
STATUTORY INSTRUMENTS

1997 No. 3001

The Teachers' Pensions Regulations 1997

PART C

TEACHERS' CONTRIBUTIONS

Salary on which contributions are payable

C1.—(1) Subject to paragraphs (3) to (5) and (8) to (11) and regulation C2, the contributable salary of a person to whom the 1991 Act applies is the total of—

- (a) the amounts payable by his employer under any order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order,
- (b) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any contractual liability arising out of sickness or maternity,
- (c) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any statutory liability arising out of sickness or maternity, and
- (d) if the employer has satisfied the Secretary of State that it is expedient for residential accommodation to be provided free in connection with the employment, the money value as an allowance in kind of—
 - (i) the accommodation provided, and
 - (ii) any heat, lighting or water provided free or council tax paid in connection with it.

(2) Subject to paragraphs (3) to (11) and regulation C2, the contributable salary of a person to whom paragraph (1) does not apply is the total of—

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his pensionable employment,
- (b) the amounts mentioned in paragraph 1(c), and
- (c) the money value mentioned in paragraph 1(d).

(3) If the money value of any accommodation as mentioned in paragraph (1)(d)(i) provided free exceeds one sixth of the aggregate of the amounts mentioned in paragraph (1)(a) to (c), or, as the case may be, paragraph (2)(a) and (b), the excess is not part of the person's contributable salary.

(4) A person's contributable salary does not include—

- (a) any allowance in kind not falling within paragraph (1)(d) or (2)(c),
- (b) any payment by way of bonus,
- (c) any payment in respect of overtime, or
- (d) any payment by way of travelling or expense allowance.

(5) For the purposes of paragraph (4) above—

- (a) a payment by way of bonus shall not include any payment calculated by reference to the performance of the person in question or the performance of the institution where he is employed,

- (b) a payment by way of bonus shall not include any payment made to the person in question where such a payment is made as part of a pay settlement which applies to all persons, or to all persons of a particular class or description, employed at the institution,
 - (c) if at any time a payment is made to a person which is not part of his contributable salary, then any subsequent payment of the same nature is a payment by way of bonus (whether or not it is described as such), and
 - (d) if at any time a payment is made to a person which is part of his contributable salary, then any subsequent payment of the same nature is not a payment by way of bonus (whether or not it is described as such).
- (6) The contributable salary of a person employed as mentioned in paragraph 14 of Schedule 2 (teacher in European Schools) does not include any amount not payable by, or money value not attributable to, the Secretary of State.
- (7) The contributable salary of a person employed as mentioned in paragraph 22 of Schedule 2 (services education officer) is the amount that would for the time being be payable by way of salary under an order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order, to a teacher of the same age and with the same qualifications and experience employed in a school outside the London area (within the meaning of any such document).
- (8) Subject to paragraphs (9) and (10), in the case of a person entering pensionable employment after 31 May 1989 with no right to count any period before 1 June 1989 as reckonable service, in any tax year in which the contributable salary calculated in accordance with paragraphs (1) to (7) and regulation C2 exceeds the permitted maximum in terms of section 590C of the Taxes Act(1), the excess does not form part of his contributable salary.
- (9) Paragraph (8) shall not apply to a person who was in pensionable employment before 1 June 1989 and who resumes pensionable employment following—
- (a) an absence on maternity leave in respect of which she enjoyed a right to return to work under sections 79 to 85 of the Employment Rights Act 1996(2),
 - (b) a period of secondment or additional period of absence necessarily attributable to that secondment, and
 - (c) in any other case, a break in teaching employment not exceeding one year.
- (10) Paragraph (8) shall not apply to a person who was in comparable British service before 1st June 1989 and who enters pensionable employment provided there has not been a period of more than one year between cessation of employment in comparable British service and entering pensionable employment.
- (11) For the purpose of paragraph (10) “comparable British service” does not include service which is pensionable under a superannuation scheme for teachers in public employment in the Channel Islands and the Isle of Man.

Salary on which contributions are payable—election

- C2.**—(1) A person who—
- (a) continues in pensionable employment but whose contributable salary is reduced, otherwise than by reason of sick leave or maternity leave, and who satisfies the conditions in paragraph (2), or
 - (b) leaves pensionable employment with one employer (“employer A”) and—
 - (i) takes up employment again with employer A, or

(1) Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4(a).

(2) 1996 c. 18.

