

SCHEDULE

Regulation 34

AMENDMENT TO SCHEDULE 4

1. For “final pay” wherever those words appear substitute “final remuneration”.
2. For “his total membership”, “the total membership” and “the member’s total membership” substitute “years of service” except in—
 - (a) sub-paragraph (7) of paragraph 4 (as amended by these Regulations), and
 - (b) paragraph 8.
3. In paragraph 1(1), in the definition of “Class B member”, in paragraph (a) after “1st June 1989” insert “or is to be treated as a Class B member by virtue of a Revenue agreement”.
4. In paragraph 1(2)—
 - (a) for “is a retained rights member” substitute “has retained rights”;
 - (b) in paragraph (a), add at the end “or a scheme in respect of which approval is sought”; and
 - (c) add after paragraph (e)—
 - “(f) transfer payments from overseas schemes held in a type of arrangement mentioned in sub-paragraph (a), (b) or (e).”.
5. In paragraph 1(3)—
 - (a) for “relevant benefits” substitute “retained rights”; and
 - (b) in paragraph (a), for “exceeds” substitute “does not exceed” and for “ends” substitute “begins”.
6. In paragraph 1, insert after sub-paragraph (3)—

“(3A) Retained rights may be disregarded if the member started to purchase benefits under Part III, or was given extra benefits under Part III after August 1991, and

 - (a) where the member became a member on or after 14th March 1989, his remuneration in the first year of his employment during which he is a member does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which the first year begins, or
 - (b) where the member became a member before 14th March 1989, his remuneration in the first year in which he starts to accrue benefits under Part III does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which the first year begins.”.
7. In paragraph 1, add at the end—

“(5) In this Schedule “final remuneration” means, subject as provided in sub-paragraphs (6) to (9), the greater of—

 - (a) the highest total remuneration for any period of twelve complete and consecutive months (ending on the last day of the month) falling wholly within the five years preceding the relevant date; and
 - (b) the yearly average of the total emoluments from the employer which are assessable to income tax under Case I or II of Schedule E and upon which income tax liability has been determined in any three or more consecutive years ending at the end of any month not earlier than 10 years before the relevant date.

(6) Where final remuneration is calculated by reference to any period other than the last complete year ending on the relevant date, the member’s total remuneration or total emoluments may be increased for any year in proportion to any increase in the retail prices

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index from the last day of that period up to the relevant date, but for a Class C member this shall not apply to the calculation of the maximum retirement grant benefit unless the member's aggregate retirement benefit is similarly increased beyond the maximum amount which could have been paid but for this provision and the similar provision in the definition of total remuneration and then only to the same extent.

(7) In respect of a Class B member, final remuneration for the purpose of the calculation of the retirement grant shall not exceed £100,000 or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act⁽¹⁾.

(8) In respect of any member whose remuneration in any tax year after 5th April 1987 used for the purpose of calculating retirement benefits has exceeded £100,000 (or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act) final remuneration shall not exceed the amount ascertained in accordance with sub-paragraph (5)(b) and sub-paragraph (5)(a) shall not apply unless the member chooses to adopt £100,000 (or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act).

(9) Remuneration and total emoluments shall not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Taxes Act.

(10) In this Schedule—

- (a) “relevant date” means the last day on which the member is an active member;
- (b) “service” means service in local government employment;
- (c) “total remuneration” in relation to any member means the aggregate of—
 - (i) actual amounts received for the twelve complete and consecutive months ending on or immediately prior to the date for which total remuneration is to be calculated (in this definition called “the calculation date”) which correspond to the fixed annual rates of salary for the time being in respect of that member's service; and
 - (ii) that member's average annual remuneration from the employer or otherwise in respect of service by way of commissions, fluctuating emoluments or other benefits assessed to income tax under Schedule E (but not within sub-paragraph (i)) for the 36 complete and consecutive months ending on or immediately prior to the calculation date, but remuneration within the scope of this sub-paragraph for a year prior to that ending with the calculation date may be increased in proportion to any increase in the retail price index from the last day of that year up to the calculation date.”.

8. In paragraph 2(1), for “Parts II and III” substitute “these Regulations”.

9. Delete sub-paragraph (2) of paragraph 2.

10. After paragraph 2(3) insert—

“(3A) Subject to sub-paragraph (3), the aggregate pension payable on retirement must not exceed the lesser of—

- (a) one thirtieth of the member's final remuneration multiplied by the member's years of service or 20 years if less; and
- (b) two-thirds of the member's final remuneration less the value of any retained rights.”.

(1) 1988 c. 1; the provisions of schedule 6 to the Finance Act 1989 (c. 26) which amend section 590(3) of the Taxes Act do not have effect as regards a person who became a member of the Scheme before 1st June 1989.

11. In paragraph 2(4), for “one sixtieth of the member’s final pay multiplied by the total membership the member would have had if” substitute “the maximum retirement grant payable under sub-paragraph (6) or (7) assuming”.

