (exclusion from liability to pay a limited revaluation premium).

(4) In this regulation “final relevant year” has the meaning given in section 16(5) of that Act.

### **Equivalent pension benefits**

**D19.**—(1) If when a member ceased to hold a local government employment—

- (a) he was not entitled in relation to that employment to a retirement pension under regulation D5, D6, D7, D9 or D11, and he receives a return of contributions,
- (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment,
- (c) a period of his service in a non-participating employment came to an end by reason—
  - (i) of the repeal of section 56(1) of the National Insurance Act 1965<sup>(20)</sup>, or
  - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-participation-Assurance of Equivalent Pension Benefits) Regulations 1960<sup>(21)</sup> (as modified by regulation 9(2)(a) or (b) of the National Insurance (Non-participation-Transitional Provisions) Regulations 1974<sup>(22)</sup>); and

(d) at some time during the settlement period (within the meaning of regulation 2 of those Regulations of 1974) he became, and has remained, assured of equivalent pension benefits,

then he is entitled in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership in service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

(2) A retirement pension to which a person has become entitled by virtue of paragraph (1) is payable from the first date on which he—

- (a) has attained state pensionable age, and
- (b) is no longer in any local government employment.

(3) For the purposes of these regulations a member to whom this regulation applies shall be treated as having ceased to hold the employment in respect of which he receives a return of contributions on the day before the date of receipt.

### **National insurance**

**D20.**—(1) Subject to paragraph (2), where a pension is payable to a member who attains state pensionable age in respect of a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), no provision in these regulations—

- (a) for the surrender or assignment of a pension, or
- (b) for the reduction, termination or suspension of a pension,

shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable in respect of that period of service under the Insurance Acts.

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<sup>(20)</sup> 1965 c. 51; section 56(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

<sup>(21)</sup> S.I. 1960/1103.

<sup>(22)</sup> S.I. 1974/2057.

(2) Paragraph (1) does not apply to any provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 57(1)(c) of the National Insurance Act 1965 (equivalent pension benefits).

(3) For the purposes of paragraph (1) “excepted service”, in relation to any person, means any earlier period of such service as there mentioned, being service in respect of which—

- (a) a payment in lieu of contributions has been made, or
- (b) equivalent pension benefits satisfying the requirements of the Insurance Acts have already been assured to him.

#### **Limitations on benefits etc.**

**D21.**—(1) The provisions of this Part are subject to Schedule C5 (limitations on contributions and benefits) and to the general provisions in Part H.

## **PART E**

### **DEATH GRANTS**

#### **Death of a member**

**E1.**—(1) If at the time of his death a person was a member, his personal representatives are entitled to receive a lump sum death grant.

(2) Where paragraph (1) applies the amount of the death grant is an amount equal to twice the deceased’s pensionable remuneration, less, in a case where a surviving spouse’s long-term pension is payable under Part F, the appropriate amount to be deducted under regulation E5.

#### *Death of a deferred pensioner*

#### **Death grant: deferred pensioners**

**E2.**—(1) If at the time of his death a person—

- (a) was in local government employment and had a statutory pension entitlement, but was not a member by virtue of a notification under regulation B12(2) (leaving the scheme), or
- (b) was entitled to preserved benefits, his personal representatives are entitled to receive a lump sum death grant.

(2) Where paragraph (1) applies the amount of the death grant is three eightieths of the deceased’s pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension, less, in a case where a surviving spouse’s long-term pension is payable under Part F, the appropriate amount to be deducted under regulation E5.

#### *Death of a pensioner*

#### **Death grant: pensioners with 10 years' or more membership**

**E3.**—(1) If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension calculated by reference to a period of membership of 10 years or more (other than a pension under regulation D17 or D19), or

- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

his personal representatives are entitled to receive a lump sum death grant.

(2) Where the deceased became entitled to the retirement pension otherwise than by virtue of regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the deceased's pensionable remuneration, and
- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension,

reduced by the total of—

- (i) any retirement grant paid to him,
- (ii) any payments which were or, apart from any reduction under regulation H2 (national insurance) or Schedule D5 (re-employed pensioners) or partial surrender under regulation D14, would have been made to him in respect of retirement pension, and
- (iii) if a surviving spouse's long-term pension is payable under Part F, the appropriate amount to be deducted under regulation E5.

(3) Where the deceased became entitled to the retirement pension by virtue of regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the amount mentioned in paragraph (2)(b) (less the relevant deductions), and
- (b) such proportion of the amount of the deceased's pensionable remuneration (after subtracting the amount of the relevant deductions) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.

(4) In paragraph (3) "the relevant deductions" means the sum of—

- (a) the amount that would be the appropriate amount under regulation E5(2) or (3) if that regulation applied, and
- (b) the total of any payments made to him in respect of retirement pension and retirement grant.

#### **Death grant: pensioners with less than 10 years' membership**

**E4.—(1)**

**E4.—(1)** If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension calculated by reference to a period of membership of less than 10 years (excluding a pension to which he would not be entitled apart from regulation D17 or D19), or
- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

his personal representatives are entitled to receive a lump sum death grant.

(2) The amount of the death grant payable under paragraph (1) in a case where—

- (a) the deceased became entitled to the retirement pension by virtue of regulation D9 or D11, and
- (b) the period of membership that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until his NRD is 10 years or more,

is the greater of—



- (i) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension (less the relevant deductions), and
- (ii) such proportion of the amount of the deceased's pensionable remuneration (after subtracting the amount of the relevant deductions) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD;

and in this paragraph "the relevant deductions" has the same meaning as in regulations E3(4).

(3) The amount of the death grant payable under paragraph (1) in a case where the deceased became entitled to the retirement pension otherwise than by virtue of regulation D9 or D11 or of regulation E2(1)(d) of the 1986 regulations, is an amount equal to the total amount that would (or would but for Schedule D5 (re-employed pensioners) or his death, or both) have been paid to him by way of retirement pension for the first 5 years after he became (or would but for Schedule D5 have become) entitled to receive payments in respect of the pension, reduced—

- (a) by the total of any payments made to him in respect of retirement pension, or
- (b) where the pension—
  - (i) was reduced under regulation D13 (early payment) or regulation H2 (national insurance) or Schedule D5 (re-employed pensioners), or
  - (ii) had been partially surrendered under regulation D14,

by the amount which would have been paid in respect of the pension but for the reduction or surrender.

- (4) The amount of the death grant payable under paragraph (1) in a case where—
  - (a) the deceased became entitled to the retirement pension by virtue of regulation D9 or D11, and
  - (b) the period of membership that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until his NRD is less than 10 years,

is such proportion of the amount mentioned in paragraph (3) (less the total of any payments made to him in respect of retirement pension) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.

#### *General provisions relating to death benefits*

#### **Surviving spouse deductions from certain death grants**

**E5.**—(1) A death grant is reduced under this regulation by the appropriate amount if—

- (a) it is payable under regulation E1, E2 or E3(2), and
- (b) a surviving spouse's long-term pension is payable under Part F.

(2) Where—

- (a) the deceased was a man, or
- (b) the deceased was a woman who was treated as a man by virtue of paragraph 2 of Schedule F1,

the appropriate amount for the purposes of paragraph (1) is an amount equal to two eightieths of the deceased's pensionable remuneration multiplied by the length in years of any period of membership

before 1st April 1972 in respect of which the widow's, or as the case may be, widower's pension is payable under Part F.

(3) Where the deceased was a woman (other than one to whom paragraph (2)(b) applies), the appropriate amount for the purposes of paragraph (1) is an amount equal to—

- (a) one one hundred and sixtieth of the deceased's pensionable remuneration, multiplied by the length in years of any period—
  - (i) notice of which was given under paragraph 1(1) of Schedule F1, and
  - (ii) which is treated for the purposes of paragraph 3(2) of Schedule D2 as a period of membership after 31st March 1972 but before 6th April 1988; plus
- (b) three one hundred and sixtieths of the deceased's pensionable remuneration, multiplied by the length in years of any further period—
  - (i) of which such notice was given,
  - (ii) which is treated for those purposes as a period of membership before 1st April 1972, and
  - (iii) in respect of which a widower's pension is payable under Part F.

(4) In calculating any reduction under this regulation, no account shall be taken of any period of membership in respect of which payment under regulation C13 has been or is to be treated as having been completed.

#### **Adjustments to death grants for certain re-employed pensioners**

**E6.** The provisions of this Part have effect subject to Part III of Schedule D5 (separate benefits of certain persons re-employed by LGPS employers) and Part IV of that Schedule (death in further employment of such employees).

#### **Part-timers' pensionable remuneration for certain purposes of this Part**

**E7.** Paragraph 7 of Schedule D1 (by virtue of which a member is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment) does not apply to the application of regulation D1 and that Schedule in ascertaining the deceased's pensionable remuneration for the purposes of regulation E1, E3(2)(a) or (3)(b) or E4(2)(ii).

## **PART F**

### **SURVIVING SPOUSES' PENSIONS**

#### *Death of a member*

#### **Member's spouse's short-term pension**

**F1.—**(1) Subject to regulations F7 (remarriage and cohabitation) and G8(3), if a member dies living a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's short-term pension—

- (a) if the spouse has one or more eligible children in his or her care, for six months after the member's death, or
- (b) otherwise for three months after the member's death.

(2) Where paragraph (1) applies then, subject to paragraph 21 of Schedule D5 (re-employed pensioners), the annual rate of the short-term pension is a rate equal to the spouse's pensionable remuneration.

(3) Paragraph 7 of Schedule D1 (by virtue of which member is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment) does not apply to the application of regulation D1 and that Schedule to this regulation.

### **Member's spouse's long-term pension**

**F2.**—(1) Subject to regulation F7 (remarriage and cohabitation), if a member who has a statutory pension entitlement dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled, at the end of the period in respect of which a short-term pension is payable under regulation F1, to a spouse's long-term pension.

(2) Where paragraph (1) applies then, subject to Part IV of Schedule D5 (re-employed pensioners), the annual rate of the long-term pension is—

- (a) if the member's total period of membership was not less than two years, half the annual rate of the retirement pension to which the spouse would have been entitled if on the date of death the spouse had become entitled under regulation D7 (permanent ill-health, etc.); and
- (b) otherwise, one one hundred and sixtieth of the member's pensionable remuneration, multiplied by the length in years of the member's total period of membership.

(3) For the purposes of paragraph (2)(a)—

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

### *Death of a deferred pensioner*

### **Deferred pensioner's spouse's long-term pension**

**F3.**—(1) Subject to regulation F7 (remarriage and cohabitation), if a person who is not a member dies leaving a surviving spouse or spouses and at the time of his death he—

- (a) was entitled to preserved benefits, or
- (b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time,

that spouse is entitled or, as the case may be, they are jointly entitled, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), the annual rate of the long-term pension to which a spouse is entitled under paragraph (1) is half the annual rate of the retirement pension to which the deceased would have been entitled if on the date of death he had become entitled under regulation D5.

### *Death of a pensioner*

### **Pensioner's spouse's short-term pension**

**F4.**—(1) Subject to regulations F7 (remarriage and cohabitation) and G8(3), if a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension under regulation D19), or

(b) would have been so entitled but for regulation H6 (commutation in exceptional circumstances of ill-health) or Part I of Schedule D5 (re-employed pensioners), dies leaving a surviving spouse or spouses, that spouse is entitled or, as the case may be, they are jointly entitled to a spouse's short-term pension—

- (i) if the spouse has one or more eligible children in his or her care, for six months after the deceased's death, or
- (ii) otherwise for three months after the deceased's death.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies, the annual rate of the short-term pension is a rate equal to the spouse's retirement pension immediately before the date of death or the rate it would have been at that date apart from any payment under regulation H6 or the operation of Part I of Schedule D5.

### **Pensioner's spouse's long-term pension**

**F5.**—(1) Subject to regulation F7 (remarriage and cohabitation), where regulation F4(1) applies the surviving spouse is entitled or, as the case may be, the surviving spouses are jointly entitled, at the end of the period in respect of which a short-term pension is payable under that regulation, to a spouse's long-term pension.

(2) Subject to regulation F6 (post retirement marriages), where paragraph (1) applies and any new employment for the purposes of Part I of Schedule D5 (re-employed pensioners) was not a local government employment, the annual rate of the long-term pension is half the annual rate of the deceased's retirement pension immediately before the date of death.

- (3) For the purposes of paragraph (2)—
  - (a) any increase in the deceased's retirement pension by virtue of regulation D2(2)(i),
  - (b) any reduction in that pension under regulation D13 or H2 or by virtue of a surrender under regulation D14, and
  - (c) any extinguishment of that pension by virtue of the operation of regulation H6 or Part I of Schedule D5,

shall be disregarded.

### *General provisions relating to surviving spouse's pensions*

#### **Post retirement marriages**

**F6.**—(1) Where a widow was not her husband's wife at some time while he was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension—

- (a) the long-term pension under regulation F3,
- (b) the short-term pension under regulation F4, and
- (c) the long-term pension under regulation F5,

shall be calculated in accordance with paragraph (2).

(2) Where paragraph (1) applies the references in regulations F3(2), F4(2) and F5(2) to the retirement pension are to be construed as references to the part of the pension which is attributable to the period of his membership in contracted-out employment after 5th April 1978.

### **Remarriage and cohabitation**

**F7.**—(1) Except where paragraph (2) applies, where a widower or widow would otherwise be entitled to a pension by virtue of this Part—

- (a) he or she is not so entitled during any subsequent marriage or any period of cohabitation outside marriage, and
- (b) he or she is so entitled from the end of any such marriage or period only if the appropriate administering authority in their discretion so decide.

(2) Where a widower and a widow who are each entitled to a pension under this Part marry each other or cohabit with each other outside marriage—

- (a) only such one of them as they determine shall be entitled to his or her pension, and
- (b) the other shall cease to be entitled to his or her pension until the marriage or cohabitation ends.

### **Widowers: requirement for post 5th April 1988 service and consequent adjustments to “retirement pension”**

**F8.**—(1) For the purpose of determining entitlement to a widower’s pension under regulations F3(1), F4(1) and F5(1), in those regulations—

“retirement pension” means a retirement pension of which at least part is attributable to a period of membership after 5th April 1988;

“local government employment” means local government employment of which at least part was employment after that date; and

“preserved benefits” means preserved benefits of which at least part are attributable to a period of membership after that date.

(2) For the purposes of calculating a widower’s short-term pension under regulation F4(2) or long-term pension under regulation F2(2), F3(2) or F5(2), in those regulations “retirement pension” means a retirement pension calculated—

- (a) by reference to the length in years of the wife’s period of membership after that date; and
- (b) if the widower was his wife’s husband at some time while she was in local government employment after 31st March 1972, by reference also to—
  - (i) the length in years of any period treated under paragraph (3) as a period of membership after 5th April 1988,
  - (ii) the length in years of any period of which notice is given in accordance with paragraph 1(1) of Schedule F1, and
  - (iii) the length in years of any period of membership in respect of which payment under regulation C14 has been or is treated as having been completed.

(3) For the purposes of paragraph (2)(b)(i) the following periods are to be treated as periods of membership after 5th April 1988, namely—

- (a) membership which the deceased became entitled to count after that date by virtue of regulation D7(2),
- (b) membership which the deceased was entitled to count under regulation C9 of or paragraph 5 of Schedule M4 (transitional provisions) to these regulations or regulation D4, D5 or D9 of the 1986 regulations where the necessary payment was made or commenced after that date.

- (c) membership which the deceased was entitled to count by virtue of a resolution passed under regulation B16 or B17 of these regulations or regulation D7 of the 1986 regulations after that date,
- (d) membership which is treated as membership after that date by virtue of paragraph 7 of Schedule M4 (transitional provisions) to these regulations or regulation D13(3) of the 1986 regulations.
- (e) membership which the deceased was entitled to count under regulation K14 where the relevant transfer value—
  - (i) was not a transfer value to which paragraph 17(1)(b) of Schedule M4 (transitional provision in relation to interchange) applies, and
  - (ii) was accepted after that date.

#### **Widowers: elections for added years etc.**

**F9.** Schedule F1 shall have effect for the purpose of making provision as to elections by women members affecting their widowers' pensions.

#### **Adjustments to pensions of surviving spouses of certain-employed pensioners**

**F10.** The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners).

#### *Contracting-out requirements: GMP rule*

#### **Surviving spouse's guaranteed minimum pension**

**F11.**—(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and
- (b) the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993(23) in relation to benefits under these regulations,

then, if the member dies at any time leaving a widow or widower, the widow or widower is entitled to a pension at a weekly rate equal to the widow's or, as the case may be, the widower's guaranteed minimum (within the meaning of section 17 of that Act minimum pensions for widows and widowers) during any period for which that section provides that a pension of not less than that amount is to be payable to the widow or, as the case may be, the widower (unless the widow or widower is entitled to a surviving spouse's pension at a higher rate).

(2) The guaranteed minimum referred to in paragraph (1) shall, so far as it is attributable to earnings factors for the tax year 1988 89 or for subsequent tax years, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993 (annual increase of guaranteed minimum pensions).

(3) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—

- (a) regulation H4 (forfeiture of rights); and
- (b) regulation H5 (commutation of small pensions).

## PART G

### CHILDREN'S PENSIONS

#### *Preliminary*

#### **Meaning of “Child”**

- G1.** For the purposes of these regulations “child” means a person who—
- (a) has not attained the age of 17 years,
  - (b) has attained that age and has since been—
    - (i) receiving full-time education, or
    - (ii) undergoing a full-time course of training of not less than 2 year’s duration for a trade, profession or vocation,either continuously or continuously with the exception of a period which the appropriate administering authority have in their discretion decided to disregard (on being satisfied that his education or training ought not to be regarded as completed), or
  - (c) has attained that age and is incapacitated by reason of ill-health or infirmity of mind or body which arose either—
    - (i) before he attained that age, or
    - (ii) while receiving such full-time education or training, or
    - (iii) during a period which the authority have decided to disregard under paragraph (b).

#### **Meaning of “eligible child”**

**G2.—**(1) For the purposes of these regulations a child is an eligible child of a deceased person who was in a local government employment when he died and was then a member or a former member, if he is—

- (a) the deceased’s legitimate or adopted child,
- (b) the deceased’s step-child or illegitimate child,
- (c) an adopted child of a person who has been married to the deceased, or
- (d) a child accepted by the deceased as a member of the family,

and, in the case of a child within paragraph (b), (c) or (d), is wholly or mainly dependent on the deceased at the time of his death.

(2) For the purposes of these regulations a child is an eligible child of a person who has died after becoming entitled to a retirement pension if—

- (a) he is a legitimate child of a marriage of the deceased which took place before the date on which he became entitled to the pension, and was born before the first anniversary of that date, or
- (b) he is a child adopted by the deceased before he became entitled to the pension, or
- (c) he is a child who was wholly or mainly dependent on the deceased both before he became entitled to the retirement pension and at the time of his death and is—
  - (i) the deceased’s step-child or illegitimate child,
  - (ii) an adopted child of a person who married the deceased before he became entitled to the pension, or
  - (iii) a child accepted by the deceased as a member of the family.

### *Death of a member*

#### **Member's children's long-term pension**

**G3.**—(1) Subject to paragraph (6), where a member dies leaving one or more eligible children, the eligible children are entitled until they cease to be children to or to the benefit of a children's long-term pension payable from the member's death.

(2) Subject to paragraph (5) and regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction of the deceased person's retirement pension.

(3) Subject to regulation G10, for the purposes of paragraph (2), "the appropriate fraction" means—

- (a) if there is one eligible child and he is in the care of a surviving spouse of the deceased, one quarter;
- (b) if there is one eligible child and he is not in such care, one third;
- (c) if there are two or more eligible children and—
  - (i) half or more of them are in such care, or
  - (ii) fewer than half of them are in such care but a surviving spouse's pension under Part F is for the time being payable, one half; and
- (d) if there are two or more eligible children and fewer than half of them are in such care and no such surviving spouse's pension is payable, two thirds;

but references in paragraphs (c) and (d) to a surviving spouse's pension do not include a short-term pension under regulation F1 in circumstances where no long-term pension is payable under regulation F2.

(4) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a member shall be taken to be the pension to which he would have become entitled if he had at the time of his death become entitled to a pension under regulation D7 (permanent ill-health, etc.) and on the relevant assumptions.

(5) In sub-paragraph (4) "the relevant assumptions" means that there is—

- (a) no increase in the pension by virtue of regulation D2(2)(i), and
- (b) no reduction in the pension under regulation D13 (early payments), regulation H2 (national insurance), or Part I of Schedule D5 (re-employed pensioners), or by virtue of a surrender under regulation D14.

(6) Where a children's short-term pension—

- (a) is payable under regulation G4, or
- (b) would be so payable apart from regulation G8(2),

the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under regulation G4 or, as the case may be, would be so payable apart from regulation G8(2) (but subject to regulation G8(3) and (4)).

#### **Member's children's short-term pension**

**G4.**—(1) Subject to regulation G8, where a member dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death or, if less, until they cease to be children.

(2) Subject to regulation G8, the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F1.



### *Death of a deferred pensioner*

#### **Deferred pensioner's children's long-term pension**

**G5.**—(1) Where a person who is not a member dies leaving one or more eligible children and at the time of his death he—

- (a) was entitled to preserved benefits, or
- (b) was in a local government employment and would have been so entitled if he had ceased to hold that employment immediately before that time.

those children are entitled to or to the benefit of a children's long-term pension until they cease to be children.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person shall be taken to be the retirement pension to which he would have become entitled if at the time of his death he had become entitled under regulation D5 (retirement on or after NRD) and on the relevant assumptions (within the meaning of regulation G3(5)).

### *Death of a pensioner*

#### **Pensioner's children's long-term pension**

**G6.**—(1) Subject to paragraph (4), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D17 or a pension under regulation D19), or
- (b) would have been entitled but for regulation H6 (commutation in exceptional circumstances of ill-health) or Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled until they cease to be children to or to the benefit of a children's long-term pension payable from the death.

(2) Subject to regulations G9 and G10, the annual amount of a children's long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the deceased person's retirement pension.

(3) Subject to regulation G9, for the purposes of paragraph (2) the retirement pension of a person who is entitled at the time of his death to receive payments in respect of a retirement pension (or would have been so entitled apart from regulation H6 or Part I of Schedule D5) shall be taken to be the retirement pension that would have been payable on the assumption that no payment under regulation H6 had been made and on the relevant assumptions (within the meaning of regulation G3(5)).

(4) In a case where a children's short-term pension is payable under regulation G7, the children's long-term pension does not become payable until the expiry of the period in respect of which that pension is payable under that regulation (or would be so payable if it were not for payment being suspended under regulation G8(2)).

#### **Pensioner's children's short-term pension**

**G7.**—(1) Subject to regulation G8(2), where a person who—

- (a) was entitled to receive payments in respect of a retirement pension (other than a pension sole entitlement to which is under regulation D17 or a pension under regulation D19), or

- (b) would have been so entitled but for a payment under regulation H6 (commutation in exceptional circumstances of ill-health) or the operation of Part I of Schedule D5 (re-employed pensioners),

dies leaving one or more eligible children, they are entitled to or to the benefit of a children's short-term pension for 6 months after the death.

(2) Subject to regulation G8(1), the annual rate of a children's short-term pension is the rate at which a surviving spouse's short-term pension would have been payable by virtue of regulation F4 (but, in a case where there is a widower, disregarding regulation F8(2)).

*General provisions relating to children's pensions*

**Limitations on entitlement to children's short-term pensions**

**G8.**—(1) Where—

- (a) a widow's short-term pension is calculated in accordance with regulation F6(1) or a widower's short-term pension is payable by virtue of regulation F1(1) or F4(1), and
- (b) the child who is entitled to or to the benefit of a children's short-term pension is in the care of the widow or widower,

the rate of the child's short-term pension is reduced by the rate of the widow's or widower's pension.

(2) While—

- (a) a widow's short-term pension is payable under regulation F1(1) or F4(1);
- (b) a widower's short-term pension is payable under either of those regulations at a rate not less than that of the children's short-term pension; or
- (c) a widower's short-term pension is payable under regulation F1(1) in circumstances where no long-term pension is payable under regulation F2(1),

a children's short-term pension is not payable unless the child is not in the care of the widow or widower, and then for only three months after the death (or until he ceases to be a child, if sooner).

(3) Where—

- (a) (apart from paragraph (2), or this paragraph, or paragraph (4)) a children's short-term pension would be payable to or for the benefit of a child in the care of a parent to whom a surviving spouse's short-term pension would be payable; and
- (b) if a children's long-term pension and a surviving spouse's long-term pension were payable instead of those short-term pensions, that would result in a greater aggregate pension (having regard to paragraph (2)),

those long-term pensions shall be payable instead of those short-term pensions.

(4) Where—

- (a) apart from paragraph (3) and this paragraph, a children's short-term pension would be payable to or for the benefit of a child who is not in the care of a parent to whom a surviving spouse's short-term pension is payable, and
- (b) a children's long-term pension would be greater,

the long-term pension shall be payable instead of the short-term pension.

**Long-term pensions: increase of period of membership in certain cases**

**G9.** Unless the retirement pension determined under regulation G3(4), G5(3) or G6(3) would be greater, the retirement pension of a deceased person shall be taken to be that to which he would have been entitled if he were entitled to count the lesser of—

- (a) 10 years of membership; and
- (b) the period of membership which he would have been entitled to count if he had continued to be a member until his 65th birthday.

### **Children over 17 in paid training**

**G10.**—(1) If a child in respect of whom a children’s long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or vocation at an annual rate in excess of the indexed training rate, then—

- (a) the annual rate of the pension is to be reduced by the amount of the excess, or
- (b) if it results in a smaller reduction, the child is to be disregarded for the purposes of calculating the pension.

(2) In paragraph (1) “the indexed training rate” means the annual rate at which an official pension (within the meaning of the Pension (Increase) Act 1971(24)) would for the time being be payable if it had begun on 1st April 1994 and had then been payable at an annual rate of £1,450.

### **Discretions as to payment of children’s pensions**

**G11.**—(1) The appropriate administering authority may apportion a children’s pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit.

(2) The appropriate administering authority may pay a children’s pension or any part of it to a person other than an eligible child, to be applied for the benefit of any eligible child or eligible children in accordance with any directions the authority may give.

### **Adjustments to children’s pensions for certain re-employed pensioners etc.**

**G12.** The provisions of this Part have effect subject to Part IV of Schedule D5 (re-employed pensioners) and to paragraph 3 of Schedule F1 (women dying before 6th April 1988).

## **PART H**

### **GENERAL PROVISIONS CONCERNING BENEFITS**

#### **Interest on late payment of certain benefits**

**H1.**—(1) Where all or part of—

- (a) a pension payable under Part D, F or G (other than a pension payable to a surviving spouse under regulations F1 in a case where the surviving spouse is not entitled to a pension under regulation F2),
- (b) a retirement grant,
- (c) an ill-health retirement grant payable under regulation D8,
- (d) a death grant, or
- (e) a payment under regulation H6,

is not paid within the relevant period after the due date, the appropriate administering authority shall pay the person to whom the pension or grant is payable interest on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

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(24) 1971 c. 56; section 5(1) was amended by the Superannuation Act 1972 (c. 11), section 29(1), Schedule 6, paragraph 85.

- (2) For the purposes of paragraph (1) the due date is—
- (a) in the case of a retirement pension which becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d), one month after the date on which the notice of election is duly given;
  - (b) in the case of part of a pension which becomes payable by virtue of payments of contributions (other than an increase in contributions made following a decision under regulation J1 or J5) made after the date on which the remainder of the pension became payable, one month after those payments or contributions were paid;
  - (c) in the case of a pension or part of a pension which becomes payable by virtue of contributions made following such a decision, the date on which that pension or part of a pension would have become payable had those contributions been made on the first date which would otherwise have applied;
  - (d) in the case of any other pension or part of a pension, the date on which it becomes payable;
  - (e) in the case of a retirement grant or part of a retirement grant (other than one to which paragraph (3) applies), the date on which that grant or part becomes payable;
  - (f) in the case of an ill-health retirement grant, the day after the person who is entitled to the grant ceased to hold his employment;
  - (g) in the case of a death grant, the date on which—
    - (i) probate or letters of administration are produced to the administering authority, or
    - (ii) the authority become satisfied that the grant may be paid as provided in regulation H7; and
  - (h) in the case of a payment under regulation H6, the day after the person to whom the payment is made would otherwise become entitled to payment of his pension.
- (3) Where—
- (a) a retirement grant becomes payable by virtue of an election under regulation D9(2)(b) or D11(2)(d) made by a notice given on or after the date on which the grant becomes payable, or
  - (b) a part of a retirement grant becomes payable by virtue of payments or contributions made after the date on which the remainder of the grant became payable;

then, the due date is—

- (i) in the case mentioned in paragraph (a), one month after the notice was given, and
  - (ii) in the case mentioned in paragraph (b)—
    - (I) where an increase in contributions is made following a decision under regulations J1 or J5, the date on which the grant or the part of the grant would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided, and
    - (II) otherwise, one month after the increase in contributions was paid.
- (4) For the purposes of paragraph (1) the relevant period means—
- (a) in the case of a pension within paragraph (a) of that paragraph, one year, and
  - (b) in the case of a grant within paragraph (b), (c) or (d) of that paragraph or a payment within paragraph (e) of that paragraph, one month.

## National Insurance

**H2.** Where, but for the revocation of the 1974 regulations, the amount of a benefit would have fallen to be reduced under Part F of those regulations, the amount shall be reduced as if that Part had not been revoked.

## Benefits not assignable

**H3.** Every benefit to which a person is entitled under these regulations—

- (a) is payable to or in trust for him, and
- (b) is not assignable or chargeable with that or any other person's debts or other liabilities.

## Forfeiture of pension rights after conviction of employment-related offences

**H4.—**(1) If—

- (a) a person has been convicted of an offence in connection with an employment as respects which he was a member;
- (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence; and
- (c) on an application made within three months after the conviction by the body who were his employing authority in that employment, the Secretary of State has certified that the offence—
  - (i) was gravely injurious to the State, or
  - (ii) is liable to lead to serious loss of confidence in the public service,

then that body may direct that all or any of the rights enjoyed by or in respect of him under these regulations as respects his previous membership shall be forfeited.

(2) No direction may be given under paragraph (1) which would deprive a convicted person of his guaranteed minimum pension or would, in the event of his leaving a surviving spouse, deprive that spouse of any widow's or widower's guaranteed minimum pension, unless the convicted person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(25)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(3) If—

- (a) a person has ceased to hold an employment as respects which he was a member in consequence of an offence in connection with his employment, and
- (b) the body who were his employing authority have neither notified a decision under Part J on any question as to entitlement to a benefit nor given any direction under paragraph (1)

the appropriate administering authority shall, if so directed by that body, make interim payments of such amounts as may be specified in the direction to any person so specified who appears to the body to be a person who would be entitled to receive payment of a benefit under these regulations if no direction under paragraph (1) were given.

(4) Directions under paragraph (3) shall not require any person to be paid more than it appears to the body giving the direction that he would for the time being be entitled to have been paid on the

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(25) 1911, c. 28, 1920 c. 25, 1939 c. 121, 1989 c. 6.

assumption that no direction under paragraph (1) will be given, but such directions do not constitute decisions under Part J as to any person's entitlement to a benefit.

(5) Payments made to a person in accordance with directions under paragraph (3) shall be deemed to have been payments in respect of a benefit to which he was entitled, notwithstanding any direction given under paragraph (1) or any decision under Part J as to entitlement to the contrary.

(6) A body applying for a certificate under paragraph (1)(c) in respect of a convicted person shall at the same time send copies of the application to him and to the appropriate administering authority.

### **Commutation: small pensions**

**H5.**—(1) Where the annual rate—

- (a) of a retirement pension (or pensions) to which any person has become entitled as a member or former member, or
- (b) of a long-term pension to which any surviving spouse has become entitled, or
- (c) of a long-term pension payable to or in respect of an eligible child or children,

amounts (or amount in aggregate) to not more than the relevant amount, the appropriate administering authority may discharge their liability in respect of that pension (or those pensions) by payment to the member or former member or, in the case of a surviving spouse's pension, the spouse or, in the case of a child's pension, any person who appears to them to be appropriate, of a lump sum of such amount as represents the capital value of the relevant pension (or pensions), calculated in accordance with tables prepared by the Government Actuary.

(2) For the purposes of this regulation, the relevant amount is—

- (a) in the case of a retirement pension £195;
- (b) in the case of a surviving spouse's long-term pension £260;
- (c) in the case of a children's long-term pension £260;

but, for the purposes of determining whether such pension or pensions exceed the relevant amount, the pension—

- (i) shall be taken to include any increase payable under the Pensions (Increase) Act 1971<sup>(26)</sup> in respect of it, and
- (ii) shall be aggregated with any other such pension to which the member or, in the case of a surviving spouse's pension, that spouse or, in the case of a children's pension, any child or other person, has become entitled under the Scheme in respect of the member in question.

(3) This regulation only applies to a retirement pension where the member who has become entitled to the pension has attained state pensionable age, and a member shall not be treated as having become entitled to a retirement pension under regulation D11 until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) Where a payment is made to a person under paragraph (1) in respect of any retirement pension or pensions—

- (a) it shall include a payment of an amount representing the capital value (calculated as there mentioned) of any surviving spouse's long-term pension which, if the person died leaving a surviving spouse, would be payable to that spouse; and
- (b) the liability in respect of any such surviving spouse's long-term pension or pensions and in respect of any children's long-term pension which, if the person died leaving an eligible child or eligible children, would be payable to or for the benefit of that child or those children is also discharged by the payment.

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(26) 1971 c. 56.

### **Commutation: exceptional circumstances of ill-health**

**H6.**—(1) Where at the time a retirement pension first becomes payable to a member or former member under Part D the appropriate administering authority are satisfied, having considered the advice of a registered medical practitioner—

- (a) that the member or former member is exceptionally ill, and
- (b) that he has a life expectancy of less than one year,

they may discharge their liability in respect of—

- (i) so much of that pension as exceeds his guaranteed minimum, and
- (ii) any lump sum death grant which would otherwise be payable at his death under regulation E3 or E4,

by payment to him of a lump sum of an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to him exceeds the amount of his guaranteed minimum.

(2) The appropriate administering authority shall deduct from any payment under this regulation any tax to which they may become chargeable under section 599 of the Income and Corporation Taxes Act 1988(27) (charge to tax: commutation of entire pension in special circumstances).

### **Payments due in respect of deceased persons**

**H7.**—(1) Where a person dies and the total of—

- (a) any sums that were due to him under these regulations, and
- (b) any other sums payable under these regulations to his personal representatives,

(“the amount due”) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965(28) and applying in relation to his death, then the appropriate administering authority may, without requiring the production of probate or letters of administration of his estate, pay the whole or any part of the amount due out of their pension fund—

- (i) to the personal representatives, or
- (ii) to the person, or to or among any one or more of any persons, appearing to the authority to be beneficially entitled to the estate.

(2) Where a payment is made to any person under paragraph (1), the administering authority cease to be liable to account for the amount paid to him.

### **Benefits in respect of certain persons employed before April 1974**

**H8.** In relation to a member who is a person to whom regulation E19 of the 1974 regulations applied but who did not make an election under that regulation, these regulations apply—

- (a) if he fell within paragraph (1)(b)(i) of that regulation (no previous right to retiring grant or widow’s pension), subject to the modifications set out in Parts I and III of Schedule H1; and
- (b) if he fell within paragraph (1)(b)(ii) of that regulation (no previous right to widow’s pension), subject to the modifications set out in Parts II and III of that Schedule.

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(27) 1988 c. 1; section 599 was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 11, 18.

(28) 1965 c. 32.

## PART J

### DETERMINATIONS AND APPEALS

#### Initial decisions

**J1.**—(1) Any question concerning the rights of liabilities under these regulations of any person other than a LGPS employer shall be decided in the first instance by the relevant LGPS employer.

(2) Where the LGPS employer by whom any such question falls to be decided is ascertainable by reference to regulations J2 or J3, for the purposes of this regulation and of regulation J5 that employer shall be the relevant employer.

(3) A decision by the relevant employer does not bind any other LGPS employer or the Secretary of State.

#### Decisions as to status of employees

**J2.**—(1) A LGPS employer shall decide in relation to each of their employees who is a member—

- (a) whether he is an officer or a manual worker,
- (b) whether he is a whole-time, a variable-time or a part-time employee,
- (c) which of his emoluments are remuneration on which contributions are payable, and
- (d) if he is a part-time employee—
  - (i) the proportion which is contractual minimum hours of employment in each week bear to those of a comparable whole-time employment, and
  - (ii) if paragraph (4)(iii) of regulation B3 applies to his contractual hours, the average number of those hours for the purposes of that paragraph.

(2) In relation to any employment in which a person is a member, the appropriate administering authority are to decide—

- (a) what previous service or employment (if any) he is entitled to count as a period of membership or a period to which Part II of Schedule B6 applies,
- (b) whether any, and if so what, periods of service as a part-time employee are included in such a period,
- (c) what proportion of whole-time service his service during any such period represents,
- (d) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the National Insurance Act 1965(29) in respect of any period of non-participating employment,
- (e) what rate of contribution the employee is liable to pay to the appropriate pension fund,
- (f) whether he is entitled to count as a period of membership—
  - (i) any, and if so how many, added years, or
  - (ii) any, and if so what, additional period, and
- (g) whether for the purposes of Schedule C5 he is a Class A member, a Class B member or a Class C member (within the meaning of that Schedule).

(3) The questions specified in paragraph (1) shall be decided as soon as is reasonably practicable after—

- (a) the person becomes a member, or



- (b) any change occurs in the number of the member's regular or usual hours of employment, or
- (c) any other material change occurs in or relation to the employment.

(4) The questions specified in paragraph (2) shall be decided as soon as is reasonably practicable after the person becomes a member of the Scheme in respect of the relevant employment.

### **Decisions as to benefits**

**J3.**—(1) Any question whether a person is entitled to a benefit under these regulations is to be decided by the LGPS employer who last employed the person in respect of whose employment the question arises. \*

(2) Where a person is or may become entitled to a benefit payable out of a pension fund, the administering authority maintaining that fund shall decide the amount of the benefit.

(3) In this regulation “benefit” includes a return of contributions and for the purposes of paragraph (2) (but not for paragraph (1) it includes a benefit specified in regulation F6(12) or (16) of the 1986 regulations.

(4) The decision under paragraph (1) shall be made as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee and that under paragraph (2) as soon as is reasonably practicable after the occurrence of the event by virtue of which the entitlement arises or may arise.

### **Notification of decisions**

**J4.**—(1) A body who have decided any question under this Part shall, as soon as is reasonably practicable after doing so, send a written notification of their decision to every person whose rights or liabilities are affected.

(2) The notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision,
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated, and
- (c) in any case, a conspicuous statement directing the person's attention—
  - (i) to the address from which he may obtain further information about the decision, including details of any calculation of service or benefits, and
  - (ii) to his right under regulation J5 to appeal to the Secretary of State.

### **Appeals**

**J5.**—(1) Where—

- (a) the relevant employer has decided or failed to decide any such question as is mentioned in regulation J1, and
- (b) an appeal is duly made to the Secretary of State,

then, subject to the following provisions of this regulation, the question shall be determined by him and his determination of it shall be final.

(2) Subject to paragraph (3), the Secretary of State shall not determine any question that fell to be decided by the relevant employer in the exercise of a discretion conferred on them by these regulations.

(3) Paragraph (2) does not apply—

- (a) where the appeal relates to a pension (within the meaning of section 12 of the Superannuation Act 1972(30)) which is being paid or may become payable to or in respect of a person who ceased to hold his local government employment or died before 1st October 1981; or
  - (b) where notice of appeal is served by the Common Council of the City of London in respect of a resolution under regulation B17(1).
- (4) No appeal may be made requiring a determination that a person's remuneration in respect of a period ending on or before 31st December 1992 includes the money value to him of the provision of a motor vehicle.
- (5) An appeal under this regulation shall be made by notice in writing which—
- (a) shall be served (whether by being sent by post or otherwise) as soon as is reasonably practicable, and
  - (b) may be served—
    - (i) by any person whose rights or liabilities the question concerns, and
    - (ii) where the relevant employer is not an administering authority, by the administering authority maintaining the pension fund to which the employer pays employer's contributions.

## PART K

### INTERCHANGE ETC

#### *Preliminary*

#### **Interpretation**

**K1.** In this Part, unless the context otherwise requires—

“fund authority” means—

- (a) in the application of regulations K2 to K12 to a person, the body maintaining the pension fund to which he was a contributor immediately before he ceased to be employed in his local government employment or, if that fund has been closed, the body which would be liable to pay him his pension in respect of that employment if he had been entitled to receive payment of such a pension when he ceased to be employed in his local government employment, and
- (b) in the application of regulations K13 to K19 to a person, the body maintaining the pension fund to which he became a contributor after he ceased to be employed in his non-local government employment or, if that fund has been closed—
  - (i) if when the fund was closed he was not employed in local government employment, the body which would be liable to pay him his pension in respect of the local government employment in question if he had been entitled to receive payment of such a pension when he ceased to be employed in that employment; and
  - (ii) otherwise, the body maintaining the pension fund to which he became a contributor when the fund was closed;

“local Act scheme” has—

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(30) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 10.

- (a) in relation to any time before 25th March 1972, the same meaning as in the Act of 1937, and
- (b) in relation to any time on or after that date, the same meaning as in section 8 of the Superannuation Act 1972<sup>(31)</sup>;

“local government employer”, in relation to a person who is, or has been, employed in local government employment, means the body which is, or is treated as being, the employing authority or former employing authority for the purposes of the Acts of 1937 to 1953 or, as the case may be, the local Act scheme or these regulations;

“pension” does not include an allowance, grant or gratuity;

“service” means service or employment with any employer;

“state scheme premium” has the same meaning as in the Pension Schemes Act 1993<sup>(32)</sup>.