(ii) takes up employment with another employer (“employer B”) at a lower contributable salary and who satisfies the conditions in paragraph (3), may make an election that his salary is to be treated as having continued at the rate specified in paragraph (4).

- (2) The conditions referred to in paragraph (1)(a) are—
- (a) that on the date when the contributable salary was reduced the person had attained the age of 50,
 - (b) that on the date when the contributable salary was reduced he had been in pensionable employment or excluded employment for at least five years, and
 - (c) that the responsibility of his post after the reduction in contributable salary is lower than the responsibility of any of the posts which he had held during the period of five years immediately preceding the date of the reduction in contributable salary.
- (3) The conditions referred to in paragraph (1)(b) are—
- (a) that on the date of leaving pensionable employment with employer A the person had attained the age of 50,
 - (b) that at the date of leaving pensionable employment with employer A he had been in pensionable employment or excluded employment for at least 5 years,
 - (c) that the responsibility of his new post with employer A or, as the case may be, his post with employer B is lower than the responsibility of any of the posts which he has held during the period of 5 years immediately preceding the date on which he left employment with employer A as described in paragraph (1),
 - (d) that employer A notifies the Secretary of State that he has provided satisfactory service during the period of 5 years referred to in sub-paragraph (c) or, where he has been employed by employer A for less than 5 years, during the period when he was employed by employer A, and
 - (e) that no more than one year had elapsed between leaving pensionable employment with employer A as described in paragraph (1) and taking up pensionable employment again with employer A or, as the case may be, taking up pensionable employment with employer B.
- (4) The rate of salary referred to in paragraph (1) is—
- (a) where the person falls within paragraph (1)(a) and is employed full-time after the reduction, the rate applicable immediately before the reduction, and
 - (b) where the person falls within paragraph (1)(b) and is re-employed full-time with employer A, or employed full-time with employer B, the rate applicable immediately before he left employment with employer A as described in paragraph (1),
 - (c) where the person falls within paragraph (1)(a) and is employed part-time after the reduction, the rate which would have been applicable immediately before the reduction if he had been employed for the same number of hours or, for the same proportion of the year, term, month or week, as the case may be, as he is employed immediately after the reduction, and
 - (d) where the person falls within paragraph (1)(b) and is employed part-time at the start of his re-employment with employer A or his employment with employer B, the rate which would have been applicable immediately he left his employment with employer A as described in paragraph (1) if he had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he is employed at the start of his re-employment with employer A, or, as the case may be, his employment with employer B,

increased, in each case, on each increase day by

$$\frac{(RI - RE)}{RE}$$

where—

RI is the retail prices index for the month in which the increase day occurs, and

RE is the retail prices index for the month in which the election was made.

(5) For the purposes of paragraph (4) the increase day is the first day of the month in each year following the month in which—

- (a) the salary was reduced, in a case where the person falls within paragraph (1)(a), or
- (b) the person left his employment with employer A as described in paragraph (1) in a case where the person falls within paragraph (1)(b),

and the first increase day is that falling in the year after the year in which the salary was reduced or the person left his employment with employer A, as the case may be.

(6) An election for the purposes of paragraph (1)—

- (a) must be made by giving written notice to the Secretary of State before the date which is 3 months after—
 - (i) the reduction in salary, in a case where the person falls within paragraph (1)(a), or
 - (ii) taking up employment again with employer A or, as the case may be, taking up employment with employer B, in a case where the person falls within paragraph (1)(b),

or before 3rd May 1998 whichever date is later.

(b) has effect from—

- (i) the day after the last day on which the person's salary was payable at the rate applicable immediately before the reduction, in a case where the person falls within paragraph (1)(a), or
 - (ii) the day on which the person takes up employment again with employer A or, as the case may be, takes up employment with employer B, in a case where the person falls within paragraph (1)(b); and
- (c) subject to paragraph (7), continues to have effect until the person ceases to be in pensionable employment unless he—
- (i) elects to pay additional contributions under regulations C9 or C10, or
 - (ii) takes up pensionable employment with another employer ("employer C") within six months of ceasing to be in pensionable employment.

(7) An election for the purposes of paragraph (1) may be cancelled by giving written notice to the Secretary of State at any time.

(8) Notice of cancellation—

- (a) has effect from the first day of the month following that in which it was received, and
- (b) is irrevocable.

(9) If, while an election made for the purposes of paragraph (1) has effect, there is any further reduction in salary during a period of sick leave or maternity leave, the rate of salary specified in paragraph (4) is, during that period, to be treated as having been reduced in the same proportion as the actual rate.

