

SCHEDULES

SCHEDULE 4

Regulations 24, 51, 53 and 55.

REVENUE RESTRICTIONS

Preliminary

1.—(1) In these Regulations—

“Class A member” is 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 a Revenue agreement; 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 a Class A election;

“Class A election” means an election duly made by a Class B member or a Class C member by notice in writing to the administering authority, before the date on which he ceases to be an active member for any reason (including death), that he wishes to be treated as a Class A member for the Scheme, as from 1st June 1989;

“Class B member” is a member who—

- (a) became a member on or after 17th March 1987 and before 1st June 1989,
- (b) has continued to be a member since before 1st June 1989 or satisfies one of the continuity conditions in relation to any period when he was not a member,
- (c) is not to be treated as a Class C member by virtue of a Revenue agreement, and
- (d) is not deemed to have become a Class A member by virtue of making a Class A election;

“Class C member” is a member who—

- (a) became a member before 17th March 1987 or is to be treated as a Class C member by virtue of a Revenue agreement,
- (b) has continued to be a member since before that date or satisfies one of the continuity conditions in relation to any period when he was not a member, and
- (c) is not deemed to have become a Class A member by virtue of a Class A election;

“continuity conditions”, in relation to a Class B member or a Class C member, are—

- (a) that his active 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 an active member again when it ended, and he again became an active member at the end of his secondment or posting;
- (b) that his active membership ceased by reason of his unpaid absence and he began paying contributions again under regulation 12 within one month of returning to work;
- (c) that the member's active membership ceased wholly or partly because of her pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work as a maternity rights returner;

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- (d) that the member's active membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and within one month he rejoined the Scheme as an active member and began paying contributions again under that regulation;

“existing rights member” means a member to whom regulation 5(2) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990⁽¹⁾ applies;

“relevant benefits” has the meaning given in section 612(1) of the Taxes Act.

(2) A person is a retained rights member if he is entitled to or has received relevant benefits accrued under—

- (a) an approved scheme;
- (b) a relevant statutory scheme (as defined in section 611A) of the Taxes Act);
- (c) A fund to which section 608 of that Act applies (funds approved before 6th April 1980);
- (d) a retirement benefits scheme (as defined in section 611 of that Act) accepted by the Commissioners of Inland Revenue as a scheme which corresponds as mentioned in section 596(2)(b) of that Act; or
- (e) a contract or trust scheme approved under section 620 or a personal pension scheme approved under section 631 of that Act.

(3) But relevant benefits which are death benefits must be disregarded if—

- (a) the member's pay in the first year of his employment during which he is a member exceeds one quarter of the Revenue permitted maximum for the year of assessment in which that first year ends; or
- (b) they do not exceed £2,500.

(4) For sub-paragraph (2) benefits accrued under the Scheme must be disregarded unless they accrued in respect of a period of membership as respects which the person is treated as a deferred member or a pensioner member by virtue of regulation 32(5).

Class A members

2.—(1) This paragraph sets out limits on benefits in respect of local government employment payable to or in respect of a Class A member under Parts II and III.

(2) But sub-paragraphs (3), (4) and (6) do not apply to benefits under Chapter IV of Part III.

(3) The aggregate pension payable must not exceed one sixtieth of the member's final pay multiplied by his total membership.

(4) But for a pension payable under regulation 27 (ill-health) the limit is one sixtieth of the member's final pay multiplied by the total membership the member would have had if he had continued as an active member until his NRD.

(5) The aggregate pension payable must not exceed one thirtieth of the Revenue permitted maximum, multiplied by the member's total membership or 20 years, if less.

(6) For sub-paragraphs (3), (4) and (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) The aggregate benefit payable by way of lump sum must not exceed three eightieths of the member's final pay, multiplied by his total membership.

(1) [S.I. 1990/2101](#).

(8) But for a lump sum payable under regulation 27 the limit is three eightieths of the member's final pay, multiplied by the total membership the member would have had if he had continued as an active member until his NRD.

(9) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final pay or, if greater, £5,000.

(10) The total membership taken into account under sub-paragraphs (3), (4), (7) and (8) must not exceed 40 years.