### *Transfers out*

#### **Outwards transfers**

**K2.**—(1) Subject to regulation K4, where a person has ceased to be a member by virtue of—

- (a) ceasing to be employed in local government employment, or
- (b) a notification under regulation B12 (leaving the Scheme),

and the conditions in paragraph (2) are satisfied, then the fund authority shall pay a transfer value in respect of him to be used in accordance with section 95 of the Pension Schemes Act 1993 (ways of taking right to cash equivalent) in one or more of the ways set out in subsection (2) of that section, at his option.

(2) The conditions are that—

- (a) he ceased to be a member as described in paragraph (1)—
  - (i) where the transfer value is to be paid to an occupational pension scheme, before his NRD, or
  - (ii) otherwise, at least one year before his NRD;
- (b) he is a person who—
  - (i) has a statutory pension entitlement,
  - (ii) after ceasing to be a member as described in paragraph (1), has taken up non-local government employment in which he participates in an occupational pension scheme, or
  - (iii) after so ceasing, entered into a contract for a personal pension scheme or a self-employed pension arrangement or an appropriate policy;
- (c) he has duly made an application in writing to his fund authority for a transfer value to be paid and has not subsequently withdrawn it; and
- (d) if he ceased to be employed in his local government employment before 31st March 1972, his local government employer has consented to the payment of the transfer value.

(3) For the purposes of paragraph (2)(c) an application is only duly made if—

- (a) in the case of a request for the transfer value to be paid to an occupational pension scheme, it is made before the applicant’s NRD;

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<sup>(31)</sup> 1972 c. 11.

<sup>(32)</sup> 1993 c. 48.

- (b) in any other case, it is made—
  - (i) at least one year before the applicant’s NRD, or
  - (ii) before the expiry of the period of six months beginning with the date on which he ceased to be a member,

whichever is the later; and

- (c) in the case of a person within paragraph (2)(b)(ii) or (iii), it is made within 12 months after the applicant took up the non-local government employment or, as the case may be, entered the contract (or such longer period as the local government employer may in any particular case allow).

(4) A person who has made an application under paragraph (2)(c) may withdraw it by giving notice in writing to his fund authority, but such a notice is of no effect if, before receiving it, the fund authority have entered into an agreement with a third party to use the whole or part of that person’s transfer value in one or more of the ways specified in section 95(2) of the Pension Schemes Act 1993.

(5) A person who withdraws an application may make another.

(6) Where a person is entitled to separate preserved benefits by virtue of regulation D12(1)(c)—

- (a) he may make an application under paragraph (2)(c) in respect of all or any of those separate entitlements, and
- (b) where his application does not relate to all of them, he may make a further application in respect of all or any of the remainder.

### **Time for payment of transfer value under regulation K2**

**K3.**—(1) Where an application is duly made to a fund authority under regulation K2(2)(c) in respect of any person, they shall pay a transfer value not later than—

- (a) twelve months after the date on which they receive the application, or
- (b) if—
  - (i) his NRD is earlier,
  - (ii) he ceased to be a member as described in regulation K2(1) at least one year before his NRD, and
  - (iii) he made his application under regulation K2(2)(c) before the expiry of the period of six months beginning with the date on which he ceased to be a member,

his NRD.

(2) Where—

- (a) proceedings before a court have been commenced against a person at any time before the expiry of the period of twelve months beginning with the date on which he ceased to be a member,
- (b) those proceedings (including any proceedings on appeal) have not been concluded at least three months before the date by which the fund authority are required to pay the transfer value under paragraph (1), and
- (c) it appears to the fund authority at that date that the proceedings may lead to all or any part of the benefits payable under these regulations to or in respect of that person being forfeited under regulation H4,

then the fund authority need not pay a transfer value in relation to that person until the expiry of the period of three months beginning with the date on which those proceedings are concluded.

### Cases where right to transfer value excluded

**K4.**—(1) A transfer value shall not be paid in relation to a person—

- (a) who has received any benefit (other than a return of contributions) under the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme, the 1974 regulation, the 1986 regulations or these regulations in respect of his local government employment,
- (b) who ceased to be employed in local government employment on or after 6th April 1978, having attained state pensionable age, and whose accrued rights for the purposes of regulation K5 relate wholly or partly to service before he attained that age;
- (c) in respect of whom a transfer value has been paid by the fund authority or a predecessor of that authority since he ceased to be employed in his local government employment, or
- (d) who, on becoming employed in approved non-local government employment became entitled to count service in his local government employment in relation to his approved non-local government employment, without any condition as to receipt of a transfer value.

(2) Subject to paragraph (3), in relation to a person who has received a return of contributions in respect of local government employment in which he has ceased to be employed, a transfer value may only be paid in relation to any period in respect of which he is entitled to preserved benefits.

(3) Where a person ceased to be employed on or after 1st April 1974, but before 1st January 1980, paragraph (2) only applies if when he ceased to be so employed he had—

- (a) an aggregate of at least five years' service which has to be taken into account as reckonable service and qualifying service under the 1974 regulations, or
- (b) if he was subject to local Act scheme, an aggregate of at least five years' service which was to be taken into account under the Scheme for the purposes of determining whether he was entitled to benefit.

### Amount of transfer value under regulation K2

**K5.**—(1) The amount of any transfer value payable under regulation K2 shall be calculated in accordance with the following provisions.

(2) Subject to the provisions of this Part, a transfer value to be paid in accordance with the provisions of regulation K2 in respect of a person shall be an amount equal to the capitalised value—

- (a) of the rights which have accrued in respect of him under these regulations at the material date, and
- (b) of any associated rights under the Pensions (Increase) Act 1971<sup>(33)</sup> and the Pensions (Increase) Act 1974<sup>(34)</sup>,

less a sum in respect of any state scheme premium which is payable or has been paid and not recovered in respect of a period of service taken into account in the valuation of those rights.

(3) Subject to regulation K9, where the transfer value is, without reasonable cause or excuse, not paid before the expiry of the period of six months beginning with the material date, the transfer value mentioned in paragraph (2) shall be increased by—

- (a) interest, calculated on a daily basis over the period from the material date to the date on which the transfer value is paid at the rate set out in regulation 4(4)(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1985<sup>(35)</sup>, or

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<sup>(33)</sup> 1971 c. 56.

<sup>(34)</sup> 1974 c. 9.

<sup>(35)</sup> S.I. 1985/1931.

- (b) the amount by which the transfer value falls short of what it would have been if the material date had been the date on which the transfer value was paid;

whichever is the greater.

(4) The reference in paragraph (2)(a) to rights which have accrued at the material date is a reference—

- (a) in the case of such a person as is described in regulation K2(6), to those rights in respect of which his application under regulation K2(2)(c) was made; or
- (b) if the person does not have a statutory pension entitlement by virtue of satisfying paragraph (a) of regulation D3, to the rights which would have accrued under regulation D11, if he had fulfilled one of the requirements mentioned in paragraph (1)(b) of that regulation;

and for the purpose of determining the accrued rights in respect of a widow's or widower's pension of a person who was unmarried on ceasing to be a member—

- (i) in the case of a man, if any part of his membership can be counted by virtue of regulation K14(1)(a) of these Regulations or regulation N8(1)(a) of the 1974 Regulations; and
- (ii) in the case of a woman, if any part of her membership is treated as membership after 5th April 1988 by virtue of regulation K14(1)(a) and (2)(b) of these Regulations, all the person's membership shall be taken into account.

(5) In paragraph (2) “capitalised value” means the capitalised value at the material date as determined by the fund authority, in such manner as may be approved by the Government Actuary or by an actuary authorised by him to act on his behalf for that purpose, having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these regulations.

(6) In this regulation “the material date” means—

- (a) the date on which the person ceased to be employed in local government employment or to be a member as described in regulation K2(1), or
- (b) the date on which his application for payment of a transfer value is received by his fund authority,

whichever is later.

### **Special provision as respects pre-6th April 1988 service**

**K6.**—(1) Subject to regulation K9, where—

- (a) a transfer value is payable to the trustees or managers of an approved non-local government scheme,
- (b) the service to which it relates includes relevant former service, and
- (c) the amount of the transfer value payable in respect of the relevant former service would be greater if it were calculated in accordance with the 1986 regulations as they had effect immediately before 6th April 1988,

then the amount of the transfer value attributable to the relevant former service shall be calculated on the basis mentioned in paragraph (c).

(2) In paragraph (1) “relevant former service” means service which the person was entitled to count as reckonable service before 6th April 1988.

### **Reductions of the transfer value: unsecured GMPs, pre-1988 service and forfeiture**

**K7.**—(1) Where—

- (a) a person requests a transfer value to be paid—

- (i) to an occupational pension scheme which is not contracted-out,
  - (ii) to a personal pension scheme which is not an appropriate personal pension scheme,
  - (iii) to a self-employed pension arrangement, or
  - (iv) in the case of a person who is entitled to benefits under regulation D9(1), to an occupational pension scheme which is contracted-out;
- (b) the trustees or managers of the scheme or arrangement are able and willing to have transferred to it only the liability for a member's accrued rights other than his and his surviving spouse's rights to guaranteed minimum pensions; and
  - (c) he does not require the portion of his transfer value that represents his guaranteed minimum pension to be used in one of the ways specified in section 95(2)(b) and (c) of the Pension Schemes Act 1993<sup>(36)</sup>,

then his transfer value shall be reduced by the amount of a state scheme premium sufficient to meet the liability in respect of those guaranteed minimum pensions.

(2) Where—

- (a) a person has ceased to be a member by virtue of a notification under regulation B12 (leaving the Scheme), and
- (b) his total period of membership before 6th April 1988 amounts to at least two years,

that person shall be entitled to a transfer value under regulation K2(1) in respect only of that part of his accrued rights which is attributable to his membership after 5th April 1988.

(3) Where—

- (a) a transfer value limited in accordance with paragraph (2) has been paid in respect of a person, and
- (b) that person has subsequently ceased to be employed in local government employment—
  - (i) before his NRD, or
  - (ii) where regulation K2(3)(b) applies, at least one year before his NRD,

a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of paragraph (2), he would have been entitled on so ceasing, shall accrue to him on the date of cessation and shall be valued accordingly.

(4) In relation to any person to whom paragraph (3) applies—

- (a) regulation K2(3)(b)(ii) shall have effect as if there were substituted for the words “a member” the words “employed in local government employment”; and
- (b) the definition of “material date” in regulation K5(6) shall have effect as if the words “or to be a member, as described in regulation K2(1)” were omitted.

(5) For the purposes of paragraphs (2) to (4), where a person ceases to be employed in local government employment but enters again into local government employment, then if—

- (a) the interval between those two employments does not exceed one month; or
- (b) the second of the employments results from the exercise of a right to return to work under section 39 or 41 of the Employment Protection (Consolidation) Act 1978<sup>(37)</sup> (right to return to work following pregnancy or confinement),

they shall be treated as a single employment unless the employee elected under regulation D12(1)(c).

(6) Where—

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<sup>(36)</sup> 1993 c. 48.

<sup>(37)</sup> 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

- (a) under regulation H4, any corresponding provision of earlier legislation or a local Act scheme, the employing authority direct that all or any of the benefits payable under these regulations in respect of a person shall be forfeited, and
- (b) the direction is given before the last date on which the fund authority is required to pay a transfer value in respect of those benefits under these regulations and no such payment has been made,

any transfer value payable in respect of that person shall be reduced in proportion to the reduction in the total value of the benefits or, as the case may be, shall be withheld.

### **Minimum transfer values**

**K8.**—(1) Subject to regulation K9, a transfer value paid by a fund authority in respect of a person shall be at least equal to the aggregate of the contributions, transfer values and sums mentioned in paragraph (2), less any state scheme premium paid or payable.

- (2) The contributions, transfer values and sums referred to in paragraph (1) are—
  - (a) any contribution made by that person under Part C (other than contributions under regulation C24),
  - (b) any transfer values paid to the fund authority under this Part in respect of that person, and
  - (c) any sums paid under this Part by way of interfund adjustments in respect of that person to an authority which was his previous fund authority (within the meaning of regulation K20),

in so far as those contributions, transfer values or sums relate to the accrued rights in respect of which the transfer value is paid.

(3) A transfer value paid under this Part shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled under Chapter IV of Part IV of the Pension Schemes Act 1993<sup>(38)</sup> (including any state scheme premium which is paid or payable).

### **Modifications where transfer is to club scheme**

**K9.**—(1) Regulations K5(3), K6, K8(1) does not apply where the transfer value is to be paid to the trustees or managers of a club scheme.

- (2) In this Part “club scheme” means an occupational pension scheme which—
  - (a) provides benefits calculated by reference to the remuneration of the participant;
  - (b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is approved by the Commissioners of Inland Revenue under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988<sup>(39)</sup>;
  - (c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and
  - (d) complies with reciprocal arrangements for the payment and receipt of transfer values with the statutory schemes and schemes made under section 7 of the Superannuation Act 1972<sup>(40)</sup>.

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<sup>(38)</sup> 1993 c. 48.

<sup>(39)</sup> 1988 c. 1.

<sup>(40)</sup> 1972 c. 11.



### **General provisions about payment of transfer values**

**K10.**—(1) The transfer value under regulation K2 shall be paid to the scheme managers by the fund authority out of their pension fund.

(2) The fund authority shall provide the scheme managers and the person to whom the transfer value relates with a written notice showing how it was calculated.

(3) A notice provided under paragraph (2) shall include a statement of the kind required by regulation J4(2)(c).

### **Termination of right to payment out of fund authority's pension fund**

**K11.**—(1) Where a transfer value is to be or has been paid under regulation K2, no other payment or transfer of assets shall be made out of the pension fund on account of the service to which the transfer value relates, except as provided in regulation K12.

(2) Paragraph (1) has effect notwithstanding anything to the contrary in the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme, the 1974 regulations, the 1986 regulations (except regulations J3 and J6) or any other provision of these regulations.

### **Revival of rights for certain Community scheme transferees**

**K12.**—(1) Schedule K1 shall have effect for the purpose of making provision as respects persons—

- (a) in respect of whom transfer values are paid under regulation K2 on their transfer to the Communities' scheme, and
- (b) who subsequently leave the scheme without rights to either an immediate or prospective pension.

(2) In this regulation and that Schedule “Communities scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities.

### *Transfers in*

### **Inward transfers of accrued rights from non-local government schemes etc.**

**K13.**—(1) Where a person who becomes a member has accrued rights to benefit under—

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract approved by the Commissioners of Inland Revenue under section 620 or 621 of the Income and Corporation Taxes Act 1988, or
- (d) a self-employed pension arrangement,

he may within 12 months of becoming a member (or such longer period as the local government employer may allow) give written notice to his fund authority that he wishes them to accept a transfer value in respect of some or all of those accrued rights from the relevant transferor.

(2) In paragraph (1) the reference to accrued rights to benefit—

- (a) includes rights to preserve benefits and rights appropriately under section 19 of the Pension Schemes Act 1993~~(41)~~, but

- (b) excludes rights to benefits arising out of—
  - (i) an additional voluntary contributions provision or an additional voluntary contributions scheme (except where the payments securing such rights began before 8th April 1987), or
  - (ii) service as respects which there is an obligation to pay a sum by way of interfund adjustment under regulation K20).
- (3) In paragraph (1) “the relevant transferor”, in relation to a member, means—
  - (a) the trustees or managers of the scheme, contract or arrangement under which his accrued rights arise, or
  - (b) in the case of such rights as mentioned in paragraph (2)(a), the trustees or managers of the scheme, contract or arrangement, or the insurance company, to which a payment in respect of his accrued rights has been made.
- (4) Subject to paragraphs (5) and (6), where notice is given in accordance with paragraph (1), the transfer value shall be accepted by the fund authority and be credited to their pension fund, together with the amount of any limited revaluation premium under section 55(4) of the Pension Schemes Act 1993 repaid to the fund authority by the Secretary of State.
- (5) Paragraph (4) only applies if—
  - (a) the transfer value is offered on conditions which are consistent with the provisions of these regulations;
  - (b) in the case of a person who—
    - (i) became employed in his local government employment before 1st January 1980, or
    - (ii) ceased to be employed in his non-local government employment before 31st March 1972,
 his local government employer has consented to the transfer value being accepted; and
  - (c) in the case of a person who became employed in his local government employment before 31st March 1972, he was employed in local government employment on that date.
- (6) Subject to regulation K16, the fund authority only need to accept a transfer value if it exceeds the annual amount of the guaranteed minimum pension to which the person would have become entitled under these regulations at the request date as a result of the transfer value being accepted, multiplied by the appropriate factor.
- (7) In paragraph (6)—
  - “the request date” means the date when the fund authority are requested to accept the transfer value; and
  - “the appropriate factor”, in relation to a person, means—
    - (a) in the case of a person under 30 on the request date, 8;
    - (b) in the case of a person at least 30 but under 40 on that date, 9;
    - (c) in the case of a person at least 40 but under 50 on that date, 10; and
    - (d) otherwise, 12.

### **Right to count service**

**K14.**—(1) Where a transfer value has been accepted under regulation K13 in relation to a person, he shall be entitled—

- (a) subject to regulation K17(4), and (6), to count a period calculated as mentioned in regulation K15 or, as the case may be, regulation K16 as period of membership for all

purposes of these regulations (except that of determining whether there is any entitlement to benefit (other than any benefit under regulation D19)), and

- (b) to count as a period to which Part II of Schedule B6 applies all the service in respect of which he has accrued rights to benefits under his previous occupational pension scheme or appropriate policy, as certified by the trustees of that scheme or issuers of that policy, whether the transfer value relates to some or all of those accrued rights.
- (2) For the purposes of making any collocation under these regulations a period of membership which may be counted under paragraph (1)(a) shall be treated—
- (a) where the person is a man, as a period after 5th April 1978, and
  - (b) where the person is a woman, as a period after 5th April 1988.
- (3) A period which may be counted under paragraph (1)(b) shall count as its actual length.
- (4) The fund authority shall provide the person with a written notice stating—
- (a) the periods of membership which he is entitled to count under paragraph (1)(a) and (b), and
  - (b) in the case of a person who became employed in his local government employment before 1st April 1980, whether or not his retirement pension is subject to reduction under regulation K18 or K19.
- (5) A notice under paragraph (4) shall contain a statement of the kind required by regulation J4(2)(c).

#### **Calculation of period of membership allowed under regulation K14(1)(a): non club schemes**

**K15.**—(1) Subject to regulation K16—

- (a) the period mentioned in regulation K14(1)(a) shall be calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to occupational pension schemes (other than club schemes) under regulations K5, K7, K8 and K21; and
  - (b) due allowance shall be given for the expected increase in the pensionable remuneration of a local government employee between—
    - (i) the appropriate date, and
    - (ii) the NRD of the person in respect of whom the transfer value was paid.
- (2) In paragraph (1)(b)(i) “the appropriate date” means—
- (a) the date on which the person in respect of whom the transfer value is paid became a member, or
  - (b) if more than twelve months later, the date on which the transfer value is received.

#### **Special provision where transfer is from a club scheme**

**K16.**—(1) Regulation K13(6) does not apply where the transfer value is offered by the trustees or managers of a club scheme.

(2) Where the transfer value—

- (a) is paid by the trustees or managers of a club scheme,
- (b) represents all the rights relating to the person in that scheme,
- (c) has been calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to club schemes, and

(d) is paid following an application made to the fund authority before the expiry of the period of twelve months beginning with the date on which the person becomes a member, regulation K15 does not apply and the period mentioned in regulation K14(1)(a) shall be equal to the period which, if used to calculate a transfer value to be paid to a club scheme, would produce an amount equal to the transfer value received by the fund authority.

(3) In making the calculation referred to in paragraph (2), regard shall be had—

- (a) to the person's age,
- (b) to the rate of remuneration used by the trustees or managers of the scheme making the payment in determining its amount,
- (c) to his normal retirement age,
- (d) to his marital status, and
- (e) to any other factor notified to the fund authority by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount.

### **Increase in return of contributions**

**K17.—**(1) Where—

- (a) a person to whom regulation K14 applies ceases to be employed in employment in which he is a member in circumstances in which a return of contributions is payable to him under regulation C21(1),
- (b) if a transfer value had not been payable, he would have been entitled on the termination of his non-local government employment to a return of contribution under his non-local government scheme in respect of service to which the transfer value accepted under regulation K13 relates, and
- (c) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C21(1) shall be increased by an amount equal to the return of contributions (including any interest), which would have been paid to him under his non-local government scheme in respect of that service in the circumstances specified in sub-paragraph (b), if it had been paid when the transfer value was received by his fund authority.

(2) Where compound interest is payable on the contributions due to be so returned, compounded interest calculated at the same rate and in the same manner shall also be payable on the amount of the increase under paragraph (1) for the period beginning with the date on which the transfer value was received by the fund authority and ending with the date on which he ceased to be employed in the employment in which he was a member.

(3) Nothing in paragraphs (1) and (2) confers any entitlement to an increase on account of contributions which were returned to, and were not subsequently repaid by, the person who paid them.

(4) Where—

- (a) a sum due under regulation C21(1) is increased under paragraph (1) by an amount equal to the whole of the person's contributions in connection with the service to which the transfer value relates, and
- (b) that is the only service to which the transfer value relates,

his right to count a period of membership under regulation K14(1)(a) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where—

- (a) a sum due under regulation C21(1) is increased under paragraph (1), and

(b) paragraph (4) does not apply,  
then, when the increased payment is made, the period of membership the person is entitled to count under regulation K14(1)(a) on account of the transfer value is reduced to the appropriate fraction of the period of membership which he was entitled so to count before the payment was made.

- (6) In paragraph (5) “the appropriate fraction” means the fraction of which—
- (a) the numerator is the period he is entitled to count under regulation K14(1)(b) (“the K14(1)(b) period”) reduced by the period of service on account of which the increase under paragraph (1) is made, and
  - (b) the denominator is the K14(1)(b) period.
- (7) For the purpose of calculating the reduction under paragraph (5)—
- (a) the period of service mentioned in paragraph (6)(a) shall count at its actual length; and
  - (b) all periods are to be expressed in years and fractions of a year.

#### **National insurance modification for flat-rate retirement pension**

**K18.**—(1) Where—

- (a) a person to whom regulation K14 applies became employed in his local government employment before 1st April 1980;
- (b) on becoming so employed he did not enjoy unmodified status for the purposes of Part F of the 1974 regulations; and
- (c) his retirement pension is calculated by reference to a period of membership which includes the period which he is entitled to count under regulation K14(1)(a),

then his retirement pension shall be reduced in accordance with paragraph (2).

(2) Regulation F7 of the 1974 regulations shall be taken to have applied in relation to the period which he is entitled to reckon under regulation K14(1)(a) as if—

- (a) during that period he had been a person within Case B of Part F of the 1974 regulations;
- (b) that period were service after 31st August 1947; and
- (c) he had been a person who was not immediately before the appointed day entitled to the optant’s rate for the purposes of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(42).

#### **National insurance modification for graduated retirement pension**

**K19.**—(1) Where—

- (a) a person to whom regulation K14 applies became employed in his local government employment before 1st April 1980,
- (b) his non-local government scheme was a statutory scheme,
- (c) in calculating the amount of the transfer value accepted under regulation K13 a deduction was made in connection with graduated retirement benefit under section 36 of the National Insurance Act 1965(43), and
- (d) his retirement pension is calculated by reference to a period of membership which includes the period which he is entitled to count under regulation K14(1)(a),

then his pension shall be reduced by the amount specified in paragraph (2).

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(42) S.I. 1969/793.

(43) 1965 c. 51; section 36 was repealed with savings by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

(2) The amount mentioned in paragraph (1) is the reduction in connection with graduated retirement benefit under section 36 of the National Insurance Act 1965 which would have been made to the person's pension under his non-local government scheme in relation to the service to which the transfer value relates if on ceasing to be employed in his non-local government employment he had—

- (a) reached state pensionable age, and
  - (b) become entitled to the immediate payment of a pension under that scheme instead of the payment of a transfer value.
- (3) The reduction under this regulation—
- (a) shall take effect on—
    - (i) the date on which the person's pension becomes payable, or
    - (ii) if later, the date on which he reaches state pensionable age, and
  - (b) shall be additional to any reduction required by regulation K18.

(4) The reduction under this regulation shall be treated for the purposes of regulations K5, K7, K8 and K21 as a reduction made in connection with graduated retirement benefit under section 36 of the National Insurance Act 1965.

*Interfund adjustments on changes of local government employment*

**Change of local government employment and fund authority: “interfund adjustments”**

**K20.**—(1) Subject to regulation K22, this regulation applies where—

- (a) a person who has ceased to be employed in a local government employment (“the previous employment”) subsequently becomes employed in another local government employment (“the new employment”),
- (b) the body maintaining the pension fund to which he became a contributor in the new employment (“the new fund authority”) is different from the body maintaining the pension fund to which he was a contributor immediately before he ceased to be employed in his previous employment (“the previous fund authority”),
- (c) he is a member of the Scheme in his new employment and is entitled to count in relation to that employment any period of membership which he was entitled to count in his previous employment.

(2) Where this regulation applies the previous fund authority shall, subject to the following provisions of these regulations, pay out of their pension fund to the new fund authority for the credit of their pension fund a sum (“the interfund adjustment”) of an amount calculated in accordance with regulation K21.

(3) Where the pension fund referred to in paragraph (1)(b) has been closed, references in this regulation and in regulations K21 and K22 to the body maintaining that fund shall be taken—

- (a) in the case of the previous fund authority, as references to the body which would be liable to pay the person's pension in respect of the previous employment if it had been payable when the employment ceased; and
- (b) in the case of the new fund authority—
  - (i) if when the fund was closed the person was not employed in local government employment, as references to the body which would be liable to pay his pension in respect of the new employment if he had been payable when the employment ceased; and

- (ii) otherwise, as references to the body maintaining the pension fund to which he became a contributor when the fund was closed.

### **Calculation of interfund adjustment payable under regulation K20**

- K21.**—(1) The interfund adjustment payable under regulation K20(2) in respect of a person—
- (a) if the total period of membership he is entitled to count in his new local government employment which he was also entitled to count in his previous local government employment exceeds 182 days, is to be calculated in accordance with paragraph (2); and
  - (b) otherwise—
    - (i) if the person became employed in his new local government employment on or after 1st October 1981, is zero; and
    - (ii) in any other case, is twice the amount of the employer’s primary contributions in relation to the period of membership.
- (2) The amount of the interfund adjustment referred to in paragraph (1)(a) is the product of—
- (a) the appropriate amount for a person of his age in years when he ceased to be employed in his previous local government employment,
  - (b) the annual rate of his remuneration in that employment at that time, and
  - (c) the length of the total period of membership in complete years (ignoring any residual period of 182 days or less and taking any residual period which exceeds 182 days as a complete year),

less the amount of any additional contributory payments remaining outstanding at that time.

- (3) The appropriate amount mentioned in paragraph (2)(a) is—
- (a) if his age was under 30, 11 pence;
  - (b) if his age was at least 30 but under 40, 12 pence;
  - (c) if his age was at least 40 but under 50, 13 pence; and
  - (d) otherwise, 14 pence.

(4) In ascertaining for the purposes of this regulation the length of the period of membership which a person is or was entitled to count, the period of membership is to be counted at the length at which it would be counted in calculating the amount of a retirement pension under regulation D5 except that—

- (a) any period which was reckonable as reckonable service under section 17 of the Act of 1937 (which related to teachers) is to be ignored,
- (b) it is to be assumed that he had completed the payment of any additional contributory payments, and
- (c) if some additional contributions under regulation D10 of the 1974 regulations (or any earlier corresponding provision), regulation C6 of the 1986 regulations or regulation C9 of these regulations, have been paid, but not all those for which he was originally liable, the appropriate proportion (within the meaning of regulation C19(8)) may be counted.

(5) Subject to paragraph (6), in ascertaining for the purposes of this regulation the annual rate of a person’s remuneration at the date on which he ceased to be employed in his previous local government employment (“the relevant date”)—

- (a) the annual rate of any fluctuating element is to be estimated by reference to an average taken over a representative period,
- (b) the annual rate of any benefit in kind is to be its estimated annual value at the relevant date,

- (c) suspension or reduction of his remuneration because of absence from duty is to be disregarded,
  - (d) regard is to be had to any retrospective alteration of the annual rate resulting from a pay award promulgated by a national joint council or other negotiating body on or before the relevant date,
  - (e) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the relevant date,
  - (f) if his previous employment was part-time, the annual rate of remuneration of a single comparable whole-time employment is to be used, and
  - (g) if the annual rate of his remuneration exceeds £100, it is to be rounded down to the nearest £100.
- (6) If—
- (a) during the 13 years ending on the relevant date his remuneration was reduced,
  - (b) his employing authority certified under paragraph 4 of Schedule DI that the reduction was material, and
  - (c) his annual rate of remuneration immediately before the reduction (ascertained on similar principles to those in paragraph (5)) was greater than the annual rate of remuneration on the relevant date,

it is to be assumed for the purposes of this regulation that he was earning at the higher rate at that date.

- (7) Where the person—
- (a) has made a payment to his new fund authority under regulation D1(2) of the 1974 regulations, or
  - (b) has made them a payment which by virtue of regulation K28(4) of or paragraph 8 of Schedule M2 to these Regulations (modification in certain cases where person returns to local government employment) has the same effect,

the interfund adjustment payable under regulation K20 is to be reduced by an amount equal to that payment.

(8) If the period beginning with the relevant date and ending on the date of payment of the interfund adjustment is or exceeds 6 months, compound interest is payable on the amount of that adjustment (after any reduction falling to be made under paragraph (7))—

- (a) at the rate of 6 per cent. with yearly rests for each complete period of a year ending before 1st April 1977, and
- (b) at the rate of 2.25 per cent. with three-monthly rests for each complete period of 3 months beginning after 31st March 1977.

### **Forfeitures**

**K22.**—(1) Regulation K20 does not apply if a direction has been made at any time under regulation H4 (forfeiture of rights) or any corresponding provision of any earlier enactment in relation to the member's membership in his previous employment.

- (2) Where—
- (a) apart from paragraph (1), regulation K20 would apply, and
  - (b) a right to benefit under these regulations is retained,

the previous fund authority shall pay out of their pension fund an interfund adjustment to the new fund authority for the credit of their pension fund of an amount equal to the actuarial value of the remaining benefits.



(3) In this regulation “previous fund authority”, “new fund authority” and “previous employment” have the meaning given in regulation K20.

*Transfers of certain members who are eligible to join approved non-local government schemes*

**Certain members who become subject to other pension schemes in the same employment**

**K23.**—(1) This regulation applies to a person if—

- (a) he is a member by virtue of being an employee to whom an admission agreement applies or in an employment under a passenger transport executive;
- (b) the body employing him in that employment (“the relevant employment”) can make other provision for his superannuation under an approved non-local government scheme;
- (c) he gives written notice to that body (and to the appropriate administering authority, if different) that he wishes this regulation to apply to him and they consent to its doing so.

(2) When a person to whom this regulation applies becomes subject in the relevant employment to an approved non-local government scheme (“the new scheme”), he shall be treated for the purposes of these regulations (except regulations C21 (return of contributions) and K2 to K12) as having ceased to hold the relevant employment.

(3) Unless a person to whom this regulation applies has given notice under regulation K24(3)(b), he may, on the actual termination of the relevant employment (but not before), request the payment of a transfer value under regulation K2.

(4) If a transfer value is requested as mentioned in paragraph (3)—

- (a) regulations K2 to K12 apply as if the person had continued to be employed in his local government employment until the date of the actual termination of the relevant employment, but
- (b) regulations K5, K7, K8 and K21 apply as if his local government employment had ended on the day before he became subject to the new scheme.

**Requests for transfer payments: regulation K23 employees and employees of ineligible employers**

**K24.**—(1) This paragraph applies—

- (a) to a person who ceases to be a member because—
  - (i) the undertaking in which he is employed is transferred to a body who is not a LGPS employer nor a body which has entered or is eligible to enter into an admission agreement; or
  - (ii) the body by whom he is employed ceases to be a LGPS employer or a body which has entered or is eligible to enter into an admission agreement,

and in respect of whom the body employing him after the transfer date can make other provision under an approved non-local government scheme; and

- (b) to a person to whom regulation K23 applies; and in this regulation “the transfer date” means—

- (i) in the case of a person within paragraph (a)(i), the date of transfer of the undertaking,
- (ii) in the case of a person within paragraph (a)(ii), the date his employer ceases to be such an employer as there mentioned, and
- (iii) in the case of a person within paragraph (b), the date on which he becomes subject to an approved non-local government scheme.

(2) A person within paragraph (1)(a) shall be treated for the purposes of these regulations as having ceased to hold his employment on the transfer date.

(3) Where—

- (a) a person to whom paragraph (1) applies has not attained state pensionable age on the transfer date; and
- (b) before that date or, with the consent of his employing authority, the appropriate administering authority and the scheme managers of the transferee scheme, before the expiry of the period of three months beginning with that date—
  - (i) he gives written notice to the appropriate administering authority (and to his employing authority, if different) that he wishes to transfer his pension rights under these regulations to the transferee scheme, and
  - (ii) the scheme managers of the transferee scheme, the appropriate administering authority (and his employing authority, if different) have each consented,

then, subject to paragraph (6), the appropriate administering authority shall set aside the appropriate part of the appropriate pension fund (“the transfer payment”), whether in cash or in assets or both, and pay or transfer it to the scheme managers of the transferee scheme for the benefit of the relevant beneficiaries.

(4) For the purposes of paragraph (3), the appropriate part of the appropriate pension fund is the amount determined by the actuary of the appropriate pension fund (on the basis of actuarial assumptions specified by him) to be equal to the value at the transfer date of the actual and potential liabilities of the fund which have then accrued in respect of the relevant beneficiaries, after making such adjustments as he thinks fit as respects—

- (a) any period between the transfer date and the date of actual payment of the transfer value; and
- (b) such other matters as he thinks fit;

and in paragraph (3) and this paragraph “relevant beneficiaries” means the member or members in respect of whom the transfer payment is made and those persons who under these regulations are or may become entitled to benefit through him or them.

(5) The employing authority shall bear the costs of determining the appropriate part of the fund and apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of the costs as the actuary of the fund determines.

(6) Where a transfer payment in respect of a person is made under paragraph (3)—

- (a) if the transferee scheme is contracted-out and the scheme managers undertake to accept liability for that person’s guaranteed minimum pension, no deduction shall be made for that pension from the transfer payment;
- (b) otherwise, there shall be deducted from it—
  - (i) the amount of any transfer premium which may be paid under section 55(3) of the Pension Schemes Act 1993(44), or
  - (ii) the amount of any contributions equivalent premium payable pursuant to section 55(2) of that Act,

and such amount shall be used either in paying such a premium or, if the appropriate administering authority think fit, in preserving the liability for the guaranteed minimum in the appropriate pension fund; and

- (c) the appropriate administering authority—

- (i) shall certify to the scheme managers of the transferee scheme the amount included in the transfer payment which represents the person's contributions and interest on them, and
  - (ii) may require them to undertake to treat only those amounts as employee's contributions in the transferee scheme.
- (7) The appropriate administering authority—
- (a) shall provide the person transferring his pension rights with sufficient information in writing to check that the pension rights he will acquire under the new scheme are at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers of the transferee scheme under regulation K2; and
  - (b) shall not consent under paragraph (3)(b)(ii) unless they are satisfied of that fact.
- (8) Where a transfer payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made out of the pension fund on account of service or employment to which the transfer payment under this regulation relates.
- (9) Paragraph (8) applies notwithstanding anything in the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme or any provision of the 1974 regulations, the 1986 regulations or these regulations.
- (10) In this regulation “undertaking” has the same meaning as in the Transfer of Undertakings (Protection of Employment) Regulations 1981(45).

#### **Application of regulation K24 in case of certain transfers involving admission agreements**

##### **K25.—(1) Where—**

- (a) an admission agreement (“the first agreement”) made by a body with an appropriate administering authority ceases to have effect; and
- (b) on the cessation of the first agreement another admission agreement (“the second agreement”) between that body and a different appropriate administering authority (“the second authority”) takes effect,

then regulation K24 applies (and regulations K20 to K22 do not apply) as if—

- (i) a person employed by that body when the second agreement took effect were a person within paragraph (1)(a) of that regulation,
- (ii) the pension fund maintained by the second authority were the transferee scheme,
- (iii) the second authority were the scheme managers, and
- (iv) the date the second agreement takes effect were the transfer date.

##### **(2) Where—**

- (a) an undertaking (as defined in regulation K24(10)) is transferred from an employing authority (“the first employer”) to a body which enters into an admission agreement with an appropriate administering authority (“the new authority”) in respect of one or more persons who were members in relation to their employment with the first employer and remain members in relation to their employment with the new authority; and
- (b) the new authority is different from the appropriate administering authority maintaining the fund which was their appropriate pension fund immediately before the transfer, and

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(45) S.I. 1981/1794; regulation 2(1) was partially repealed by the Trade Union Reform and Employment Rights Act 1993 (c. 19), sections 33(1), (2), 51, Schedule 10.

- (c) each of those members is entitled to count in relation to his employment with the new authority any membership he was entitled to count in his employment with the first employer,

then regulation K24 applies (and regulations K20 to K22 do not apply) as if—

- (i) such a member were a person within paragraph (1)(a) of that regulation,
- (ii) the pension fund maintained by the new authority were the transferee scheme,
- (iii) the new authority were the scheme managers, and
- (iv) the date the agreement takes effect were the transfer date.

#### *Payments for combined benefits*

#### **Liability for combined benefits**

**K26.**—(1) Where—

- (a) a benefit under Part II or paragraph 19(2) of Schedule D5 (“the combined benefit”) becomes payable out of a pension fund (“the new fund”), and
- (b) a benefit (“the replaced benefit”) would otherwise have become or remained payable out of another fund,

the authority maintaining the new fund (“the new authority”) shall as soon as is reasonably practicable notify the authority maintaining the other fund (“the previous authority”) that the combined benefit has become payable.

(2) On being notified under paragraph (1), the previous authority shall, as from the date from which the combined benefit became payable and, in the case of a benefit which is a pension, so long as it remains payable, make payments to the new authority at an annual rate equal to that of the replaced benefit (including any increases which have become payable in that benefit).

(3) The payments to be made under paragraph (2)—

- (a) in so far as they are made in respect of a benefit which is a pension, shall be made on 31st March, 30th June, 30th September and 31st December (unless longer intervals are agreed by the two authorities); and
- (b) in so far as they are made in respect of a benefit which is a lump sum, shall be made on the first of those dates to follow the date on which the combined benefit first becomes payable (unless the two authorities agree otherwise).

(4) Where a previous authority are liable to make payments to a new authority under paragraph (2), that liability may be discharged—

- (a) in a case where no previous payments have been made in respect of the liability in question, by the payment of a capital sum of an amount equal to the amount of the transfer value that would have been payable by the previous authority if, on the date on which the election under paragraph 19(1) of Schedule D5 or, in the case of a benefit under paragraph 19(2) of that Schedule, the date of his death, the member had duly applied under regulation K2(2) (c) for a transfer value to be paid to an appropriate personal pension scheme (assuming he had been eligible to do so); and
- (b) in a case where previous payments have been made in respect of the liability in question, by the payment of a capital sum of an amount equal to the capitalised value at the date of that payment of the outstanding payments which would otherwise be due in respect of that liability;

and the capitalised value referred to in paragraph (b) shall be determined in such manner as may be approved by the Government Actuary, having regard to such factors as he considers appropriate, (and he may issue such Tables as he considers appropriate for the purposes of such determinations).

(5) Where after the combined benefit became payable the previous authority have made any payment in respect of the replaced benefit to a person appearing to them to be entitled to it, the amount of that payment shall be deducted—

- (a) by the new authority from the combined benefit, and
- (b) by the previous authority from the amount to be paid by them under paragraph (2).

(6) If all or part of any sum due under this regulation remains unpaid at the end of the period of one month after the later of—

- (a) the date on which it becomes due, and
- (b) the date of receipt of notification under paragraph (1),

the new authority may require the previous authority to pay interest, calculated at one per cent. above base rate on a day to day basis from the due date of payment to the date of actual payment, and compounded with three-monthly rests, on the amount remaining unpaid.

(7) Payments under paragraphs (2) and (4) and interest paid under paragraph (6) shall be carried and credited to the new fund.

#### *Transfers to and from Scottish local government employment*

### **Transfers to and from Scotland**

**K27.**—(1) Where a person becomes employed in a local government employment after having ceased, at any time after 30th March 1972, to hold a relevant Scottish employment, these regulations or, as the case may be, the 1974 regulations or the 1986 regulations shall be deemed to have become applicable to the person on the cessation of his relevant Scottish employment as if that employment had been local government employment (but as if the appointed day for the purpose of the 1974 regulations had been 16th May 1974).

(2) In paragraph (1) “relevant Scottish employment” means—

- (a) in relation to any time before 16th May 1974, employment by virtue of which the person was, or was deemed to be, a contributory employee within the meaning of the Local Government Superannuation (Scotland) Act 1937<sup>(46)</sup> or a local Act contributor within the meaning of that Act, and
- (b) in relation to any time after 15th May 1974, employment by virtue of which the person was, or was deemed to be, a pensionable employee within the meaning of the Local Government Superannuation (Scotland) Regulations 1987<sup>(47)</sup>.

(3) The reference in paragraph 1(1) of Schedule D5 (reduction of retirement pension on re-employment) to employment with a LGPS employer is to be construed as including a reference to employment with any scheduled body (as defined in those regulations).