(10) In paragraph (1)(a) and (b) the reference to contributable salary is, in the case of a person in part-time employment, a reference to the salary which would have been the person's contributable salary if the person had been in full-time employment.

(11) In this regulation "the retail prices index" means the index of retail prices published by the Office for National Statistics.

Ordinary contributions

C3.—(1) Subject to paragraph (3), a person, other than a services education officer, who is in pensionable employment is to pay contributions of 6% of his contributable salary for the time being.

(2) Subject to paragraph (3), a services education officer is to pay contributions equivalent to the total of—

- (a) 6% of his contributable salary for the time being, and
- (b) the employer's contributions that would have been payable if regulation G5 had applied.

(3) A person who has made an election under regulation C2(1) shall, in addition to the contributions referred to in paragraph (1), pay contributions of the required percentage of the difference between the person's actual contributable salary and the contributable salary at the rate referred to in regulation C2(4) to the extent that such contributions are not paid by any employer referred to in regulation G6 under an election mentioned in that regulation.

(4) No contributions are to be paid by any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.

Additional contributions for past period

C4.—(1) This regulation applies to a person who—

- (a) is in pensionable employment, and
- (b) first became employed in pensionable employment, or has been credited with reckonable service on the acceptance of a transfer value in respect of comparable British service that began, before he attained the age of 55, and
- (c) has not become entitled to payment of retirement benefits under regulation E4(2) or (3).

(2) Subject to paragraphs (4) to (7) and (9), a person to whom this regulation applies may elect to pay additional contributions in accordance with—

- (a) Part I of Schedule 4 ("Method A"), or
- (b) Part II of Schedule 4 ("Method B"),

in order to become entitled to count an additional period ("the past period") as reckonable service.

(3) Subject to paragraphs (4) to (6), (8) and (9), the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 4.

(4) The past period must not exceed the maximum calculated in accordance with Schedule 3, and—

- (a) must have begun after the person attained the age of 20,
- (b) must have ended—
 - (i) before the person attained the age of 60,
 - (ii) before the date of the election, and
 - (iii) if the person has become entitled to payment of retirement benefits by virtue of regulation E4(5) (redundancy, etc), before the relevant termination of employment.

- (c) must be one during which the person was not in full-time pensionable employment, unless—
 - (i) contributions in respect of the period have been repaid after 31 May 1973, or
 - (ii) the right to count reckonable service in respect of it has been extinguished by payment of a transfer value.
 - (d) if payment is to be made by Method A, must satisfy paragraph 2 of Schedule 4, and
 - (e) unless payment is to be made by Method B and notice of the election is given no earlier than the date of applying for payment of retirement benefits, must be a period of not less than 30 days.
- (5) Where payment is to be made by Method A, the period during which additional contributions are to be paid (“the contribution period”) must satisfy paragraph 2 of Schedule 4.
- (6) An election under this regulation may be made at any time.
- (7) An election under paragraph (2) must be made by giving written notice to the Secretary of State, which—
- (a) is to specify the past period,
 - (b) is to specify the method by which payment is to be made,
 - (c) where payment is to be made by Method A, is to specify the length of the contribution period, and
 - (d) where payment is to be made by Method A, is to contain a declaration that the person has no reason to believe that his health may prevent him from continuing in pensionable employment until payment has been completed.
- (8) An election under paragraph (3) must be made by giving written notice to the Secretary of State which—
- (a) is to specify the person in respect of whom it is made, and
 - (b) is to specify the past period.
- (9) An election under this regulation has effect only if the Secretary of State notifies the person making it in writing that it has been accepted.
- (10) Where the Secretary of State has notified the person in writing that his election under this regulation has been accepted, the person may at any time revoke the election by giving written notice to the Secretary of State but, in the case of such election being so revoked, any additional contributions paid up to that time are not to be refunded.
- (11) A revocation of an election under this regulation has effect only if the Secretary of State notifies the person in writing that it has been accepted.

Additional contributions for past period by family pensioner

- C5.**—(1) This regulation applies where a person dies in circumstances where—
- (a) had he ceased to be in pensionable employment on the day when he died, would have become entitled under regulation E4 to the payment of retirement benefits, and
 - (b) another person (“the pensioner”) is entitled under regulation E26 to a long-term pension in respect of him.
- (2) Where this regulation applies, the pensioner, or in the case of a child a person acting on his behalf, may by giving written notice to the Secretary of State within 3 months after the death, make any election which, on the hypothesis stated in paragraph (1)(a), the deceased person could have made under regulation C4.