(11) Without prejudice to Schedule 3, a credited period which is counted as a period of membership under regulation 122(1) does not count in calculating the total membership for this paragraph.

(12) The final pay of a Class A member must not exceed the Revenue permitted maximum.

(13) But if a Class A member is an existing rights member sub-paragraph (12) does not apply for calculating any benefit under the Scheme in so far as it is calculated by reference to a credited period which is counted as a period of membership under regulation 122(1).

Class B members and Class C members

3. Paragraphs 4 to 6 set out limits on benefits in respect of local government employment payable to or in respect of a Class B member or Class C member under Parts II and III and paragraph 7 limits additional contributions in some circumstances.

4.—(1) The aggregate pension payable on retirement at or before the member's NRD must not exceed one sixtieth of the member's final pay, multiplied by his total membership.

(2) But for a pension payable under regulation 27 the limit is one sixtieth of the member's final pay, multiplied by the total membership the member would have had if he had continued as an active member until his NRD.

(3) For a pension payable under regulation 31, if it results in a higher sum, for the maximum under sub-paragraph (1) there is substituted an amount equal to the amount that would be the maximum under that sub-paragraph if the member had remained an active member until his NRD (taking into account any reduction for retained benefits), multiplied by the fraction of which—

(a) the numerator is—

(i) the member's total membership, or

(ii) 40 years,

whichever is less, and

(b) the denominator is—

(i) his total membership, assuming he had remained an active member until his NRD, or

(ii) 40 years,

whichever is less.

(4) But sub-paragraphs (1) and (2) do not apply to benefits under Chapter IV of Part III.

(5) The aggregate pension payable on retirement after the member's NRD must not exceed—

(a) one sixtieth of the member's final pay, multiplied by his total membership;

(b) one sixtieth of the member's final pay at his NRD, multiplied by his total membership at his NRD—

(i) with such an increase as an actuary appointed by the appropriate administering authority considers appropriate in view of the period of delay in payment between his NRD and the actual date the pension becomes payable, or

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(ii) adjusted to reflect any increase in the general level of retail prices obtaining in Great Britain during that period;

(c) one sixtieth of the member's final pay, multiplied by his increased period of membership, whichever is the greatest.

(6) For sub-paragraphs (1) to (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) A member's increased period of membership is the sum of—

- (a) his total membership ending with his NRD, and
- (b) his total membership after his NRD,

but must not exceed 45 years.

5.—(1) The aggregate benefit payable by way of lump sum on retirement at or before NRD—

- (a) in the case of a Class B member or a Class C member with a total membership period of less than 20 years, must not exceed three eightieths of the member's final pay, multiplied by his total membership;
- (b) in the case of a Class B member must not be calculated by reference to final pay exceeding £100,000; and
- (c) in the case of a Class C member whose total membership is at least 20 years, must not exceed one and a half times his final pay.

(2) But for a lump sum payable under regulation 27 the limit is three eightieths of the member's final pay, multiplied by the total membership the member would have had if he had continued as an active member until his NRD.

(3) But sub-paragraph (2) does not apply to benefits under Chapter IV of Part III.

(4) The aggregate benefit payable by way of lump sum on retirement after NRD must not exceed—

- (a) three eightieths of the member's final pay, multiplied by his total membership;
- (b) three eightieths of the member's final pay at his NRD, multiplied by his total membership at his NRD, together with interest in respect of the period of delay in payment between his NRD and the actual date of payment;
- (c) three eightieths of the member's final pay, multiplied by his increased period of membership,

whichever is the greatest.

(5) A member's increased period of membership is the aggregate of—

- (a) his total membership ending with his NRD, and
- (b) his total membership after his NRD,

but must not exceed 45 years.

(6) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final pay or, if greater, £5,000.

(7) If a sum other than £100,000 is specified by the Treasury as respects any year for section 590(3) of the Taxes Act (as that section continues to have effect for Class B members by virtue of paragraph 18(2) of Schedule 6 to the Finance Act 1989(2)), then sub-paragraph (1)(b) has effect with the substitution for the reference to £100,000 of a reference to that sum.