(4) In the case of a person who, after ceasing to be employed in a local government employment, has become employed in a local government employment (as so defined), regulations K20 to K22 and K26(4) apply as if the latter employment had been a local government employment.

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<sup>(46)</sup> 1937 c. 69.

<sup>(47)</sup> S.I. 1987/1850 (S. 128).

### *Overseas employment*

#### **Overseas employment**

**K28.**—(1) Where any person to whom regulation 3 of the Local Government Superannuation (Overseas Employment) Regulations 1985(48) applies has not made an election under paragraph (3) of that regulation, these regulations apply to him with the following modifications.

(2) Regulation D12 (further provisions about preserved benefits) applies as if—

(a) after paragraph (1)(d) there were inserted the words

“or

(e) if the total period of his membership is less than 5 years.”; and

(b) in paragraph (2) after paragraph (b) there were inserted the words—

“but no such election may be made where paragraph (1)(e) applies”.

(3) Schedule B6 applies as if—

(a) in paragraph 5 after paragraph (e) there were inserted—

“(ee) regulation D12(1)(e) (cessation of right to preserved benefits: overseas service cases)”;

and

(b) after paragraph 10 there were inserted—

#### *“Overseas service*

**10A.** Any period which, if Part II of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1969(49) had applied to him, would have been a period of overseas employment (within the meaning of those rules) counts as a period to which this Part of this Schedule applies.”.

(4) Preserved benefits (including any increases under the Pensions (Increase) Act 1971(50) and the Pensions (Increase Act) 1974(51) are subject to reduction, but on a return to local government employment previous service becomes reckonable on repayment of a sum equal to the amount of returned contributions, as if regulations D1(2) (with the substitution for “the appointed day” of “6th January 1986”), D1(3) and K1(7) of the 1974 regulations had continued to have effect.

## PART L

### PENSION FUNDS AND PAYMENTS BY AUTHORITIES

#### *The pension funds*

#### **Continuation of existing superannuation funds**

**L1.** The superannuation funds maintained immediately before the commencement date under or for the purposes of the 1986 regulations shall, subject to the provisions of these regulations, continue to be maintained for the purposes of these regulations by the bodies then responsible for maintaining them (and those funds are referred to in these regulations as “pension funds”).

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(48) S.I. 1985/1922.

(49) S.I. 1969/975; rules amended by the Local Government Superannuation (Overseas Employment) Regulations 1985 (S.I. 1985/192) in relation to certain employees.

(50) 1971 c. 56.

(51) 1974 c. 9.

### **Transfer of existing pension funds**

**L2.** Where any superannuation fund to which regulation L1 applies is vested in any body by virtue of an order made under the Local Government Act 1992(52), it shall be maintained by that body for the purposes of these regulations.

### **Further funds for members covered by admission agreements**

**L3.—**(1) An administering authority who are a party to any admission agreement may establish a further pension fund (a “further fund”), to be maintained by them in addition to the fund they maintain under regulation L1 (“the main fund”).

(2) An authority who establish a further fund shall immediately give the Secretary of State notice in writing that they have done so, specifying the bodies of a description specified in Schedule B4 whose employees are to participate in the benefits of the further fund.

(3) If an authority establish a further fund they shall cease to hold as part of the main fund assets of a value to be specified by an actuary, which shall then become part of the further fund.

(4) When, following the establishment of a further fund, the authority who have established the further fund first obtain under regulation L10 valuations of both the main fund and the further fund, they shall also obtain from the actuary a statement specifying the value to which any further assets should in his opinion cease to be held by them as part of the main fund and become part of the further fund.

(5) As soon as is reasonably practicable after the authority obtain the statement mentioned in paragraph (4), they shall cease to hold as part of the main fund assets to the value specified in the statement, which shall then become part of the further fund.

(6) On the establishment of the further fund all rights to payment out of the main fund in respect of service in employment under a body identified in the notice under paragraph (2) shall become rights to payment out of the further fund.

### *Management and investment of funds*

### **Management of pension fund**

**L4.** Subject to paragraph (2), every administering authority shall in each year carry and credit to their pension fund—

- (a) the amounts contributed during the year by members entitled to participate in the benefits of the fund,
  - (b) the amounts payable by employing authorities under regulation L12,
  - (c) all dividends and interest arising during the year out of the investment or use of money forming part of the fund, and any capital money resulting from the realisation of investments or from the repayment of money used temporarily for other authorised purposes,
  - (d) the amount of any additional payments received by the administering authority under these regulations, and
  - (e) any other sum which the administering authority may become liable to carry to the fund under these regulations.
- (2) Interest paid under this Part shall be carried and credited—

- (a) if paid under paragraph (3) of regulation L15, to the relevant fund within the meaning of that regulation,
  - (b) otherwise, to the appropriate pension fund.
- (3) An administering authority may pay out of money forming part of their pension fund any costs, charges and expenses incurred by them in administering the fund—
- (a) including those incurred—
    - (i) in discharging their functions under regulations L5 to L8, or
    - (ii) in connection with a scheme to which contributions are payable under Schedule C4, but
  - (b) excluding those incurred in connection with a retirement benefits scheme approved by the Commissioners of Inland Revenue under section 591(1) and (2)(h) of the Income and Corporation Taxes Act 1988<sup>(53)</sup>.

### **Use and investment of pension fund's money**

**L5.**—(1) Any money forming part of the pension fund maintained by an administering authority (“fund money”) that is not for the time being required to meet payments to be made out of the fund under these regulations shall be invested by the authority.

(2) An administering authority may vary the manner in which any fund money is for the time being invested by them under this regulation.

(3) In the discharge of their functions under this regulation an administering authority shall have regard—

- (a) to the need for diversification of investments of fund money,
- (b) to the suitability of investments of any description of investment which they propose to make and of any investment proposed as an investment of that description, and
- (c) to proper advice, obtained at reasonable intervals.

(4) Paragraph (3)(c) does not apply where functions under this regulation are lawfully discharged, under arrangements made under section 101 of the Local Government Act 1972<sup>(54)</sup> or otherwise, by an officer who is competent to give proper advice.

(5) For the purposes of this regulation and of regulations L4(1)(c) and L6, investment includes—

- (a) any contract entered into in the course of dealing in financial futures and traded options,
- (b) appropriation by the administering authority for use as a loan for any purpose for which they have a statutory borrowing power (including power to borrow under an instrument made under a statute),
- (c) any contract the effecting of which constitutes the carrying out of insurance business within class VII in Schedule 1 to the Insurance Companies Act 1982<sup>(55)</sup> with a person—
  - (i) who is permitted under that Act to carry on such business, or
  - (ii) who, as an insurance company the head office of which is in a member State, is permitted under the law of a member State (other than the United Kingdom) to carry on insurance business of a corresponding class,

- (d) a permitted stocklending arrangement, and
- (e) entering as a limited partner into a partnership.

(6) For the purposes of this regulation—

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<sup>(53)</sup> 1988 c. 1.

<sup>(54)</sup> 1972 c. 70.

<sup>(55)</sup> 1982 c. 50.



“limited partner” means a person who is not liable for the debts or obligations of a partnership beyond the amount contributed at the time of entering into that partnership;

“partnership” means a partnership whose purpose is to invest in shares in or securities of companies which at the date of purchase by the partnership are normally not quoted on a recognised stock exchange;

“proper advice” means the advice of a person who is reasonably believed by the administering authority to be qualified by his ability in and practical experience of financial matters (including where appropriate an officer of theirs);

“recognised stock exchange” has the meaning given in section 841(1) of the Income and Corporation Taxes Act 1988;

“stocklending arrangement” means an arrangement such as is mentioned in section 129(1) or (2) of the Income and Corporation Taxes Act 1988 and such an arrangement is a permitted arrangement if it complies with the provisions of regulation 5.58 and 5.60 of Section L of the Financial Services (Regulated Schemes) Regulations 1991, taking—

- (a) the reference in paragraph 1c(iii) of regulation 5.58 to Guidance of the Board as a reference to Guidance Release 4/91 issued by the Securities and Investments Board in June 1991, and
- (b) any reference to the trustee as a reference to the administering authority;

“traded option” means an option which is for the time being quoted on a recognised stock exchange or on the London International Financial Futures Exchange.

### **Restrictions on investments**

**L6.** Subject to the following provisions of this regulation, an administering authority may not—

- (a) make any investment in unlisted securities of companies so as to cause the total value of such investments to exceed the permitted percentage,
- (b) make any investment so as to result—
  - (i) in more than the permitted percentage being represented by a single holding, or
  - (ii) in more than the permitted percentage being represented by investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body,
- (c) make any deposit with a relevant body (within the meaning of paragraph (4)) so as to cause the aggregate amount of fund money deposited with any one bank, institution or person (other than the National Savings Bank) to exceed the permitted percentage,
- (d) lend, use as mentioned in regulation L5(5)(b), or deposit with a person specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987<sup>(56)</sup>, any or any additional fund money so as to cause the aggregate amount of all fund money so lent, used or deposited to exceed the permitted percentage,
- (e) make any contract falling within regulation L5(5)(c) under which the total amount so contracted exceeds the permitted percentage,
- (f) enter into a stocklending arrangement so as to cause the total value of the securities transferred, or agreed to be transferred, by the authority pursuant to stocklending arrangements to exceed the permitted percentage, or
- (g) contribute to a partnership so as to cause the total value of contributions by the authority—
  - (i) to that partnership, or

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(56) 1987 c. 22.

(ii) to such partnerships in general,  
to exceed the permitted percentage.

(2) For the purposes of this regulation “the permitted percentage” in relation to any time means—

- (a) in the case of paragraphs (1)(a), (b)(i), (c) and (d), 10 per cent.,
- (b) in the case of paragraphs (1)(b)(ii), (e) and (f), 25 per cent.,
- (c) in the case of paragraph (1)(g)(i), 2 per cent., and
- (d) in the case of paragraph (1)(g)(ii), 5 per cent., of the value at the time of all investments of fund money.

(3) The total value of investments referred to in paragraph (1)(a) does not include the value of such investments made in accordance with a scheme under section 11 of the Trustee Investments Act 1961(57).

(4) Paragraph (1)(b) does not apply—

- (a) to an investment made in accordance with such a scheme,
- (b) to an investment falling within paragraph 1 of Part I or paragraph 1 or 2 of Part II of Schedule 1 to that Act, or
- (c) to a deposit with a relevant body;

and in this paragraph “relevant body” means—

- (i) the Bank of England,
- (ii) an institution authorised under Part I of the Banking Act 1987(58),
- (iii) a person for the time being specified in Schedule 2 to that Act, or
- (iv) a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits.

(5) Paragraph (1)(b)(i) does not apply if—

- (a) the investment is made by an investment manager appointed under regulation L8, and
- (b) the single holding comprises only investments in units or other shares of the investments subject to the trusts of any one unit trust scheme.

(6) Paragraph (1)(d) does not apply if the loan is—

- (a) to Her Majesty’s Government in the United Kingdom, or
- (b) to the Government of the Isle of Man;

and for the purposes of that paragraph money is not lent if it is—

- (i) invested in registered securities to which section 1 of the Stock Transfer Act 1963(59) applies or in listed securities, or
- (ii) deposited with the Bank of England, an institution authorised under Part I of the Banking Act 1987 or a person for the time being specified in paragraphs 1 to 11 of Schedule 2 to that Act.

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(57) 1961 c. 62; section 11 was amended by the [Greater London Council \(General Powers\) Act 1967 \(c.xx\)](#), section 10(1), [Superannuation Act 1972 \(c. 11\)](#), [Schedule 6, paragraph 40, Local Government Act 1985 \(c. 51\)](#), [Schedule 14, paragraph 38, Schedule 17, Financial Services Act 1986 \(c. 60\)](#), [Schedule 16, paragraph 2, Norfolk and Suffolk Broads Act 1988 \(c. 4\)](#), [Schedule 6, Water Act 1989 \(c. 15\)](#), [Schedule 25, paragraph 29, Local Government \(Wales\) Act 1994 \(c. 19\)](#), [Schedule 16, paragraph 19\(1\), Police and Magistrates’ Courts Act 1994 \(c. 29\)](#), [Schedule 4, paragraph 4](#); section 11 was repealed in part by the [London Government Act 1963, Schedule 8](#), [Local Government Act 1972 \(c. 70\)](#), [Schedule 30, Education Reform Act 1988 \(c. 40\)](#), [Schedule 13](#).

(58) 1987 c. 22.

(59) 1963 c. 18; section 1 was amended by virtue of the [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9\)](#), [section 30, Schedule 2, the Building Societies Act 1986 \(c. 53\)](#), [section 120, Schedule 18, Part I, the Post Office Act 1969 \(c. 45\)](#), [section 103\(1\)\(f\), the Finance Act 1964 \(c. 49\)](#), [section 26\(7\), Schedule 9 and the Financial Services Act 1986 \(c. 60\)](#), [section 212, Schedule 16, paragraph 4](#).

(7) In this regulation—

“companies” includes companies established under the law of any territory outside the United Kingdom;

“European authorised institution” has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992<sup>(60)</sup>;

“listed securities” means securities quoted on a recognised stock exchange and “unlisted securities” shall be construed accordingly;

“securities” includes shares, stock and debentures;

“single holding” means investments—

- (a) in securities of, or in loans to or deposits with, any one body, other than investments in unit trust schemes,
- (b) in units or other shares of the investments subject to the trust of any one unit trust scheme,
- (c) in the acquisition, development or management or in any advance of money upon the security of any one piece of land, or
- (d) in the acquisition of any one chattel;

“recognised stock exchange” and “stocklending arrangement” have the same meaning as in regulation L5;

and the value at any time of all investments of fund money is to be taken to include the amount of any fund money used as mentioned in regulation L5(5)(b) and for the time being not repaid.

#### **Use of fund money by administering authority**

**L7.** An administering authority shall pay interest to the fund on the total from day to day of any fund money used by them and for the time being not repaid, at a rate no lower than the lowest rate at which that amount could have been borrowed by them at arms' length at 7 days' notice (otherwise than by way of overdraft from a bank).

#### **Fund managers**

**L8.—**(1) In this Part “investment manager” means—

- (a) a person who is authorised under the Financial Services Act 1986<sup>(61)</sup> and entitled by virtue of that authorisation to manage the assets of occupational pension schemes;
- (b) a person—
  - (i) who does not transact investment business (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom;
  - (ii) whose head office is situated in a member State other than the United Kingdom;
  - (iii) who is recognised by the law of that member State as a national of that or another member State; and
  - (iv) who is for the time being authorised under that law to engage in one or more of the activities falling within Part II of Schedule 1 to that Act, and is not precluded by that law from managing the assets of occupational pension schemes or assets belonging to another person; or
- (c) a person who is a European institution carrying on home-regulated investment business in the United Kingdom.

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<sup>(60)</sup> S.I. 1992/3218.

<sup>(61)</sup> 1986 c. 60; relevant amending instruments are S.I. 1988/318, S.I. 1988/803.

(2) Instead of managing and investing fund money on their own behalf, an administering authority may, subject to the following provisions, appoint one or more investment managers to manage and invest it on their behalf.

- (3) An administering authority may only appoint as an investment manager a person who—
- (a) they reasonably believe is suitably qualified by his ability in and practical experience of financial matters to make investment decisions on their behalf, and
  - (b) is not an employee of that authority.
- (4) An administering authority may only make such an appointment if—
- (a) they have considered the value of the fund money to be managed by the investment manager or, as the case may be, by each of the investment managers to be appointed;
  - (b) they have taken proper advice; and
  - (c) they are satisfied, having regard—
    - (i) to the desirability of securing diversification of the management of the fund, and
    - (ii) to the value of the assets of the fund, that it will not be excessive.
- (5) The terms of an appointment under paragraph (2) shall—
- (a) provide for the appointment to be terminable by the administering authority giving not more than one month's notice;
  - (b) require the investment manager to provide the administering authority at least once every three months with a report setting out the action he has taken under the appointment;
  - (c) require the investment manager to comply with such instructions as the administering authority may give;
  - (d) require the investment manager to have regard—
    - (i) to the need for diversification of investments of fund money, and
    - (ii) to the suitability of investments of any description of investment which he proposes to make, and of any investment proposed as an investment of that description; and
  - (e) prohibit the investment manager from making investments which would contravene regulation L6;

and in determining those terms an administering authority shall have regard to proper advice.

- (6) Where an authority have made an appointment under paragraph (2) they shall—
- (a) at least once every three months review the investments made by the investment manager; and
  - (b) from time to time consider the desirability of continuing or terminating the appointment.
- (7) In exercising their functions under paragraph (6), an administering authority shall have regard to proper advice and—
- (a) to the need for diversification of investments of fund money; and
  - (b) to the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description.
- (8) In this regulation—
- “home-regulated investment business” and “European institution” have the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992(62); and
- “proper advice” and “investment” have the same meaning as in regulation L5.

## Accounts and audit

**L9.** As soon as practicable after any audit of their pension fund an administering authority shall send each body whose employees contribute to the fund copies—

- (a) of the revenue account and balance sheet of the fund, and
- (b) of any report by the auditor.

### *Valuations and rates of contributions and adjustments*

## Valuations of pension fund

**L10.**—(1) Every administering authority—

- (a) shall obtain an actuarial valuation of the assets and liabilities of their pension fund as at 31st March in the year 1995 and in every third year afterwards, together with a report by the actuary; and
- (b) shall for that purpose provide the actuary with the consolidated revenue account of the fund and such other information as he may require.

(2) Unless the Secretary of State allows an extended period, the valuation and report are to be obtained within 12 months from the date as at which the valuation is made.

(3) Immediately an administering authority receive any such valuation and report they shall—

- (a) send copies of them—
  - (i) to the Secretary of State,
  - (ii) to each body whose employees contribute to the fund, and
  - (iii) to any other body which is or may become liable to make payments to the fund in respect of pensions; and
- (b) send the Secretary of State—
  - (i) a copy of the consolidated revenue account with which the actuary was provided, and
  - (ii) a summary of the assets of the fund at the date as at which the valuation was made (unless such a summary is contained in the report).

(4) Where an admission agreement ceases to have effect, the administering authority with whom it was made shall obtain an actuarial valuation as at the date of the cessation of the agreement of the liabilities of the employing body as respects their pension fund and shall send copies of it to that body and to the Secretary of State.

## Actuary's certificates

**L11.**—(1) Every administering authority shall, as soon as is reasonably practicable after obtaining a valuation from an actuary under regulation L10(1), obtain from him a certificate specifying—

- (a) the common rate of employer's contribution, and
- (b) any individual adjustments,

for each year of the period of three years beginning with 1st April in the following year.

(2) As soon as is reasonably practicable after an administering authority establish a further fund under regulation L3 they shall obtain from the actuary consulted by them for the purposes of regulation L3(4) such a certificate as is mentioned in paragraph (1) in respect of the further fund, relating to each remaining year of the period to which the most recent certificate obtained by them under paragraph (1) relates, and as soon as is reasonably practicable after an administering authority obtain a valuation under regulation L10(4) they shall obtain from the actuary consulted by them for

the purposes of that regulation a revision of the certificate under paragraph (1) or, as the case may be, this paragraph.

(3) For the purposes of paragraph (1), the common rate of employer's contribution is the percentage of the remuneration of their employees who are members which should in the actuary's opinion be paid to the fund by all bodies whose employees contribute to it so as to ensure solvency, having regard—

- (a) to the existing and prospective liabilities of the fund arising from circumstances common to all those bodies, and
- (b) to the desirability of maintaining as nearly constant a rate as possible.

(4) An individual adjustment is any percentage or amount by which in the actuary's opinion contributions at the common rate should in the case of a particular body be increased or reduced, having regard to existing or prospective liabilities of, or of benefits accruing to, the fund arising from circumstances peculiar to that body.

(5) Immediately an administering authority receive a certificate under this regulation they shall send a copy of it—

- (a) to the Secretary of State,
- (b) to each body whose employees contribute to the fund, and
- (c) to any other body which is or may become liable to make payments to the fund in respect of pensions.

#### *Employers' liability to make payments*

#### **Employer's contributions**

**L12.**—(1) An employing authority shall contribute to the appropriate pension fund—

- (a) in each year of any period of three years for which a certificate is required under regulation L11(1), or
- (b) in the case of a body who have entered an admission agreement and are identified in the notice required by regulation L3(2), in each of the remaining years for which a certificate is required under regulation L11(2),

a sum equal to the presumed contribution for that year, increased or, as the case may be, reduced in accordance with any individual adjustment specified for the year in respect of the body under regulation L11(1)(b).

(2) An employing authority shall, during each year of every such period as is mentioned in paragraph (1), pay to the appropriate pension fund at the end of each of the intervals determined under regulation L14, on account of the sum required by paragraph (1) to be paid in that year, a sum equal to the presumed contribution for that interval, increased or, as the case may be, reduced by—

- (a) any percentage, or
- (b) a part, proportionate to the length of the interval, of any amount expressed in money terms,

that has been specified as an individual adjustment for the year in respect of the body under regulation L11(1)(b).

(3) For the purposes of paragraphs (1) and (2), the presumed contribution for any period for an employer is a sum equal to the common percentage for the year in question of the remuneration on which contributions have during that period been paid to the fund under regulation C4, C5 or C6 by their employees who are members; and in this paragraph "the common percentage" means the common rate of employer's contribution specified under regulation L11, expressed as a percentage.

(4) If all or part of any sum due under paragraph (2) remains unpaid at the end of the period of one month after the date on which it becomes due, the administering authority may require the employing authority to pay interest on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the due date of payment to the date of payment, and compounded with three-monthly rests.

### **Employer's further payments**

**L13.**—(1) Where immediately before the commencement date any payments remained to be made by an employee under regulation D10 (added years) or D11 (payments under former regulations for added years) of the 1974 regulations, his employing authority shall, so long as he remains in their employment, pay to the appropriate pension fund—

- (a) contributions equal to the amounts payable by the employee in respect of his obligations under those regulations by virtue of Schedule C6 or Schedule M4; or
- (b) where the amounts payable by the employee—
  - (i) were reduced under proviso (ii) to regulation 12(3) of the Benefits regulations or the proviso to paragraph 1 of Schedule 6 to the 1974 regulations, or
  - (ii) were or are reduced by virtue of the payment of a lump sum under Schedule 4 to the 1974 regulations or Schedule 7 to the 1986 regulations or paragraph 4 of Schedule C5 to these regulations,

contributions equal to the amounts that would have been payable by the employee but for the reduction.

(2) Where—

- (a) on the employee's ceasing to hold his employment the employing authority agree to pay a sum under paragraph 4A(5) of Schedule 5 to the 1974 regulations (as deemed by virtue of paragraph 9 of Schedule C6 to have continued to have effect); and
- (b) the employee pays the required amount for the purposes of that paragraph,

the employing authority shall pay the agreed sum to the appropriate pension fund before the end of the period of one month beginning on the date of the employee's payment.

(3) If all or part of the agreed sum remains unpaid at the end of that period, the administering authority may require the employing authority to pay interest on the amount remaining unpaid, calculated at one per cent. above base rate on a day to day basis from the day after the end of the period to the date of payment, and compounded with three-monthly rests.

(4) Any extra charge on the appropriate pension fund resulting from—

- (a) a determination under regulation D4 of the 1974 regulations (previous employment under an officer to be treated as non-contributing service);
- (b) a resolution under regulation D9 of the 1974 regulations (non-contributing service to be treated as contributing service);
- (c) a resolution under regulation D14 or G8 of the 1974 regulations or regulation D7 of the 1986 regulations or regulation B16 or B17 of these regulations (increase of membership); or
- (d) an additional benefit granted under regulation E13 of the 1974 regulations or regulation E13 of the 1986 regulations (additional benefits for female nursing staff),

shall be repaid to the fund by the employing authority concerned.

### **Payments by employing authorities to appropriate administering authorities**

**L14.**—(1) Every employing authority which is not an administering authority shall pay to the appropriate administering authority, at such intervals of not more than 12 months as that authority may determine—

- (a) all amounts from time to time deducted from the remuneration of their employees under these regulations;
- (b) any amount received by them under regulation C7, by deduction from remuneration or otherwise, during the interval;
- (c) any extra charge payable under regulation L13(1) to (3), the amount of which has been notified to them by the administering authority during the interval; and
- (d) subject to paragraph (2), a contribution towards the cost of the administration of the fund.

(2) Paragraph (1)(d) does not apply where the cost is paid under regulation L4(3) out of money forming part of the fund.

(3) The annual amount of the contributions payable under paragraph (1)(d) is to be agreed between the body concerned and the administering authority, or in default of agreement, determined by the Secretary of State.

(4) Subject to paragraph (5), every payment under paragraph (1)(a) is to be accompanied by a statement showing—

- (a) the name and remuneration of each of the employees in relation to whom the payment is made;
- (b) which of those employees are paying additional voluntary contributions under regulation C24 or continuing to pay instalments under regulation C7A of the 1986 regulations (as continued in effect by paragraph 1 of Schedule C6);
- (c) the amounts comprised in the payment which represent deductions from the remuneration of each of those employees and the periods in respect of which the deductions were made;
- (d) which of those amounts are amounts representing deductions in respect of such contributions or instalments as are mentioned in paragraph (b);
- (e) the amount of the remuneration of those employees from or in respect of whom deductions have not been made; and
- (f) the names of any employees who are members from whose remuneration no deductions have been made.

(5) An administering authority may direct that, instead of complying with paragraph (4), the employing authorities making payments to them under paragraph (1)(a) are to provide them with the information mentioned in paragraph (4) in such form, and at such intervals of not more than 12 months, as may be specified in the direction.

(6) If all or part of any sum due under this regulation remains unpaid at the end of the period of one month after the date on which it becomes due, the administering authority may require the employing authority concerned to pay interest, calculated and compounded as mentioned in regulation L12(4).

(7) Payments made in pursuance of paragraph (1)(a) to (c) shall be carried to the appropriate pension fund.

### **Extra charges resulting from early retirement of chief officers**

**L15.**—(1) Subject to paragraph (5), where a person has become entitled to benefits under regulation E2(1)(b)(iii) and (3)(c) of the 1974 regulations—



- (a) the new authority shall in respect of any resulting extra charge on the relevant fund make a payment in accordance with paragraph (2) to the authority administering the relevant fund, and
  - (b) that administering authority shall carry the payment to that fund.
- (2) The payment to be made under paragraph (1)(a)—
- (a) is a payment of an amount to be determined by the relevant fund’s actuary as at—
    - (i) the person’s NRD, or
    - (ii) if sooner, his date of death, and
  - (b) becomes due three months after the new authority have been notified of the amount determined by the actuary.
- (3) If all or part of any sum due under this regulation remains unpaid at the end of the period of one month after the date on which it becomes due, the authority administering the relevant fund may require the new authority to pay interest, calculated and compounded as mentioned in regulation L12(4).
- (4) Paragraphs (1) to (3) do not apply—
- (a) while there is in force any agreement made before 6th January 1986 between the new authority and the authority administering the relevant fund as to the making of payments in respect of extra charges of the kind mentioned in paragraph (1), or
  - (b) where all payments in respect of a person that were required by such an agreement have been made.
- (5) In this regulation, in relation to a person who has become entitled to benefits—
- “the new authority” is the body who are in relation to him the new authority for the purposes—
- (a) of the Local Government (Retirement of Chief Officers) Regulations 1973(63); or
  - (b) of the Water Authorities (Retirement of Chief Officers) Regulations 1974(64); and
- “the relevant fund” means the pension fund out of which the benefits are payable.

*Transfers, recovery and retention from funds in misconduct cases*

**Transfer of sums from the pension fund to compensate for former member’s misconduct**

- L16.**—(1) This regulation applies where—
- (a) a person (“the former employee”) has ceased to hold an employment in which he was a member in consequence of—
    - (i) an offence of a fraudulent character, or
    - (ii) grave misconduct,in connection with that employment;
  - (b) the body who were his employing authority in that employment (“the former employing authority”) have suffered direct financial loss by reason of the offence or misconduct; and
  - (c) the former employee—
    - (i) became entitled to benefits under Part D and a direction has been given under regulation H4(1), or

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(63) S.I. 1973/1260.

(64) S.I. 1974/73.

(ii) he did not become so entitled and his total period of membership is less than two years.

(2) Where this regulation applies and the former employing authority are an administering authority, they may transfer an appropriate amount from their pension fund to the appropriate fund or account.

(3) Where this regulation applies and the former employing authority are not an administering authority, the appropriate administering authority shall, subject to paragraph (5), pay the former employing authority an appropriate amount out of the pension fund if requested to do so.

(4) For the purposes of paragraphs (2) and (3), an appropriate amount is an amount which does not exceed—

- (a) the amount of the direct financial loss, or
- (b) the amount of any contributions which could have, but have not, been returned to the former employee, or paid to his spouse or a dependant, under regulation C21(4).

(5) Where a payment in lieu of contributions is due or has been made in respect of the former employee, the administering authority may reduce a payment under paragraph (3) by half the amount of the payment in lieu of contributions.

(6) If, after making a payment under paragraph (3), the appropriate administering authority are required to pay a transfer value in respect of the former employee, the former employing authority shall repay the administering authority the amount of that payment if requested to do so.

#### **Recovery or retention where former member has misconduct obligation**

**L17.**—(1) This regulation applies where a person (“the former employee”)—

- (a) has ceased to hold an employment, in respect of which he was or had at some time been a member, in consequence of a criminal, negligent or fraudulent act or omission on his part in connection with that employment;
- (b) has incurred some monetary obligation, arising out of that act or omission, to the body who were his employing authority in that employment (“the former employing authority”); and
- (c) is entitled to benefits under Part D.

(2) Where this regulation applies the former employing authority may recover or retain out of the appropriate pension fund the amount of the monetary obligation, or if less, the actuarial value, at the time of the recovery or retention, of all rights enjoyed by or in respect of the former employee under these regulations with respect to his previous membership (other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme or the trustees or managers of a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy).

(3) The power under paragraph (2) may not be so exercised as to deprive a person of his guaranteed minimum pension or, in the event of his leaving a surviving spouse, deprive that spouse of any widow’s or widower’s guaranteed minimum pension, unless the person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Act 1911 to 1989<sup>(65)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(4) The former employing authority shall give the former employee—

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(65) 1911 c. 28, 1920 c. 75, 1939 c. 121, 1989 c. 6.

- (a) not less than three months' notice of the amount to be recovered or retained under paragraph (2); and
  - (b) a certificate showing the amount so recovered or retained, the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.
- (5) If there is any dispute as to the amount of the monetary obligation mentioned in paragraph (1) (b), the former employing authority may not recover or retain any amount under paragraph (2) until the obligation has become enforceable under an order of a competent court or the award of an arbitrator.

*Certain statutory payments to be met out of appropriate funds*

**Pension increases and cash equivalents under the Pension Schemes Act 1993**

**L18.**—(1) Any increase in a pension which is required by virtue of Chapter III of Part IV of the Pension Schemes Act 1993(66) (protection of increases in guaranteed minimum pensions: anti-franking) shall be paid out of the appropriate pension fund.

(2) Any payment which an appropriate administering authority are required to make as a result of a person's taking a right to a cash equivalent under Chapter IV of that Part shall be made out of the appropriate pension fund.

**Pension increases under the Pensions (Increase) Acts**

**L19.**—(1) Where a pension, within the meaning of the Pensions (Increase) Act 1971(67) ("the 1971 Act"), has become payable out of a pension fund maintained under these Regulations—

- (a) any increase of the pension under the 1971 Act or the Pensions (Increase) Act 1974(68), shall be paid out of that pension fund;
- (b) Schedule 3 to the 1971 Act shall only have effect in relation to any such increase—
  - (i) where the last employing authority is not a body which is required by regulation L12 to contribute to that pension fund nor a Water Act Company;
  - (ii) where the last employing authority is such a body or Company and the increase was payable before 1st April 1990; or
  - (iii) where the last employing authority ceases after 31st March 1990 to be such a body, only so far as the cost of any such increase has not, in the opinion of the fund's actuary, already been provided for by contributions paid under regulation L12.

(2) Where in relation to any such pension the last employing authority is a Water Act Company, the cost of any increase of the pension under the 1971 Act or the Pensions (Increase) Act 1974, payable on or after 1st April 1990 shall be reimbursed to the appropriate administering authority by the National Rivers Authority out of the new main fund (within the meaning of the Local Government Superannuation (National Rivers Authority) Regulations 1993(69)).

(3) The amounts due to an administering authority under paragraph (2) or under Schedule 3 to the 1971 Act shall be paid to them at such intervals of not more than 12 months as the authority may determine, and, if all or part of any sum so due remains unpaid at the end of the period of one month after the date on which it becomes due, the administering authority may require the authority from which it is due to pay interest on the amount remaining unpaid, calculated and compounded

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(66) 1993 c. 48.  
(67) 1971 c. 56.  
(68) 1974 c. 9.  
(69) S.I. 1993/1810.

as mentioned in regulation L12(4); and the administering authority shall carry and credit to their pension fund the amounts paid to them under paragraph (2), Schedule 3 to the 1971 Act and this paragraph.

(4) For the purposes of this regulation “the last employing authority” has the same meaning as in paragraph 1(2) of Schedule 3 to the 1971 Act, except that in its application to a pension which has become payable to or in respect of a person in relation to service with—

- (a) a body specified in Schedule B4, which has entered into an admission agreement,
- (b) a body employing persons deemed to be in employment by virtue of paragraph 5 or 6 of Schedule B3, or
- (c) a body which is a company under the control of a body described in Part I of Schedule B1,

it means that body.

(5) In this regulation “Water Act Company” means—

- (a) a company nominated in accordance with section 4 of the Water Act 1989(70) as the successor company of a water authority, or
- (b) a company nominated by order under section 83(1) of that Act.

### **State scheme premiums**

**L20.**—(1) Where a LGPs employer pay a contributions equivalent premium, a transfer premium or a limited revaluation premium under section 55 of the Pension Schemes Act 1993 in respect of any member, they are entitled to recover, or if they are an administering authority to retain, out of the appropriate pension fund—

- (a) in the case of a contributions equivalent premium, a sum not exceeding the amount of that premium, less the amount (if any) which they could recover or retain under section 61 of that Act in respect of the premium; and
- (b) in the case of a transfer premium or a limited revaluation premium, the amount of the premium.

(2) Where a contributions equivalent premium is refunded under regulation 24(3)(c) of the Occupational Pension Schemes (Contracting-out) Regulations 1984(71), the authority to whom it is refunded shall pay to the appropriate pension fund a sum equal to the amount of the premium.

### *Modifications of Part L as respects National Rivers Authority funds*

#### **Modifications of Part L as respects National Rivers Authority funds**

**L21.**—(1) In its application to the new main fund (within the meaning of the Local Government Superannuation (National Rivers Authority) Regulations 1993) this Part shall have effect with the following modifications.

- (2) Omit regulations L3, L9, L10(3)(a)(ii) and L12 to L15.
- (3) For regulation L11 substitute—

“**L11.**—(1) The National Rivers Authority shall as soon as is reasonably practicable after obtaining a valuation under regulation L10 obtain from the same actuary a certificate specifying the amount by which in his opinion the assets of the fund exceed or, as the case may be, fall short of, the amount required to meet its existing and prospective liabilities.

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(70) 1989 c. 15.

(71) S.I. 1984/380.

(2) Immediately the National Rivers Authority receive such a certificate they shall send a copy of it to the Secretary of State.”.

## PART M

### MISCELLANEOUS AND GENERAL PROVISIONS

#### *Modification in special cases*

##### **Local government reorganisation**

**M1.** Schedule M1 has effect as respects the application of these regulations to certain employees who have been affected by the operation of the Local Government Acts and other reorganisations effected by or under statutes.

##### **Modifications of regulations in special cases**

**M2.** Schedule M2 has effect for the purposes of modifying these regulations in their application in the cases there mentioned.

##### **Modifications applying to certain City of London employees**

**M3.**—(1) These regulations apply to exiting contributors, with the substitution for paragraph 6 of Schedule M1 of the paragraph set out in Part I of Schedule M3.

(2) These regulations apply to both existing and former contributors—

- (a) subject to the modifications in Part II of Schedule M3, and
- (b) with the substitution for Schedule H1 to these regulations of the Schedule set out in Part III of Schedule M3.

(3) In this paragraph and that Schedule, unless the context otherwise requires, “existing contributor”, “former contributor”, and “the local Act superannuation provisions” have the same meaning as in the Local Government Superannuation (City of London) Regulations 1977(72) .

#### *Information and records*

##### **Information to be supplied by certain employees**

**M4.**—(1) Subject to paragraph (4)—

- (a) within 3 months after a person becomes a member of the Scheme, and
- (b) within 6 months after any change which is material for the purposes of these regulations occurs in or in relation to a person’s employment under a LGPS employer in relation to which he is a member of the Scheme,

the LGPS employer shall request the person in writing to provide them with the documents specified in paragraph (2).

(2) The documents mentioned in paragraph (1) are—

- (a) a statement in writing of all the person’s previous periods of employment (whether by a LGPS employer or by any other person) and any national service and war service, and

- (b) copies of all notifications previously given to him under these regulations, the 1986 regulations, the 1974 regulations, the Local Government Superannuation (Administration) Regulations 1954(73) or the Local Government Superannuation (Administration) Regulations 1938(74).
- (3) A request under paragraph (1) shall include a conspicuous statement—
  - (a) directing the member's attention to the importance of this providing full and accurate information, and
  - (b) warning him that the omission or inaccuracy may prejudiced the ascertainment of his rights under these regulations.
- (4) Paragraph (1) does not apply if the LGPS employer are satisfied that they, or the appropriate administering authority if different, already have a complete and accurate record of any previous service or employment which is material for the purposes of these regulations.

#### **Records to be kept by authorities**

- M5.**—(1) A LGPS employer are to keep, in such form as they think fit, a record of—
- (a) the name of, and
  - (b) all their decisions under regulation J2(1) in relation to,
- each of their employees who is a member.
- (2) An administering authority are to keep, in such form as they think fit, a record of—
- (a) the name of, and
  - (b) all their decisions under regulation J2(2) of these regulations or regulation N4 of the 1986 regulations (was service) in relation to,
- every member in relation to whom they are the appropriate administering authority.

#### **Transmission of documents and information**

- M6.**—(1) A LGPS employer who are not an administering authority are to send the appropriate administering authority, as soon as is reasonably practicable—
- (a) copies of all documents provided under regulation M4,
  - (b) copies of all notifications of decisions made under regulation J2(1) or J3(1),
  - (c) copies of all statements and statutory declarations provided under regulation C26, and
  - (d) such other documents and information as he administering authority may reasonably require for the purpose of discharging their functions under these regulations.
- (2) A LGPS employer who are not an administering authority—
- (a) on receiving from a member or former member notice of his intended retirement, or
  - (b) on giving an employee who is a member or former member notice to terminate his employment in circumstances in which he may become entitled to a return of contributions or to a benefit payable out of the appropriate pension fund, or
  - (c) on becoming aware of any other circumstances which may necessitate any payment out of the fund,
- shall, as soon as is reasonably practicable—

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(73) S.I. 1954/1192.

(74) S.R.O. 1938/574.

- (i) inform the appropriate administering authority of the notice or, as the case may be, other circumstances,
  - (ii) send them particulars of the member's or former member's remuneration during the period that is relevant to a decision on the amount of the benefit that may become payable to or in respect of him, and
  - (iii) send them a copy of any relevant medical or death certificate and of any certificate issued by the body under paragraph 4 of Schedule D1 (reduction in remuneration).
- (3) When an administering authority notify a person who is not in their employment of a decision under regulation J2(2), they shall send a copy of the notification to the body, if any, who are the employing authority in relation to that person.

### *Supplementary provisions*

#### **Right to opt out**

- M7.**—(1) Where—
- (a) apart from this regulation, any provision of these regulations, which re-enacts with any modification any provision revoked by these regulations, would place any person to whom a relevant benefit is or may become payable in a worse position in relation to that benefit than that he would have been in if that modification had not been made, and
  - (b) that person so elects, by notice in writing given to the appropriate administering authority within the period of six months beginning with the commencement date,
- then, subject to paragraph (3), these regulations shall have effect, in relation to him and to that benefit, as if these regulations had re-enacted the revoked provision without modification.
- (2) In this regulation—
- “relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—
- (a) ceased to hold an employment in respect of which he was a member (whether or not he has subsequently become a member again); or
  - (b) died while in such employment; and
- “benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.
- (3) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is a member, or subsequently becomes a member again—
- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
    - (i) of periods of membership before the cessation referred to in paragraph (2)(a) (or, if there has been more than one such cessation, the last of them before the commencement date); or
    - (ii) of contributions paid in respect of such periods of membership; and
  - (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become a member again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph);
- and these regulations shall have effect accordingly.

### **Transitional and transitory provisions**

**M8.**—(1) Schedule M4 has effect for the purpose of making transitional provision and savings consequential on the making of these regulations.

(2) Nothing in that Schedule affects the general operation of sections 16 and 17 of the Interpretation Act 1978<sup>(75)</sup> (as applied by section 23 of that Act).

### **Revocations**

**M9.** The subordinate legislation specified in Schedule M5 is revoked to the extent specified in the third column (but subject to the provisions in Schedule C6 and the savings in Schedule M4).

### **Consequential amendments**

**M10.** The subordinate legislation specified in Schedule M6 has effect subject to the amendments there specified (which are consequential on the making of these regulations).

### **Applications to Isles of Scilly**

**M11.** These regulations apply to the Isles of Scilly as if the Isles of Scilly were a district in the county of Cornwall and the Isles of Scilly were the council of that district.

Signed by authority of the Secretary of State

6th April 1995

*David Curry*  
Minister of State,  
Department of the Environment



## SCHEDULE A1

Regulation A2.