(3) Subject to paragraph (4), an election under this regulation has effect as if it had been made under regulation C4 by the deceased person.

(4) The additional contributions are payable by the pensioner except to the extent that they are, with the consent of any person entitled to it, met out of a terminal sum.

Additional contributions for past period under earlier provisions

C6. Schedule 5 has effect where immediately before 3rd February 1998 additional contributions remained to be paid by virtue of regulations 26, 28 or 29 of the 1976 Regulations or Part III of Schedule 4 to the 1988 Regulations.

Reduction of past period

C7.—(1) This regulation applies where—

- (a) an election has been made under regulation C4 or C5, and
- (b) the person by or in respect of whom it was made subsequently becomes entitled to count a further period as reckonable service, by virtue of regulation D5 of the 1988 Regulations (which continues to have effect for certain purposes by virtue of paragraph 12 of Schedule 15) or regulation F4(8), and
- (c) apart from this regulation some of his reckonable service (“the excess period”) consequently would, or would if he continued in pensionable employment until his 60th birthday, be left out of account, by reason of regulation E32(2), for the purpose of calculating benefits.

(2) Where this regulation applies, the period in respect of which the election mentioned in paragraph (1)(a) was made is to be treated as reduced by the excess period.

(3) Where the additional contributions already paid exceed those required for the reduced period, the excess is to be refunded.

Additional contributions in respect of war service

C8.—(1) This regulation applies to a person who became entitled by virtue of regulations 7 and 72(1)(a) of the 1976 Regulations to count as reckonable service a period related to war service (“the war service period”).

(2) Subject to paragraph (6), there is to be paid by or in respect of a person to whom this regulation applies, by way of deduction from the appropriate terminal sum, an additional contribution of

A + B,

where—

A is 3.75% of the salary notionally received during the person’s war service, and

B is interest on A at 3.5% per annum, compounded with yearly rests, from 1st July 1950 to the relevant date.

(3) The salary notionally received during the person’s war service is £200 per annum in the case of a man and £175 per annum in the case of a woman.

(4) The relevant date is—

- (a) 1st September 1974 if the person was then receiving a teacher’s pension,
- (b) if a transfer value has become payable in respect of him after 31st August 1974, the date on which he became subject to the receiving scheme, and
- (c) in any other case, the date on which the terminal sum is paid.

(5) If the additional contribution exceeds the terminal sum the excess is to be paid in such manner as may be agreed.

(6) If—

- (a) the counting of the war service period does not increase the retirement benefits payable, and
- (b) no election is made under paragraph (8),

no additional contribution is payable under paragraph (2).

(7) This paragraph applies where the whole of the person's other reckonable service would, in the event of his death, count in the calculation under regulation E28 of a spouse's or nominated beneficiary's pension ("the family pension").

(8) Where paragraph (7) applies, the person may elect that there is to be paid, by way of a further deduction from the appropriate terminal sum, an additional contribution in respect of his war service.

(9) The amount of the additional contribution is the actuarial cost of the increase in the family pension that would result from the war service period counting under regulation E28(4)(c).

(10) An election under paragraph (8) must be made by giving written notice to the Secretary of State before the appropriate terminal sum is paid.

(11) If a person who could have made an election under paragraph (8) dies without having made it, the election may be made by the nominated beneficiary or surviving spouse before the appropriate terminal sum has been paid.

Additional contributions for current period

C9.—(1) Subject to paragraphs (11) to (14), this regulation applies to a person who—

- (a) before attaining the age of 60 has ceased to be in pensionable employment, otherwise than by virtue of an election under regulation B5, and
- (b) was not then incapacitated, and
- (c) did not then become entitled to payment of retirement benefits, and
- (d) has not become a member of another occupational pension scheme or is not engaged in full-time employment in a capacity described in Part II of Schedule 2.

(2) Subject to paragraphs (3), (4) and (10), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period ("the period") beginning on the day after the cessation of the pensionable employment or, where paragraph (4)(a) applies, on the day after the last day of the earlier period.

(3) The period—

- (a) must end before the person's 60th birthday, and
- (b) must not in any case exceed the maximum calculated in accordance with Schedule 3, and
- (c) if the person has become employed as a teacher or supervisor in a school or educational service outside the British Islands, must not exceed 6 years, and
- (d) in any other case, must not exceed 3 years.

