

## SCHEDULE D5

### 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(1) (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
- (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—

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(1) 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).

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- (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(2)) 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;
  - (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

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(2) 1971 c. 56.

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- (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”.