### GENERAL DEFINITIONS

“The Act of 1922” means the Local Government and other Officers' Superannuation Act 1922<sup>(76)</sup>;

“The Act of 1937” means the Local Government Superannuation Act 1937<sup>(77)</sup>

“The Act of 1953” means the Local Government Superannuation Act 1953<sup>(78)</sup>;

“The Acts of 1937 to 1953” means the Local Government Superannuation Acts 1937 to 1953<sup>(79)</sup>;

“The 1974 regulations” means the Local Government Superannuation Regulation 1974<sup>(80)</sup>;

“The 1986 regulations” means the Local Government Superannuation Regulation 1986<sup>(81)</sup>;

“Actuary” means a Fellow of the Institute of Actuaries or of the Family of Actuaries;

“Added period payment” means a payment made for the purposes of regulation C9 of these regulations, regulation C5 or C6 of the 1986 regulations, regulation D10 of the 1974 regulations, or section 2(1) of the Act of 1953 or any similar provision contained in a local Act scheme;

“Added years” means an additional period which a person has become entitled to count as membership by virtue of—

- (a) paragraph 2(b) of Schedule C6 so far as it applies to the payments mentioned in paragraph 1(4) of that Schedule;
- (b) regulation D6(2) of the 1986 regulations;
- (c) regulation D10 of the 1974 regulations;
- (d) regulation 12 of the Benefits regulations;
- (e) regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) Regulations 1954<sup>(82)</sup>;
- (f) regulation 15(2)(b) of the Local Government Superannuation (England and Scotland) Regulation 1948 to 1954<sup>(83)</sup>; or
- (g) any similar provision of a local Act scheme;

“Additional contributory payment” means a payment made under—

- (a) paragraph 1(3) of Schedule C6 as it applies in relation to the payments mentioned in paragraph 1(4) of that Schedule;
- (b) regulation D6 or D7 of the 1974 regulations or regulation C9(2) of the 1986 regulations;
- (c) section 2(3) of the Act of 1953 as originally enacted or as having effect as mentioned in regulation A2(2)(c) of the 1986 regulations;
- (d) the Act of 1937 as originally enacted, the Act of 1922 or a local Act scheme, (being a payment made as a condition of being entitled to reckon any service either as service generally or as service of a particular character); or

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<sup>(76)</sup> 1922 c. 59.

<sup>(77)</sup> 1937 c. 68.

<sup>(78)</sup> 1953 c. 25.

<sup>(79)</sup> 1937 c. 68, 1939 c. 18, 1953 c. 25.

<sup>(80)</sup> S.I. 1974/520; amended by other instruments listed in Part III of Schedule 20 to the Local Government Superannuation Regulations 1986 (S.I. 1986/24).

<sup>(81)</sup> S.I. 1986/24; amended by other instruments listed in Schedule M5 to these Regulations.

<sup>(82)</sup> S.I. 1954/1211.

<sup>(83)</sup> S.I. 1948/1131, 1949/631, 1954/1250.

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

- (e) proviso (ii) to section 8(2)(b) of the Act of 1937;
- “Additional voluntary contributions provision” and “Additional voluntary contributions scheme” have the meanings given in regulation C24;
- “Administering authority” means a body required to maintain a pension fund under these regulations;
- “Admission agreement” has the meaning given in regulation B7;
- “Admission agreement employee” has the meaning given in regulation B7(3);
- “Appropriate administering authority” means the body maintaining the appropriate pension fund;
- “Appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with regulations made under section 7 of the Pension Schemes Act 1993<sup>(84)</sup>;
- “Appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under section 95(2(c) of the Pension Schemes Act 1993;
- “Appropriate pension fund” has the meaning given in regulation C1;
- “Approved non-local government employment” means employment in which a person participates in an approved non-local government scheme;
- “Approved non-local government scheme” means a non-local government scheme—
- (a) which is approved under Part XIV of the Income and Corporation Taxes Act 1988<sup>(85)</sup>; or
  - (b) which is approved by the Commissioners of Inland Revenue for the purposes of these regulations;
- “Base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;
- “The Benefits regulations” means the Local Government Superannuation (Benefits) Regulations 1954 and 1955<sup>(86)</sup>;
- “Child” has the meaning given in regulation G1;
- “The commencement date” has the meaning given in regulation A1;
- “The Common Council” means the Common Council of the City of London;
- “Company under the control of a body described in Part I of Schedule B1” has the same meaning as in section 68 or, as the case may be, section 73 of the Local Government and Housing Act 1989<sup>(87)</sup> (except that any direction given by the Secretary of State shall be disregarded, and any references to a local authority treated as references to such a body);
- “Contracted-out employment” has the same meaning as in the Pension Schemes Act 1993 and “contracted-out”, in relation to a scheme, shall be construed in accordance with that Act;
- “The contractual hours” has the meaning given in regulation B3(4);
- “The contractual weeks” has the meaning given in regulation B3(4);
- “Contributory employee” means a person who was entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937;
- “Death grant” means a death grant payable under Part E;

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<sup>(84)</sup> 1993 c. 48.

<sup>(85)</sup> 1988 c. 1.

<sup>(86)</sup> S.I. 1954/1048, 1955/1041.

<sup>(87)</sup> 1989 c. 42.

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“Designated institution” means an institution designated under section 129 of the Education Reform Act 1988<sup>(88)</sup> or section 28 of the Further and Higher Education Act 1992<sup>(89)</sup>;

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

“Earnings factors” means the earnings factors referred to in section 14 of the Pension Schemes Act 1993;

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

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

“Employer’s contribution” means a sum payable under regulation L12(1);

“Employing authority” has the meaning given in regulation B16;

“Employment” shall be construed as including office;

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

“Equivalent pension benefits” has the meaning given by section 57(1) of the National Insurance Act 1965<sup>(90)</sup>;

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

“Former local authority” means a body, other than a LGPS employer, who were a local authority within the meaning of the Act 1937 as originally enacted;

“The former regulations” means—

- (a) those of the enactments and instruments referred to in paragraph 5(1) of Schedule 7 to the Superannuation Act 1972<sup>(91)</sup> and applying to England and Wales that were in force immediately before 1st April 1974,
- (b) the Local Government Superannuation (Miscellaneous Provisions) Regulations 1973<sup>(92)</sup>, and
- (c) the Local Government Superannuation (Miscellaneous Provisions) (No. 2) Regulations 1973<sup>(93)</sup>;

“Further education corporation” means a body corporate established under section 15 or 16 of the Further and Higher Education Act 1992 or in respect of which an order has been made under section 47 of that Act;

“Grant-maintained school” means a school which the Secretary of State has a duty to maintain under section 52 of the Education Reform Act 1988;

“Guaranteed minimum” has the same meaning as in the Pension Schemes Act 1993;

“Higher education corporation” means a body corporate established under section 121 or 122 of the Education Reform Act 1988 or in respect of which an order has been made under section 122A of that Act;

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

“Inner London area” has the same meaning as in section 2 of the Justices of the Peace Act 1979<sup>(94)</sup>;

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<sup>(88)</sup> 1988 C.40; section 129 was amended by the Further and Higher Education Act 1992 (c. 13), sections 72(1), 93(2), Schedule 9.

<sup>(89)</sup> 1992 c. 13.

<sup>(90)</sup> 1965 c. 51.

<sup>(91)</sup> 1972 c. 11.

<sup>(92)</sup> S.I. 1973/313.

<sup>(93)</sup> S.I. 1973/1996.

<sup>(94)</sup> 1979 C.55; section 25 was substituted by and sections 24D and 34 were inserted by the Police and Magistrates' Courts Act 1994 (c. 29), sections 74, 76, 91, Schedule 8, paragraph 15.

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- “The Insurance Acts” means the National Insurance Act 1965 to 1973<sup>(95)</sup>;
- “Insurance code” means the National Insurance Act 1965, the Northern Ireland Act or the Isle of Man Act;
- “Interchange rules” means rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948<sup>(96)</sup> (pensions of persons transferring to different employment) and any similar instrument made, or having effect as if made, under any other Act which makes similar provision;
- “The Isle of Man Act” means the National Insurance (Isle of Man) Act 1961 (an Act of Tynwald);
- “Judicially separated” means judicially separated in circumstances in which the husband is not required by the order of any competent court to contribute to the support of his wife;
- “Justices' clerk (inner London area)” means a person who, under section 24D, 25 or 34B of the Justices of the Peace Act 1979, has been or is deemed to have been appointed by the magistrates' courts committee for the inner London area or the inner London magistrates' courts committee to be a justices' chief executive or, as the case may be, a justices' clerk;
- “Justices' clerk (outside the inner London area)” means a person who, under section 24D or 25 of the Justices of the Peace Act 1979, has been or is deemed to have been appointed by a magistrates' courts committee (other than the committee for the inner London area) to be a justices' chief executive or, as the case may be, a justices' clerk;
- “Latest retirement age” and “LRD” have the meanings given in regulation B2;
- “LGPS employer” has the meaning given in regulation B1 (and must be construed in accordance with regulation B7(3));
- “Local Act contributor” means a person who was entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme;
- “Local Act scheme” has the meaning given in regulation K1;
- “Local authority” has the same meaning as in the Local Government Act 1972<sup>(97)</sup>;
- “Local education authority” has the same meaning as in the Education Act 1944<sup>(98)</sup>;
- “Local government employment” means—
- (a) in relation to any time before 1st April 1974, employment by virtue of which the person employed was, or is deemed to have been, a contributory employee or a local Act contributor, and
  - (b) in relation to any time after 31st March 1974, means employment by virtue of which the person employed is or has been, or is or has been deemed to be a member of the Scheme, or a pensionable employee (within the meaning of the 1986 regulations) or a local Act contributor;
- “Manual worker” has the same meaning as in regulation C4(2);
- “Member” shall be construed in accordance with Part B;
- “National Rivers Authority” has the same meaning as in the Water Act 1989<sup>(99)</sup>;
- “Non-local government scheme” means an occupational pension scheme or other arrangements for superannuation, not being—
- (a) a local Act scheme; or

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<sup>(95)</sup> 1965 c. 51, 1966 c. 6, 1969 c. 44, 1971 c. 50, 1972 c. 57, 1973 c. 42.

<sup>(96)</sup> 1948 c. 33.

<sup>(97)</sup> 1972 c. 70.

<sup>(98)</sup> 1944 c. 31.

<sup>(99)</sup> 1989 c. 15; section 1 was amended by the Water Consolidation (Consequential Provisions) Act 1991.

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- (b) an occupational pension scheme provided—
  - (i) in the Acts of 1937 to 1953 and the regulations made under those Acts, or
  - (ii) in the Local Government Superannuation (Scotland) Acts 1937 to 1953<sup>(100)</sup> and the regulations made under those Acts, or
  - (iii) in regulations under section 7 of the Superannuation Act 1972,

“Non-participating employment” has the same meaning as in section 56(1) of the National Insurance Act 1965;

“Normal retirement age” and “NRD” have the meanings given in regulation C3(1);

“The Northern Ireland Act” means the National Insurance Act (Northern Ireland) 1959<sup>(101)</sup>;

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

- (a) a retirement benefits scheme (as defined in section 611 of the Income and Corporation Taxes Act 1988<sup>(102)</sup>) which is not of a description mentioned in section 596(1)(a), (b) or (c) of that Act,
- (b) an additional voluntary contributions scheme,
- (c) an appropriate policy,
- (d) a personal pension scheme, or
- (e) a self-employed pension arrangement;

“Officer” has the same meaning as in regulation C4(2);

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

“Passenger transport authority; means a metropolitan county passenger transport authority established by section 28 of the Local Government Act 1985<sup>(103)</sup>;

“Passenger transport executive” means the Executive for a designated area within section 9(1) of the Transport Act 1968<sup>(104)</sup>;

“Payment in lieu of contributions” means a payment made in lieu of contributions under Part III of the National Insurance Act 1965;

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

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

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

- (a) was entitled immediately before 1st March 1986 by virtue of regulation E2(1)(c) of the 1974 regulations, or
- (b) was entitled immediately before the commencement date by virtue of regulation E2(1)(c) of the 1986 regulations,

and which have not yet become payable;

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<sup>(100)</sup> 1937 c. 69, 1939 c. 18, 1953 c. 25.

<sup>(101)</sup> 1959 c. 21 (N.I.).

<sup>(102)</sup> 1988 c. 1.

<sup>(103)</sup> 1985 c. 51.

<sup>(104)</sup> 1968 c. 73; section 9(1) was substituted by the Transport Act 1985 (c. 51), section 57, Schedule 3, and amended by section 58(1) of that Act.

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“Probation committee” means a probation committee constituted or deemed to have been constituted by section 3 of the Probation Service Act 1993**(105)**;

“Probation officer” means a probation officer appointed or deemed to have been appointed by a probation committee under section 4 of the Probation Service Act 1993;

“Public airport company” means the meaning given in section 16 of the Airports Act 1986**(106)**;

“Public transport company” has the meaning given in section 72 of the Transport Act 1985**(107)**;

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

- (a) are authorised by the Bank of England under the Banking Act 1987**(108)**;
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
- (c) quote a base rate in sterling;

and for the purpose of this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in section 736 of the Companies Act 1985**(109)**), as shown in the audited end-of-year accounts last published before that time;

“Registration officer” means—

- (a) a superintendent registrar or registrar of births and deaths,
- (b) a registrar of births and deaths exercising any of the functions of a registrar of marriages, or
- (c) a person provided by and at the expense of a local authority to act as a deputy superintendent registrar or deputy registrar of births and deaths;

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

“Remuneration” has the meaning given in regulation C2;

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

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

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

“Scheme managers” means—

- (a) in relation to a statutory scheme, the Minister of the Crown or police or fire authority administering the scheme; and
- (b) In any other case, the person responsible for the management of a non-local government scheme;

“Self-employed pension arrangement” has the same meaning as in the Pension Schemes Act 1993**(110)**;

“Service”—

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

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**(105)** 1993 c. 47.

**(106)** 1986 c.31.

**(107)** 1985 c. 67.

**(108)** 1987 c. 22.

**(109)** 1985 c. 6; section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

**(110)** 1993 c. 48.

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

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

“State pensionable age” means—

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

“statutory pension entitlement” has the meaning in regulation D3;

“Statutory resolution”, in relation to a body, means a resolution passed in the manner in which an ordinary resolution of the body may be passed, except that 28 days' notice—

- (a) of the meeting at which the resolution was passed,
- (b) of the terms of the resolution, and
- (c) of the fact that it was to be proposed at that meeting,

must have been given in the manner in which notice for convening ordinary meetings of the body may be given;

“Statutory scheme” means—

- (a) a scheme established under section 1 of the Superannuation Act 1972,
- (b) arrangements for superannuation maintained in pursuance of regulations made or having effect as if made under section 9 or 10 of that Act or section 1 of the Police Pensions Act 1976<sup>(111)</sup>, or
- (c) the Firemen’s Pension Scheme made under the Fire Services Act 1947<sup>(112)</sup>;

“Superannuable membership” has the meaning given in paragraph 1 of Schedule B6;

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

“Total period of membership” has the meaning given in regulation B14;

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

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

“War service” shall be construed in accordance with regulation F2 of the 1986 regulations;

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

## SCHEDULE B1

### LGPS EMPLOYERS

#### PART I

The Commission for Local Administration in England.

The Commission for Local Administration in Wales.

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<sup>(111)</sup> 1976 c. 35; section 1 was amended by the Police Negotiating Board Act 1980 (c. 10), section 2(3).

<sup>(112)</sup> 1947 c. 41 (10 and 11 Geo. 6 c.41).



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A county council, a county borough council in Wales, the Common Council of the City of London, a district council, a London borough council, a residuary body (within the meaning of section 105(1) of the Local Government Act 1985(**113**)) the Residuary Body for Wales and a joint board, body or committee appointed under any Act or statutory order, or statutory scheme, of which all the constituent authorities are such councils or such bodies or a combination of such councils or bodies.

A fire authority constituted by a combination scheme made under the Fire Services Act 1947(**114**).

A metropolitan county fire and civil defence authority established by section 26 of the Local Government Act 1985 and the London Fire and Civil Defence Authority established by section 27 of that Act.

A valuation tribunal established under Schedule 11 to the Local Government Finance Act 1988(**115**).

A magistrates' courts committee.

A police authority within the meaning of the Police Act 1964(**116**).

A probation committee.

The Chichester Harbour Conservancy.

The Lee Valley Regional Park Authority.

A passenger transport authority.

The Broads Authority.

A further education corporation.

A higher education corporation.

The governing body of a grant-maintained school which immediately before becoming such a school was a county school.

The London Pensions Fund Authority.

The South Yorkshire Pensions Authority.

The National Rivers Authority.

## PART II

1. The Board of Governors of the Museum of London.
2. Any other body which is a preaccepting authority, as defined in section 144 of the Local Government Finance Act 1988(**117**), a levying body within the meaning of section 74 of that Act, or a body to which section 75 of that Act applies.
3. A passenger transport executive.

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(113) 1985 c. 51.

(114) 1947 c. 41 (10 and 11 Geo. 6 c.41); sections 5 and 6 were amended by the Local Government Act 1970 (c. 70), sections 197(1) and 272(1), Schedule 30.

(115) 1988 c. 41; Schedule 11 was amended by the Local Government Finance Act 1992 (c. 14), section 117(1), Schedule 13, paragraph 88(2).

(116) 1964 c. 48; section 62 was substituted by the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 5, paragraph 15.

(117) 1988 c. 41; section 144(2) was substituted by the Local Government Finance Act 1992 (c. 14), Schedule 13; sections 74, 75 were amended by the Local Government and Housing Act 1989 (c. 42), section 139, Schedule 5, and the Local Government Finance Act 1992, Schedule 13, paragraphs 72, 73, and by the Local Government (Wales) Act 1994, section 20, and S.I. 1994/2825, regulation 5.



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4. A designated institution which immediately before designation was assisted or maintained (within the meaning of the Education Act 1944(**118**)) by a local education authority.
5. The governing body of a grant-maintained school, which immediately before becoming such a school was a voluntary school.
6. A company under the control of a body described in Part I of this Schedule.

## SCHEDULE B2

Regulation B4.

### OFFICE-HOLDERS ETC. WITH LGPS EMPLOYERS

1. For the purposes of these regulations a person who is a Local Commissioner shall be deemed to be an officer in employment with the Commission for Local Administration of which he is a member.
2. For the purposes of these regulations a person who is a registration officer is eligible to be a member of the Scheme and, if he is a member, shall be deemed to be an officer in employment with the local authority who made the scheme under section 14 of the Registration Service Act 1953(**119**) for the district in or for which the officer acts.
3. For the purposes of these regulations a person who has been or is deemed to have been appointed as a rent officer in pursuance of a scheme under section 63 of the Rent Act 1977(**120**) shall be deemed to be an officer in employment—
  - (a) where subsection (9) of that section applies (registration area a metropolitan county), with the district council designated by the relevant scheme made under that section; and
  - (b) in any other case, with the local authority for whose area the relevant scheme is made, or has effect as if made, under that section.
- 4.—(1) For the purposes of these regulations a person who is a coroner (other than an excepted coroner) is eligible to be a member of the Scheme and, if he is a member, shall be deemed to be an officer in employment—
  - (a) where appointed—
    - (i) by a metropolitan county council or the Greater London Council, with the relevant council for the purposes of section 1 of the Coroners Act 1988(**121**);
    - (ii) by the Common Council, with that Council;
    - (iii) by the Council of a non-metropolitan county, with that council.
  - (2) In sub-paragraph (1) “an excepted coroner” means—
    - (a) the Queen’s coroner and attorney,
    - (b) the coroner of the Queen’s household, or
    - (c) a coroner who held office immediately before 6th April 1978 and did not elect in accordance with article 3(b) of the Social Security (Modification of Coroners (Amendment) Act 1926) Order 1978(**122**) that the provisions of the Coroners (Amendment) Act 1926(**123**) relating to pensions should not apply to him.

(118) 1944 c. 31; section 114(1) was amended by the Education Reform Act 1988 (c. 40), sections 234(4), 237(2), Schedule 13.

(119) 1953 c. 37; section 14 was amended by the Local Government Act 1972 (c. 70), section 251, Schedule 29.

(120) 1977 c. 42; section 63 was amended by the Local Government Act 1985 (c. 51), section 16, Schedule 8, the Housing Act 1988 (c. 50), section 120, 121, 140, Schedule 14, 18, and the Pension Schemes Act 1993 (c. 48), section 190, Schedule 8.

(121) 1988 c. 13.

(122) S.I. 1975/374.

(123) 1926 c. 59.

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5.—(1) For the purposes of these regulations a person who is a member of a passenger transport executive or a director of a subsidiary of such an executive shall be deemed to be an officer in employment with the relevant executive, but as respects such a member regulation B1(1)(b) has effect subject to sub-paragraph (2).

(2) A member of a passenger transport executive shall only be eligible to be a member of the Scheme if the passenger transport authority for which the relevant executive exercises its functions consent to the statutory resolution under regulation B1(1)(b) specifying him to be so eligible.

(3) A person who immediately before 1st April 1974—

(a) was a member of a passenger transport executive or a director of a subsidiary of a passenger transport executive, and

(b) was in that position a contributory employee,

is eligible to be a member of the Scheme while he continues in that position (whether or not he would otherwise be so) and, if he is a member of the Scheme, shall be deemed to be an officer in the employment of the passenger transport executive.

(4) Regulation B3(1) and (2) applies to the persons holding the positions specified in sub-paragraph (1) as it applies to the employees specified in that regulation.

6. A justices' clerk (outside the inner London area) is eligible to be a member of the Scheme and, if he is a member and is not employed under a contract of employment shall be deemed to be an officer in the employment of the magistrates' courts committee by whom he was appointed or is deemed to have been appointed.

## SCHEDULE B3

Regulation B6.

### ELIGIBILITY FOR MEMBERSHIP: EMPLOYEES ETC. OF NON LGPS EMPLOYERS

1.—(1) An employer of—

(a) the governors of any voluntary school maintained but not provided by a local education authority for such education as may be provided by a local education authority under Part II of the Education Act 1944(124), or

(b) the governing body of any polytechnic, technical institute or such similar institution which is for the time being aided by a local education authority under that Act,

is eligible to be a member of the Scheme if the local education authority have, with the general or specific consent of the employer, by a statutory resolution so specified him or class of employees to which he belongs, and shall for the purposes of these regulations be deemed to be in employment with that authority.

(2) Regulation B3(1) and (2) applies to an employee specified in sub-paragraph (1) as it applies to the employee specified in that regulation.

2.—(1) A person who immediately before 1st April 1974 was a contributory employee in the employment of any such governors or governing body as are mentioned in paragraph 1 is eligible to be a member of the Scheme while he continues in employment with them, and shall for the purposes of these regulations be deemed to be in employment—

(a) if he is an employee of the governors of a voluntary school which on 1st April 1974 became maintained by a local education authority for an area outside Greater London and is a

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(124)1944 c. 31.

contributory employee by virtue of his having been such an employee in that employment, with that authority;

- (b) if he was specified as a contributory employee by a resolution of an education authority under section 3(2)(f) of the Act of 1937, with that authority, or
- (c) if he was specified as a contributory employee by a resolution of the Greater London Council under section 53 of the London County Council (General Powers) Act 1929<sup>(125)</sup> or section 7 of London County Council (General Powers) Act 1938<sup>(126)</sup> —
  - (i) if he was in the employment of any such governors as are mentioned in paragraph 1(1)(a), with the London borough to which the school was transferred by virtue of the Education Reform Act 1988<sup>(127)</sup> or, as the case may be, the body established by virtue of section 52 of that Act;
  - (ii) if he was in the employment of any such governing body as is mentioned in paragraph 1(1)(b), with such of the bodies mentioned in section 121, 122, 122A or 129 of the Education Reform Act 1988 or section 15, 16, 28 or 47 of the Further and Higher Education Act 1992<sup>(128)</sup> as may in the circumstances be most appropriate.

(2) Regulation B3(1) and (2) applies to an employee specified in sub-paragraph (1) as it applies to the employees specified in that regulation.

**3.—**(1) Subject to any order made by the Secretary of State under section 74 of the Transport Act 1962<sup>(129)</sup>, a person who—

- (a) immediately before 1st April 1974—
  - (i) was in employment with the London Transport Executive, and
  - (ii) was by virtue of section 18(4) of the Transport (London) Act 1969<sup>(130)</sup> entitled to participate in the benefits of the superannuation fund maintained under Part I of the Act of 1937 by the Greater London Council or Newham London borough council, and
- (b) continued up to 29th June 1984 in employment with the London Transport Executive, is eligible to be a member of the Scheme while he continues in employment with London Regional Transport.

(2) In their application to a person within sub-paragraph (1), these regulations have effect as if London Regional Transport were an LGPS employer.

**4.—**(1) A person who immediately before 1st April 1974—

- (a) was a justices' clerk (inner London area) or other officer employed by the Committee of magistrates for the inner London area, and
- (b) was by virtue of regulation 2(1) of the Superannuation (Inner London Magistrates' Courts) Regulations 1965<sup>(131)</sup> entitled to superannuation rights corresponding with those to which he was entitled in respect of his service before 1st April 1965 as a justices' clerk in the county of London or an officer employed by the County of London Magistrates' Courts Committee,

is eligible to be a member of the Scheme unless there has since been a period of 12 months or more during which he was not such a clerk or officer as is mentioned in sub-paragraph (a) or, in the case of

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<sup>(125)</sup> 1929 c. lxxxvii.

<sup>(126)</sup> 1938 c. xxxviii.

<sup>(127)</sup> 1988 c. 40; section 122A was inserted by the Further and Higher Education Act 1992 (c. 13), section 74(1).

<sup>(128)</sup> 1992 c. 13.

<sup>(129)</sup> 1962 c. 46.

<sup>(130)</sup> 1969 c. 35.

<sup>(131)</sup> S.I. 1965/537.

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such other officers as are mentioned in paragraph (a), an officer employed by the magistrates' courts committee for the inner London area.

(2) In their application to a person within sub-paragraph (1), these regulations have effect as if the committee of magistrates for the inner London area were an LGPS employer.

5.—(1) Every employee of a subsidiary (other than a public transport company) of a passenger transport executive shall for the purposes of these regulations be deemed to be in employment with that executive.

(2) Every employee of a public transport company (“the first company”) in relation to whom a resolution under regulation 4 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(132) has effect shall for the purposes of these regulations be deemed to be in employment with the passenger transport executive or district council who passed the resolution.

(3) If a person in relation to whom such a resolution has continued to have effect becomes an employee of another public transport company (“the second company”), then for the purposes of these regulations he shall, unless he then becomes an admission agreement employee, be deemed to be in employment—

(a) if the second company’s controlling authority—

(i) is not the body who passed the resolution or a composite authority of which that body was a component council, but

(ii) is an authority which has, or a composite authority each of whose component councils has, also passed such a resolution,

with the controlling authority of the second company (or, where that authority is a composite authority, with such one of its component councils as the authority may decide), and

(b) if the second company is a subsidiary of a passenger transport authority and has employees to whom sub-paragraph (2) applies by virtue of such a resolution, with the passenger transport executive or district council who passed the resolution.

(4) If the undertaking of the first company is divided among two or more companies formed under section 61 of the Transport Act 1985(133) by a passenger transport authority, an employee of any one of those companies (“the transferee company”) in relation to whom such a resolution has continued to have effect shall, unless he then becomes an admission agreement employee, for the purposes of these regulations be deemed to be in employment with the passenger transport executive who passed the resolution.

(5) If a person to whom sub-paragraph (2), (3) or (4) applies becomes an employee of a subsidiary of the first company, the second company or, as the case may be, the transferee company, the relevant sub-paragraph continues to apply to him as if he had remained an employee of the company in question.

(6) Sub-paragraphs (2) to (4) cease to apply to a person if the first company, the second company or, as the case may be, the transferee company ceases to be a public transport company.

(7) In sub-paragraphs (1) to (6)—

(a) “controlling authority”, “composite authority” and “component council” have the meanings given in section 72 of the Transport Act 1985, and

(b) “subsidiary” has the meaning given in section 137(1) of that Act.

(132) S.I. 1986/380.

(133) 1985 c. 67.

6.—(1) Every employee of a public airport company (“the first airport company”) in relation to whom a resolution under regulation 2 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987(**134**) has effect shall for the purposes of these regulations be deemed to be in employment with the body who passed the resolution.

(2) If a person in relation to whom such a resolution has continued to have effect becomes an employee of another public airport company (“the second airport company”) whose controlling authority—

- (a) is not the body who passed the resolution or a composite authority of which that body was a constituent council, but
- (b) is an authority which has, or a composite authority one at least of whose constituent councils has, also passed such a resolution,

then, for the purposes of these regulations he shall, unless he then becomes an admission agreement employee, be deemed to be in employment with the controlling authority of the second airport company (or, where that authority is a composite authority, with such one of its constituent councils as the authority may decide).

(3) If a person to whom sub-paragraph (1) or (2) applies becomes an employee of a subsidiary of the first airport company or, as the case may be, the second airport company, the relevant sub-paragraph continues to apply to him as if he had remained an employee of the company in question.

(4) Sub-paragraphs (1) and (2) cease to apply to a person if the first airport company or, as the case may be, the second airport company ceases to be a public airport company.

(5) In sub-paragraphs (1) to (4)—

- (a) “controlling authority”, “composite authority” and “constituent council” have the meanings given in section 16 of the Airports Act 1986(**135**); and
- (b) “subsidiary” has the meaning given in section 82(1) of that Act.

#### SCHEDULE B4

Regulation B7(1).

#### BODIES WITH WHOM ADMISSION AGREEMENTS MAY BE MADE

1. A body (other than the governors or managers of a voluntary school within the meaning of the Education Act 1944(**136**))—

- (a) who provide a public service in the United Kingdom otherwise than for the purposes of gain,
- (b) to whose funds any local authority contribute, or
- (c) to whom any grant is made out of money provided by Parliament.

2. A body representative—

- (a) of local authorities,
- (b) of local authorities and officers of local authorities, or
- (c) of officers of local authorities,

being, in the case of paragraph (c), a body formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government.

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(134) S.I. 1987/293.

(135) 1986 c. 31.

(136) 1944 c. 31.

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3. The Housing Corporation.
4. Housing for Wales.
5. The Commission for the New Towns.

## SCHEDULE B5

Regulation B9.

### MISCELLANEOUS EXCEPTIONS TO ELIGIBILITY UNDER REGULATION B1

1. A person is not eligible to be a member of the Scheme if he is—
  - (a) a chaplain to whom the Church of England Pensions Regulations 1988(137) apply;
  - (b) an employee in respect of whom contributions are made to the Merchant Navy Officers Pension Fund;
  - (c) a person who is entitled as mentioned in section 28 of the Kingston upon Hull Act 1984(138) (superannuation of telephone employees).
2. A person is not eligible to be a member of the Scheme by virtue of being an employee of a magistrates' courts committee if he gave notice under the proviso to section 20(1) of the Act of 1937 electing that that Act should not apply to his clerkship.
3. A person is not eligible to be a member of the Scheme by virtue of being an employee of a probation committee if he gave notice in accordance with Article 1 of the Probation Officers (Superannuation) Order 1948(139).
4. A person appointed under section 9(2) of the Museum of London Act 1965(140) to act as secretary or treasurer of the Board of Governors of the Museum of London is not eligible to be a member of the Scheme by virtue of the Board being specified in Part II of Schedule B1.
5. A person who is (or is deemed to be) a variable-time employee of a body mentioned in paragraph 3, 4 or 5 of Part II of Schedule B1 is not eligible to be a member of the Scheme in respect of that employment.
6. A person is not eligible to be a member of the Scheme in respect of his part-time employment as a member of a fire brigade maintained in pursuance of the Fire Services Act 1947(141) on terms under which he is or may be required to engage in fire fighting.
7. A person who is an employee of a body mentioned in paragraph 6 of Part II of Schedule B1 is not eligible to be a member of the Scheme by virtue of that paragraph unless—
  - (a) immediately before the start of his employment with the company there mentioned he was employed by a body specified in part I of that Schedule; and
  - (b) he is not an admission agreement employee.

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(137) S.I. 1988/2256; relevant amending instrument is S.I. 1992/1748.

(138) 1984 c. xxvi.

(139) S.I. 1948/1220.

(140) 1965 c. 17.

(141) 1947 c. 41.

SCHEDULE B6

Regulation B14(2).

RELEVANCE OF MEMBERSHIP FOR PURPOSES OF SCHEME

PART I

EXCLUSION OF CERTAIN MEMBERSHIP FOR CERTAIN PURPOSES

**Disregard of “superannuable membership” in determining entitlement to benefits**

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

- (a) any period of added years,
- (b) any additional period of membership which counts as such by virtue of regulation B7(6), B16 B17 or C9 of these regulations or regulations D4 to D7 or D13 of the 1986 regulations,
- (c) any period which by virtue of interchange rules became reckonable under former regulations only for the purpose of calculating the amount of benefits, or
- (d) subject to sub-paragraph (2), any period of membership which counts as such by virtue of regulation K14(1)(a) (transfer values).

(2) Such membership as is mentioned in paragraph (1)(d) is to be taken into account for the purpose of determining entitlement under regulation D19.

*Death grants*

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

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

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

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

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

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

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

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

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- (a) has entered the employment of an LGPS employer or former local authority after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the National Insurance Act 1965(**142**)), or
- (b) has entered such employment after becoming entitled to a benefit under regulation D11 and has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits), or
- (c) by virtue of regulation K1 of the 1974 regulations—
  - (i) became entitled to receive payment in respect of any benefit under those regulations, or
  - (ii) became entitled to benefit under paragraph (1)(c) of regulation E2 of those regulations and gave notice under paragraph (4)(e) of that regulation,
 is not entitled to count as a period of membership any period—
  - (I) of which account has been taken for the purpose of determining whether he was entitled to that benefit, or
  - (II) of which account has been or is to be taken for the purpose of calculating its amount.
- (2) Subject to Part II of Schedule D5, a member who—
  - (a) ceased after 5th April 1975 and before 30th March 1978 to hold a local government employment (“the first employment”),
  - (b) within one month and one day after ceasing to hold the first employment—
    - (i) entered the employment in which he is a member, and
    - (ii) became a member in relation to that employment, and
  - (c) in respect of his ceasing to hold the first employment received a return of contributions under the 1974 regulations,

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

- (3) Subject to Part II of Schedule D5, a member who—
  - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11, and
  - (b) in respect of his ceasing to hold that employment received a return of the whole of the aggregate amount of his contributions to the appropriate pension fund (within the meaning of regulation C22),

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

- (4) Subject to Part II of Schedule D5, a member who—
  - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11,
  - (b) in respect of his ceasing to hold that employment received a return of part of the aggregate amount mentioned in paragraph (3)(b),
  - (c) did not enter the employment in which he is a member after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the National Insurance Act 1965(**143**)), and

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(142) 1965 c. 51.

(143) 1965 c. 51



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- (d) has not given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits),

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

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

- (a) before entering the employment in which he is a member was in another local government employment (“the first employment”), and
- (b) in respect of his ceasing to hold the first employment received a return of contributions under the 1974 regulations, the 1986 regulations or these regulations,

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

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

- (7) Where—

- (a) before entering the employment in which he is a member, a member was in another local government employment (“the first employment”), and
- (b) on his ceasing to hold the first employment a transfer value was paid to a body other than—
  - (i) an administering authority,
  - (ii) a body maintaining a superannuation fund under Part I of the Act of 1937, or
  - (iii) a local Act authority,

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

(8) A woman who exercises, in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978(144), a right to return to work after being absent from work wholly or partly because of pregnancy or confinement is, unless she has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits), to be treated as not having entered a local government employment in any of the circumstances mentioned in this paragraph.

## PART II

### RELEVANCE OF FORMER AND RELATED MEMBERSHIP FOR CERTAIN PURPOSES

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

- 5. In the following provisions, namely—

- (a) paragraphs (a) and (b) of the definition of “normal retirement date” in regulation C3(1);
- (b) regulation C21(1) (return of contributions);
- (c) regulation D3 (statutory pension entitlement);
- (d) regulation D7(2) (entitlement to additional period under Schedule D3 in cases of early retirement on grounds of ill-health);
- (e) regulation D8(1) (entitlement to ill-health retirement grants);

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(144) 1978 c44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

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- (f) regulation F2(2)(a) (amount of member's spouse's long-term pension);
- (g) regulation K7(2)(b) (reduction of transfer values: pre-1988 service);

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

*Former "qualifying service"*

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

*Previous service of certain variable-time employees*

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

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

*Previous service of certain re-employed pensioners*

- 8.—(1) In the case of a person who—
- (a) has become entitled to a retirement pension under the Scheme, (otherwise than by virtue of regulation D19(1)), and
  - (b) enters further employment with any LGPS employer in which he becomes a member, the period in respect of which he became entitled to the retirement pension counts as a period to which this Part of this Schedule applies in relation to the further employment.
- (2) In the case of a person who—
- (a) after becoming entitled on ceasing to hold an employment ("the first employment") to a retirement pension by virtue of regulation E2(1)(c) of the 1986 regulations (or any corresponding previous provision) enters further employment with a LGPS employer in which he becomes a member; and
  - (b) in respect of his ceasing to hold the first employment has received a return of the whole or a part of the aggregate amount of his contributions (within the meaning of regulation C22) to the appropriate pension fund,

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

- (3) In sub-paragraph (1) "retirement pension" includes—
- (a) a short service grant under the Benefits regulations,

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- (b) an ill-health grant under regulation D8 of these regulations or under regulation E4 of the 1986 regulations,
- (c) a superannuation allowance under Part I of the Act of 1937, and
- (d) an annual pension under the former regulations.

*Previous service of certain part-time employees*

9.—(1) In the case of a person who—

- (a) became a member by virtue of an election under paragraph 1(1) of Part IV of Schedule 2 to the 1986 regulations made before 1st April 1988 or by virtue of paragraph 4 of that Part, or
- (b) became a member in a whole-time employment at any time after 31st March 1974 and before 1st April 1988 and had previously been in a part-time employment under a LGPS employer,

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

(2) For the purpose of sub-paragraph (1), “the material date” is the earliest date from which, if Part IV of Schedule 2 to the 1986 regulations had come into force on 1st April 1974, an election or, as the case may be, a deemed election by him could have effect.

*Transfers in*

10. Any period which a person is entitled to count under regulation K14(1)(b) counts as a period to which this Part of this Schedule applies.

*Excluded periods*

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

SCHEDULE C1

Regulation C1(1).

APPROPRIATE PENSION FUND

PART I

PERSONS WHOSE FUND IS THE PENSION FUND  
MAINTAINED BY LONDON PENSIONS FUND AUTHORITY

1. A person who—

- (a) is an employee of a London borough council or of the Common Council,
- (b) immediately before 1st April 1974 was by virtue of article 14 or 15 of the London Authorities (Superannuation) Order 1965(145) entitled to participate in the benefits of the

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(145)S.I. 1965/621.

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- superannuation fund maintained under Part I of the Act of 1937 by the Greater London Council,
- (c) became a pensionable employee (within the meaning of the 1986 regulations) on 1st April 1974, and
- (d) has since 1st April 1974 continued in the employment of the same London borough council, or, as the case may be, of the Common Council.
2. A person who—
- (a) is eligible to be a member of the Scheme by virtue of paragraph 3(1) of Schedule B3, and
- (b) immediately before 1st April 1974 was entitled to participate in the benefits of the superannuation fund maintained under Part I of the Act of 1937 by the Greater London Council.
3. A person who—
- (a) is eligible to be a member of the Scheme by virtue of paragraph 4(1) of Schedule B3,
- (b) is an employee of—
- (i) the probation committee for any area in Greater London other than the City of London probation area,
- (ii) the London Residuary Body established by section 57(1)(a) of the Local Government Act 1985(146),
- (iii) the Lee Valley Regional Park Authority,
- (iv) the London Fire and Civil Defence Authority established by section 27 of that Act,
- (v) the London Waste Regulation Authority, the West London Waste Authority, the North London Waste Authority, the East London Waste Authority or the Western Riverside Waste Authority (all of which authorities were established by the Waste Regulation and Disposal (Authorities) Order 1985(147)), or
- (vi) the Commission for Local Administration in England,
- (c) within one month and a day after ceasing to be an employee of the Inner London Education Authority established by section 18 of the Local Government Act 1985, became an employee of a London borough council or of the Common Council, or
- (d) at any time after 31st March 1990 ceased to be an employee of the London Residuary Body, and within one month and a day after so ceasing became an employee of a London borough council or of the Common Council.

## PART II

### FUNDS MAINTAINED BY MISCELLANEOUS AUTHORITIES

4. In relation to an employee of the Commission for Local Administration in Wales, the appropriate pension fund is the fund maintained by South Glamorgan County Council.
5. In relation to a person who—
- (a) is eligible to be a member of the Scheme by virtue of paragraph 3(1) of Schedule B3, and
- (b) immediately before 1st April 1974 was entitled to participate in the benefits of the superannuation fund maintained under Part I of the Act of 1937 by Newham London borough council,

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(146) 1985 c. 51.

(147) S.I. 1985/1884.

the appropriate pension fund is the fund maintained by that council.

6.—(1) Subject to regulation C1(2), in relation to a member employed by a further education corporation, a higher education corporation, a designated institution or the governing body of a grant-maintained school, the appropriate pension fund is—

- (a) in the case of an institution or school formerly assisted or maintained by the Inner London Education Authority, or a corporation which has been established for the purpose of conducting an institution or school formerly assisted or maintained by that Authority, the fund maintained by the London Pensions Fund Authority;
- (b) in the case of a school, corporation or institution the whole or greater part of which is situated in a metropolitan county, the fund maintained by the relevant authority specified in paragraph 7 or 8 of this Schedule in relation to the county in which the whole or greater part of the school, corporation or institution is situated,
- (c) in any other case, the fund maintained by the administering authority within whose area the whole or greater part of the school, corporation or institution is situated.