(4) If the person has paid additional contributions under this regulation for an earlier period and—

- (a) he has not since the end of that period been in pensionable employment, or
- (b) he has since been in pensionable employment but for less than 12 months,

the earlier period is to be deducted from the maximum allowed by paragraph (3)(b).

(5) If before the end of the period the person—

- (a) becomes entitled to payment of retirement benefits,

- (b) becomes a member of another occupational pension scheme, or
- (c) dies,

the period is to be treated as having ended on the day on which the relevant event occurred; and if before the end of the period he fails to pay an additional contribution, or a late payment is not accepted under paragraph (9), it is to be treated as having ended on the day up to which additional contributions have been paid.

(6) An additional contribution is payable for each financial year and is a percentage of the notional salary for so much of the period as falls within that year.

(7) For the purposes of paragraph (6)—

- (a) the notional salary is an amount notified by the former employer or, where no such notification is given, estimated by the Secretary of State as being what the person's contributable salary would have been if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms taking into account, where appropriate, any election under regulation C2(1); and
- (b) the percentage is $(A+B-C)$ where A, B and C have the same meanings as in regulation G5(2).

(8) The contribution for a financial year is to be paid direct to the Secretary of State—

- (a) where the period has not ended during the financial year, within 3 weeks after the end of the financial year, and
- (b) in any other case, within 6 weeks after the end of the period or the date of a written notification by the Secretary of State that payment is due, whichever is the later.

(9) A late payment of a contribution may for special reasons be accepted by the Secretary of State; but if it is accepted the person is to pay interest on the amount of the contribution at 4% per annum compounded with yearly rests, from the due date of payment to the date of payment.

(10) An election under this regulation must be made by giving written notice to the Secretary of State, which must specify the period and must be given—

- (a) if paragraph (3)(c) applies, within 6 months, and
- (b) in any other case, within 3 months,

after the cessation of the person's pensionable employment or, if later, the end of a previous period for which he has paid additional contributions under this regulation.

(11) For the purposes only of this regulation a person remains in pensionable employment while he is absent from duty during and in consequence of a trade dispute.

(12) Paragraph (11) applies—

- (a) even if the person was not participating in or financing or otherwise directly interested in the trade dispute, and
- (b) even if his employer was not a party to the trade dispute.

(13) This regulation does not apply to a person whose pensionable employment is employment as a relief teacher, that is to say a teacher who is employed in place of a person regularly employed and whose contract of employment is a short-term one.

(14) In this regulation "trade dispute" has the meaning given in section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

Additional contributions for current period: service in a reserve force

C10.—(1) This regulation applies to a person who ceases to be in pensionable employment by virtue of being called out or recalled for permanent service in Her Majesty’s armed forces in pursuance of a call-out notice or call-out order or a recall order made under the provisions of the Reserve Forces Act 1996(4), provided that—

- (a) the person does not apply for payment of any retirement benefits to which he would otherwise be entitled on ceasing to be in such employment, and
- (b) he does not accrue any reckonable service in the Armed Forces Pension Scheme or become a member of any other occupational pension scheme during his period of permanent service.

(2) Subject to paragraphs (10) and (11), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period (“the period”) beginning on the day after the cessation of the pensionable employment and ending with the date on which he is released from permanent service or discharged.

(3) An additional contribution is payable for each financial year and is—

- (a) 6% of the notional salary for so much of the period as falls within that financial year; and
- (b) where an election has been made under regulation C2(1), an amount equivalent to any contributions which would have been paid under regulation C3(3) for so much of the period as falls within that financial year taking the reference in that regulation to the person’s actual contributable salary as a reference to the notional salary disregarding the election under regulation C2(1).

(4) The notional salary is the salary that would have been payable if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms taking into account, where appropriate, any election under regulation C2(1).

(5) Subject to paragraphs (7) and (8), an election under this regulation must be made by giving written notice to the Secretary of State and must be given at any time between the cessation of pensionable employment and 6 months after the return to pensionable employment after the end of the period.

(6) An election has effect only if any contribution under this regulation is paid by the person to the Secretary of State within three months of the date of a written notification by the Secretary of State that payment is due to him; and provided that the person pays all contributions and payments payable by him in respect of the period in accordance with an election or elections made by him under regulation C4 (taken with Schedule 4), regulation C11 (taken with Schedule 6) and regulation C16.