(2) 1989 c. 26.

6.—(1) The total membership taken into account under paragraphs 4(1), (2), (5)(a) and (b) and (7)(a) and 5(1)(c), (4)(a) and (b) and (5)(a) must not exceed 40 years.

(2) Without prejudice to Schedule 3, a credited period which is counted as a period of membership under regulation 122(1) does not count in calculating the total membership for sub-paragraph (1) or paragraph 4 or 5.

7.—(1) If adding the additional contributions payable by a Class B member or a Class C member under an agreement made by him before the commencement date (other than AVCs payable under Schedule C4 to the 1995 regulations or any corresponding earlier provision) to those payable by him under regulations 12, 17 and 18 would cause the total of those contributions to exceed 15 per cent. of his pay, he may not pay that excess, but he may pay a lump sum representing it to the Scheme at a time permitted by the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(3).

(2) That lump sum must be calculated in a way approved by the Government Actuary, who may issue guidance indicating how it is to be done.

Maximum additions under regulations 53 and 55

8.—(1) The maximum addition under regulation 53 or 55 is—

- (a) the period (if any) by which the person's potential period of membership falls short of 40 years, or
- (b) his potential period of membership,

whichever is the shorter.

(2) His potential period of membership is the period he would be entitled to count as a period of membership in relation to his local government employment, assuming—

- (a) if he is not an active member on the date of the resolution, that he became such a member on that date, and
- (b) that he continued as an active member until he was aged 65.

(3) If—

- (a) the resolution under regulation 53 relates to a person who on the date of the resolution has retained benefits, or
- (b) on the date of the election under regulation 55 the member has retained benefits,

the period of 40 years mentioned in sub-paragraph (1) must be reduced by the appropriate period.

(4) The appropriate period is such period as is certified by an actuary appointed by the appropriate administering authority to be sufficient to secure—

- (a) that the aggregate of—
 - (i) the relevant income benefits, and
 - (ii) the pension equivalent of the relevant capital benefits,will not exceed two-thirds of his final pay; and
- (b) that his retirement grant will not exceed his final pay by more than 50 per cent.

(5) In this regulation—

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“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(4);

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

- (a) the actuarial value, expressed as an annuity payable to him, of the relevant benefits which are pension benefits, and
- (b) the part of his retirement pension attributable to his period of membership before his NRD; and

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

- (a) his retirement grant, and
- (b) any lump sum comprised in the relevant benefits which are pension benefits.

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

- (a) it is to be assumed that the person will, until his NRD, continue in the same employment and on the same terms and conditions (including, in particular, his scale of pay) as at the date of the resolution or, as the case may be, the election (assuming, if he has not entered the employment of the authority at that date, that he had done so on that date on the scale of pay at which the employment was offered to him),
- (b) any period of membership on or after that date 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.

Controlling directors

9.—(1) This paragraph applies to any member who is a controlling director, as defined in paragraph 5(5) of Schedule 23 to the Taxes Act.

(2) Regulation 22(1)(a) does not apply to a controlling director.

(3) For determining whether a controlling director who is a Class A member has retained benefits, “approved scheme” includes—

- (a) a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act, or
- (b) any personal pension scheme approved under Chapter IV of that Part,

so far as it provides benefits secured by contributions in respect of his service with his Scheme employer or an associated employer.

(4) An employer is associated with another if one is controlled by the other or both are controlled by a third party; and control must be construed in accordance with section 840 of the Taxes Act or, in the case of a close company (as defined in section 416 of that Act) in accordance with section 416.

(5) Paragraph 1(3)(a) does not apply to controlling directors.

Overriding provisions

10. Where by virtue of the Taxes Act or any later enactment schemes which were approved schemes before a certain date, have effect as if their rules restricted the total benefits payable under them, the rules of the Scheme have effect subject to those restrictions, notwithstanding any amendments of them by virtue of these or any earlier regulations after the date of that Act or

(4) [S.I. 1993/3016](#).

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enactment, and in so far as those restrictions would permit those total benefits to be greater than is otherwise permitted under the Scheme, those restrictions shall prevail.