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

- (a) a further education corporation and a higher education corporation shall be treated as situated where the institution conducted by the corporation is situated; and
- (b) “assisted” and “maintained”, in relation to an institution or school, have the same meaning as in the Education Act 1944(148).

7. In relation to an employee of a body the greater part of whose area falls within one of the metropolitan counties mentioned in this paragraph, the appropriate pension fund is the fund maintained—

- (a) in the case of Greater Manchester, by Tameside district council;
- (b) in the case of Merseyside, by Wirral district council;
- (c) in the case of Tyne and Wear, by South Tyneside district council;
- (d) in the case of West Midlands, by Wolverhampton district council; and
- (e) in the case of West Yorkshire, by Bradford district council.

8. In relation to an employee of a body the greater part of whose area falls within the metropolitan county of South Yorkshire, the appropriate pension fund is the fund maintained by the South Yorkshire Pensions Authority.

## SCHEDULE C2

Regulation C2.

### FURTHER PROVISIONS CONCERNING MEANING OF “REMUNERATION”

#### *Part-timers*

1. For the purpose of calculating a member’s standard contributions under regulation C4, the remuneration of a part-time employee for any period (other than a period during which he was absent from duty by reason of illness or injury with reduced or no remuneration) is to be taken to be the remuneration he would have received if during that period he had worked no more and no less than the contractual hours.

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(148) 1944 c. 31; section 114(1) was amended by the Education Reform Act 1988 (c. 40), sections 234(4), 237(2), Schedule 13.

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

*Statutory payments during absence*

2. Subject to paragraph 3(b), for the purpose of calculating a member's standard contributions under regulation C4, any reduction in remuneration by reason of the actual or assumed enjoyment by the employee during any period of absence from duty of any statutory entitlement shall be disregarded.

3. For the purposes of regulation C6—

- (a) a woman's remuneration includes any statutory maternity pay payable to her under the Social Security Contributions and Benefits Act 1992(149), and
- (b) in calculating the contributions which an employee would have been required to make under regulation C4, regard shall be had to any reduction in her remuneration during a period of maternity absence by reason of the actual or assumed enjoyment of such statutory maternity pay.

4. In regulation C7 "remuneration" does not include any guarantee payment under Part II of the Employment Protection (Consolidation) Act 1978(150).

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

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

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

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

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

*Motor vehicles*

7. Where a member's contribution under regulation C2 or C3 of the 1986 regulations in respect of a period including 31st December 1992 was based on a remuneration which, for the purposes of the 1986 Regulations as in force at that date, included an amount representing the money value to him of the provision of a motor vehicle, then the money value to him of the provision of such a vehicle shall be treated as included in his remuneration for the purposes of these regulations until the earlier of—

- (a) the date on which he ceases to be employed by the employing authority who were employing him on that date; or
- (b) the date on which a motor vehicle is no longer provided for him.

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(149) 1992 c. 4.  
(150) 1978 c. 44.

*Power to agree notional remuneration*

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

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

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

(3) Where a LGPS employer enters into an agreement under sub-paragraph (1), they shall notify in writing every employee of theirs who is a member of a class or, as the case may be, an employee of a description, to which the agreement relates, including in the notification a conspicuous statement directing the attention of the employee to the place where he may obtain information about details of the agreement.

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

SCHEDULE C3

Regulations C11(2), C15(2) and paragraph  
4 of Schedule C5.

APPROPRIATE PERCENTAGES: CALCULATION OF ADDITIONAL PAYMENTS

**PART 1**

**PAYMENTS UNDER REGULATION C11**

**TABLE A**

**MALES**

Members to whom regulation D2(2) does not apply

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |      |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65   |
| 26                                  | 0.58  |                      |                 |                 |                 |                 |      |
| 27                                  | 0.60  |                      |                 |                 |                 |                 |      |
| 28                                  | 0.62  |                      |                 |                 |                 |                 |      |
| 29                                  | 0.64  |                      |                 |                 |                 |                 |      |
| 30                                  | 0.66  |                      |                 |                 |                 |                 |      |
| 31                                  | 0.68  |                      |                 |                 |                 |                 |      |
| 32                                  | 0.71  |                      |                 |                 |                 |                 |      |
| 33                                  | 0.74  |                      |                 |                 |                 |                 |      |
| 34                                  | 0.77  |                      |                 |                 |                 |                 |      |
| 35                                  | 0.80  |                      |                 |                 |                 |                 |      |
| 36                                  | 0.84  | 0.83                 |                 |                 |                 |                 |      |
| 37                                  | 0.88  | 0.87                 | 0.82            |                 |                 |                 |      |
| 38                                  | 0.93  | 0.91                 | 0.86            | 0.81            |                 |                 |      |
| 39                                  | 0.98  | 0.96                 | 0.90            | 0.85            | 0.80            |                 |      |
| 40                                  | 1.03  | 1.01                 | 0.95            | 0.90            | 0.84            | 0.80            |      |
| 41                                  | 1.09  | 1.07                 | 1.00            | 0.95            | 0.89            | 0.84            | 0.81 |
| 42                                  | 1.16  | 1.14                 | 1.06            | 1.00            | 0.94            | 0.88            | 0.85 |
| 43                                  | 1.23  | 1.22                 | 1.13            | 1.06            | 0.99            | 0.93            | 0.89 |
| 44                                  | 1.31  | 1.30                 | 1.20            | 1.12            | 1.05            | 0.98            | 0.93 |
| 45                                  | 1.40  | 1.39                 | 1.28            | 1.19            | 1.11            | 1.04            | 0.98 |
| 46                                  | 1.51  | 1.49                 | 1.37            | 1.27            | 1.18            | 1.10            | 1.04 |
| 47                                  | 1.64  | 1.61                 | 1.48            | 1.36            | 1.26            | 1.17            | 1.11 |
| 48                                  | 1.79  | 1.75                 | 1.61            | 1.47            | 1.35            | 1.25            | 1.18 |
| 49                                  | 1.97  | 1.92                 | 1.76            | 1.60            | 1.45            | 1.34            | 1.26 |
| 50                                  | 2.18  | 2.13                 | 1.93            | 1.75            | 1.57            | 1.44            | 1.35 |
| 51                                  | 2.42  | 2.38                 | 2.12            | 1.92            | 1.71            | 1.56            | 1.45 |
| 52                                  | 2.74  | 2.69                 | 2.36            | 2.11            | 1.88            | 1.70            | 1.57 |
| 53                                  | 3.15  | 3.09                 | 2.66            | 2.33            | 2.08            | 1.86            | 1.71 |
| 54                                  | 3.68  | 3.62                 | 3.05            | 2.63            | 2.31            | 2.05            | 1.87 |
| 55                                  | 4.44  | 4.36                 | 3.57            | 3.02            | 2.60            | 2.28            | 2.06 |



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| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 56                                  | 5.53  | 5.45                 | 4.30            | 3.53            | 2.98            | 2.56            | 2.29  |
| 57                                  | 7.40  | 7.28                 | 5.36            | 4.23            | 3.49            | 2.94            | 2.58  |
| 58                                  | 11.08   | 10.90                | 7.17            | 5.30            | 4.18            | 3.43            | 2.95  |
| 59                                  | 22.25   | 21.88                | 10.70           | 7.06            | 5.21            | 4.12            | 3.45  |
| 60                                  |   |                      | 21.50           | 10.55           | 6.95            | 5.12            | 4.12  |
| 61                                  |   |                      |                 | 21.11           | 10.37           | 6.83            | 5.14  |
| 62                                  |   |                      |                 |                 | 20.41           | 10.18           | 6.84  |
| 63                                  |   |                      |                 |                 |                 | 20.14           | 10.25 |
| 64                                  |   |                      |                 |                 |                 |                 | 20.32 |

**TABLE B**

**FEMALES**

Members to whom regulation D2(2) does not apply

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |    |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|----|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65 |
| 26                                  | 0.59  |                      |                 |                 |                 |                 |    |
| 27                                  | 0.61  |                      |                 |                 |                 |                 |    |
| 28                                  | 0.63  |                      |                 |                 |                 |                 |    |
| 29                                  | 0.65  |                      |                 |                 |                 |                 |    |
| 30                                  | 0.68  |                      |                 |                 |                 |                 |    |
| 31                                  | 0.71  |                      |                 |                 |                 |                 |    |
| 32                                  | 0.74  |                      |                 |                 |                 |                 |    |
| 33                                  | 0.77  |                      |                 |                 |                 |                 |    |
| 34                                  | 0.80  |                      |                 |                 |                 |                 |    |
| 35                                  | 0.83  |                      |                 |                 |                 |                 |    |
| 36                                  | 0.87  | 0.86                 |                 |                 |                 |                 |    |

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| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 37                                  | 0.91  | 0.90                 | 0.85            |                 |                 |                 |       |
| 38                                  | 0.96  | 0.94                 | 0.89            | 0.83            |                 |                 |       |
| 39                                  | 1.01  | 0.99                 | 0.93            | 0.87            | 0.82            |                 |       |
| 40                                  | 1.07  | 1.05                 | 0.98            | 0.91            | 0.86            | 0.80            |       |
| 41                                  | 1.13  | 1.11                 | 1.03            | 0.96            | 0.90            | 0.84            | 0.80  |
| 42                                  | 1.20  | 1.18                 | 1.09            | 1.01            | 0.95            | 0.88            | 0.84  |
| 43                                  | 1.28  | 1.26                 | 1.16            | 1.07            | 1.00            | 0.93            | 0.88  |
| 44                                  | 1.37  | 1.34                 | 1.23            | 1.14            | 1.06            | 0.98            | 0.93  |
| 45                                  | 1.46  | 1.43                 | 1.31            | 1.21            | 1.12            | 1.04            | 0.98  |
| 46                                  | 1.57  | 1.54                 | 1.40            | 1.29            | 1.19            | 1.11            | 1.04  |
| 47                                  | 1.70  | 1.67                 | 1.51            | 1.38            | 1.27            | 1.18            | 1.11  |
| 48                                  | 1.85  | 1.82                 | 1.64            | 1.49            | 1.36            | 1.26            | 1.18  |
| 49                                  | 2.03  | 1.99                 | 1.79            | 1.62            | 1.46            | 1.35            | 1.26  |
| 50                                  | 2.24  | 2.20                 | 1.96            | 1.77            | 1.58            | 1.45            | 1.35  |
| 51                                  | 2.50  | 2.46                 | 2.17            | 1.94            | 1.72            | 1.57            | 1.45  |
| 52                                  | 2.83  | 2.78                 | 2.42            | 2.14            | 1.89            | 1.71            | 1.57  |
| 53                                  | 3.24  | 3.19                 | 2.73            | 2.38            | 2.09            | 1.87            | 1.71  |
| 54                                  | 3.80  | 3.73                 | 3.13            | 2.69            | 2.33            | 2.06            | 1.87  |
| 55                                  | 4.58  | 4.50                 | 3.67            | 3.08            | 2.63            | 2.30            | 2.06  |
| 56                                  | 5.73  | 5.64                 | 4.40            | 3.60            | 3.02            | 2.59            | 2.30  |
| 57                                  | 7.66  | 7.53                 | 5.51            | 4.33            | 3.54            | 2.96            | 2.59  |
| 58                                  | 11.47   | 11.26                | 7.36            | 5.40            | 4.24            | 3.47            | 2.96  |
| 59                                  | 22.86   | 22.45                | 11.05           | 7.20            | 5.30            | 4.15            | 3.46  |
| 60                                  |   |                      | 21.15           | 10.79           | 7.05            | 5.17            | 4.14  |
| 61                                  |   |                      |                 | 21.64           | 10.59           | 6.89            | 5.17  |
| 62                                  |   |                      |                 |                 | 20.72           | 10.24           | 6.87  |
| 63                                  |   |                      |                 |                 |                 | 20.34           | 10.29 |
| 64                                  |   |                      |                 |                 |                 |                 | 20.46 |

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**TABLE C**

**MALES**

Members to whom regulation D2(2) applies

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 46                                  | 1.60  | 1.58                 | 1.44            | 1.33            | 1.23            | 1.14            | 1.08  |
| 47                                  | 1.74  | 1.71                 | 1.55            | 1.43            | 1.32            | 1.22            | 1.15  |
| 48                                  | 1.90  | 1.86                 | 1.68            | 1.54            | 1.42            | 1.31            | 1.23  |
| 49                                  | 2.09  | 2.04                 | 1.83            | 1.66            | 1.53            | 1.40            | 1.31  |
| 50                                  | 2.31  | 2.26                 | 2.01            | 1.81            | 1.65            | 1.50            | 1.40  |
| 51                                  | 2.57  | 2.52                 | 2.22            | 1.99            | 1.79            | 1.62            | 1.50  |
| 52                                  | 2.91  | 2.85                 | 2.48            | 2.20            | 1.96            | 1.76            | 1.62  |
| 53                                  | 3.34  | 3.28                 | 2.80            | 2.45            | 2.16            | 1.92            | 1.76  |
| 54                                  | 3.90  | 3.83                 | 3.21            | 2.76            | 2.41            | 2.12            | 1.92  |
| 55                                  | 4.72  | 4.62                 | 3.76            | 3.16            | 2.72            | 2.37            | 2.12  |
| 56                                  | 5.88  | 5.77                 | 4.53            | 3.69            | 3.11            | 2.67            | 2.36  |
| 57                                  | 7.87  | 7.73                 | 5.66            | 4.44            | 3.63            | 3.04            | 2.66  |
| 58                                  | 11.82   | 11.59                | 7.56            | 5.55            | 4.36            | 3.56            | 3.04  |
| 59                                  | 23.73   | 23.27                | 11.30           | 7.42            | 5.43            | 4.27            | 3.56  |
| 60                                  |   | 22.73                | 11.10           | 7.26            | 5.32            | 4.26            |       |
| 61                                  |   |                      |                 | 22.32           | 10.84           | 7.09            | 5.32  |
| 62                                  |   |                      |                 |                 | 21.32           | 10.57           | 7.09  |
| 63                                  |   |                      |                 |                 | 20.93           | 10.64           |       |
| 64                                  |   |                      |                 |                 |                 |                 | 21.10 |

**TABLE D**

**FEMALES**

Members to whom regulation D2(2) applies

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 46                                  | 1.76  | 1.72                 | 1.57            | 1.44            | 1.32            | 1.21            | 1.14  |
| 47                                  | 1.91  | 1.86                 | 1.69            | 1.54            | 1.41            | 1.29            | 1.21  |
| 48                                  | 2.08  | 2.03                 | 1.83            | 1.66            | 1.51            | 1.38            | 1.29  |
| 49                                  | 2.28  | 2.23                 | 1.99            | 1.80            | 1.62            | 1.48            | 1.38  |
| 50                                  | 2.52  | 2.47                 | 2.18            | 1.96            | 1.75            | 1.59            | 1.48  |
| 51                                  | 2.81  | 2.75                 | 2.41            | 2.15            | 1.91            | 1.72            | 1.59  |
| 52                                  | 3.18  | 3.12                 | 2.69 2.37       | 2.10            | 1.87            | 1.72            |       |
| 53                                  | 3.64  | 3.57                 | 3.04            | 2.64            | 2.32            | 2.05            | 1.87  |
| 54                                  | 4.27  | 4.18                 | 3.50            | 2.98            | 2.58            | 2.26            | 2.05  |
| 55                                  | 5.14  | 5.05                 | 4.09            | 3.41            | 2.91            | 2.52            | 2.26  |
| 56                                  | 6.44  | 6.31                 | 4.91            | 4.00            | 3.33            | 2.84            | 2.52  |
| 57                                  | 8.61  | 8.43                 | 6.14            | 4.80            | 3.90            | 3.26            | 2.84  |
| 58                                  | 12.89   | 12.63                | 8.21            | 5.99            | 4.68            | 3.80            | 3.24  |
| 59                                  | 25.72   | 25.16                | 12.32           | 7.99            | 5.85            | 4.55            | 3.79  |
| 60                                  |   |                      | 24.72           | 11.97           | 7.78            | 5.68            | 4.53  |
| 61                                  |   |                      |                 | 24.05           | 11.69           | 7.57            | 5.65  |
| 62                                  |   |                      |                 |                 | 22.83           | 11.24           | 7.52  |
| 63                                  |   |                      |                 |                 |                 | 22.33           | 11.28 |
| 64                                  |   |                      |                 |                 |                 |                 | 22.44 |

**PART II**

**LUMP SUM COST OF EACH ADDED YEAR WHICH CANNOT BE BOUGHT BY ANNUAL CONTRIBUTIONS BECAUSE OF THE 15 PER CENT. LIMITS**

**TABLE E**

**MALES**

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

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 40                                  | 18.60   | 18.40                | 17.90           | 17.50           | 17.10           | 16.70           | 16.50 |
| 41                                  | 18.70   | 18.40                | 18.00           | 17.60           | 17.20           | 16.70           | 16.50 |
| 42                                  | 18.80   | 18.50                | 18.00           | 17.60           | 17.20           | 16.80           | 16.60 |
| 43                                  | 18.90   | 18.60                | 18.10           | 17.70           | 17.20           | 16.80           | 16.60 |
| 44                                  | 19.00   | 18.70                | 18.20           | 17.80           | 17.30           | 16.90           | 16.70 |
| 45                                  | 19.10   | 18.80                | 18.30           | 17.90           | 17.40           | 16.90           | 16.70 |
| 46                                  | 19.20   | 18.90                | 18.40           | 18.00           | 17.50           | 17.00           | 16.80 |
| 47                                  | 19.30   | 19.00                | 18.50           | 18.10           | 17.60           | 17.10           | 16.90 |
| 48                                  | 19.40   | 19.10                | 18.60           | 18.20           | 17.70           | 17.20           | 17.00 |
| 49                                  | 19.50   | 19.20                | 18.70           | 18.30           | 17.80           | 17.30           | 17.10 |
| 50                                  | 19.70   | 19.40                | 18.80           | 18.40           | 17.90           | 17.40           | 17.20 |
| 51                                  | 19.90   | 19.60                | 19.00           | 18.50           | 18.00           | 17.50           | 17.30 |
| 52                                  | 20.10   | 19.80                | 19.20           | 18.70           | 18.10           | 17.60           | 17.40 |
| 53                                  | 20.30   | 20.00                | 19.40           | 18.90           | 18.30           | 17.70           | 17.50 |
| 54                                  | 20.50   | 20.20                | 19.60           | 19.10           | 18.50           | 17.80           | 17.60 |
| 55                                  | 20.70   | 20.40                | 19.80           | 19.30           | 18.70           | 18.00           | 17.80 |
| 56                                  | 20.90   | 20.60                | 20.00           | 19.50           | 18.90           | 18.20           | 18.00 |
| 57                                  | 21.20   | 20.90                | 20.20           | 19.70           | 19.10           | 18.40           | 18.20 |
| 58                                  | 21.50   | 21.20                | 20.50           | 19.90           | 19.30           | 18.60           | 18.40 |
| 59                                  | 21.80   | 21.50                | 20.80           | 20.10           | 19.50           | 18.80           | 18.60 |
| 60                                  |   |                      | 21.10           | 20.40           | 19.70           | 19.10           | 18.80 |
| 61                                  |   |                      |                 | 20.70           | 19.90           | 19.30           | 19.00 |
| 62                                  |   |                      |                 |                 | 20.10           | 19.50           | 19.30 |
| 63                                  |   |                      |                 |                 |                 | 19.70           | 19.60 |
| 64                                  |   |                      |                 |                 |                 |                 | 19.90 |

**TABLE F**

**FEMALES**

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

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 40                                  | 19.40   | 19.10                | 18.60           | 18.00           | 17.40           | 16.90           | 16.60 |
| 41                                  | 19.60   | 19.30                | 18.70           | 18.10           | 17.50           | 17.00           | 16.70 |
| 42                                  | 19.70   | 19.40                | 18.80           | 18.20           | 17.60           | 17.10           | 16.80 |
| 43                                  | 19.80   | 19.50                | 18.90           | 18.30           | 17.80           | 17.20           | 16.90 |
| 44                                  | 19.90   | 19.60                | 19.00           | 18.40           | 17.90           | 17.30           | 17.00 |
| 45                                  | 20.10   | 19.70                | 19.10           | 18.50           | 18.00           | 17.40           | 17.10 |
| 46                                  | 20.20   | 19.90                | 19.20           | 18.60           | 18.10           | 17.50           | 17.20 |
| 47                                  | 20.40   | 20.00                | 19.40           | 18.80           | 18.20           | 17.60           | 17.30 |
| 48                                  | 20.50   | 20.20                | 19.50           | 18.90           | 18.30           | 17.70           | 17.40 |
| 49                                  | 20.60   | 20.30                | 19.60           | 19.00           | 18.40           | 17.80           | 17.50 |
| 50                                  | 20.80   | 20.40                | 19.80           | 19.20           | 18.60           | 17.90           | 17.60 |
| 51                                  | 21.00   | 20.60                | 19.90           | 19.30           | 18.70           | 18.00           | 17.70 |
| 52                                  | 21.10   | 20.80                | 20.10           | 19.40           | 18.80           | 18.20           | 17.90 |
| 53                                  | 21.30   | 21.00                | 20.30           | 19.60           | 19.00           | 18.30           | 18.00 |
| 54                                  | 21.50   | 21.20                | 20.40           | 19.80           | 19.10           | 18.40           | 18.10 |
| 55                                  | 21.70   | 21.40                | 20.60           | 19.90           | 19.20           | 18.60           | 18.20 |
| 56                                  | 21.90   | 21.60                | 20.80           | 20.10           | 19.40           | 18.70           | 18.30 |
| 57                                  | 22.10   | 21.80                | 21.00           | 20.30           | 19.60           | 18.80           | 18.50 |
| 58                                  | 22.30   | 22.00                | 21.20           | 20.50           | 19.80           | 19.00           | 18.70 |
| 59                                  | 22.60   | 22.20                | 21.40           | 20.70           | 20.00           | 19.20           | 18.90 |
| 60                                  |   |                      | 21.70           | 20.90           | 20.20           | 19.40           | 19.10 |
| 61                                  |   |                      |                 | 21.20           | 20.40           | 19.60           | 19.30 |
| 62                                  |   |                      |                 |                 | 20.50           | 19.80           | 19.50 |
| 63                                  |   |                      |                 |                 |                 | 20.00           | 19.80 |
| 64                                  |   |                      |                 |                 |                 |                 | 20.10 |

**TABLE G**

**MALES**

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

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 46                                  | 20.20   | 19.90                | 19.30           | 18.70           | 18.20           | 17.60           | 17.30 |
| 47                                  | 20.40   | 20.00                | 19.40           | 18.80           | 18.30           | 17.70           | 17.40 |
| 48                                  | 20.60   | 20.20                | 19.50           | 18.90           | 18.40           | 17.80           | 17.50 |
| 49                                  | 20.80   | 20.40                | 19.60           | 19.00           | 18.50           | 17.90           | 17.60 |
| 50                                  | 21.00   | 20.60                | 19.80           | 19.20           | 18.60           | 18.00           | 17.70 |
| 51                                  | 21.20   | 20.80                | 20.00           | 19.40           | 18.70           | 18.10           | 17.80 |
| 52                                  | 21.40   | 21.00                | 20.20           | 19.60           | 18.80           | 18.20           | 17.90 |
| 53                                  | 21.60   | 21.20                | 20.40           | 19.80           | 19.00           | 18.30           | 18.00 |
| 54                                  | 21.80   | 21.40                | 20.60           | 20.00           | 19.20           | 18.50           | 18.10 |
| 55                                  | 22.00   | 21.60                | 20.80           | 20.20           | 19.40           | 18.70           | 18.30 |
| 56                                  | 22.30   | 21.90                | 21.00           | 20.40           | 19.60           | 18.90           | 18.50 |
| 57                                  | 22.60   | 22.20                | 21.30           | 20.60           | 19.80           | 19.10           | 18.70 |
| 58                                  | 22.90   | 22.50                | 21.60           | 20.80           | 20.00           | 19.30           | 18.90 |
| 59                                  | 23.20   | 22.80                | 21.90           | 21.10           | 20.30           | 19.50           | 19.10 |
| 60                                  |   |                      | 22.30           | 21.40           | 20.60           | 19.80           | 19.40 |
| 61                                  |   |                      |                 | 21.80           | 19.90           | 20.10           | 19.70 |
| 62                                  |   |                      |                 |                 | 21.10           | 20.30           | 20.00 |
| 63                                  |   |                      |                 |                 |                 | 20.50           | 20.30 |
| 64                                  |   |                      |                 |                 |                 |                 | 20.70 |

**TABLE H**

**FEMALES**

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

| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 46                                  | 22.60   | 22.20                | 21.40           | 20.70           | 19.90           | 19.20           | 18.80 |

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| Age on next birthday after election | Percentage to be used by reference to the normal retirement age below |                      |                 |                 |                 |                 |       |
|-------------------------------------|---|----------------------|-----------------|-----------------|-----------------|-----------------|-------|
|                                     | 60  | Over 60 and under 61 | 61 and under 62 | 62 and under 63 | 63 and under 64 | 64 and under 65 | 65    |
| 47                                  | 22.70   | 22.30                | 21.50           | 20.80           | 20.00           | 19.30           | 18.90 |
| 48                                  | 22.90   | 22.50                | 21.60           | 20.90           | 20.10           | 19.40           | 19.00 |
| 49                                  | 23.10   | 22.70                | 21.80           | 21.00           | 20.20           | 19.50           | 19.10 |
| 50                                  | 23.30   | 22.90                | 22.00           | 21.10           | 20.30           | 19.60           | 19.20 |
| 51                                  | 23.50   | 23.10                | 22.20           | 21.30           | 20.40           | 19.70           | 19.30 |
| 52                                  | 23.70   | 23.30                | 22.40           | 21.50           | 20.60           | 19.80           | 19.40 |
| 53                                  | 23.90   | 23.50                | 22.60           | 21.70           | 20.80           | 19.90           | 19.50 |
| 54                                  | 24.10   | 23.70                | 22.80           | 21.90           | 21.00           | 20.10           | 19.60 |
| 55                                  | 24.30   | 23.90                | 23.00           | 22.10           | 21.20           | 20.30           | 19.80 |
| 56                                  | 24.50   | 24.10                | 23.20           | 22.10           | 21.40           | 20.50           | 20.00 |
| 57                                  | 24.80   | 24.30                | 23.40           | 22.50           | 21.60           | 20.70           | 20.20 |
| 58                                  | 25.10   | 24.60                | 23.60           | 22.70           | 21.80           | 20.90           | 20.40 |
| 59                                  | 25.40   | 24.90                | 23.90           | 22.90           | 22.00           | 21.10           | 20.60 |
| 60                                  |   |                      | 24.20           | 23.20           | 22.30           | 21.30           | 20.80 |
| 61                                  |   |                      |                 | 23.60           | 22.60           | 21.50           | 21.10 |
| 62                                  |   |                      |                 |                 | 22.80           | 21.70           | 21.40 |
| 63                                  |   |                      |                 |                 |                 | 21.90           | 21.70 |
| 64                                  |   |                      |                 |                 |                 |                 | 22.00 |

**PART III**

**PAYMENTS UNDER REGULATION C15**

**TABLE J**

**MALES**

| Age on next birthday after election | Percentage to be used by reference to the specified birthday below |    |    |    |    |    |
|-------------------------------------|--|----|----|----|----|----|
|                                     | 60   | 61 | 62 | 63 | 64 | 65 |
| 25                                  | 0.07   |    |    |    |    |    |



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| Age on next birthday after election | Percentage to be used by reference to the specified birthday below |      |      |      |      |      |
|-------------------------------------|--|------|------|------|------|------|
|                                     | 60   | 61   | 62   | 63   | 64   | 65   |
| 26                                  | 0.07   |      |      |      |      |      |
| 27                                  | 0.07   |      |      |      |      |      |
| 28                                  | 0.07   |      |      |      |      |      |
| 29                                  | 0.08   |      |      |      |      |      |
| 30                                  | 0.08   |      |      |      |      |      |
| 31                                  | 0.08   |      |      |      |      |      |
| 32                                  | 0.08   |      |      |      |      |      |
| 33                                  | 0.09   |      |      |      |      |      |
| 34                                  | 0.09   |      |      |      |      |      |
| 35                                  | 0.09   |      |      |      |      |      |
| 36                                  | 0.10   |      |      |      |      |      |
| 37                                  | 0.10   | 0.10 |      |      |      |      |
| 38                                  | 0.11   | 0.10 | 0.10 |      |      |      |
| 39                                  | 0.12   | 0.11 | 0.10 | 0.09 |      |      |
| 40                                  | 0.12   | 0.11 | 0.11 | 1.10 | 0.09 |      |
| 41                                  | 0.13   | 0.12 | 0.11 | 0.10 | 0.10 | 0.09 |
| 42                                  | 0.14   | 0.13 | 0.12 | 0.11 | 0.10 | 0.10 |
| 43                                  | 0.14   | 0.13 | 0.12 | 0.12 | 0.11 | 0.10 |
| 44                                  | 0.15   | 0.14 | 0.13 | 0.12 | 0.11 | 0.11 |
| 45                                  | 0.16   | 0.15 | 0.14 | 0.13 | 0.12 | 0.11 |
| 46                                  | 0.17   | 0.16 | 0.15 | 0.14 | 0.13 | 0.12 |
| 47                                  | 0.19   | 0.17 | 0.16 | 0.15 | 0.14 | 0.13 |
| 48                                  | 0.21   | 0.19 | 0.17 | 0.16 | 0.15 | 0.14 |
| 49                                  | 0.23   | 0.21 | 0.18 | 0.17 | 0.16 | 0.15 |
| 50                                  | 0.25   | 0.23 | 0.20 | 0.18 | 0.17 | 0.16 |
| 51                                  | 0.28   | 0.25 | 0.22 | 0.20 | 0.18 | 0.17 |
| 52                                  | 0.32   | 0.28 | 0.25 | 0.22 | 0.20 | 0.18 |
| 53                                  | 0.37   | 0.32 | 0.28 | 0.24 | 0.22 | 0.20 |
| 54                                  | 0.43   | 0.36 | 0.31 | 0.27 | 0.24 | 0.22 |
| 55                                  | 0.52   | 0.42 | 0.36 | 0.31 | 0.27 | 0.24 |
| 56                                  | 0.65   | 0.51 | 0.42 | 0.35 | 0.30 | 0.27 |

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| Age on next birthday after election | Percentage to be used by reference to the specified birthday below |      |      |      |      |      |
|-------------------------------------|--|------|------|------|------|------|
|                                     | 60   | 61   | 62   | 63   | 64   | 65   |
| 57                                  | 0.87   | 0.63 | 0.50 | 0.41 | 0.34 | 0.30 |
| 58                                  | 1.30   | 0.84 | 0.62 | 0.49 | 0.40 | 0.35 |
| 59                                  | 2.62   | 1.26 | 0.83 | 0.61 | 0.48 | 0.41 |
| 60                                  |  | 2.53 | 1.24 | 0.82 | 0.60 | 0.48 |
| 61                                  |  |      | 2.48 | 1.22 | 0.80 | 0.60 |
| 62                                  |  |      |      | 2.40 | 1.20 | 0.80 |
| 63                                  |  |      |      |      | 2.37 | 1.21 |
| 64                                  |  |      |      |      |      | 2.39 |

**TABLE K**

**FEMALES**

| Age on next birthday after election | Percentage to be used by reference to the specified birthday below |    |    |    |    |    |
|-------------------------------------|--|----|----|----|----|----|
|                                     | 60   | 61 | 62 | 63 | 64 | 65 |
| 21                                  | 0.015  |    |    |    |    |    |
| 22                                  | 0.016  |    |    |    |    |    |
| 23                                  | 0.016  |    |    |    |    |    |
| 24                                  | 0.016  |    |    |    |    |    |
| 25                                  | 0.017  |    |    |    |    |    |
| 26                                  | 0.017  |    |    |    |    |    |
| 27                                  | 0.018  |    |    |    |    |    |
| 28                                  | 0.019  |    |    |    |    |    |
| 29                                  | 0.019  |    |    |    |    |    |
| 30                                  | 0.020  |    |    |    |    |    |
| 31                                  | 0.021  |    |    |    |    |    |
| 32                                  | 0.022  |    |    |    |    |    |
| 33                                  | 0.023  |    |    |    |    |    |
| 34                                  | 0.024  |    |    |    |    |    |
| 35                                  | 0.024  |    |    |    |    |    |

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| Age on next birthday after election | Percentage to be used by reference to the specified birthday below |       |       |       |       |       |
|-------------------------------------|--|-------|-------|-------|-------|-------|
|                                     | 60   | 61    | 62    | 63    | 64    | 65    |
| 36                                  | 0.026  |       |       |       |       |       |
| 37                                  | 0.027  | 0.025 |       |       |       |       |
| 38                                  | 0.029  | 0.026 | 0.024 |       |       |       |
| 39                                  | 0.030  | 0.027 | 0.026 | 0.024 |       |       |
| 40                                  | 0.031  | 0.029 | 0.027 | 0.025 | 0.024 |       |
| 41                                  | 0.033  | 0.030 | 0.028 | 0.026 | 0.025 | 0.024 |
| 42                                  | 0.035  | 0.032 | 0.030 | 0.028 | 0.026 | 0.025 |
| 43                                  | 0.038  | 0.034 | 0.031 | 0.029 | 0.027 | 0.026 |
| 44                                  | 0.040  | 0.036 | 0.034 | 0.031 | 0.029 | 0.027 |
| 45                                  | 0.043  | 0.039 | 0.036 | 0.033 | 0.030 | 0.029 |
| 46                                  | 0.046  | 0.041 | 0.038 | 0.035 | 0.032 | 0.030 |
| 47                                  | 0.050  | 0.045 | 0.041 | 0.037 | 0.034 | 0.032 |
| 48                                  | 0.054  | 0.048 | 0.044 | 0.040 | 0.037 | 0.034 |
| 49                                  | 0.060  | 0.053 | 0.048 | 0.043 | 0.040 | 0.037 |
| 50                                  | 0.066  | 0.058 | 0.052 | 0.047 | 0.043 | 0.040 |
| 51                                  | 0.074  | 0.064 | 0.057 | 0.051 | 0.046 | 0.043 |
| 52                                  | 0.083  | 0.071 | 0.063 | 0.056 | 0.050 | 0.046 |
| 53                                  | 0.095  | 0.080 | 0.070 | 0.062 | 0.055 | 0.050 |
| 54                                  | 0.112  | 0.092 | 0.079 | 0.069 | 0.061 | 0.055 |
| 55                                  | 0.135  | 0.108 | 0.091 | 0.078 | 0.068 | 0.061 |
| 56                                  | 0.169  | 0.129 | 0.106 | 0.089 | 0.076 | 0.068 |
| 57                                  | 0.225  | 0.162 | 0.127 | 0.104 | 0.087 | 0.076 |
| 58                                  | 0.337  | 0.216 | 0.159 | 0.125 | 0.102 | 0.087 |
| 59                                  | 0.672  | 0.325 | 0.212 | 0.156 | 0.122 | 0.102 |
| 60                                  |  | 0.651 | 0.317 | 0.207 | 0.152 | 0.122 |
| 61                                  |  |       | 0.636 | 0.311 | 0.203 | 0.152 |
| 62                                  |  |       |       | 0.609 | 0.301 | 0.202 |
| 63                                  |  |       |       |       | 0.598 | 0.303 |
| 64                                  |  |       |       |       |       | 0.602 |

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SCHEDULE C4

Regulation C24.

ADDITIONAL VOLUNTARY CONTRIBUTIONS

*Making and variation of elections*

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

*Payment and amount of AVCs*

- 2.—(1) The appropriate administering authority may require, before any contributions are first made pursuant to the election that the amount of the contributions payable under regulation C24 in any tax year shall be not less than the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987(151).
- (2) The amount of the contributions payable in any tax year is limited in accordance with paragraph 5 of Schedule C5.
3. No contributions shall be payable under regulation C24 with respect to any period—
  - (a) during which the person contributing is not a member, or
  - (b) subject to paragraph 4, after the time when he ceases to be employed by the employing authority to which notice was given under paragraph 1.
4. Contributions under regulation C24 shall normally be payable on the member's usual pay day.

*Functions of employing and administering authorities*

- 5.—(1) As soon as an employing authority receive a notice under paragraph 1 they shall forward it to the appropriate administering authority.
- (2) The appropriate administering authority shall give effect to a notice under paragraph 1 as soon as reasonably practicable, and in any event—
  - (a) in the case of a notice under paragraph 1(1), so that the member may begin to pay his contributions under paragraph 4 before the expiry of the period of six months beginning with the date on which he gives notice, and

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

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

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

(3) The policy shall—

- (a) be subject to the conditions mentioned in paragraphs 2 and 3 of this Schedule;
- (b) allow the member to vary his election under paragraph 1(2);
- (c) make provision for the arrangements mentioned in paragraphs 10 to 15 and 22 in the event of a change of employment by the member or, as the case may be, potential overpayment.

(4) Where—

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

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

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

(2) Subject to sub-paragraph (3) and paragraphs 10 to 17, to the member ceasing to be employed by the employing authority to which notice was given under paragraph 1(1), the appropriate administering authority shall as soon as reasonably practicable apply the accumulated value of the contributions invested as mentioned in sub-paragraph (1) to the provision of additional pension benefits under a pension policy.

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

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

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

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

9. The administering authority—

- (a) shall consult the member before entering into a pension policy under paragraph 6 or 7; and

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- (b) shall give effect, so far as is practicable and subject to paragraph 8, to his wishes with respect to the benefits to be provided under it.

*Changes of employment in which membership is continued*

**10.**—(1) If a member—

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

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

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

**11.** As soon as the new employing authority receive a notice of election under paragraph 10 they shall forward it to the appropriate administering authority in relation to the new employment.

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

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

**13.** If the member's appropriate administering authority in the two employments mentioned in paragraph 10 is the same, that authority shall—

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

**14.** If the authorities which are the member's appropriate administering authorities in the two employments mentioned in paragraph 10 are different—

- (a) the former appropriate administering authority shall—
  - (i) so far as is possible, assign to the new appropriate administering authority any of their rights under such a pension policy as is mentioned in paragraph 6, and
  - (ii) transfer to the new appropriate administering authority a sum equal to the accumulated value of his invested additional contributions mentioned in paragraph 7(1); and
- (b) the new appropriate administering authority shall apply or invest the sum received, and payments of additional contributions, in the manner mentioned in paragraph 13.

**15.**—(1) Paragraphs 7(2) and 10 to 17 shall have effect in relation to a cessation of the new employment as if the new employment were the one in relation to which notice was given under paragraph 1(1) (and so on).

### *Cessation of membership or employment*

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

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

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

- (i) in the case mentioned in paragraph (a), in one or more of the ways mentioned in sub-paragraph (2); and
  - (ii) in the case mentioned in paragraph (b) in one or both of the ways mentioned in paragraphs (ii) and (v) of that sub-paragraph.
- (2) The ways referred to in sub-paragraph (1) are—
- (a) to subscribe to an occupational pension scheme;
  - (b) to subscribe to a personal pension scheme;
  - (c) to subscribe to a self-employed pension arrangement;
  - (d) to purchase an appropriate policy from one or more insurance companies; or
  - (e) to subscribe to an additional voluntary contributions scheme.

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

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

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

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

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

**19.—(1)** Regulations C21 and C23 (return of contributions), L4(1) and (2) (management of pension fund) and paragraphs 3 and 4 of Schedule C5 (limitations on contributions) do not apply to contributions payable under (or interest on late payments which relate to contributions under) regulation C24.

**20.** The making of contributions under regulations C24, and any rights or liabilities arising under a pension policy entered into under paragraphs 6 or 7, shall be left out of account in calculating the amount of a transfer value payable under Part K; and regulations H4 (forfeiture etc.) and L17 (recovery and retention) and Part J (decisions and appeals) do not apply in relation to benefits under such a policy.

### *Inward transfer of AVC right*

**21.—(1)** A member may, when giving a notice under regulation K13(1), also give written notice to the appropriate administering authority that he wishes them to accept a transfer value relating to some or all of the rights to benefits arising out of an additional voluntary contributions provision

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or an additional voluntary contributions scheme to be used to provide money purchase benefits as specified in paragraphs 6, 7 and 8.

(2) Where such a notice is given the transfer value shall be accepted and so used by the administering authority, and paragraphs 6 to 9, 19 and 20 shall apply in relation to the transfer value as they apply to contributions, except that for references to a notice under paragraph 1(1) or (2) there shall be substituted a reference to the notice under sub-paragraph (1).

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

**22.**—(1) The administering authority shall comply—

- (a) with the requirements of regulation 5 of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993<sup>(152)</sup>, and
- (b) if the Scheme is the leading scheme in relation to a member, with the requirements of regulation 6 of those regulations, so far as they concern main schemes.

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

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

(3) In this paragraph—

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

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

*Supplemental*

**23.** In this Schedule—

“insurance company” means—

- (a) a body authorised under section 3 or 4 of the Insurance Companies Act 1982<sup>(153)</sup> to carry on long term business,
- (b) an EC Company which is lawfully carrying on long term business, or providing long term insurance, in the United Kingdom, or
- (c) a friendly society within the meaning of the Friendly Societies Act 1992<sup>(154)</sup> (including any society which is to be treated as a registered friendly society by virtue of section 96(2) of that Act),

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

“money purchase benefits” has the same meaning as in the Pension Schemes Act 1993<sup>(155)</sup>;

“pension policy” means a contract entered into on behalf of the member by the appropriate administering authority with an insurance company for the payment by the company of pension

<sup>(152)</sup>S.I. 1993/3016.