(7) Where an election is made before the end of the period it must specify the day on which the period begins; and where an election is made after the end of the period it must specify the period.

(8) Subject to paragraph (9), where the person dies during his service in a reserve force without having made an election under this regulation, he shall be deemed to have made such an election so that the period beginning on the day after the cessation of the pensionable employment and ending with the date of his death shall count as reckonable service.

(9) Any contributions due under this regulation at the date of such death shall be deducted from any benefits payable under these Regulations.

(10) Notwithstanding that a person to whom this regulation applies has not made an election under this regulation, he shall be entitled to count the period as reckonable service where during the period his service pay, when aggregated with any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(5), is less than the remuneration he would

(4) 1996 c. 14.

(5) 1951 c. 65.

have received if he had during the period continued in the pensionable employment in which he was employed immediately before being called into service in a reserve force.

(11) For the purposes of paragraph (10), “service pay” means pay for performing service in a reserve force, and includes marriage, family and other similar allowances.

Additional contributions for family benefits

C11.—(1) Parts I and III of Schedule 6 have effect for enabling men and unmarried women to pay additional contributions (“family benefit contributions”) in order to secure, or to increase, family benefits in respect of reckonable service before April 1972.

(2) Parts II and III of Schedule 6 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.

Entitlement to repayment of balance of contributions

C12.—(1) Subject to paragraphs (3) and (4), this regulation applies where a person has ceased to be in pensionable employment and—

- (a) he is not qualified for retirement benefits, and
- (b) no transfer value has since been paid or become payable in respect of him, and
- (c) he has not since taken any right to a cash equivalent, and
- (d) he did not re-enter pensionable employment within one month after ceasing to be in pensionable employment, and
- (e) he has not elected to pay additional contributions under regulation C9 or C10 for any period which includes the period beginning when he ceased to be in pensionable employment and ending one month later.

(2) This regulation does not apply if—

- (a) the person ceased to be in pensionable employment before 6th April 1980, and
- (b) the salary on which contributions were payable by him under the 1976 Regulations or under previous provisions in any year had exceeded £5,000.

(3) For the purposes of paragraph (1) a woman who ceased to be in pensionable employment wholly or partly because of pregnancy or confinement is to be treated—

- (a) as having remained in such employment while she enjoyed the right to return to work conferred by sections 79 to 85 of the Employment Rights Act 1996⁽⁶⁾, and
- (b) if she has exercised that right, as not having ceased to be in pensionable employment.

(4) Subject to regulation C15 (application for repayment), where this regulation applies the person is entitled to be repaid the balance of his contributions, calculated in accordance with regulation C13.

(5) The entitlement takes effect one month after the person ceased to be in pensionable employment or on his 70th birthday if earlier.

Calculation of contributions to be repaid

C13.—(1) The balance of contributions referred to in regulation C12(4) is to be calculated as at the date of the calculation, or the person’s 70th birthday if earlier (“the calculation date”).

(2) The balance is

$$(A - B) - C.$$

(6) 1996 c. 18.

where—

- A is the total of the amounts specified in paragraph (3),
- B is the total of the deductions specified in paragraph (4), and
- C is the amount of the tax chargeable on (A–B) under section 598 of the Taxes Act.

- (3) The amounts are those of—
- (a) all contributions paid, up to the date of receipt of the application for repayment, under regulations C3, C4, C9, C10 and C11, except—
 - (i) any treated for the purposes of regulation G2 as employer’s contributions, and
 - (ii) any paid in respect of a period of employment for which a short-service incapacity grant under regulation E17 has been received,
 - (b) contributions paid in respect of any comparable British service in respect of which the person is entitled to count reckonable service by virtue of the acceptance of a transfer value,
 - (c) if the person was entitled to count any reckonable service by virtue of the acceptance of a transfer value in respect of an employment that was not comparable British service, either—
 - (i) any payment by way of repayment of contributions, and interest, that he would otherwise have been entitled to receive under the rules of the pension scheme to which he was subject in the employment, or
 - (ii) if that scheme made no provision for the repayment of contributions, the contributions he paid under it in respect of the employment, and
 - (d) interest to the calculation date, at 3% per annum, compounded with yearly rests—
 - (i) on the contributions mentioned in sub-paragraphs (a) and (b), from the first day of the financial year following that in which they were paid, and
 - (ii) where sub-paragraph (c) applies, from the first day of the financial year following that in which the transfer value was paid.
- (4) The deductions are—
- (a) the amount of any previous repayment of contributions,
 - (b) if the Secretary of State has made a payment in lieu of contributions, or the person is entitled to equivalent pension benefits, half the amount of the payment in lieu of contributions that was or, as the case may be, would otherwise have been made, and
 - (c) if the Secretary of State has paid a contributions equivalent premium, the amount recoverable by him under sections 61 to 63 of the 1993 Act.