<sup>(153)</sup>1982 c. 50.

<sup>(154)</sup>1992 c. 40.

<sup>(155)</sup>1993 c. 48.



benefits to the intended recipients of those benefits which are in addition to those payable under Parts D to G; and

“relevant body” means—

- (a) a person for the time being operating a scheme which is an approved scheme (within the meaning of section 612 of the Income and Corporation Taxes Act 1988<sup>(156)</sup>) and provides benefits in relation to persons who have paid contributions to it which are in addition to those provided in relation to those persons under an occupational pension scheme, or
- (b) a building society within the meaning of the Building Societies Act 1986<sup>(157)</sup>.

## SCHEDULE C5

Regulation C27.

### LIMITATIONS ON CONTRIBUTIONS AND BENEFITS

#### PART I

#### GENERAL

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

1.—(1) In this Schedule, unless the context otherwise requires—

“member” includes a former member;

“Class A member” means a member who—

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

“Class B member” means a member who—

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

“Class C member” means a member who—

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

(2) A person may be treated for the purposes of this Schedule as being a Class B member or a Class C member, notwithstanding that he did not become a member of the Scheme before 1st June 1989 or, as the case may be, 17th March 1987, if on application to them by the administering authority the Commissioners of Inland Revenue agree in writing that he may be so treated by virtue

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<sup>(156)</sup>1988 c. 1; section 612 was amended by the Finance Act 1994 (c. 9) section 103(2), Schedule 26, Part V.  
<sup>(157)</sup>1986 c. 53.

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of previous membership of a pension scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(**158**).

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

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

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

- (a) he has continued to be a member throughout a period beginning before that date and ending with that time; or
- (b) the conditions mentioned in sub-paragraph (6) are satisfied in relation to the part of that period when he was not a member.

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

- (a) that his membership ceased on his secondment or posting to another employer, at the time of the secondment or posting he had a definite expectation that he would become a member again when it ended, and he again became a member at the end of his secondment or posting;
- (b) his membership ceased by reason of his unpaid absence and he began paying contributions again under regulation C4 within one month of returning to work;
- (c) in the case of a female member, her membership ceased wholly or partly because of pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978(**159**) (which confers the right to return to work following pregnancy or confinement); or
- (d) his membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and he began paying contributions again under that regulation within one month of returning to work.

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

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

(2) For the purposes of this Schedule “permitted maximum” shall be construed in accordance with section 590C(2) of the Income and Corporation Taxes Act 1988(**160**).

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(158) 1988 c. 1.

(159) 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

(160) 1988 c. 1; section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 18 (2); subsection (8A) of section 590C was inserted by paragraph 5(3) of that Schedule.

## PART II

### LIMITATIONS ON CONTRIBUTIONS

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

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

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

- (a) under Part C of the 1986 regulations (other than under regulation C24), or
- (b) under Part C of the 1986 regulations, except regulation C9A (in so far as that Part is continued in effect by virtue of Schedule C6 or Schedule M4), including instalments under regulation C7A(14).

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

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

- (a) any amount by way of additional contributions in pursuance of—
  - (i) a notice given under regulation D10 or D10A of the 1974 regulations, or
  - (ii) an election made under regulation C9(1) or C13,
- (b) the amount of an instalment payable in pursuance of an election under regulation C8 of the 1986 regulations,
- (c) any other amounts payable by him under any of those regulations, and
- (d) the amount payable by him by way of contributions under regulation C4,

exceeds 15 per cent. of his remuneration, he shall satisfy his liability in respect of the excess by payment of a lump sum of an amount calculated by the Government Actuary in accordance with the relevant Table in Part II of Schedule C3 to represent the capital value of the excess.

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

#### *Additional voluntary contributions*

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

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## PART III

### LIMITATIONS ON BENEFITS

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

6. Where regulation 5(2) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(161) applies in relation to a member, for the purpose of calculating any benefit in respect of him under these regulations, paragraph 2(1) does not apply to so much of the benefit as is calculated by reference to membership which he is entitled to count by virtue of regulation K14.

*Pensionable remuneration: retirement grants for Class B members*

7. For the purpose of calculating the retirement grant of a Class B member, his pensionable remuneration shall not exceed £100,000 (or such other sum as may for the time being be specified by the Treasury for the purposes of section 590(3) of the Income and Corporation Taxes Act 1988 as that section continues to have effect as respects Class B members by virtue of paragraph 18(2) of Schedule 6 to the Finance Act 1989(162)).

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

- 8.—(1) For the purpose of calculating the amount of any benefit under Part D—
- (a) no account shall be taken of so much of the member’s total period of membership as—
    - (i) in the case of a Class A member, exceeds 40 years; and
    - (ii) in the case of a Class B member or a Class C member, is membership before he attains the age of 60 years and exceeds 40 years, and
  - (b) where an amount is recovered or retained under regulation L17 (recovery or retention where former member has misconduct obligation), membership shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation L17(2) by that amount.

(2) For the purposes of sub-paragraph (1)(a), a period which a person is entitled to count as a period of membership by virtue of regulation D7(2) (permanent ill-health) or F6(1)(a) or (b) of the 1986 regulations (war service) shall be treated as membership before attaining the age of 60 years.

(3) Where a retirement grant falls to be increased under paragraph 1(1) of Schedule D2 (preservation of right under 1974 regulations to increases in standard retirement grants), any membership to be left out of account by virtue of paragraph (1)(a) shall be taken from the end of the person’s period of membership.

(4) Where a retirement grant falls to be reduced under paragraph 2, 3(1) or 4(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse’s pension), any period of membership to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person’s period of membership.

9. Where the aggregate length of—
- (a) the total period of membership in relation to the relevant employment (excluding any membership which is to be left out of account by virtue of paragraph 8(1)(a));

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(161) S.I. 1990/2101; a relevant amending instrument is S.I. 1993/3220.  
 (162) 1989 c. 26.

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- (b) any earlier period which was taken into account in the calculation of a retirement pension, an annual pension under the former regulations, or a superannuation allowance under Part I of the Act of 1937, or in respect of which any pension was granted under a local Act scheme; and
- (c) any period by reference to which an additional benefit has been granted under regulation E13 of the 1986 regulations (discretionary additional benefits for certain female nursing staff) or under regulation 13 of the Benefits regulations,

exceeds—

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

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

#### *Death grants*

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

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

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

### SCHEDULE C6

Regulation C28.

#### PROVISIONS CONCERNING OUTSTANDING PAYMENTS DUE UNDER PREVIOUS REGULATIONS

##### *Continuation of certain payments*

**1.**—(1) Without prejudice to the provisions of the Interpretation Act 1978(**163**) and Schedule M4 to these regulations, where immediately before the commencement date any payments remained to be made (or were deemed to be due) under a provision of the 1986 regulations which is re-enacted in these regulations, they shall be deemed to be payments due under the corresponding provision of these regulations.

(2) Without prejudice to the generality of sub-paragraph (1), any payments remaining to be made under a provision of the 1986 regulations specified in column (1) of the Table below (including any payments treated as being made under any such provision by virtue of regulation C9(1) of those regulations), shall be deemed to be payments due under the provision of these regulations specified in column (2).

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TABLE

| 1986 regulations                  | These regulations |
|-----------------------------------|-------------------|
| Reg C3                            | Regulation C5     |
| Reg C3A                           | Regulation C6     |
| Reg C4                            | Regulation C7     |
| Reg C6                            | Regulation C9     |
| Reg C8 (additional contributions) | Regulation C13    |
| Reg C8A                           | Regulation C14    |
| Reg C9A                           | Regulation C24    |

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

- (a) immediately before 1st March 1986 any payments remained to be made under a provision of the 1974 regulations specified in paragraph (4); or
- (b) immediately before the commencement date any payments remained to be made under a provision of the 1986 regulations specified in paragraph (5) (including any payments treated as being made under any such provision by virtue of regulation C9(1) of those regulations),

then, notwithstanding the revocations made by these regulations—

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

(4) The payments mentioned in paragraph (3)(a) are payments under the following provisions of the 1974 regulations—

- (a) regulation D6 (non-contributing service);
- (b) regulation D7 (previous employment treated as non-contributing service);
- (c) regulation D8 (additional contributory payments under former regulations);
- (d) regulation D10 (added years); and
- (e) regulation D11 (payments under former regulations for added years).

(5) The payments mentioned in paragraph (3)(b) are payments under the following provisions of the 1986 regulations—

- (a) regulation C6A (payments in respect of previous part-time service);
- (b) regulation C7 (additional payments by certain pensionable employees in respect of previous service);
- (c) regulation C7A (additional payments in respect of previous part-time service);
- (d) regulation C8 (payments to avoid reduction of retiring allowance or death grant, where election to make payment by lump sum or instalments).

(6) The following provisions of this Schedule are without prejudice to the generality of this paragraph.

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

2. Without prejudice to paragraph 7 of Schedule M4—

- (a) where paragraph 1(1) applies, on the making or, as the case may be, the completion or discontinuance of any payments deemed to be due under regulation C9, a member is entitled to count additional membership in accordance with regulation C9(1);
- (b) on the making or as the case may be the completion or discontinuance of any such payments as are mentioned in paragraph 1(4) or paragraph 1(5) (“the relevant event”) a member is entitled to count additional membership to the same extent as if the relevant event had occurred—
  - (i) in the case of the payments mentioned in paragraph 1(4), before 1st March 1986; and
  - (ii) in the case of the payments mentioned in paragraph 1(5), before the commencement date.

*Part-timers buying additional periods*

3.—(1) Notwithstanding any other provision in these regulations, where immediately before the commencement date paragraph 4 of Schedule 4 to the 1986 regulations (amount payable by a part-time employee purchasing additional periods of reckonable service to be calculated by reference to remuneration in a single comparable whole-time employment) applied as respects the amount to be paid by an employee, then, subject to regulation C12(5)—

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

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

(2) Where—

- (a) immediately before the commencement date a pensionable employee in whole-time employment was making payments under regulation C6 of the 1986 regulations in order to reckon an additional period as reckonable service, and
- (b) on that date that employment ceases to be whole-time and becomes part-time employment by virtue only of the amendment of any definitions by these regulations,

then—

- (i) nothing in these regulations shall affect the period which he is entitled to count as a period of membership by virtue of his having made payments before the commencement date calculated in accordance with the 1986 regulations, and
- (ii) without prejudice to any variation of the election which may be agreed between him and his employing authority or to any relevant change in his circumstances after that date—
  - (I) payments made by him on or after that date shall be made by reference to his actual remuneration for the time being, but
  - (II) the period of membership which he is entitled to count by virtue of them shall continue to be calculated on the same basis as if his employment were a whole-time employment.

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*Payments in respect of previous part-time service*

4. Without prejudice to the previous provisions of this Schedule, the revocation of regulation C6A of the 1986 regulations (payments in respect of previous part-time service) shall not affect its operation as respects anything which immediately before the commencement date remains to be done under that regulation following an election in pursuance of paragraph 5 of Part IV of Schedule 2 to the 1986 regulations (retrospective elections), and where a payment is made by a member under that regulation on or after the commencement date, the member is entitled to count the period for which the payment is made as a period of membership in relation to the employment in respect of which he made the election.

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

5. Without prejudice to the previous provisions of this Schedule—

- (a) the revocation of regulation C7 of the 1986 regulations (additional payments by certain members in respect of previous service) shall not affect its operation as respects anything which immediately before the commencement date remains to be done under that regulation, and payments made under that regulation are to be treated for the purposes of these regulations as if they consisted of contributions made under regulation C4 in respect of employment in relation to which the person was a member;
- (b) the periods in respect of which such payments are made by members may be counted by them as periods of membership in relation to the employment in respect of which they are made and, notwithstanding the revocation of regulation E25(3) to (5) of the 1986 regulations, that regulation shall apply as respects such membership resulting from payments made under regulation C7(2) (registration officers) on and after the commencement date as it applied to reckonable service resulting from earlier such payments.

6.—(1) Without prejudice to the previous provisions of this Schedule, a person who has made, or whose widow or widower has made, one or more payments under regulation C7A(14) or (16) of the 1986 regulations is entitled to count as a period of membership in whole-time service an additional period of an amount equal to the appropriate proportion of the additional period specified in the notice of election under regulation C7A(6).

(2) In sub-paragraph (1) the “appropriate proportion” means the proportion which the person’s contractual hours of employment as at the relevant date (within the meaning of paragraph 2 of Schedule 4A to the 1986 regulations) bears to the contractual hours of a comparable whole-time employment as at that date.

(3) The additional period shall be disregarded for the purposes of regulation K1(4)(b) of the 1986 regulations.

(4) The additional period shall be treated—

- (a) in the case of a person who is entitled to count service after 5th April 1988 as a period of membership under regulation B14, as membership after that date; and
- (b) in any other case, as membership before 6th April 1988.

(5) Where a person has become entitled under sub-paragraphs (1) to (4) to count an additional period as a period of membership in whole-time service by virtue of a lump sum payment having been made in accordance with regulations C7A(16) of the 1986 regulations—

- (a) the additional period shall be treated as having been able to be counted at the time when the person ceased to be a member; and
- (b) the person shall be entitled to receive, within one month after making the lump sum payment, a sum equal to the additional amount he would have received if any



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benefits already paid to him had been calculated by reference to the increased period of membership.

(6) Regulation C18 (notice to discontinue contributions) applies to payments under regulation C7A(14) as it applies to the payments there mentioned, and a person who so discontinues such payment shall be entitled to count under sub-paragraphs (1) to (4) as membership in whole-time service an additional period equal to the appropriate proportion of the length of the period of membership in whole-time service which he would have been entitled to count under that paragraph if payment had been completed.

(7) Where a person began to make payments under regulation C7A(14) but ceases to be a member before he has completed payment of the sum payable by him under regulation C7A(8)—

- (a) if he so ceases on his death or on ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body, he shall be treated as having completed payment of that sum;
- (b) except where paragraph (c) applies, if he so ceases for any other reason he shall be entitled to count under sub-paragraphs (1) to (4) as membership in whole-time service an additional period equal to the appropriate proportion of the period of membership in whole-time service which he would have been entitled so to count if payment had been completed; and
- (c) if he so ceases by reason of his ceasing to be employed by a LGPS employer and within one month after the date on which he so ceases he pays the appropriate administering authority a capital sum equal to the total of the instalments remaining unpaid, he shall then be treated as having completed payment.

(8) In sub-paragraphs (6) and (7) “appropriate proportion” means the proportion which the aggregate of the total amount paid by way of instalments under paragraph (14) of regulation C7A of the 1986 regulations and this paragraph and the amount paid or payable by the employing authority under paragraph (12) or, as the case may be, paragraph (13) of that employing authority under paragraph (12) or, as the case may be, paragraph (13) of that regulation and under this paragraph bears to the total sum payable by him and his employing authority under those provisions.

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

7.—(1) Regulation C20 (effect of opting out of membership on certain additional payments) applies where a person is by virtue of this Schedule continuing to make additional periodical payments in pursuance of the 1986 regulations or the 1974 regulations as it applies where he has elected to make payments under regulation C9 or C13, but subject to paragraph (2).

(2) In the case of such payments as are mentioned in paragraph 1(4)(a) to (c), regulation C20 does not apply but—

- (a) paragraphs 5 and 6 of Schedule 6 to the 1986 regulations (as continued in effect by paragraphs 1 and 9) shall apply as if the member had ceased to hold a local government employment on the day on which he ceased to be a member; and
- (b) without prejudice to paragraph (a), if on that assumption he would become entitled to preserved benefits, he may give notice under paragraph 6 of that Schedule.

8. Regulation C19(7) shall apply to a person who has given notice under paragraph (2) of regulation C7B of the 1986 regulations (discontinuance of payments under regulation C6 of those regulations on making an election under regulation C7A of the 1986 regulations) as if payment of additional contributions under C9 had been discontinued under regulation C18.

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*Continuing provision relating to payments originally made under the 1974 regulations*

**9.**—(1) Without prejudice to paragraph 1, Schedule 5 to the 1974 regulations shall be deemed to have continued to have effect in relation to any payments under regulation D10 or D11 of the 1974 regulations which remain payable by virtue of paragraph 1; and Schedule 6 to the 1986 regulations shall be deemed to have continued to have effect in relation to any payments under regulation D6, D7 or D8 of the 1974 regulations which remain payable by virtue of that paragraph.

(2) In its application by virtue of sub-paragraph (1), Schedule 6 to the 1986 regulations has effect with the substitution—

- (a) in paragraph 1 for the reference to regulation C9(2) of those regulations of a reference to paragraph 1 of this Schedule,
- (b) in paragraphs 3 and 4 for the references to “service” and “reckonable service” of references to membership, and
- (c) in paragraphs 6 and 7 for the references to regulation C12(7) of a reference to regulation C21 of these regulations,

and with the omission from paragraph 7 of sub-paragraph (1)(c)(ii).

*Reduction of added years*

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

*Reduction of returned contributions in certain cases*

**11.** Notwithstanding the revocation of regulation C15 of the 1986 regulations (reduction of returned contributions following payment in lieu of contributions), in so far as that regulation is capable of continuing to have effect it shall continue to do so.

SCHEDULE D1

Regulation D1.

FURTHER PROVISIONS ABOUT PENSIONABLE REMUNERATION

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

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

(2) For the purposes of regulation D1 and sub-paragraph (1), where a person —

- (a) was not employed in the employment which he ceases to hold for part of the year specified in paragraph (2)(a) of that regulation,
- (b) was employed during the whole or some of that part of that year in another employment in respect of which he was a member, and
- (c) regulation K20 applied as respects that other employment when he became employed in the employment he ceases to hold (or would have done so apart from regulation K22),

then he shall be treated as being entitled to count as a period of membership in relation to the employment he ceases to hold any period such as is mentioned in regulation K20(1)(c).

*Optional alternative relevant periods*

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

- (a) the member or former member so elects, or
- (b) in the event of his death, the appropriate administering authority so determine,

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

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

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

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

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

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

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

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

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

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

- (a) the remuneration of an employment which he continues to hold is reduced,
- (b) he is transferred to another employment under the same LGPS employer at a reduced remuneration, or
- (c) by reason or in consequence—

(i) of an order made under section 17 of the Local Government Act 1992(**164**), or

(ii) of any provision made by or under the Local Government (Wales) Act 1994(**165**)

within the relevant period he is transferred to another employment under, or his employment is transferred to, a different LGPS employer at a reduced remuneration; and in paragraph (c) "the relevant period" means—

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(164) 1992 c. 19.

(165) 1994 c. 19.

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(I) in the case of a transfer involving a LGPS employer whose area is in England, the period beginning with the day on which the order mentioned in paragraph (c)(i) is made and ending with the expiry of the period of eighteen months beginning with the day on which the changes in structure or area provided for by that order have effect, and

(II) in the case of a transfer involving a LGPS employer whose area is in Wales, the period beginning with 1st January 1996 and ending with 31st March 1997.

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

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

(a) it did not result from circumstances beyond the member's control, or

(b) it was temporary, or

(c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.

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

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

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

#### *Periods of absence*

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

(a) if the reduction or discontinuance was by reason of illness or injury, or

(b) if it was otherwise than by reason of illness or injury and he—

(i) made contributions under regulation C5 (leave of absence), C6 (maternity absence) or a payment under regulation C7 (absence due to trade dispute), or

(ii) contributed under section 6(5) of the Act of 1937 (leave of absence etc.) he is for the purposes of regulation D1 and this Schedule to be treated as having received the remuneration which he would have received but for the reduction or discontinuance.

#### *Part-timers*

7. Subject to regulations E7 and F1(3) and paragraph 10(2) of Schedule M4, for the purposes of regulation D1 and this Schedule, a member is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment.

#### *Multiple employments*

8. Where—

(a) a person was at any time employed in a single local government employment ("the first employment"),

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- (b) he becomes entitled to a benefit in relation to one of two or more concurrent local government employments (“the second employment”), and
- (c) his remuneration in the first employment becomes material for the purpose of calculating that benefit,

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

#### *Fee earners*

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

- (a) during the period of three years ending with the last day of the period which is the relevant period for the purposes of regulation D1,
- (b) during such more favourable period, of more than three but not more than five years, as his last employing authority may allow, or
- (c) if he was entitled to receive fees during part only of the period mentioned in paragraph (a), during that part of the period.

#### *Employees with notional remuneration*

10.—(1) Where—

- (a) any of a member’s remuneration during the period which is the relevant period for the purposes of regulation D1 was determined in accordance with an agreement under paragraph 8 of Schedule C2 (notional remuneration),
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) are within the relevant limits, and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

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

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

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

(3) In this paragraph “lower earnings limit” and “upper earnings limit” have the same meaning as in the Pension Schemes Act 1993(166)

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SCHEDULE D2

Regulation D2(3).

RETIREMENT GRANTS

PART I

PRESERVATION OF RIGHT UNDER 1974 REGULATIONS  
TO INCREASES IN STANDARDS RETIREMENT GRANTS

1.—(1) Where, but for the revocation of the 1974 regulations, regulation E3(4) of those regulations (preservation of certain rights under former regulations to increased retiring allowance) would have applied to a person on ceasing to hold a local government employment, the standard retirement grant is increased by the amount by which it would have been increased if that regulation had applied.

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

- (a) an additional period which a person has become entitled to count as a period of membership by virtue of, or of payments commenced under, regulation D10 of the 1974 regulations shall be treated as a period of membership ending immediately before the date on which he first became a contributory employee or, if earlier, a local Act contributor; and
- (b) no account shall be taken of any period which a person has become entitled to count as a period of membership by virtue of regulation F6(1)(a) or (b) of the 1986 regulations (war service).

(3) In the case of a person to whom regulation E19 of the 1974 regulations applied but who made an election under paragraph (2) of that regulation, sub-paragraph (1) above applies as if—

- (a) he had at no time been entitled as mentioned in paragraph (1)(b) of that regulation; and
- (b) he had immediately before the time there mentioned been such a person as was mentioned in regulation 14(a) or (b) of the Benefits regulations.

PART II

REDUCION IN STANDARD RETIREMENT GRANT  
ON ACCOUNT OF CONTINGENT SPOUSE'S PENSION

2. Subject to paragraph 5, where—

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

the standard retirement grant (as increased in accordance with Part I of this Schedule, if appropriate) is reduced by two-eightieths of his pensionable remuneration, multiplied by the length in years of that period in membership.

3.—(1) Subject to paragraph 5, where—

- (a) a woman has a period of membership of which notice has been given under paragraph 1(1) of Schedule F1 and which is or is treated for the purposes of this paragraph as being—
  - (i) a period of membership before 1st April 1972, or
  - (ii) a period of membership after 31st March 1972 but before 6th April 1988; and
- (b) either—

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- (i) she is a married woman and a widower's pension may become payable under Part F in respect of that service, or
  - (ii) she is a widow or a woman whose marriage has been dissolved and the death or, as the case may be, the dissolution occurred after 5th April 1988,
- the standard retirement grant (as increased in accordance with Part I of this Schedule, if appropriate) is reduced—
- (I) by three one hundred and sixtieths of the pensionable remuneration, multiplied by the length in years of any such membership as is mentioned in paragraph (a)(i), and
  - (II) by one one hundred and sixtieth of the pensionable remuneration, multiplied by the length in years of any such membership as is mentioned in paragraph (a)(ii).
- (2) For the purposes of this paragraph—
- (a) a period of membership which a person is entitled to count under regulation K14 shall be treated as being a period of membership after 31st March 1972 but before 6th April 1988 if—
    - (i) the relevant transfer value was accepted before 6th April 1988, or
    - (ii) paragraph 17(1)(b) of Schedule M4 (transitional provisions in relation to Interchange Regulations), applies to the relevant transfer value; and
  - (b) a period of membership falling within sub-paragraph (3)—
    - (i) to the extent that when aggregated with a period of actual membership after 31st March 1972 but before 6th April 1988 it does not exceed 16 years and 5 days, shall be treated as a period of membership after 31st March 1972 but before 6th April 1988; and
    - (ii) otherwise shall be treated as a period of membership before 1st April 1972.
- (3) A period of membership falls within this sub-paragraph if—
- (a) it may be counted under regulation C9 or by virtue of regulation D4, D5 or D9 of the 1986 regulations and the necessary payment was made or commenced before 6th April 1988, and
  - (b) it may be counted by virtue of a resolution passed under regulation D7 of the 1986 regulations before that date; or
  - (c) it is treated as a period of membership before that date by virtue of paragraph 6(4) of Schedule C6 or regulation D13(3) of the 1986 regulations (as continued in effect by virtue of Schedule M4).
- 4.—(1) Subject to paragraph 5 and 6, where—
- (a) the person—
    - (i) is a widower;
    - (ii) is judicially separated from his wife; or
    - (iii) is a man whose marriage has been dissolved; and
  - (b) the death or, as the case may be, the separation or dissolution occurred after the relevant date,

the standard retirement grant (as increased in accordance with Part I of this Schedule, if appropriate) is reduced by two eightieths of his pensionable remuneration, multiplied by the length in years of any period of membership before 1st April 1972, or, if earlier, the date of the death, separation or dissolution.

- (2) In sub-paragraph (1)(b) “the relevant date” means—

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- (a) 30th September 1950; or
- (b) if, but for the revocation of the 1974 regulations, sub-paragraph (ii) of regulation E3(6) of those regulations (certain cases where local Act provisions had applied before 1st April 1974) would have applied, the date that would have been the relevant date for the purposes of that sub-paragraph.

5. In calculating any reduction under paragraph 2, 3 or 4, no account shall be taken of any period of membership in respect of which payment under regulation C13 has been or is to be treated as having been completed.

6. No reduction is to be made under paragraph 4(1) where the person is a woman in relation to whom that paragraph applies as provided in paragraph 2(1) of Schedule F1—

- (a) who has not made any election under regulation E12(1)(b) or (2)(b) of the 1986 regulations; or
- (b) whose election has ceased to have effect under regulation E12(6) of those regulations.

## SCHEDULE D3

Regulation D7(2)

### ADDITIONAL MEMBERSHIP IN CASES OF ILL-HEALTH

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

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

- (a) a member's relevant service is so much of his contributing service and non-contributing service as did not consist of years added to his service—
  - (i) under regulation 12 of the Benefits regulations or under that regulation as applied by or under any enactment, or
  - (ii) under a corresponding provision of a local Act scheme, and
- (b) a member's relevant membership period is the total of—
  - (i) any period of membership deriving from relevant service which became reckonable service by virtue of regulation D1 of the 1974 regulations, and
  - (ii) any subsequent period of membership (other than a period excluded by sub-paragraph (2)).

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

- (a) it was purchased on or after 17th September 1990 under regulation C7A of the 1986 regulations or under that regulation as continued in effect by Schedule C6, and
- (b) taking that period into account results in an increase in the additional period.

#### *Calculation of additional membership period*

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

- (a) in a case where the length of the relevant membership period is less than 10 years, a period equal to the length of the relevant membership period; and
- (b) in any other case—



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- (i) the period by which the length of the relevant membership period falls short of 20 years, or
- (ii) if longer  $6^{243}/_{365}$  years.

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

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

#### *Alternative additional periods*

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

- (a) under regulation D7(1) or regulation E2(1)(b)(i) of the 1986 regulations, or
- (b) under regulation 5(1)(a) of the Benefits regulations,

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

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

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

- (a) in the case mentioned in sub-paragraph (1)(a), the additional period which became reckonable in relation to the previous employment by virtue of regulation D7(2) and this Schedule or, as the case may be, regulation E3(12) of the 1986 regulations, and
- (b) in the case mentioned in sub-paragraph (1)(b)—
  - (i) if the person's retirement pension in respect of the previous employment was calculated under regulation 5(3)(a) of the Benefits regulations, the period by which his relevant service fell short of 20 years, and
  - (ii) if that pension was calculated under regulation 5(3)(b) of those regulations, the period by which his relevant service would have been increased if he had continued in the previous employment until he attained the age of 65.

#### *Part-timers*

4.—(1) Where—

- (a) the whole of a member's relevant membership period is in respect of part-time service, and
- (b) the reduction under section B15(1)(b) is by the same proportion in respect of the whole period,

the additional membership period shall be determined in accordance with paragraphs 1 to 3 by reference to the period which would be the relevant membership period if the reduction required by regulation B15(1)(b) were not made (“the unreduced period”), and then the period resulting from the application of those provisions shall be reduced as mentioned in that regulation.

(2) Where—

- (a) the whole of a member's relevant membership period is in respect of part-time service, and

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(b) different proportionate reductions fall to be made under section B15(1)(b) in respect of different parts of the relevant membership period, the additional membership period shall be determined in accordance with paragraphs 1 to 3 by reference to the period would be the relevant membership period if the reductions required by regulation B15(1)(b) were not made (“the unreduced period”), and then—

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

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

- (a) the numerator is the member’s relevant membership period, determined, in so far as any membership in respect of part-time service is concerned, with the reduction required by regulation B15(1)(b) (and, where different proportionate reductions fall to be made under section B15(1)(b) in respect of different parts of the relevant membership period, determining the overall reduction as mentioned in sub-paragraph (2) above), and
- (b) the divisor is the aggregate unreduced period.

(4) Where—

- (a) apart from this sub-paragraph, sub-paragraph (3) would apply, and
- (b) the member’s relevant membership includes not less than 13 121/365 years in respect of whole-time service ending with his ceasing to hold the employment,

then sub-paragraph (3) shall not apply.

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

- (a) the lengths of the parts of the relevant membership period by reference to which different proportionate reductions fall to be made under regulation B15(1)(b) shall be determined by reference to the periods mentioned in that paragraph, and
- (b) the reduction under that regulation in respect of any such period shall be made by reference to the contractual hours over that period as determined under that paragraph.

#### SCHEDULE D4

Regulation D14(7).

#### PROCEDURE FOR SURRENDER OF PART OF RETIREMENT PENSION

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

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

2.—(1) Subject to sub-paragraph (3), where a person wishes to make a surrender he may within the relevant period notify his wish to surrender a part of that retirement pension by completing a copy of the form specified at the end of this Schedule or a form to the like effect, and sending it to the appropriate administering authority.

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

- (a) in the case of a person who on ceasing to hold his employment becomes entitled to a retirement pension (in this Schedule referred to as “a retiring employee”) not more than 2 months before or within one month after the date on which he ceases to be employed; and
- (b) in the case of a person who would, if he were to retire from his employment, become entitled to a retirement pension (in this Schedule referred to as “a continuing employee”), within 2 months before or at any time after becoming a continuing employee and while he is still employed.

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

3.—(1) Subject to sub-paragraphs (2) and (3), where the appropriate administering authority receive a notification given by a person under paragraph 2, they shall—

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

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

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

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

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

they shall—

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

(2) Where—

- (a) a person is named as spouse in the notification given under paragraph 2; and
- (b) the appropriate administering authority are dissatisfied with the evidence of marriage, but are satisfied, on the evidence already before them or after making such further inquiries as they think necessary, that the named person is a dependent of the person who gave the notification,

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

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

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

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

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

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

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

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

- (a) the beneficiary dies before the person receives notification from the appropriate administering authority that his surrender has been allowed; or
- (b) the person dies at any time before midnight on the day on which the appropriate administering authority decide to allow the surrender.

(2) Subject to sub-paragraph (1), a surrender allowed in pursuance of a notification given by a person shall have effect as from the date on which the person ceases to hold his employment.

FORM OF NOTIFICATION OF SURRENDERLOCAL GOVERNMENT PENSION REGULATIONSRegulation D14 and Schedule D4SURRENDER OF PART OF RETIREMENT PENSION

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To<sup>1</sup> .....

Name of employing authority or former employing authority .....

Particulars relating to person wishing to make the surrender

- (a) Name in full .....
- (b) Date of birth .....
- (c) Address (private).....
- .....
- .....

Particulars relating to beneficiary

- (a) Name in full .....
- (b) Date of birth .....
- (c) Address (private).....
- .....
- .....
- (d) Sex.....
- (e) Relationship of beneficiary to person wishing to make the surrender .....
- .....
- (f) If the beneficiary is husband/wife of person wishing to make the surrender, date of marriage .....
- .....

A.<sup>2</sup> I hereby notify my wish to surrender in favour of the above-named beneficiary the under-mentioned part of the retirement pension payments, in respect of which I/became/expect to become<sup>3</sup>/entitled to receive on ..... 19....

B.<sup>4</sup> I hereby notify my wish to surrender in favour of the above-named beneficiary the under-mentioned part of the retirement pension to which, if I were to retire [immediately] [on ..... 19....],<sup>5</sup> I would become entitled.

<sup>1</sup> Insert name of local authority administering the pension fund.  
<sup>2</sup> Delete whichever of paragraph A or B does not apply.  
<sup>3</sup> Delete the word or words which do not apply.  
<sup>4</sup> Delete whichever of paragraph A or B does not apply. (Paragraph A is appropriate for retiring employees and paragraph B for continuing employees.)  
<sup>5</sup> Delete the word or words which do not apply.

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- (1) Amount of retirement pension to be surrendered<sup>6</sup> £ ..... p
- (2) Amount of retirement pension expected after deduction of amount surrendered<sup>7</sup> £ ..... p
- (3) Pension to beneficiary expected in return for amount surrendered<sup>8</sup> £ ..... p

Signature .....

Date .....

<sup>6</sup> This must be an exact number of pounds.

<sup>7</sup> This must not be less than the pension payable under the regulations to the beneficiary.

<sup>8</sup> This must not be less than £97.50.

SCHEDULE D5

Regulations D15, E6, F1 and F10.

RE-EMPLOYED PENSIONERS

PART I

REDUCTION OF RETIREMENT PENSION

*Application of Part I*

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

(2) In this Part of this Schedule “retirement pension” includes an annual pension under the former regulations and a retirement pension under the 1974 regulations or the 1986 regulations.

(3) This Part of this Schedule does not apply where the new employment is employment by virtue of which the person is entitled to participate in benefits provided under regulations made under section 9 of the Superannuation Act 1972(167) (superannuation of teachers).

*General reduction rule*

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

- (a) if the annual rate of remuneration of the new employment, equals or exceeds the indexed annual rate of remuneration of the former employment, to zero; and

(167) 1972 c. 11; section 9 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 4(1), 8(3), (4), 11(1), (3).

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

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

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

then—

- (i) if he does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced; and
- (ii) in any other case, paragraph 2 applies as if the indexed annual rate of remuneration of the former employment included the indexed annual rate of remuneration of the concurrent employment.

4. In paragraphs 2 and 3—

- (a) references to the indexed annual rate of remuneration of the former or, as the case may be concurrent employment are to the sum of—
  - (i) the annual rate of that remuneration; and
  - (ii) the amount (if any) by which, immediately before the first day of the new employment, that remuneration would have been increased if it had been the rate of an official pension (within the meaning of the Pensions (Increase) Act 1971(168)) beginning on and payable from the day after the last day of the former or, as the case may be, the concurrent employment; and
- (b) “the potential receipts during the new employment” means the sum of—
  - (i) the annual rate of remuneration of the new employment;
  - (ii) the reduced rate of the retirement pension; and
  - (iii) the amount (if any) by which that reduced rate would, immediately before the first day of the new employment, have been increased under that Act, if it had then been the rate of the retirement pension (assuming that pension had by then qualified for increases under that Act).

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

- (a) if it is a former employment in respect of which the person is entitled to a retirement pension under these regulations, the 1974 regulations or the 1986 regulations—
  - (i) in the case of fixed-rate emoluments, the rate of any such emoluments on the last day of the period which is the relevant period for the purposes of regulation D1; and
  - (ii) in the case of fees, the average rate of any fees during the period by reference to which pensionable remuneration fell to be calculated under paragraph 9 of Schedule D1;

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- (b) if it is a former employment in respect of which the person is entitled to a retirement pension otherwise than as mentioned in paragraph (a)—
  - (i) in the case of fixed-rate emoluments, the rate of any such emoluments on the last day of employment; and
  - (ii) in the case of fees, the average rate of any fees during the period, within the last three years of employment, during which fees were receivable;
- (c) in the case of the new employment—
  - (i) in the case of fixed-rate emoluments, the annual rate of such emoluments on the first day of employment;
  - (ii) in the case where fees are receivable but were not receivable in the former employment, a rate agreed by the person and the body employing him or, in default of agreement, a rate determined by the Secretary of State;
  - (iii) in the case where fees are receivable and were receivable in the former employment, subject to sub-paragraph (3), the annual rate of those fees, ascertained in accordance with paragraphs (a)(ii) and (b)(ii).
- (2) For the purposes of sub-paragraph (1)(a) and (b), where—
  - (a) the person's remuneration in the former employment was at any material time reduced or discontinued by reason of his absence from duty; and
  - (b) the absence was due to illness or injury or he made contributions or payments under section 6(5) of the Act of 1937 or regulation C3 or C4 of the 1986 regulations or regulation C5, C6 or C7 of these regulations,then—
  - (i) any reduction or discontinuance of fixed-rate emoluments is to be disregarded, and
  - (ii) any fees are to be averaged over a period of the same length as the period mentioned in paragraph (1)(a) or (b), but ending immediately before the reduction or discontinuance.
  - (3) If the annual rate of remuneration of the new employment ascertained in accordance with this paragraph is less than that of the former employment, the annual rate of any fees ascertained in accordance with paragraph (1)(c)(iii) is to be reduced proportionately.

*Alteration of terms in new employment*

- 6. If—
  - (a) the person's contractual hours in a new employment are altered; or
  - (b) he is transferred to another post under the same employing body at a different remuneration,this Part of this Schedule applies as if he had again entered a new employment.

*Proportional reduction in cases of two or more pensions*

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

*Duty to inform employers of application of Part I*

- 8. A person who has become entitled to a retirement pension shall—
  - (a) inform any LGPS employer with whom he proposes to accept a new employment that he is so entitled; and



- (b) immediately he enters a new employment notify the body from whom he has become entitled to receive the pension in writing that he is doing so.

*Modification of Part I for old cases*

9. Where the new employment commenced before 6th January 1986, paragraph 2 has effect with the substitution for paragraph (b) of the following—

- “(b) otherwise, by the amount by which the indexed annual rate of remuneration of the former employment exceeds the annual rate of remuneration of the new employment”.

## PART II

### COMBINED BENEFITS

*Election for application of Part II*

10.—(1) Subject to sub-paragraph (1) and paragraphs 11 and 15, where—

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

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

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

- (a) to which the person became entitled under regulation D19, or
- (b) which is reduced under regulation D13.

(3) In this Part of this Schedule “retirement pension” includes an annual pension under the former regulations and a retirement pension under the 1974 regulations or the 1986 regulations.

*New entitlement to single pension*

11.—(1) Subject to paragraphs 12 to 14, a person to whom this Part of this Schedule applies is to be treated as having, on the date on which the second pension became or becomes payable—

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

(2) In sub-paragraph (1) “total period of membership” includes any period by reference to which an additional benefit has been granted under regulation E13 of the 1986 regulations or under regulation 13 of the Benefits regulations (both of which concern additional benefits for certain female nursing staff).

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

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- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation D2(2)(ii) from the calculation of the retirement grant,
- (b) if he has not received the grant before becoming entitled as mentioned in paragraph 11(1)(b), he ceases to be entitled to it,
- (c) if he has received the retirement grant—
  - (i) he is only entitled to payment of the excess, if any, of the lump sum over the retirement grant, and
  - (ii) if the retirement grant exceeds the lump sum, he is only entitled to the annual pension if, within three months after giving notice under paragraph 10, he pays an amount equal to the excess to the appropriate administering authority.

**13.** If—

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

subject to reduction under Part F of the 1974 regulations or regulation H2, the annual pension is subject to reduction by the same amount as the first pension.

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

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

**15.** In relation to a person who—

- (a) before 1st April 1972—
  - (i) became entitled to a superannuation allowance under Part I of the Act of 1937 or to an annual pension under the former regulations, and
  - (ii) again became a contributory employee, and
- (b) has not since he again became a contributory employee had a disqualifying break of service,

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

## PART III

### SEPARATE BENEFITS

#### *Application of Part III*

**16.—(1)** This Part of this Schedule applies to a person who—

- (a) has become entitled to a retirement pension (a “previous pension”),
- (b) after becoming so entitled entered further local government employment,
- (c) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an “additional pension”), and
- (d) has not become entitled to the annual pension mentioned in Part II of this Schedule.

**(2)** In this Part “retirement pension” includes—

- (a) a retirement pension under the 1974 regulations or the 1986 regulations,
- (b) a superannuation allowance under Part I of the Act of 1937,
- (c) an annual pension under the former regulations,
- (d) a pension under a local Act scheme, and
- (e) a short service grant under regulation 9 of the Benefits regulations.

*Modifications to usual benefit rules*

**17.—**(1) If—

- (a) on the person's ceasing to hold an employment in relation to which he became entitled to a previous pension (a "previous employment") regulation D7 applied, and
  - (b) he gave notice under paragraph 4 of Schedule 9 of the 1986 regulations,
- regulation D7(2) does not apply on his ceasing to hold any further employment.

(2) If regulation D7 did not apply on the person's ceasing to hold a previous employment, but does apply on his ceasing to hold a further employment, paragraph 2(1) of Schedule D3 applies with the substitution for paragraphs (a) and (b) of the words "6<sup>243</sup>/<sub>365</sub> years".

*Benefits on and after death*

**18.—**(1) Subject to sub-paragraph (2), if when the person dies regulation E3(2) applies, it applies with the omission of the words from "the greater of" to the end of paragraph (a).

(2) If the person who dies became entitled to a previous pension or to an additional pension—

- (a) by virtue of regulation D9, in a case where there was no entitlement under any previous regulation of Part D,
- (b) by virtue of regulation D11, or
- (c) by virtue of regulation E2(1)(c) or (d) of the 1986 regulations,

then—

- (i) if his previous and additional pension benefits equal or exceed his relevant previous or additional pensionable remuneration, there is no entitlement under Part E to a death grant in relation to the further employment, and
- (ii) otherwise, the amount of the death grant (as calculated in accordance with that Part) is reduced by the amount, if any, by which it exceeds the difference between the amount of those benefits and that remuneration.

(3) For the purposes of paragraph (2)—

- (a) a person's "previous and additional pension benefits" are the total of—
  - (i) every death grant payable in relation to any previous employment, calculated in accordance with Part E,
  - (ii) payments made in respect of every previous pension,
  - (iii) every retirement grant to which the person became entitled in conjunction with any previous pension,
  - (iv) any payments made in respect of the additional pension, and
  - (v) any retirement grant to which the person became entitled in conjunction with the additional pension,

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including in each case any increase under the Pensions (Increase) Act 1971<sup>(169)</sup> and the Pensions (Increase) Act 1974<sup>(170)</sup>, and

- (b) a person's "relevant previous or additional pensionable remuneration" is the greater of—
  - (i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension (within the meaning of the Pensions (Increase) Act 1971) beginning on and payable from the day after the last day of the relevant previous employment, and
  - (ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated.

## PART IV

### SURVIVING SPOUSES' AND CHILDREN'S BENEFITS

**19.**—(1) This paragraph applies where—

- (a) a person was entitled to a retirement pension (other than one which was reduced under regulation D13),
- (b) after becoming so entitled he entered further local government employment,
- (c) he dies in the further employment, and
- (d) if he had then ceased to be employed (otherwise than by reason of his death) he would have been entitled to give notice under paragraph 10.

(2) Where this paragraph applies—

- (a) any benefits payable in respect of the person (except any surviving spouse's or children's short-term pension) are to be calculated, and
- (b) any surrender of part of a retirement pension has effect,

as if immediately before his death he had become entitled to benefits under Part II of this Schedule or, if it is more favourable to the person entitled to receive the benefits in question, Part III of this Schedule.

**20.** Where—

- (a) a person was entitled to a superannuation allowance under Part I of the Act of 1937 or an annual pension under the former regulations or a pension under a local Act scheme, or a retirement pension under the 1974 regulations, the 1986 regulations or these regulations,
- (b) after becoming so entitled he entered further local government employment,
- (c) the pension or allowance was on that account reduced or suspended, and
- (d) he dies in the further employment,

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

**21.**—(1) Where—

- (a) a surviving spouse is entitled to a spouse's short-term pension under regulation F1,

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<sup>(169)</sup>1971 c. 56.

<sup>(170)</sup>1974 c. 9.

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

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

- (i) if the retirement pension was not reduced under Part I, to the total of the spouse's pensionable remuneration in the new employment and the annual rate of the retirement pension, or
  - (ii) if the retirement pension was so reduced, to the total of the spouse's pensionable remuneration in the new employment and the annual rate, if any, at which the retirement pension was payable.
- (2) So far as it is attributable to remuneration in the new employment, that spouse's short-term pension is payable by the new administering authority, and, so far as it is not so attributable, by the former administering authority (if different).

**21.—**(1) Where—

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

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

- (i) the aggregate of—
    - (I) half the annual rate of the member's retirement pension, and
    - (II) half the annual rate of the retirement pension to which the member would have been entitled in respect of the new employment if on the date of death the member had become entitled under regulation D7, and
  - (ii) half the annual rate of the retirement pension to which the member would have been entitled if—
    - (I) on the date of death the spouse had become entitled under that regulation, and
    - (II) notice had been given under paragraph 10.
- (2) That spouse's long-term pension is payable—
- (a) in the case mentioned in paragraph (i)—
    - (i) so far as it is attributable to remuneration in the new employment, by the new administering authority, and
    - (ii) so far as it is not so attributable, by the former administering authority (if different), and
  - (b) in the case mentioned in paragraph (ii), as if it were a pension under Part II.
- (3) For the purposes of sub-paragraph (1)—
- (a) any increase in the deceased's retirement pension under regulation D2(2), and
  - (b) any reduction in that pension under regulation H2(1), or by virtue of a surrender under regulation D14,

shall be disregarded.

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## SCHEDULE D6

Regulation D16.

## REDUCTION OF RETIREMENT PENSIONS OF CERTAIN FORMER TEACHERS

*Preliminary***1.** In this Schedule—

“the Teachers' Acts” means section 9 of the Superannuation Act 1972(**171**) and the Teachers (Superannuation) Acts 1918 to 1945,

“the Teachers' regulations” means the Teachers' Superannuation (Consolidation) Regulations 1988(**172**), the Teachers' Superannuation Regulations 1967 to 1974, and the Teachers' Superannuation Regulations 1976(**173**).

*Deduction for teachers' pension payments*

**2.**—(1) Where a person becomes entitled to a retirement pension in the calculation of the amount of which account is taken of service which he was entitled to count under section 17 of the Act of 1937 (which related to teachers), the amount receivable by him in any year in respect of that pension shall be reduced by a sum equivalent to the amount (if any) of his potential pension payment as a teacher.

(2) For the purpose of paragraph (1), in relation to any year, a person's potential pension payment as a teacher is the aggregate of—

- (a) the amount which is receivable by him in that year by virtue of the Teachers' Acts, and
- (b) the sums (if any) payable to him in that year under the Teachers' regulations.

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

- (a) any deduction from the amount mentioned in paragraph (a) made by the Secretary of State under section 76 of the Teachers (Superannuation) Act 1925(**174**), and
- (b) any deduction from the sums mentioned in paragraph (b) made under regulation 52 of the Teachers' Superannuation Regulations 1967(**175**) or regulation 77 of the Teachers' Superannuation Regulations 1976, or regulation E9 of the Teachers' Superannuation (Consolidation) Regulations 1988,

shall be disregarded.

*Treatment of capital sums and returns of contributions*

**3.**—(1) Subject to paragraph 4, where any sum in the nature of a capital payment has been paid or is payable at any time under the Teachers' Acts or the Teachers' regulations, then in computing the reduction to be made under paragraph 2(1)—

- (a) the amount of that sum shall be divided by the appropriate factor, and
- (b) the resulting amount shall be treated as a sum receivable by him in any year by virtue of the Teachers' Acts or the Teachers' regulations.

(2) Subject to paragraph 4, where any sum which represents a return of contributions in respect of a period of service which has been taken into account in calculating the amount of the retirement

(171) 1972 c. 11; section 9 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 4, 8, 11.

(172) S.I. 1988/1652.

(173) S.I. 1976/1987.

(174) 1925 c. 59.

(175) S.I. 1967/1489.

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pension, has been paid or is payable at any time under the Teachers' Acts or the Teachers' regulations, then in computing the reduction to be made in a person's retirement pension under paragraph 2(1)—

- (a) the amount which he has become entitled to be repaid at the date on which he became entitled to the pension shall be divided by the appropriate factor,
- (b) the amount representing any balance of his contributions under the Teachers' Acts or the Teachers' regulations which he may become entitled to be repaid after that date shall be divided by the appropriate factor, and
- (c) any amount resulting from the division under paragraph (a) or (b) shall be treated as a sum receivable by him by virtue of the Teachers' Acts or payable to him by virtue of the Teachers' regulations in any year.

(3) In this paragraph “the appropriate factor” in relation to any person means the factor shown in the following Table—

- (a) in relation to the sex of the person,
- (b) in relation to his age at the relevant date; and
- (c) according to whether he ceased to be employed—
  - (i) in the circumstances mentioned in regulation D7(1), or
  - (ii) in the circumstances mentioned in regulation D5, D6, D9 or D11;

and the factors for the case mentioned in paragraph (c)(i) are shown in the column marked “A”, and those for the cases mentioned in paragraph (c)(ii) are shown in the column marked “B”.

(4) In sub-paragraph (3) “the relevant date” means—

- (a) in relation to sub-paragraph (1), the date on which the sum was paid or becomes payable,
- (b) in relation to sub-paragraph (2)(a), the date on which he became entitled to the retirement pension, and
- (c) in relation to sub-paragraph (2)(b), the date on which he becomes entitled to be repaid the balance of his contributions.

**TABLE**

| Age                         | Factor<br>Men |      | Women |      |
|-----------------------------|---------------|------|-------|------|
|                             | A             | B    | A     | B    |
| Under 60 years              | 10            | —    | 12.5  | —    |
| 60 years but under 61 years | 10            | 11.6 | 12.5  | 13.4 |
| 61 years but under 62 years | 10            | 11.2 | 12.5  | 13   |
| 62 years but under 63 years | 10            | 10.8 | 12.5  |      |
| 63 years but under 64 years | 10            | 10.4 | 12.1  |      |
| 64 years but under 65 years | 10            |      | 11.7  |      |

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| Age                         | Factor   |   | Women |   |
|-----------------------------|----------|---|-------|---|
|                             | Men<br>A | B | A     | B |
| 65 years but under 66 years | 9.7      |   | 11.2  |   |
| 66 years but under 67 years | 9.3      |   | 10.8  |   |
| 67 years but under 68 years | 8.9      |   | 10.3  |   |
| 68 years but under 69 years | 8.5      |   | 9.9   |   |
| 69 years but under 70 years | 8.1      |   | 9.5   |   |
| 70 years but under 71 years | 7.7      |   | 9     |   |

**4.—(1) If—**

- (a) after paragraph 3(2) has become applicable in relation to any person a superannuation allowance under the Teachers' regulations is granted to him, and
- (b) the aggregate amount of the deductions made from his retirement pension by reason of the previous operation of that paragraph is less than the amount granted to him by way of lump sum under the Teachers' Acts or the Teachers' regulations,

then—

- (i) for the purpose of the application of paragraph 3(1), the amount so granted shall be deemed to be the difference between that amount and the aggregate amount mentioned in paragraph (b), and
- (ii) paragraph 3(2) shall cease to have any further effect in relation to him.

**5.—(1) If, after paragraph 3(2) has become applicable in relation to any person, a repayment of the amount representing the balance of the person's contributions under the Teachers' Acts or the Teachers' regulations is made to him, then for the purpose of computing the reduction to be made in his retirement pension in any year under paragraph 2(1)—**

- (a) in respect of the amount so repaid, paragraph 3(2) shall continue to apply in the same manner as it previously applied in relation to him, and
- (b) no further account shall be taken of that amount.

**6. In determining for the purpose of paragraph 2(1) any person's potential payment as a teacher in any year, the surrender by him, in accordance with regulation E11 of the Teachers' Superannuation (Consolidation) Regulations 1988, Part VI of the Teachers' Superannuation Regulations 1967 or Part III of the Teachers' Superannuation Regulations 1976, of the whole or part of the annual sum payable to him by way of retirement pension shall be disregarded.**

**7. Any reference in this Schedule to the date on which a person becomes entitled to a retirement pension shall be construed, in relation to a person who ceased to be employed in the circumstances mentioned in regulation D9(2) or D11(1), as a reference to the date on which he becomes entitled to receive payments in respect of that pension.**



SCHEDULE F1

Regulation F9.

ELECTIONS AS RESPECTS WIDOWERS' PENSIONS ETC.

1.—(1) A married woman who—

- (a) was a member on 27th July 1989 and has since that date continuously been a member, and
- (b) is entitled to count a period of membership before 6th April 1988,

may, subject to sub-paragraph (3) and in accordance with sub-paragraph (4), give notice in writing to the appropriate administering authority of any additional period which she wishes to count for the purposes of calculating any widower's long-term pension payable in respect of her.

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

- (a) became or becomes a member again within one month of so ceasing, or
- (b) became or becomes a member again within one month of returning to work in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978(176) (which confer the right to return to work following pregnancy or confinement).

(3) The additional period of which notice may be given by a woman under sub-paragraph (1) shall not exceed the length of her period of membership which is not, or is not treated for the purposes of regulation F8(3) as being, membership after 5th April 1988.

(4) Notice under sub-paragraph (1) shall be given not later than—

- (a) 12 months after the date of her marriage, or
- (b) if her husband becomes permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, 12 months after a medical certificate to that effect is submitted to the appropriate administering authority,

whichever is the later.

(5) The appropriate administering authority may extend either of the time limits referred to in sub-paragraph (4).

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

(7) Where any person duly gave notice under regulation E6(7) of the 1986 regulations that notice shall be taken for the purposes of these regulations to have been duly given under sub-paragraph (1).

*Elections under regulation E12 of the 1986 regulations*

2.—(1) Where any woman—

- (a) duly elected under regulation E12(1)(b) or (2)(b) of the 1986 regulations (election by wife of dependant and permanently incapacitated husband), or
- (b) was a person to whom regulation E12(1)(a) of those regulations (unmarried woman with potentially eligible child) applied immediately before she ceased to be a pensionable employee (within the meaning of those regulations),

then, subject to sub-paragraph (2), the provisions of Part D relating to the amount of the retirement pension and the retirement grant, Parts F and G and paragraph 3 or Schedule B6 apply in relation to her as if she were a man, and where paragraph (a) applies, as if the husband in relation to whom the election was made were a woman.

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(176) 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

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- (2) Paragraph (1) does not apply if—
  - (a) the woman has given notice under paragraph 1(1) that she wishes to count any of her membership before 6th April 1988 for the purposes of calculating a widower’s long-term pension, or
  - (b) if she ceases to be married to the husband in respect of whom the election under regulation E12(1) or (2)(b) of the 1986 regulations was made.
3. Where a woman died before 6th April 1988, Part G only applies in respect of her if—
  - (a) she was a person to whom regulation E12(1)(a) of the 1986 regulations (unmarried woman with potentially eligible child) applied, or
  - (b) in respect of whom an election under regulation E12(1)(b) or (2)(b) had effect immediately before her death.

SCHEDULE H1

Regulation H8.

MODIFICATIONS AS RESPECTS CERTAIN PRE APRIL 1974 EMPLOYEES

PART I

WHERE NO RIGHT TO RETIREMENT GRANT

1. In regulation D2—
  - (a) in paragraph (1)(a), for the words “one eightieth” substitute “one sixtieth”, and
  - (b) omit paragraphs (2) and (3).
2. In regulations D5, D6(1) and D7(1)—
  - (a) omit paragraph (ii),
  - (b) in both those regulations omit the word “and” immediately preceding the omitted paragraph, and
  - (c) for the words “which are” substitute “which is”.
3. In regulation D9(1) omit paragraph (b) and the word “and” immediately preceding it, and for the words “which are” substitute “which is”.
4. In regulation D11(1) omit the words “and a standard retirement grant”.
5. In regulation E3—
  - (a) in paragraph (1)(a) after “pension” insert “(other than a pension under regulation D19)”; and
  - (b) in paragraph (2) for the words from “reduced” onwards substitute  
“reduced—
    - (a) by the total of any payments made to him in respect of retirement pension, or
    - (b) where the pension was reduced under Schedule D5 (re-employed pensioners) or had been surrendered in part under regulation D14, by the amount which would have been paid in respect of the pension but for the reduction or surrender.”.
6. Omit Schedule D2.

7. In Part III of Schedule D5 (re-employed pensioners: separate benefits) omit paragraph 18(3) (a)(iii) and (iv).

## PART II

### WHERE NO RIGHT TO WIDOW'S PENSION

8. In regulation E3(2) omit the words from “reduced” onwards.  
9. Omit Schedule D2.

## PART III

### WHERE NO RIGHT TO RETIREMENT GRANT OR WIDOW'S PENSION

10. In regulations E1(2) and E2(2) omit the words from “less” onwards.  
11. For regulations E3 and E4 substitute—

**“Death of a pensioner.**

**E3.**—(1) If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

his personal representatives are entitled to receive a death grant.

(2) Where the deceased became entitled to the retirement pension otherwise than by virtue of becoming entitled to preserved benefits under regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the deceased’s pensionable remuneration, and
- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension,

reduced by the total of—

- (i) any retirement grant paid to him,
- (ii) any payments which were or would, apart from any reduction under Schedule D5 (re-employed pensioners), or regulation H2 (national insurance modification) or partial surrender under regulation D14, have been made to him in respect of retirement pension.

(3) Where the deceased became entitled to the retirement pension by virtue of becoming entitled to preserved benefits under regulation D9 or D11, the amount of the death grant is the greater of—

- (a) the amount mentioned in paragraph (2)(b) less the total of the sums mentioned in paragraph (2)(i) and (ii), and
- (b) such proportion of the deceased’s pensionable remuneration (less the total of those sums) as the length in years of the period of membership taken into account in calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.”

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**12.** Omit regulation E5.

**13.** In regulation F2—

- (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
- (b) in paragraph (2) for the words following “the annual rate of long-term pension is” substitute

“the aggregate of—

- (a) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
- (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.”.

- (c) For paragraph (3) substitute—

“(3) For the purpose of calculating the rate of the pension under paragraph (2), no account shall be taken of membership before attaining the age of 60 years beyond a total of 40 years, and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the husband’s period of membership.”.

**14.** In regulation F3—

- (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
- (b) for paragraph (2) substitute—

“(2) The annual rate of the long-term pension to which a widow is entitled under paragraph (1) is the aggregate of—

- (a) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
- (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.

(3) For the purpose of calculating the rate of the pension under paragraph (2), no account shall be taken of membership before attaining the age of 60 years beyond a total of 40 years, and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the husband’s period of membership.”.

**15.** In regulation F5—

- (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
- (b) in paragraph (2) for the words following “the annual rate of the long-term pension is” substitute

“the aggregate of—

- (a) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
- (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.”.

- (c) for paragraph (3) substitute—

“(3) For the purpose of calculating the rate of the pension under paragraph (2), no account shall be taken of membership before attaining the age of 60 years beyond a total of 40 years, and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the husband’s period of membership.”.

16. Omit regulations F6(2) and F8(2) and (3).
17. Omit regulations G3, G5 and G6.
18. In regulation G7(1)(a) omit “(or pension under regulation D19)”.

## SCHEDULE K1

Regulation K12.

### REVIVAL OF RIGHTS FOR CERTAIN COMMUNITY SCHEME TRANSFEREES

#### *Persons to whom this Schedule applies*

- 1.—(1) This Schedule applies where—
  - (a) a person became employed by a Community institution after having been employed in local government employment,
  - (b) the scheme managers of the Communities' scheme were paid a transfer value under regulation K2 in relation to his previous service in local government employment,
  - (c) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension, and
  - (d) his fund authority have been paid the appropriate transfer sum for the credit of their pension fund.
- (2) In this paragraph “Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme.
- (3) In sub-paragraph (1)(d) “appropriate transfer sum” means the aggregate—
  - (a) of a sum equal to the amount of the transfer value which the scheme managers received, and
  - (b) if the period beginning with the date on which the transfer value was received by the scheme managers and ending on that date on which the sum mentioned in paragraph (a) was paid is at least six months, of compound interest on that sum for that period—
    - (i) at the rate of 6 per cent. with yearly rests for each complete period of a year ending before 1st April 1977, and
    - (ii) at the rate of 2.25 per cent. with three-monthly rests for each complete period of three months beginning after 31st March 1977.

#### *Persons who ceased local government employment before April 1972*

- 2.—(1) Where the person ceased to be employed in his local government employment before 31st March 1972, he and those claiming through him shall, subject to sub-paragraph (2), have the same rights as they would have had by virtue of the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme, the 1974 regulations, the 1986 regulations and these regulations (so far as applicable) if—
  - (a) he had reached the age of 65 by the termination of his local government employment;

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- (b) he had sufficient service at that time to qualify him for a pension; and
  - (c) the payment of the transfer value had not been requested or made.
- (2) Sub-paragraph (1) shall not confer any right to—
- (a) a return of contributions; or
  - (b) the payment of any benefit for any period ending on or before—
    - (i) the date on which he left his employment with the Community institution, or
    - (ii) if later, the earliest date on which any benefit would have been payable if he had left his local government employment with the right to a retirement pension under regulation D11 (entitlement to deferred retirement benefits).

*Persons who ceased local government employment after March 1972*

3. Where—
- (a) the person ceased to be employed in his local government employment on or after 31st March 1972; and
  - (b) apart from regulations K2 to K11, he would have been entitled to a pension (other than a pension under regulation D17 (guaranteed minimum pensions for members in contracted-out employment etc.) or D19 (equivalent pension benefits)) in respect of the service to which the transfer value relates,

then, subject to paragraph 5, he and those claiming through him shall have the same rights as they would have had by virtue of these regulations, the 1986 regulations, the 1974 regulations and any local Act scheme (so far as applicable) if the payment of the transfer value had not been requested or made.

- 4.—(1) Where—
- (a) the person ceased to be employed in his local government employment on or after 31st March 1972; and
  - (b) he would not, apart from regulations K2 to K11, have been entitled to a pension (other than a pension under regulation D17 (guaranteed minimum pensions for members in contracted-out employment etc.) or regulation D19 (equivalent pension benefits)) in respect of the service to which the transfer value relates,

then, subject to paragraph 5, he and those claiming through him shall have the same rights as they would have had by virtue of these regulations, the 1986 regulations, the 1974 regulations and any local Act scheme (so far as applicable) on the assumptions mentioned in sub-paragraph (2).

- (2) The assumptions referred to in sub-paragraphs (1) are—
- (a) that on the termination of his local government employment he had been entitled to count—
    - (i) where the termination occurred before 6th April 1988, an aggregate of five years' reckonable service and qualifying service (as defined in the 1986 regulations), or
    - (ii) where the termination occurred on or after 6th April 1988 and before the commencement date, an aggregate of two years' reckonable service and qualifying service (as so defined), or
    - (iii) where the termination occurred on or after the commencement date, a total period of membership of 2 years, or
    - (iv) if he was subject to a local Act scheme, five years' service which would have been taken into account under the scheme for the purpose of determining whether he was entitled to benefit and

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- (b) that the payment of the transfer value had not been requested or made.
- 5. Paragraphs 3 and 4 shall not confer any right to—
  - (a) a return of contributions, or
  - (b) the payment of any benefit for any period ending on or before the date on which the person left his employment with the Community institution.

*Interpretation of references those claiming through a person*

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

SCHEDULE M1

Regulation M1.

EMPLOYEES AFFECTED BY REORGANISATION  
UNDER LOCAL GOVERNMENT ACTS ETC.

*Preliminary*

1. In this Schedule, unless the context otherwise requires—
  - “Health Service regulations” means the National Health Service (Superannuation) Regulations 1961 to 1973(177) as in force immediately before 1st April 1974;
  - “transferred employee” means—
    - (a) a person transferred on or after 1st April 1974—
      - (i) by or under an order made under section 84 of the London Government Act 1963(178) or an agreement made under section 24(7) of that Act; or
      - (ii) by virtue of a scheme made under Part I of the Police Act 1964(179); or
      - (iii) by the operation of the Public Libraries and Museums Act 1964(180); or
      - (iv) by or under an order made under section 17 of the Transport Act 1968(181); or
      - (v) by or under an order made under section 46 of the Children and Young Persons Act 1969(182); or
      - (vi) by or under an order or regulations made under the Local Government Act 1972(183) which, in accordance with the provisions of section 255 of that Act, contains a provision as to the transfer of that person; or
      - (vii) by regulation 5 of and Schedule 1 to the Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989(184);

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(177) S.I. 1961/1441, 1966/1523, 1972/1339, 1537, 1973/242, 731, 1649.

(178) 1963 c. 33.

(179) 1964 c. 48.

(180) 1964 c. 75.

(181) 1968 c. 73.

(182) 1969 c. 54; section 46 was amended by the Powers of Criminal Courts Act 1973 (c. 62), sections 56(1), 60(2), Schedule 5, paragraph 36, and the Probation Service Act 1993 (c. 47), section 32, Schedule 3, paragraph 3(3).

(183) 1972 c. 70.

(184) S.I. 1989/440.

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- (b) any person appointed by a local authority, or the National Water Council or a water authority (within the meaning of the Water Act 1973<sup>(185)</sup>) to hold any office or employment before or as from 1st April 1974 who, but for the appointment, would have been transferred on that day under section 255 of the Local Government Act 1972; and
- (c) any person who on 1st April 1974 remained in the employment of the same body as immediately before that day but who, in consequence of the Local Government Act 1972, or anything done under that Act, or of the 1974 regulations, became on that day entitled to participate in the benefits of a superannuation fund maintained under those regulations by a body different from the body which maintained the superannuation fund in the benefits of which he was immediately before that day entitled to participate;

“new employment” means employment to which a person has been so transferred or appointed; “new employing body” means the body which has become the employing authority in relation to a person so transferred or appointed; and, in relation to a person so appointed, his taking up of the office or employment to which he was appointed shall for the purpose of this Schedule be deemed to be a transfer.

#### *Continuity of employment and preservation of status*

- 2.—(1) Subject to sub-paragraph (2)—
- (a) these regulations have effect, in relation to a transferred employee, as if his new employment and his former employment had been one continuous employment, and
  - (b) notwithstanding anything in these regulations, a transferred employee who is transferred after 28th February 1986 and was a member immediately before the date on which he is transferred continues to be a member in his new employment.
- (2) Sub-paragraph (1) does not affect the operation of paragraph 3 or of regulations K20 to K22.

#### *Discretionary powers*

- 3.—(1) Where—
- (a) a transferred employee has continued in the employment of his new employing body,
  - (b) immediately before he was transferred (whether before or after the commencement date) it was the prevailing practice of the body employing him, in relation to employees of that description, to exercise so as to secure the payment of, or of an increase in, allowances or pensions any discretionary power exercisable by them by virtue of any enactment relating to pensions, and
  - (c) that or any corresponding power becomes exercisable in relation to him,
- the new employing body shall exercise the power in a way which is not less beneficial than the general character of that practice.

- (2) Where—
- (a) in consequence of regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986<sup>(186)</sup> a discretionary power becomes exercisable by any body; and

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<sup>(185)</sup>1973 c. 37.  
<sup>(186)</sup>S.I. 1986/380.



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- (b) it was the prevailing practice of the Greater London Council or, as the case may be, the metropolitan county council, to exercise that power in a way that was beneficial to employees,

the body shall exercise the power in a way which is not less beneficial than the general character of that practice.

*Contributions of transferred manual workers*

4. A transferred employee who immediately before he was transferred (whether before or after the commencement date) was paying contributions at a rate appropriate to a manual worker shall continue to contribute at the same rate so long as he continues to be employed by his new employing body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

*Former employees of Manchester Corporation*

5.—(1) Where a transferred employee—

- (a) was immediately before he was transferred a contributor to the Manchester pension fund, and
- (b) has continued in the employment of his new employing body,

these regulations have effect in relation to him, so long as he continues in the employment of that body, as if for any reference to an expression in column (1) of the following Table (which lists certain expressions used in these regulations) there were substituted a reference to the expression appearing opposite it in column (2).

TABLE

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|   |  |
|---|--|
| 1. The Acts of 1937 to 1953, or the regulations made under them. The Acts of 1937 to 1953, or the regulations made under them, applying as amended or extended by any local Act or scheme or together with any such provisions. | The Manchester pension provisions.   |
| 2. The appropriate superannuation fund within the meaning of the Act of 1937. A superannuation fund maintained under Part 1 of the Act 1937.  | The Manchester pension fund.   |
| 3. Contributory employee.   | Contributor to the Manchester pension fund.                                  |
| (a) (a) Contributing service, and   | Service for purposes of the Manchester pension provisions.                   |
| (b) Non-contributing service, for the purposes of the former regulations.   |  |
| 5. The former regulations   | The Manchester pension provisions.   |
| 6. A provision in the former regulations.   | The corresponding or similar provision in the Manchester pension provisions. |

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(2) In this paragraph—

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“the Manchester pension fund” means the pension fund maintained immediately before 1st April 1974 by the Manchester City Council for the officers and servants of the Manchester Corporation; and

“the Manchester pension provisions” means the provisions of the enactments, and of the schemes and other instruments in force under them immediately before 1st April 1974, relating to the Manchester pension fund (including the provisions of the Acts of 1937 to 1953 and of any relevant instruments under them so far as applicable to that fund).

*Transferees under section 18(4)(a) of the National Health Service Reorganisation Act 1973*

**6.—(1)** Subject to sub-paragraphs (3) and (4), where a person who was transferred to the employment of a LGPS employer (“the new employment”) by or under an order made under section 18(4)(a) of the National Health Service Reorganisation Act 1973(**187**), was immediately before that transfer in an employment (“the old employment”) in which he was an officer (within the meaning of the Health Service regulations), then—

- (a) subject to sub-paragraph (3), he is entitled to count—
    - (i) as a period of membership any service which for the purposes of the Health Service regulations he was entitled to count in relation to the old employment as, or as a period of, contributing service, and
    - (ii) as a period to which Part II of Schedule B6 applies any service which for the purposes of those regulations he was entitled to count in relation to that employment for the purpose of determining whether he was entitled to a benefit under those regulations, but for no other purpose, and
  - (b) where immediately before he was transferred he was in the process of making payments which were or were deemed to be payments under Schedule 2 to the Health Service regulations, he is entitled—
    - (i) to make the outstanding payments as if they had been instalments of an amount payable under regulation D6 of the 1974 regulations, and
    - (ii) if he completes the payments in the manner provided in Schedule 6 to the 1986 regulations (as continued in effect by paragraph 9 of Schedule C6), to have the membership in respect of which they were made counted for all the purposes of these regulations at its full length, and
  - (c) where immediately before he was transferred he was in the process of making payments in respect of added years, he is entitled—
    - (i) to make the outstanding payments as if they had been payments of an amount payable under regulation D10 of the 1974 regulations, and
    - (ii) in respect of the added years in respect of which those payments are made, shall enjoy rights and be subject to liabilities as if those years were added years which may be counted under paragraph 2 of Schedule C6 in the new employment.
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period, and
  - (b) except for the purpose of—
    - (i) determining whether a person is entitled to, or to payment of, a benefit, or

- (ii) ascertaining, where notice was given under Schedule 2 to the Benefits regulations or regulation D6 or D7 of the 1974 regulations, the maximum length of any additional period to which regulation C9 applies,

any service which was reckonable under the Health Service regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall, subject to sub-paragraph (1)(b), be counted at half its length.

(3) Where immediately before he was transferred such a person as is mentioned in sub-paragraph (1) was a person in respect of whom the Secretary of State—

- (a) paid contributions under regulation 45 of the Health Service regulations (persons subject to non-statutory superannuation schemes and arrangements), or
- (b) carried out any such scheme or arrangements as are referred to in that regulation,

then, that person shall not be subject to any provisions of these regulations except those contained in this sub-paragraph, and the body to which that person was transferred shall—

- (i) if immediately before 1st April 1974 the Secretary of State was paying under regulation 45 of the Health Service regulations in respect of that person the contributions authorised or required by the relevant scheme to be paid by the employer, pay those contributions, and
- (ii) deduct from the person's remuneration the amount of any contribution required by the scheme or under the arrangements to be paid to the employee.

(4) In relation to a person who gave notice under regulation J17(3)(e) of the 1974 regulations that he did not wish to avail himself of the benefits provided under those regulations and to whom regulation H6(5) applied immediately before the commencement date—

- (a) sub-paragraphs (1) and (2) do not apply, and
- (b) these regulations have effect as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service regulations, and continue so to apply so long as he is employed without a disqualifying break of service by a LGPS employer on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

(5) Notwithstanding anything in sub-paragraph (4), where that sub-paragraph applies—

- (a) paragraph 8 of Schedule B6 has effect as if—
  - (i) references to a period to which Part II of that Schedule applies included references to periods of service which count for the purpose of determining whether any benefit is payable,
  - (ii) in sub-paragraph (3), the reference to regulation D8 included a reference to regulation 8(1)(a)(iv) of the Health Service regulations, and
  - (iii) “retirement pension” included a pension payable by virtue of sub-paragraph (4), and
- (b) Part I of Schedule D5 (re-employed pensioners) has effect in lieu of regulation 39 of the Health Service regulations and as if—
  - (i) “retirement pension” included a pension payable by virtue of that sub-paragraph, and
  - (ii) for the purpose of ascertaining the remuneration of a former employment, entitlement to such a pension were not an entitlement under these regulations, the 1986 regulations or the 1974 regulations, and
- (c) regulation H4 (forfeiture) has effect in lieu of regulation 55 of the Health Service regulations.

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*Transfers under the Local Government Act 1985 meaning of “previous fund authority”*

7. Where the previous fund authority for the purposes of regulation K20 has ceased to exist and the relevant pension fund is vested by section 60(1) or under section 66 of the Local Government Act 1985(188) in any body, that body is to be treated as being the previous fund authority.

## SCHEDULE M2

Regulation M2.

### MODIFICATION IN SPECIAL CASES

#### *Preliminary*

1.—(1) References in this Schedule to these regulations applying to a person with the age 70 modification mean that in their application to that person they have effect—

- (a) as if in paragraph (3) of regulation B2 (latest retirement age and LRD) for the reference to 65 there was substituted a reference to 70 or any lesser age (not being less than 65) at which the person reaches the maximum referred to in paragraph (6) of that regulation; and
- (b) as if in Schedule D3 (additional membership in cases of ill-health) for “65”, wherever it occurs, there was substituted “70”.

(2) References in this Schedule to a relevant decision are to a decision made under—

- (a) regulation B16 (increase of membership at discretion of employing authority),
- (b) regulation C21(4) (return of contributions in case of offence etc. in connection with employment), or
- (c) regulation H4 (forfeiture of rights).

#### *Employees of magistrates' courts committees*

2.—(1) In their application to a person employed by a magistrates' courts committee these regulations have effect—

- (a) subject to the modifications in sub-paragraphs (2) to (7), and
- (b) in the case of a justices' clerk (outside the inner London area), subject also to the age 70 modification.

(2) Where—

- (a) a person is employed by two or more magistrates' courts committees, and
- (b) any of the employments is an employment for which he does not receive separate remuneration,

his remuneration for that employment is—

- (i) where the remuneration for more than one employment is paid by the same body, such part of his total remuneration for those employments as may be agreed between him and the body, or, in default of agreement, determined by the Secretary of State; or
- (ii) otherwise, that part of his total remuneration which is paid by the body responsible for defraying the expenses of the employing committee.

(3) Without prejudice to regulation B5(1), a person who holds two or more clerkships under a magistrates' courts committee or is employed by a magistrates' courts committee to assist a justices' clerk or clerks in two or more clerkships shall be deemed for the purposes of these regulations (except regulation C1) to be in separate employments under separate LGPS employers as respects any clerkships for which the remuneration is paid by different bodies.

(4) Regulation C26 (statement of remuneration received otherwise than from employing authority) does not apply.

(5) The body paying the person's remuneration are to be treated—

- (a) as his employing authority for the purposes of regulation C25 (deduction and recovery of contributions) and regulation L13(1) to (3) (employer's further payments),
- (b) as employing him for the purposes of regulation L12 (employer's contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer's further payments).

(6) A magistrates' courts committee are to report any relevant decision made by them to the body paying the person's remuneration.

(7) Regulation J5 (appeals) has effect as if the body receiving the report were a person mentioned in paragraph (5)(b) of that regulation (service of notice of appeal) and paragraph (2) were omitted.

#### *Certain employees of the magistrates' courts committee for the inner London area*

**3.—**(1) In their application to a person who is eligible to be a member by virtue of paragraph 4(1) of Schedule B3 these regulations have effect—

- (a) in any case, subject to the modifications in sub-paragraphs (2) and (3), and
- (b) in the case of a justices' clerk (inner London area), subject also to the age 70 modification.

(2) The Receiver for the Metropolitan Police District is to be treated—

- (a) as the person's employing authority for the purposes of regulation C25 (deduction of contributions) and regulation L13(1) to (3) (employer's further payments),
- (b) as employing him for the purposes of regulation L12 (employer's contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer's further payments).

(3) The magistrates' courts committee are to report any relevant decision made by them to the Secretary of State; and such a decision has no effect until approved by him.

#### *Employees of probation committees*

**4.—**(1) In their application to a person employed by a probation committee these regulations have effect subject to the modifications in the following sub-paragraphs.

(2) For the purposes of the definition of "employee" in Schedule A1, a probation officer whose appointment is determinable within three months unless confirmed by the Secretary of State is not for that reason to be treated as being a person appointed to a post in a temporary capacity for a period of not more than three months.

(3) In relation to an employee of the probation committee for the inner London area, the Receiver for the Metropolitan Police District is to be treated—

- (a) as his employing authority for the purposes of regulations C25 (deduction of contributions), C26 (statement of remuneration received otherwise than from employing authority) and regulation L13(1) to (3) (employer's further payments),

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- (b) as employing him for the purposes of regulation L12 (employer's contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer's further payments).

(4) The probation committee for the inner London area are to report any relevant decision made by them to the Secretary of State; and such a decision has no effect until approved by him.

(5) The probation committee for an area other than the inner London area are to report any relevant decision made by them to the body responsible for defraying the expenses of the committee, or, where two or more bodies contribute to the defraying of those expenses, to each of those bodies.

(6) Regulation J5 (appeals) has effect as if a body receiving such a report were a person mentioned in paragraph (5)(b) of that regulation (service of notice of appeal) and paragraph (2) were omitted.

(7) In the application of regulation B15(1)(b) and (3) (calculation of part-time service) to part-time service as a probation officer, the proportionately reduced period is to be determined by making a separate calculation in respect of each year of part-time service and, subject to sub-paragraph (8), in respect of any year of part-time service the period is the same proportion of that year as the remuneration received by him in the year of part-time service bears to the mean of the annual salary scale applicable to probation officers in respect of that year.

(8) In relation to any year of part-time service before 1st April 1965, sub-paragraph (7) applies as if the mean of the annual salary scale applicable to probation officers in respect of that year were—

- (a) in a case where the date on which that year commenced was on or after 1st July 1937 and before 1st July 1944, for male officers £330 and for female officers £290;
- (b) in a case where that date was on or after 1st July 1944 and before 1st December 1946, for male officers £375 and for female officers £330;
- (c) in a case where that date was on or after 1st December 1946 and before 1st April 1954, for male officers £485 and for female officers £420; and
- (d) in a case where that date was on or after 1st April 1954, for male officers £620 and for female officers £555.

(9) Sub-paragraphs (7) and (8) apply with the necessary modifications to periods of part-time service of less than a year.

#### *Coroners*

5. In their application to a coroner who is a member by virtue of paragraph 4 of Schedule B2 these regulations have effect with the age 70 modification.

#### **Certain former contributory employees**

6.—(1) This paragraph applies to a person who—

- (a) immediately before 1st April 1974 was a contributory employee to whom the Acts of 1937 to 1953 and the regulations made under them applied either as modified or extended by, or together with, any local Act or scheme,
- (b) became on 1st April 1974 a pensionable employee under a scheduled body (within the meaning of the 1986 regulations), and
- (c) to whom immediately before the commencement date regulation G6 of the 1986 regulations applied,

and in relation to such a person the provisions which applied as mentioned in paragraph (a) are referred to in this regulation as his former occupational pension scheme.

(2) Where any relevant provision of the person's former occupational pension scheme would have been more beneficial than the corresponding provision of these regulations, these regulations have effect, for the appropriate period, as if the relevant provision had applied.

(3) For the purposes of sub-paragraph (2) a provision of the former scheme is a relevant provision if it was similar to one of the following provisions of these regulations—

- (a) regulations B2(3) (latest retirement age and LRD);
- (b) regulation C2(2)(a) (exclusion from the definition of "remuneration" of payments for non-contractual overtime);
- (c) regulation C4 (member's standard contributions);
- (d) regulation C3(1) (normal retirement age and NRD);
- (e) regulation D1 (pensionable remuneration);
- (f) regulation D14 (surrender of part of pension in favour of spouse or dependant);
- (g) Part I of Schedule D5 (reduction of pension of re-employed pensioner);

but paragraph (f) only applies where no election was made under regulation E19 of the 1974 regulations.

(4) Where the person—

- (a) having ceased to be employed during the appropriate period by reason of his voluntary resignation, becomes entitled to receive a payment under regulation C21 (return of contributions), and
- (b) if his former occupational pension scheme had still applied to him, would have been entitled under it to receive a return of contributions together with interest,

he is entitled to receive out of the appropriate pension fund interest on so much of the amount payable to him under regulation C21 as is equal to the contributions paid by him in respect of service before 1st April 1972 to any superannuation fund under Part I of the Act of 1937 or under a local Act scheme.

(5) Interest under paragraph (4) is to be calculated, to the date on which the person ceased to be employed, at the same rate and with the same rests as if it had been payable under his former occupational pension scheme.

(6) If—

- (a) the person dies during the appropriate period, and
- (b) under his former occupational pension scheme a death gratuity would have been calculated by reference to a fraction ("the relevant fraction") of his average remuneration (within the meaning of the Benefits regulations) greater than three eightieths,

the amount of the death grant payable under Part E is increased by an amount equal to the differential fraction of his pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972.

(7) For the purposes of this paragraph—

"the differential fraction" is the difference between the relevant fraction and three eightieths (expressed as a fraction); and "the appropriate period" is—

- (a) the period of application specified in the relevant provision of the person's former occupational pension scheme, or
- (b) if no period is so specified, the period during which he continues in the employment of the body mentioned in sub-paragraph (1)(b).

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*Former clerks of the peace etc.*

7.—(1) A person—

- (a) to whom paragraph 13(2) of Schedule 10 to the Courts Act 1971<sup>(189)</sup> (“paragraph 13(2)”) applied, and
- (b) who immediately before the commencement date was under regulation G7 of the 1986 regulations contributing to the appropriate superannuation fund the amount specified in paragraph 13(2) (“the paragraph 13(2) amount”),

may, for as long as he continues in the employment of the same body, continue to contribute the paragraph 13(2) amount.