Repayment of certain contributions paid for family benefits

C14.—(1) This paragraph applies where a member who has made no election under paragraph 3 of Schedule 6—

- (a) becomes entitled under regulation C12 to the repayment of the balance of his contributions, or
- (b) becomes entitled to payment of retirement benefits unless on his death family benefits would become payable.

(2) Subject to regulation C15, where paragraph (1) applies, the member is entitled to be repaid an amount calculated in accordance with paragraphs (3) to (5).

(3) Where no family benefit would have been payable if the member had died before 1st April 1972, the amount includes the whole of his normal contributions and any additional contributions.

- (4) Where paragraph (3) does not apply, the amount includes—
- (a) half the normal contributions paid in respect of any period during which family benefits would have been payable in the event of the member's death,
 - (b) the whole of the normal contributions paid in respect of any other period, and
 - (c) the whole of any additional contributions.
- (5) The remainder of the amount consists of interest at 3% per annum, compounded with yearly rests, from the first day of the financial year following that in which the contributions were paid to—
- (a) the date of the calculation, or
 - (b) the member's 70th birthday, or
 - (c) the date of his death,

whichever is the earliest.

(6) There is to be deducted from the amount the tax chargeable on it under section 598 of the Taxes Act.

(7) Subject to regulation C15, where a member who has made no election under paragraph 3 of Schedule 6 dies and he was entitled under regulation C12 to be repaid the balance of his contributions or—

- (a) a death grant is payable under regulation E20, and
- (b) no family benefit other than a children's pension is payable,

his personal representatives are entitled to be paid an amount calculated in accordance with paragraphs (3) to (5) but with the interest component calculated to the date of his death.

Application for repayment

C15.—(1) An amount to which a person is entitled under regulation C12 or C14 is to be paid to him only if the Secretary of State receives a written application for payment and paragraph (2), if applicable, is complied with.

(2) If the Secretary of State notifies him in writing that he so requires, the applicant is to provide any relevant information specified by the Secretary of State that is in his possession or that he can reasonably be expected to obtain.

Return of repaid contributions

C16.—(1) A person to whom contributions were repaid before June 1973—

- (a) who is in pensionable employment, or
- (b) who is in comparable British service and in respect of whom no transfer value has been paid since the end of his last pensionable employment,

may at any time, by giving written notice to the Secretary of State, elect to return the contributions, with interest, to him.

(2) The return of contributions—

- (a) may in any case, and
- (b) if the amount of the contributions, together with the interest payable, does not exceed £500, must,

be made by a single payment, which must be made within ten weeks of the giving of notice under paragraph (1).

(3) Except where paragraph (2)(b) applies, the person may elect to make the return of contributions—

- (a) if he is in full-time pensionable employment, by instalments under paragraph (5), or
 - (b) if he is in part-time pensionable employment or in comparable British service, by instalments under paragraph (7).
- (4) Interest is payable at the rate of 3.5% per annum from the date on which the contributions were repaid to the date on which their return is completed, and—
- (a) where the return is made by a single payment, is payable on the full amount of the contributions and is compounded with yearly rests, and
 - (b) where the return is made by instalments, is payable on the balance for the time being outstanding and is compounded with yearly rests on 31st March.
- (5) Instalments payable under this paragraph are of equal amounts and are, subject to paragraph (6), payable by deduction from the person's salary for a number of whole years, not exceeding 5 and ending before his 61st birthday, to be specified in the notice of the election.
- (6) Where the total of—
- (a) the instalments payable by a person under paragraph (5) in any year, and
 - (b) the other amounts to be deducted in that year under regulation C18,
- would otherwise exceed 15% of his contributable salary for that year, the instalments are payable for the smallest number of whole years that will secure that the total does not exceed 15% of his annual contributable salary.
- (7) Instalments payable under this paragraph are, subject to paragraph (8), payable—
- (a) at equal intervals, of not more than six months, and
 - (b) for a period,
- determined by the Secretary of State after consulting the person making the election.
- (8) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (9) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.
- (9) The annual amount of instalments paid under paragraph (7) is to be such that A+B does not exceed 15% of the annual rate of the person's contributable salary in the year where—
- A is the annual amount of the instalments; and
 - B is the annual amount of other contributions paid under Part C (except any treated for the purposes of regulation G2 as employers' contributions) or towards the provision of a pension otherwise than under these Regulations.
- (10) For the purposes of this regulation, a person is to be treated as being in pensionable employment if he is paying additional contributions under regulation C9 or C10 and such a person may, except where paragraph (2)(b) applies, elect to make the return by instalments under paragraph (7).

Uncompleted return by instalments of repaid contributions

C17.—(1) This regulation applies where instalments are payable by a person under regulation C16(5) or (7).

- (2) If before all the instalments have been paid—
- (a) the person becomes entitled to payment of retirement benefits, or
 - (b) a death grant becomes payable in respect of him,

the balance outstanding, discounted for early payment, is to be deducted from the appropriate terminal sum and the return of the contributions is to be treated as having been completed.

(3) This paragraph applies where the instalments are payable under regulation C16(5) and before they have all been paid, the person—

- (a) ceases to be in full-time pensionable employment, and
- (b) does not become entitled to payment of retirement benefits, and
- (c) continues in part-time pensionable employment or in comparable British service.

(4) Where paragraph (3) applies—

- (a) the person may by giving written notice to the Secretary of State elect to pay the balance outstanding by instalments under regulation C16(7), and
- (b) if he does not so elect, he is to make a single payment of the balance outstanding, discounted for early payment.

(5) This paragraph applies where before all the instalments have been paid—

- (a) the person ceases to be in pensionable employment or in comparable British service, and
- (b) neither paragraph (2) nor paragraph (3) applies.

(6) Where paragraph (5) applies—

- (a) the person may, if he elects to pay additional contributions for a current period under regulation C9 or C10, by giving written notice to the Secretary of State elect to pay the balance outstanding by instalments under regulation C16(7) (but payable at the same times as the additional contributions), and
- (b) if he does not so elect, he is to make a single payment of the balance outstanding, discounted for early payment.

(7) Where paragraph (3) or (5) applies and the person has not, within 3 months after the end of the relevant employment—

- (a) made a payment under paragraph (4)(b) or (6)(b), or
- (b) made any election he could have made under paragraph (4)(a) or (6)(a),

the amount of the instalments already paid is to be repaid to him.

(8) Where—

- (a) a person who has elected as mentioned in regulation C16(3)(b) is in part-time pensionable employment or in comparable British service and an instalment has not been paid by the due date, or
- (b) a person has made an election under paragraph (4)(a) and an instalment has not been paid by the due date, or
- (c) a person has made an election under paragraph (6)(a) and an instalment is not paid by 21st April in the financial year following that in which it fell due,

then, unless within 3 months he makes a single payment of the balance outstanding, discounted for early payment, the amount of the instalments already paid is to be repaid to him.

Deduction, payment and recovery of contributions

C18.—(1) The employer of a person in pensionable employment, other than a services education officer, is to deduct from his salary each month—

- (a) the contributions payable under regulation C3(1) and any contributions payable under regulation C3(3),
- (b) any additional contributions payable in accordance with Part I of Schedule 4 as a result of an election under regulation C4,
- (c) any additional contributions payable by virtue of regulation C6 or C11, and

- (d) any instalments payable under regulation C16(5),
and any amount not so deducted in any month is to be deducted from the person's salary no later than 30th April next following the end of the financial year in which it ought to have been deducted.
- (2) If and so far as deductions are not made under paragraph (1), any sum remaining due is to be paid by the person to the Secretary of State on receipt of a written demand specifying the sum.
- (3) If the sum is not paid within 6 weeks after the date of the demand, interest is payable on it at 4% per annum, compounded with yearly rests, from the expiry of the 6 weeks to the date of payment.
- (4) Without prejudice to any other means of recovery, any sum due to the Secretary of State under paragraph (2) or (3) may be recovered by deducting it from any benefits payable under Part E.
- (5) Amounts due from a person under this Part which are not deductible under paragraph (1) are to be paid by him to the Secretary of State.
- (6) If any amount to which paragraph (5) applies, except one due under regulation C9, C10, C16 or C17, is not paid within 6 months after the end of the period to which it relates, but remains payable, interest is payable on it at 4% per annum, compounded with yearly rests, from the expiry of the 6 months to the date of payment.