(2) For the purpose of calculating the amount of any benefit, a person shall be treated as having received, for any period for which he has, under regulation J10 of the 1974 regulations, regulation G7 of the 1986 regulations or this paragraph, contributed the paragraph 13(2) amount, the remuneration which he would have received but for the reduction by virtue of which paragraph 13(2) became applicable to him.

*Persons entitled before 1st April 1974 to preserved benefits*

8. In the case of a person who is entitled to preserved benefits to which he became entitled by virtue of regulation E2(1)(c) of the 1974 Regulations as applied by Part K of those Regulations—

- (a) the preserved benefits (including any increases under the Pensions (Increase) Act 1971<sup>(190)</sup> and the Pensions (Increase) Act 1974<sup>(191)</sup>) are subject to reduction, but
- (b) on return to local government employment previous service becomes reckonable on repayment of a sum equal to the amount of returned contributions,

as if regulations D1(2) (with the substitution for “the appointed day” of “1st April 1989”), D1(3) and K1(7) of the 1974 Regulations had continued to have effect.

SCHEDULE M3

Regulation M3.

MODIFICATIONS APPLYING TO CERTAIN CITY OF LONDON EMPLOYEES

PART I

MODIFICATION APPLYING TO ALL RELEVANT EMPLOYEES  
SUBSTITUTED PARAGRAPH 6 OF SCHEDULE M1

1. For paragraph 6 of Schedule M1 substitute—

*“Persons transferred to Common Council under section 18(4)  
(a) of the National Health Service Reorganisation Act 1973*

6.—(1) This sub-paragraph applies to a person—

<sup>(189)</sup> 1971 c. 23; Schedule 10, paragraph 13 was repealed by the Superannuation Act 1972 (c. 11), section 29(2) and (4), Schedule 7, paragraph 5, Schedule 8.

<sup>(190)</sup> 1971 c. 56.

<sup>(191)</sup> 1974 c. 9.



- (a) who was by or under an order made under section 18(4)(a) of the National Health Service Reorganisation Act 1973(192) transferred to the employment of the Common Council,
  - (b) who immediately before he was so transferred was in an employment in which he was an officer (within the meaning of the Health Service regulations),
  - (c) who on the date on which he was so transferred became a contributor to the local Act superannuation fund in the employment to which he was so transferred,
  - (d) who became a member in that employment on 1st October 1977, and
  - (e) to whom sub-paragraph (4) does not apply.
- (2) A person to whom sub-paragraph (1) applies is, subject to sub-paragraph (3), entitled to count—
- (a) as, or as a period of, membership any service which for the purposes of the Health Service regulations he was entitled to count in relation to the employment mentioned in sub-paragraph (1)(b), as, or as a period of, contributing service, and
  - (b) as a period to which Part II of Schedule B6 applies any service which for the purposes of those regulations he was entitled to count in relation to that employment for the purpose of determining whether he was entitled to a benefit under those regulations, but for no other purpose.
- (3) For the purposes of sub-paragraph (2)—
- (a) any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period, and
  - (b) except for the purposes of—
    - (i) determining whether a person is entitled to, or to payment of, a benefit, or
    - (ii) ascertaining, where notice was given under Schedule 2 to the Benefits regulations or regulation D6 or D7 of the 1974 regulations, the maximum length of any additional period to which regulation C9 applies,any service which was reckonable under the Health Service regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall be counted at half its length.
- (4) Subject to sub-paragraph (5), in relation to a person who gave notice under regulation 19(3) of the Local Government Superannuation (City of London) Regulations 1977(193) that he did not wish to avail himself of the benefits provided under the 1974 regulations, these regulations—
- (a) have effect as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service regulations, and
  - (b) continue so to have effect so long as he is employed without a disqualifying break of service by the Common Council on duties reasonably comparable to those on which he was engaged immediately before he was transferred.
- (5) Notwithstanding anything in sub-paragraph (4), where that sub-paragraph applies—
- (a) paragraph 8 of Schedule B6 has effect as if—

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- (i) references to a period to which Part II of that Schedule applies included references to periods of service which count for the purpose of determining whether any benefit is payable,
- (ii) in sub-paragraph (2), the reference to regulation E2(1)(c) of the 1986 regulations included a reference to regulation 8(1)(a)(iv) of the Health Service regulations, and
- (iii) “retirement pension” included a pension payable by virtue of sub-paragraph (4),
- (b) Part I of Schedule D5 has effect in lieu of regulation 39 of the Health Service regulations and as if—
  - (i) “retirement pension” included a pension payable by virtue of sub-paragraph (4), and
  - (ii) for the purpose of ascertaining the remuneration of a former employment, entitlement to such a pension were not an entitlement under these regulations, the 1986 regulations or the 1974 regulations, and
- (c) regulation H4 has the effect in lieu of regulation 55 of the Health Service regulations.
- (6) In this paragraph “the local Act superannuation fund” has the same meaning as in the Local Government Superannuation (City of London) Regulations 1977.”

## PART II

### MODIFICATIONS APPLYING TO BOTH EXISTING AND FORMER CONTRIBUTORS

2. For any reference to one of the following expressions substitute a reference to the expression appearing opposite it.

|  |  |
|--|--|
| The Acts of 1937 to 1953, or the regulations made under them.  | The local Act superannuation provisions.   |
| The Acts of 1937 to 1953, or regulations made under them, applying as amended or extended by the provisions of any local Act or scheme or together with any such provisions. |  |
| The appropriate superannuation fund within the meaning of the Act of 1937.   | The local Act superannuation fund.   |
| A superannuation fund maintained under Part I of the Act of 1937.  |  |
| Contributory employee.   | Contributor to the local Act superannuation fund.  |
| Contributing service.  | Service reckonable for all the purposes of the local Act superannuation provisions at its full length. |
| Non-contributing service.  | Service reckonable for the purpose of calculating the amount of a benefit under the                    |

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|  |  |
|--|--|
|  | local Act superannuation provisions at half its length.                            |
| The former regulations.                | The local Act superannuation provisions.   |
| A provision in the former regulations. | The corresponding or similar provision in the local Act superannuation provisions. |

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3. In relation to an existing contributor or former contributor who immediately before the commencement date was entitled by virtue of paragraph 3 of Part V of Schedule 15 to the 1986 regulations to make contributions at a lower rate, regulation C4 has effect, while he continues in the employment of the same City of London employing body, with the substitution for “five per cent.” or “six per cent.” of that lower rate.

4. For regulation H8 substitute—

*“Benefits of certain persons employed before 1st October 1977*

**H8.**—(1) Subject to paragraph (3), in relation to a person who—

(a) was prospectively entitled under the local Act superannuation provisions to benefits which did not include a lump sum retiring allowance and a pension payable to his widow, and

(b) did not make an election under regulation E19(2) of the 1974 regulations,

these regulations have effect subject to the modifications set out in Parts I and III of Schedule H1.

(2) In relation to a person who—

(a) was prospectively entitled under the local Act superannuation provisions to benefits which did not include a lump sum retiring allowance, and

(b) did not make an election under regulation E19(2) of the 1974 regulations,

these regulations have effect subject to the modifications set out in Parts II and III of Schedule H1.

(3) In relation to a person falling within paragraph (1)(a) and (b) who—

(a) fulfils the following conditions, namely—

(i) he first married on or after 1st October 1977,

(ii) he has continued to contribute to the pension fund maintained by the Common Council from the day on which he first became a member and without a break of 12 months or more, and

(iii) at a time when he is a member and within three months after first marrying he elects by notice in writing to the Common Council to be treated as a person falling within paragraph (2)(a) and (b); or

(b) made a similar election to that mentioned in paragraph (a)(iii) under regulation E19(2) of the 1974 regulations,

these regulations have effect subject to the modifications set out in Parts II and III of Schedule H1.

(4) In this regulation “the local Act superannuation provisions” and “City of London employing body” have the same meanings as in the Local Government Superannuation (City of London) Regulations 1977.”.

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## PART III

### SUBSTITUTED SCHEDULE H1

“SCHEDULE H1

Regulation H8.

#### MODIFICATIONS AS RESPECTS CERTAIN PRE APRIL 1974 EMPLOYEES

## PART I

### WHERE NO RIGHT TO RETIREMENT GRANT

1. In regulation D2—
  - (a) in paragraph (1)(a), for the words “one eightieth” substitute “one sixtieth”, and
  - (b) omit paragraphs (1)(b), (2) and (3).
2. In regulation F2—
  - (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
  - (b) in paragraph (2) for the words following “the annual rate of the long-term pension is” substitute
    - “the aggregate of—
    - (a) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
    - (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.”.
3. In regulation F3—
  - (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
  - (b) for paragraph (2) substitute—
    - “(2) The annual rate of the long-term pension to which a widow is entitled under paragraph (1) is the aggregate of—
    - (a) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
    - (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.”.
4. In regulation F5—
  - (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
  - (b) in paragraph (2) for the words following “the annual rate of the long-term pension is” substitute
    - “the aggregate of—

- (a) one four hundred and eightieth of her husband's pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972 and
- (b) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972."

5. Omit regulations G3, G5 and G6 and in regulation G7(1) paragraph (b) and the word "or" immediately preceding it.

## PART II

### WHERE NO RIGHT TO WIDOW'S PENSION

6. In regulation D2—

- (a) in paragraph (1)(a), for the words from "equal to" onwards substitute "equal to the aggregate of—"
  - (i) one seventieth of his pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
  - (ii) one sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972
- ; and
- (b) omit paragraphs (1)(b), (2) and (3).

7. In regulation F2—

- (a) in paragraph (1) for "spouse" and "spouses", wherever they occur, substitute respectively "widow" and "widows";
  - (b) in paragraph (2) for the words following "the annual rate of the long-term pension is" substitute "the aggregate of—"
    - (a) (subject to paragraph (2A)) three tenths of the retirement pension to which her husband was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
    - (b) one four hundred and eightieth of her husband's pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
    - (c) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.";
  - and
  - (c) after paragraph (2) insert—
    - "(2A) Where—
      - (a) the widow's age at the date of her husband's death is greater than his, or
      - (b) her age was less and she has no eligible child,
- the amount calculated under paragraph (2)(a) is to be increased or reduced by an amount certified by an actuary to be just."

8. In regulation F3—

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- (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
  - (b) for paragraph (2) substitute—
    - “(2) The annual rate of the long-term pension to which a widow is entitled under paragraph (1) is the aggregate of—
      - (a) (subject to paragraph (2A)) three tenths of the retirement pension to which her husband was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
      - (b) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
      - (c) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972”; and
  - (c) after paragraph (2) insert—
    - “(2A) Where—
      - (a) the widow’s age at the date of her husband’s death was greater than his, or
      - (b) her age was less and she has no eligible child,the amount calculated under paragraph (2)(a) is to be increased or reduced by an amount certified by an actuary to be just.”.
- 9.** In regulation F5—
- (a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;
  - (b) in paragraph (2) for the words following “the annual rate of the long-term pension is” substitute
    - “the aggregate of—
      - (a) (subject to paragraph (2A)) three tenths of the retirement pension to which her husband was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
      - (b) one four hundred and eightieth of her husband’s pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
      - (c) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of the period of his membership after 31st March 1972.”; and
  - (c) after paragraph (2) insert—
    - “(2A) Where—
      - (a) the widow’s age at the date of her husband’s death was greater than his, or
      - (b) her age was less and she has no eligible child,the amount calculated under paragraph (2)(a) is to be increased or reduced by an amount certified by an actuary to be just.”.
- 10.** In regulation G3 for paragraph (2) substitute—
- “(2) Subject to paragraph (5) and regulations G9 and G10, the annual amount of a children’s long-term pension is the appropriate fraction of the aggregate of—

- (a) three tenths of the retirement pension to which the deceased was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
- (b) one four hundred and eightieth of his pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
- (c) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of his period of membership after 31st March 1972.”.

**11.** In regulation G3 for paragraph (5) substitute—

“(5) For the purposes of calculating the amount of a children’s long-term pension under paragraph (2), no account shall be taken of any period of membership before attaining the age of 60 years beyond a total of 40 years; and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the member’s period of membership.”.

**12.** In regulation G5 for paragraph (2) substitute—

“(2) Subject to paragraph (4) and regulations G9 and G10, the annual amount of a children’s long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the aggregate of—

- (a) three tenths of the retirement pension to which the deceased was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
- (b) one four hundred and eightieth of his pensionable remuneration, multiplied by the length in years of his period of membership 1st April 1972, and
- (c) one one hundred and sixtieth of his pensionable remuneration, multiplied by the length in years of his period of membership after 31st March 1972.”.

**13.** In regulation G5 for paragraph (4) substitute—

“(4) For the purposes of calculating the amount of a children’s long-term pension under paragraph (2), no account shall be taken of any period of membership before attaining the age of 60 years beyond a total of 40 years; and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the member’s period of membership.”.

**14.** In regulation G6 for paragraphs (2) and (3) substitute—

“(2) Subject to paragraph (3) and regulations G9 and G10, the annual amount of a children’s long-term pension is the appropriate fraction (within the meaning of regulation G3(3)) of the aggregate of—

- (a) three tenths of the retirement pension to which the deceased was or would have been entitled at the time of his death in respect of the period of his membership before 1st April 1972,
- (b) one four hundred and eightieth of his pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972, and
- (c) one one hundred and sixtieth of his pensionable remuneration multiplied by the length in years of his period of membership after 31st March 1972.

(3) For the purposes of calculating the amount of children’s long-term pension under paragraph (2), no account shall be taken of any period of membership before attaining the age of 60 years beyond a total of 40 years; and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the member’s period of membership.”.

**15.** Before regulation G8 insert—

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**“Limitation on entitlement to children’s long-term pension**

**G7A.** Where a widow’s long-term pension is payable under Part F, no children’s long-term pension is payable until the day after the widow’s death.”.

**16.** In regulation G10(1), for the words from “then” to the end of the regulation substitute “the annual rate of the pension is to be reduced by the amount of the excess”.

**PART III**

**WHERE NO RIGHT TO RETIREMENT GRANT OR WIDOW'S PENSION**

**17.** In regulation D2 omit paragraphs (1)(b), (2) and (3).

**18.** In regulations D5, D6(1) and D7(1) omit paragraph (ii), in regulation D9(1) omit paragraph (b), and in all those regulations omit the word “and” immediately preceding the omitted paragraph and for the words “which are” substitute “which is”.

**19.** In regulation D11(1) omit the words “and a standard retirement grant”.

**20.** In regulations E1(2) and E2(2) omit the words from “less” onwards.

**21.** For regulations E3 and E4 substitute—

**“Death of a pensioner**

**E3.—**(1) If at the time of his death a person—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of Schedule D5 (re-employed pensioners),

his personal representatives are entitled to receive a death grant.

(2) Where the deceased became entitled to the retirement pension otherwise than by virtue of becoming entitled to preserved benefits under regulation D11, the amount of the death grant is the greater of—

- (a) the deceased’s pensionable remuneration, and
- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the period of membership taken into account in calculating his retirement pension,

reduced by the total of—

- (i) any retirement grant paid to him, and
- (ii) any payments which were or would, apart from any reduction under Schedule D5 (re-employed pensioners) or partial surrender under regulation D14, have been made to him in respect of retirement pension.

(3) Where the deceased became entitled to the retirement pension by virtue of becoming entitled to preserved benefits under regulation D11, the amount of the death grant is the greater of—

- (a) the amount mentioned in paragraph (2)(b), less the total of the sums mentioned in paragraph (2)(i) and (ii), and
- (b) such proportion of the deceased’s pensionable remuneration (less the total of those sums) as the length in years of the period of membership taken into account in



calculating his retirement pension bears to the length in years of the period of membership he would have had at his NRD.”.

22. Omit regulation E5.

23. In regulation F2—

(a) in paragraph (1) for “spouse” and “spouses”, wherever they occur, substitute respectively “widow” and “widows”;

(b) in paragraph (23) omit—

(i) in paragraph (a) the words from “if” to “years”, and

(ii) paragraph (b) and the word “and” immediately preceding it; and

(c) for paragraph (3) substitute—

“(3) For the purpose of calculating the rate of the pension under paragraph (2), no account shall be taken of membership before attaining the age of 60 years beyond a total of 40 years, and any period of membership which is accordingly to be left out of account shall be taken from the beginning of the husband’s period of membership”.

24. In Part III of Schedule D5 (re-employed pensioners: separate benefits) omit paragraph 18(3)(a)(iii) and (v).”

## SCHEDULE M4

Regulation M8.

### TRANSITIONAL AND TRANSITORY PROVISIONS

## PART I

### GENERAL PROVISIONS

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

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

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

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

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

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

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

**3. Where—**

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

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

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

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

(3) The revocation by these regulations of a provision which has effect as respects another provision of the revoked instruments (Being a provision which is not reproduced in these regulations but continues in effect by virtue of this Schedule or the Interpretation Act 1978(194)) does not affect its operation as respects that other provision.

**5.** Where by virtue of Part II of this Schedule a reference in these regulations not anything has effect as respects any time before the commencement date as if it were a reference to another thing, then where any provision of the revoked instruments continues in effect (by virtue of this Schedule or otherwise) on and after that date, any reference in that provision to that other thing shall, so far as is necessary to give effect to it, have effect on and after that date with the appropriate modification.

## PART II

### SPECIFIC PROVISIONS

#### *Membership*

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

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

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

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

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(194)1978 c. 30.

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by virtue of any provision of the 1986 regulations which is revoked by these regulations and is not re-enacted by them or is re-enacted with modifications, he shall notwithstanding the revocation or modification remain eligible to be a member, or as the case may be to make such an election, subject to the same terms and conditions as under the provision.

- (4) Without prejudice to the previous provisions of this paragraph—
- (a) no person who is a member of the Scheme immediately before the commencement date shall be ineligible for membership of the Scheme by virtue of anything in regulation B3 (definitions of whole-time, part-time and variable-time employment);
  - (b) notwithstanding the revocation of paragraph 4 of Part IV of Schedule 2 to the 1986 regulations, any person to whom that paragraph applied immediately before the commencement date shall continue to be treated as there mentioned.

*Existing reckonable service etc.*

7. Without prejudice to any other provision in these regulations, any period which immediately before the commencement date counted as a period of reckonable service for any purpose of the Scheme (including any period which counted by virtue of regulation E28 or E30 of the 1986 regulations)—

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

*War service*

8. The revocation of Part F (war service) and regulation N4 (decisions by administering authorities as to such service) of the 1986 regulations shall not affect—

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

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

*Regulation E2(1)(d) of the 1986 regulations: continued entitlement for transitional period*

9. The revocation of regulation E2(1)(d) of the 1986 regulations (entitlement to pension on leaving at or near state pensionable age) and of the provisions of those regulations which relate to the payment of pensions or other benefits by virtue of that regulation or are incidental to it shall not affect the rights of—

- (a) any person who has become entitled before the commencement date to an annual retirement pension or a retiring allowance by virtue of that regulation (whether or not it has become payable before that date);
- (b) any person who attains state pensionable age before the expiry of the period of two years beginning with the commencement date; or

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- (c) any person who (apart from the revocation) would have any rights in respect of any person falling within paragraph (a) or (b);

and accordingly, so far as is necessary to give effect to those rights and to make provision for any matters incidental to them, those provisions shall be treated as if they had continued in effect.

#### *Remuneration*

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

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

#### *Continuation of options under regulation S2 of the 1986 regulations*

**11.** Nothing in these regulations shall affect the rights of any person who duly elected under regulation S2 of the 1986 regulations (application of those regulations to benefits in respect of former employments).

#### *Continuation of savings for gratuities and policy schemes affected by local government reorganisation etc.*

**12.**—(1) The revocation of regulation H3 of the 1986 regulations shall not affect its operation as respects the exercise of any discretionary power to which it applies as respects gratuities.

(2) Notwithstanding the revocation of regulations H7 and H8 of the 1986 regulations—

- (a) an authority who became responsible under J11(1) of the 1974 regulation for the continued payment of a gratuity or allowance and by virtue of regulation H7(a) of the 1986 regulations are so responsible immediately before the commencement date remain so responsible,
- (b) an authority who became liable under regulation J11A of the 1974 regulations to contribute towards such continued payment and by virtue of regulation H7(b) of the 1986 regulations are so responsible immediately before the commencement date remain so liable,
- (c) every agreement and every determination under regulation J11A of the 1974 regulations which had effect immediately before the commencement date by virtue of regulation H7(b) of the 1986 regulations continues to have effect,
- (d) any agreement or trust deed which immediately before the commencement date had effect by virtue of regulation H8 of the 1986 regulations as mentioned in regulation J12 of the 1974 regulations continues so to have effect, and
- (e) any policy of insurance held by a LGPS employer immediately before that date for the purposes mentioned in regulation J12 of the 1974 regulations shall continue to be held by them for those purposes.

### *Resolutions*

13. Where by virtue of any provision for these regulations which is not derived from a corresponding provision of the 1986 regulations, a resolution under these regulations is to make any particular provision or to be made in accordance with any procedure, then any corresponding resolution made under those regulations and continuing to have effect after the commencement date—

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

### *Discretionary additional benefits for certain female nursing staff*

14. Notwithstanding the revocation of regulations E2(3) and E13 of the 1986 regulations (special provision concerning certain female nursing staff), in so far as either of those regulations is capable of continuing to have effect, it shall continue to do so.

## PART III

### CONTINUATION OF SAVINGS IN STATUTORY INSTRUMENTS AMENDING THE 1986 REGULATIONS

15.—(1) No provision of these regulations which is derived from a provision of the Local Government Superannuation (Amendment) Regulations 1989(195) (“the original provision”) shall apply to any person who duly elected under regulation 30 of those regulations that the original provision should not apply to him.

(2) Where any person has duly made an election under regulation 27(2) of those regulations, then, notwithstanding the revocation of that regulation, he shall be treated for the purposes of these regulations as if—

- (a) regulation 5 of the Local Government Superannuation (Local Government Reorganisation) Regulations 1985(196) had not applied to him and he had accordingly become entitled to preserved benefits, and
- (b) he had elected under regulation D12(1)(c) to remain entitled to them.

16. No provision of these regulations which is derived from a provision of the Local Government Superannuation (Valuation and Community Charge Tribunals) Regulations 1989(197) (“the original provision”) shall apply to any person who duly elected under regulation 5 of those regulations that the original provision should not apply to him.

17.—(1) Nothing in the Local Government Superannuation (Interchange) Regulations 1991(198) which is derived from amendments made by regulations 10 to 15 and 19 and 20 of those regulations shall have effect—

- (a) as respects any person to whom paragraph 25(1) of those regulations (pre-1986 leavers) applied, so as to allow him to exercise an option under regulation K2 (outwards transfers) which would not have been available to him had these regulations not been made; or

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(195) S.I. 1989/371.

(196) S.I. 1985/1515.

(197) S.I. 1989/1624.

(198) S.I. 1991/2471.

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(b) in relation to any payments to which paragraph 25(1)(b) of those regulations (payments made or in process at the commencement of those regulations) applied, unless both the fund authority and the scheme managers agree otherwise.

(2) Subject to sub-paragraph (3), no provision of these regulations which is derived from a provision of those regulations (“the original provision”) shall apply to any person in relation to any benefit if he duly elected under regulation 27 of those regulations that the original provision should not apply to him in relation to that benefit.

(3) Where such an election was made in relation to a benefit which was being paid or became or might have become payable in respect of a person who is employed in a local government employment, or if he subsequently recommences service in such an employment, then—

(a) The election has effect in relation to the benefit only to the extent that it accrues by virtue of—

(i) periods of service rendered before he ceased (before 25th November 1991) to hold the employment in respect of which he was a member (or last so ceased before that date); or

(ii) contributions paid in respect of any such periods of service; and

(b) without prejudice to the application of this paragraph, in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never recommenced service in such employment at any time after that cessation (or that last cessation);

and the provision in question shall apply accordingly.

**18.**—(1) Subject to sub-paragraph (2), where any person duly elected under regulation 43 of the Local Government Superannuation (Amendment) Regulations 1992(**199**) that in relation to a benefit the 1986 regulations should apply to him as if they had not been amended by those regulations of 1992, the provisions of these regulations deriving from provisions of the 1986 regulations which were so amended shall apply in relation to that person and that benefit as if those regulations of 1992 had not been made.

(2) Where such an election was made in relation to a benefit which was or might have become payable in respect of a person who is employed in a local government employment, or if he subsequently recommences service in such an employment, then—

(a) the election has effect in relation to the benefit only to the extent that it accrues by virtue of—

(i) periods of service rendered before he ceased (before 28th February 1992) to hold the employment in respect of which he was member (or last so ceased before that date); or

(ii) contributions paid in respect of any such periods of service; and

(b) without prejudice to the application of this paragraph, in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never recommenced service in such employment at any time after that cessation (or that last cessation);

and these regulations shall apply accordingly.

**19.**—(1) Subject to sub-paragraph (2), where any person duly elected under regulation 3(2) of the Local Government Superannuation (Maternity Absence) Regulations 1993(**200**) that in relation to a relevant benefit the 1986 regulations should apply to a relevant beneficiary as if they had not been amended by those regulations of 1993, the provisions of these regulations deriving from provisions

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(199)S.I. 1992/172.

(200)S.I. 1993/2531; relevant amending instrument is S.I. 1995/901.

of the 1986 regulations which were so amended shall apply in relation to that beneficiary and that benefit as if those regulations of 1993 had not been made.

(2) Where such an election was made in relation to a benefit which was or might have become payable in respect of a person who is employed in a local government employment, or if she subsequently recommences service in such an employment, then—

- (a) the election has effect in relation to the benefit only to the extent that it accrues by virtue of—
  - (i) periods of service rendered before she ceased (before 16th November 1993) to hold the employment in respect of which she was a member (or last so ceased before that date); or
  - (ii) contributions paid in respect of any such periods of service; and
- (b) without prejudice to the application of this paragraph, in determining entitlement to, or the amount of, the benefit to that extent, she shall be treated as if she had never recommenced service in such employment at any time after that cessation (or that last cessation);

and these regulations shall apply accordingly.

**20.**—(1) Where an administering authority made an admission agreement under regulation B3 of the 1986 regulations at any time before 1st January 1994 with a body (“the employing body”) which immediately before that date was either—

- (a) specified in regulation B3(8)(c) or (d) of those regulations, or
- (b) deemed to be specified in regulation B3(8) of those regulations by virtue of regulation B4 of those regulations,

and immediately before the commencement date that agreement was treated as an admission agreement by virtue of regulation 2(2) of the Local Government Superannuation (Membership) Regulations 1993(**201**), it shall, subject to sub-paragraph (2), continue to be so treated.

(2) Where—

- (a) immediately before 1st January 1994 the employing body was a company under the control of a body described in Part I of Schedule B1, and
- (b) that body ceases to be such a company,

then—

- (i) the admission agreement shall cease to have effect when the body so ceases, and
- (ii) any employee of the employing body shall no longer be entitled to participate in the benefits of the pension fund maintained by the administering authority with whom the agreement was made (and accordingly shall no longer be an admission agreement employee).

**21.** Nothing in these regulations shall affect the right of any person to given notice under regulation 9(2)(b) of the Local Government Superannuation (Amendment) Regulations 1994(**202**) or the effect of such a notice.

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(201) S.I. 1993/3043.

(202) S.I. 1994/3026; relevant amending instrument is S.I. 1995/963.

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## SCHEDULE M5

Regulation M9

## SUBORDINATE LEGISLATION REVOKED

| Year and Number | Title   | Extent of revocation   |
|-----------------|---|--|
| 1986/24         | The Local Government Superannuation Regulations 1986.   | The whole regulations, except Parts K and L and the other provisions of the Regulations in so far as they continue to be required for the purposes of those Parts. |
| 1986/380        | The Local Government Superannuation (Miscellaneous Provisions) Regulations 1986.                    | Regulations 3 and 5 to 14.   |
| 1987/93         | The Local Government Superannuation (Miscellaneous Provisions ) Regulations 1987.                   | Regulations 4 to 15, 17 to 21.   |
| 1987/1579       | The Local Government Reorganisation (Pensions etc.) (Greater Manchester and Merseyside) Order 1987. | Article 5(1).  |
| 1987/2110       | The Local Government Reorganisation (Pensions etc.) (South Yorkshire) Order 1987.                   | Article 6(1).  |
| 1988/466        | The Local Government (Superannuation and Compensation) (Amendment) Regulations 1988.                | Regulations 3(1) to (7) and 4 to 8 and the Schedule.   |
| 1989/371        | The Local Government Superannuation (Amendment) Regulations 1989.                                   | Regulations 2 to 13, 15 to 27 and 29.  |
| 1989/372        | The Local Government (Superannuation and Compensation) Regulations 1989.                            | Regulations 2 to 8.  |
| 1989/1462       | The Local Government Superannuation (Water) Regulations 1989.                                       | Regulations 2(12), and 4 to 13 and the Schedule.   |
| 1989/1624       | The Local Government Superannuation (Valuation and Community Charge Tribunals) Regulations 1989.    | All the Regulations.   |
| 1989/1815       | The London Government Reorganisation (Pensions Etc.) Order 1989.                                    | Article 7(1) to (3).   |



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| Year and Number | Title   | Extent of revocation                                      |
|-----------------|---|---|
| 1990/503        | The Local Government Superannuation (Funds etc.) Regulations 1990.                | All the Regulations.                                      |
| 1990/1709       | The Local Government Superannuation (Amendment) Regulations 1990.                 | All the Regulations.                                      |
| 1990/2480       | The Local Government Superannuation (Investments) Regulations 1990.               | All the Regulations.                                      |
| 1991/1203       | The Local Government Superannuation (Reserve Forces) Regulations 1991.            | All the Regulations.                                      |
| 1991/2471       | The Local Government Superannuation (Interchange) Regulations 1991.               | All the Regulations.                                      |
| 1991/2522       | The Local Government Superannuation (Miscellaneous Provisions) Regulations 1991.  | All the Regulations.                                      |
| 1992/172        | The Local Government Superannuation (Amendment) Regulations 1992.                 | Regulations 2 to 11, 14 to 22, 24 to 43 and the Schedule. |
| 1992/3083       | The Local Government Superannuation (Remuneration) Regulations 1992.              | All the Regulations.                                      |
| 1993/366        | The Local Government Superannuation (Amendment) Regulations 1993.                 | All the Regulations.                                      |
| 1993/1367       | The Local Government Superannuation (Local Commissioners) Regulations 1993.       | All the Regulations.                                      |
| 1993/1810       | The Local Government Superannuation (National Rivers Authority) Regulations 1993. | All the Regulations.                                      |
| 1993/1814       | The Local Government Superannuation (Part-time Employees) Regulations 1993.       | Regulations 2, 3, 5 and 6.                                |
| 1993/1848       | The Local Government Superannuation (Investments) Regulations 1993.               | All the Regulations.                                      |

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| Year and Number | Title   | Extent of revocation  |
|-----------------|---|---|
| 1993/2531       | The Local Government Superannuation (Maternity Absence) Regulations 1993.                 | All the Regulations.  |
| 1993/2783       | The Local Government Superannuation (South Yorkshire Transport Limited) Regulations 1993. | Regulation 4.   |
| 1993/3030       | The Local Government Superannuation (Educational Institutions) Regulations 1993.          | All the Regulations.  |
| 1993/3043       | The Local Government Superannuation (Membership) Regulations 1993.                        | All the Regulations.  |
| 1994/1909       | The Local Government Superannuation (Investments) Regulations 1994.                       | All the Regulations.  |
| 1994/3026       | The Local Government Superannuation (Amendment) Regulations 1994.                         | Regulations 2 to 9 and in regulation 10(2) the words “and regulation P14 of the principal regulations”. |
| 1995/901        | The Local Government Superannuation (Equality and Maternity Absence) Regulations 1995.    | Regulations 2 and 3.  |
| 1995/963        | The Local Government Superannuation (Miscellaneous Provisions) Regulations 1995.          | All the Regulations.  |

## SCHEDULE M6

Regulation M10.

## CONSEQUENTIAL AMENDMENTS

1. After paragraph (2)(b) of regulation 3 of the Local Government Superannuation (Overseas Employment) Regulations 1985(203) there shall be added—

“(c) the Local Government Superannuation Regulations 1986 had had effect with the modifications set out in regulation G10 (overseas employment) of those regulations; and

(d) the Local Government Pension Scheme Regulations 1995 had had effect with the modifications set out in regulation K28 (overseas employment) of those regulations.”.

2. In Part K of the 1986 regulations any reference to a scheduled body is to be taken as a reference to a LGPS employer.

3. In regulation L2(2) of the 1986 regulations—

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(203)S.I. 1985/1922.

- (a) for paragraph (a) substitute—
    - “(a) with a LGPS employer, as defined in the Local Government Pension Scheme Regulations 1995, (other than a passenger transport executive) or the predecessor of a LGPS employer”.
  - (b) in paragraph (b) after “these regulations” insert “or regulation B7 of the local Government Pension Scheme Regulations 1995”.
4. In regulation L5 of the 1986 regulations for “regulation E2”, “regulation E2(4)” and “regulation E22(2)” substitute respectively “Part D of the Local Government Pension Scheme Regulations 1995”, “paragraph 4(1) of Schedule D1 to the Local Government Pension Scheme Regulations 1995” and “regulation D1 of the Local Government Pension Scheme Regulations 1995”.
5. In regulation 4(2) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(**204**) —
- (a) for “pensionable employee”, in both places, substitute “member of the Scheme”; and
  - (b) after paragraph (b) insert—
    - “and in this paragraph “member of the Scheme” has the same meaning as in the Local Government Pension Scheme Regulations 1995”.
- 6.—(1) In regulation 2(2) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987(**205**) —
- (a) for “pensionable employee”, in both places, substitute “member of the Scheme”; and
  - (b) after paragraph (b) insert— “and in this paragraph “member of the Scheme” has the same meaning as in the Local Government Pension Scheme Regulations 1995”.
- (2) In regulation 3 of those regulations for “and admitted employee” substitute “a member”.
7. In article 5(2)(c) of the Local Government Reorganisation (Pensions etc.) (Greater Manchester and Merseyside) Order 1987(**206**) after “Part Q of those regulations” insert “or regulations K20 to K22 of the Local Government Pension Scheme Regulations 1995”.
8. In article 6(2)(c) of the Local Government Reorganisation (Pensions etc.) (South Yorkshire) Order 1987(**207**) after “Part Q of those Regulations” insert “or regulation K20 to K22 of the Local Government Pension Scheme Regulations 1995”.
9. In article 7(4)(c) of the London Government Reorganisation (Pensions etc.) Order 1989(**208**) after “Part Q of those Regulations” insert “or regulations K20 to K22 of the Local Government Pension Scheme Regulations 1995”.
10. In the Local Government Superannuation (South Yorkshire Transport Limited) Regulations 1993(**209**) —
- (a) in the definition of “the principal Regulations” in regulation 1(2) for “1986” substitute “1995”;
  - (b) in regulation 2(1) and (2) for “regulation P14” substitute “regulation L19”;
  - (c) in regulation 5(1)(b) for “regulation B3 of the principal Regulations” substitute “regulation B3 of the local Government Superannuation Regulations 1986 or regulation B7 of the principal Regulations”;

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(204) S.I. 1986/380.  
(205) S.I. 1987/293.  
(206) S.I. 1987/1579  
(207) S.I. 1987/2110.  
(208) S.I. 1989/1815.  
(209) S.I. 1993/2783.

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- (d) in regulation 5(1), in the words following paragraph (b), for “Part Q” substitute “regulations K20 to K22”;
- (e) in regulation 5(2) and (3) for “Part V of Schedule 16 to” substitute “regulation K21 of”;
- (f) in regulation 5(3)(i) for “regulation Q2(1)” substitute “regulation K20”.

**11.** In the Local Government Superannuation (Greater Manchester Buses Limited) Regulations 1994(**210**) —

- (a) in regulation 2(1) and (2) for “regulation P14 of the principal Regulations” substitute “regulation L19 of the Local Government Pension Scheme Regulations 1995”;
- (b) in regulation 4 for “regulation 2(3) of the Local Government Superannuation (Membership) Regulations 1993” and “purposes of the principal Regulations” substitute respectively “paragraph 20(2) of Part III of Schedule M4 to the Local Government Pension Scheme Regulations 1995” and “purposes of those regulations of 1995”.

**12.** In regulation 2 of the Local Government Superannuation (Greater Manchester Buses North Limited) Regulations 1994(**211**) for “purposes of the principal Regulations” substitute “purposes of the Local Government Pension Scheme Regulations 1995”.

**13.** In regulation 10(1) of the Local Government Superannuation (Amendment) Regulations 1994(**212**) for paragraphs (a) and (B) substitute—

- “(a) a body specified in Schedule B4 to the Local Government Pension Scheme Regulations 1995, which has entered into an admission agreement,
- (b) a body employing persons deemed to be in employment by virtue of paragraph 5 or 6 of Schedule B3 to those regulations, or
- (c) a body which is a company under the control of a body described in Part I of Schedule B1 of those regulations.”.

**14.—(1)** In regulation 4 of the Local Government Superannuation (Equality and Maternity Absence) Regulations 1995(**213**) —

- (a) in paragraph (2) for “the principal Regulations” onwards substitute “the Local Government Pension Scheme Regulations 1995 shall have effect, subject to paragraph (3), as if the provisions of those regulations deriving from provisions of the principal regulations which were amended by these regulations corresponded to those provisions of the principal Regulations without those amendments”;
- and
- (b) in paragraph (3) for “the principal Regulations” substitute “the Local Government Pension Scheme Regulations 1995”.

(2) In regulation 5(b) of those regulations after the words “such election” insert “or an election under regulation D9(2)(b) or D11(2)(d) of the Local Government Pension Scheme Regulations 1995.”

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(210) S.I. 1994/948.  
(211) S.I. 1994/963.  
(212) S.I. 1994/3026.  
(213) S.I. 1995/901.

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## EXPLANATORY NOTE

*(This Note is not part of the Regulations)*

These regulations retitle and consolidate, with amendments, the provisions of the Local Government Superannuation Regulations 1986 (S.I. 1986/24), as amended (“the 1986 regulations”), which constitute the occupational pension scheme for persons engaged in local government employment other than teachers, policemen and firemen.

The main changes are as follows—

- a whole-time employee is defined as an employee whose contractual number of hours is not less than the number of hours stipulated as whole-time in his contract of employment. (Regulation B3(3)(b)). There are saving provisions in Schedule M4 in respect of service before the commencement of these regulations;
- regulation B3(4)(iii) deals specifically with employees who work only those hours they are directed to work by their employers and whose contractual hours consequently vary in a non-cyclical fashion; —scheme membership is automatic for—
  - (a) all new entrants except casual employees, and
  - (b) existing employees who become eligible because of these regulations coming into force, for example part-timers working less than 35 weeks a year, unless they opt not to join the Scheme (Regulation B10(2));
- casual employees, eligible employees of admitted bodies and re-entrants may join, but it is not automatic (Regulation B10(3) and, for re-entrants, also B13);
- the definition of “remuneration” included in regulation C2 has been revised and now includes any payment or benefit specified in an employee’s contract of employment as being a pensionable emolument;
- provision is made for part-time employees to purchase part-time added years. However, part-timers currently buying whole-time added years will continue to do so unless they elect under regulation C12(5) to change their original election (Regulation C12 and Schedule C6, paragraph 3(1));
- provision is made for a member of the Scheme who leaves employment by reason of redundancy or in the interests of the efficient exercise of his employer’s functions and who is offered compensation under regulation 9 of the Local Government (Compensation for Redundancy) Regulations 1994 (S.I. 1994/3025) to waive his right to the immediate payment of benefits (Regulation D6(2));
- provision is made to clarify the treatment of the enhancement of benefits on ill-health retirement for members with part-time service. The additional period to be awarded is determined by reference to the actual length of the person’s service and then proportionately reduced to its whole-time equivalent when calculating benefits. Similarly, in the case of a person whose service consists of a mixture of whole-time and part-time service, the additional period to be awarded is determined by reference to the actual length of the person’s service and then adjusted in accordance with the formula contained in paragraph 4(3) of Schedule D3, unless the person spent the last 13 years and 121 days in whole-time employment, in which case no adjustment is made (Regulation D7(2) and Schedule D3 paragraph 4(4));

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- women retiring at age 60 with less than 25 years' service will no longer be required to receive immediate payment of scheme benefits although, like men, they may opt to do so (Regulations D9(2), D11(2)(d) and D17(3));
  - Regulation E1 increases the death in service grant to two rather than one year's pensionable remuneration;
  - provision is made to allow a member's pension, other than his guaranteed minimum pension, to be commuted on retirement and paid to him as a lump sum where the member is in exceptionally serious ill-health. The appropriate administering authority must be satisfied by medical evidence that the expectation of life at retirement is less than one year. Commutation does not affect any widow's, widower's or children's pension payable after the death of the member (Regulation H6);
  - in the case of combined benefits coming into payment, the previous authority is able to discharge its liability to make continuing payments to the new authority by means of a single payment. (Regulation K26(4)(a)). Regulation K26(4)(b) deals with cases where the previous authority is already making continuing payments to the new authority;
  - provision is made for a certificate of material reduction in remuneration to be issued to a member who is transferred to a different employment or to a different Scheme employer as a result of local government reorganisation (Schedule D1, paragraph 4(4));
  - no provision corresponding to regulation E2(1)(d) of the 1986 regulations which allowed a person to receive a pension and lump sum retiring allowance on reaching state pensionable age has been included, but a saving is made for people who—
    - (a) became entitled before the commencement date to a pension or retiring allowance under that regulation (whether or not it became payable before that date);
    - (b) attain state pensionable age before the expiry of two years beginning with the commencement date; or
    - (c) would have any rights in respect of any person falling within (a) or (b).
- (Schedule M4, paragraph 9).