12. In paragraph 2, for sub-paragraph (5) substitute–

“(5) The aggregate pension payable to a member who has elected under regulation 8 to leave the Scheme but remains in local government employment is the greater of–

- (a) one sixtieth of the member’s final remuneration multiplied by his years of service prior to leaving the Scheme or 40 years if less; and
- (b) the maximum pension that could have been payable at NRD under sub-paragraph (3) or (3A) multiplied by the fraction of which
 - (i) the numerator is the member’s years of service prior to leaving the scheme or 40 years if less, and
 - (ii) the denominator is his total period of membership assuming he had remained an active member until his NRD or 40 years if less.

This amount may be increased by 5 per cent. for each complete year, or in line with any increase in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.”.

13. In paragraph 2(6), after (3) insert “(3A),”.

14. In paragraph 2, insert after sub-paragraph (7)–

“(7A) Subject to sub-paragraph (7), the aggregate benefit payable by way of lump sum must not exceed the lesser of–

- (a) three times the initial pension paid to the member under Part II and Part III excluding Chapter IV of Part III, and
- (b) one and a half times the member’s final remuneration.”.

15. In paragraph 2(8), for “three eightieths of the member’s final pay, multiplied by the total membership the member would have had if” substitute “the maximum retirement grant payable under sub-paragraph (7) or (7A) assuming”.

16. In paragraph 2(9), for “four times his final pay” substitute “four times his final remuneration (disregarding the provisos in paragraph 1(8) and (9) and paragraph 9(6)) less any lump sum death in service retained rights (other than a refund of the member’s contributions and any interest on such contributions)”.

17. In paragraph 2(10), for “The total membership taken into account” substitute “The years of service”.

18. In paragraph 2, for sub-paragraph (11) substitute–

“(11) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member’s own pension under regulation 33) payable or prospectively payable to that surviving spouse or eligible child shall not exceed–

- (a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (4), ignoring any retained rights, if the member had retired under regulation 27 on the date of his death, and
- (b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (3), (3A), (4) or (5), ignoring any retained rights.

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(11A) If pensions are payable to more than one of the member’s surviving spouse and eligible children, the aggregate of all such pensions shall not exceed–

- (a) on the death of an active member or deferred member the amount payable under sub-paragraph (4), and
- (b) on the death of a pensioner member, the amount payable under sub-paragraph (3), (3A), (4) or (5).”.

19. In paragraph 3, for “Parts II and III” substitute “these Regulations”.

20. In paragraph 4 for sub-paragraph (1) substitute–

“(1) Subject to sub-paragraph (1A), the aggregate pensions payable on retirement at NRD must not exceed the lesser of–

- (a) for Class B members, one thirtieth of the member’s final remuneration multiplied by his years of service, or 20 years if less
- (b) for Class C members with less than 10 years service, the member’s final remuneration multiplied by the fraction specified below–

1 to 5 years	1/60th for each year
6 years	8/60ths
7 years	16/60ths
8 years	24/60ths
9 years	32/60ths

- (c) two thirds of the member’s final remuneration less the value of any retained rights.

(1A) But if it results in a higher sum than the maximum under sub-paragraph (1), the maximum aggregate pension on retirement at NRD is one sixtieth of the member’s final remuneration multiplied by his years of service or 40 years if less.”.

21. In paragraph 4(2), for “one sixtieth of the member’s final pay” substitute “the maximum pension payable under sub-paragraph (1) or (1A)”.

22. In paragraph 4(3)–

- (a) before the number “31” insert “26 or”,
- (b) for “sub-paragraph (1)” substitute “sub-paragraph (1A)”,
- (c) for “under that sub-paragraph” substitute “under sub-paragraph (1)”,
- (d) delete “(taking into account any reduction for retained benefits)”, and
- (e) at the end add–

“This amount may be increased by 5 per cent. for each complete year, or in line with any increase in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.”.

23. Delete paragraph 4(4).

24. In paragraph 4(5)–

- (a) for paragraph (a) substitute–
 - “(a) the amount payable under sub-paragraph (1) or (1A) on the basis the actual retirement date was the member’s NRD;”;

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- (b) in paragraph (b), for “one sixtieth of the member’s final pay at his NRD, multiplied by his total membership at his NRD” substitute “the amount that could have been payable under sub-paragraph (1) or (1A) on retirement at NRD”.

25. In paragraph 4 insert as sub-paragraphs (8) and (9)–

“(8) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member’s own pension under regulation 33) payable or prospectively payable to that surviving spouse or eligible child shall not exceed–

- (a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (2), ignoring any retained rights, if the member had retired in circumstances entitling him to an ill-health pension and grant under regulation 27 on the date of his death, and
- (b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (1), (1A), (2), (3) or (5) ignoring any retained rights and increased in line with any subsequent increase in the retail prices index.

(9) If pensions are payable to more than one of the member’s surviving spouse and eligible children, the aggregate of all such pensions shall not exceed–

- (a) on the death of an active member or deferred member the amount payable under sub-paragraph (2), and
- (b) on the death of a pensioner member, the amount payable under sub-paragraph (1), (1A), (2), (3) or (5).”.

26. For paragraph 5, substitute–

“5.—(1) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant for a Class B member on retirement at or before NRD must not exceed the lesser of–

- (a) three times the initial pension paid to the member under Part II and Part III, excluding Chapter IV of Part III; and
- (b) one and a half times the member’s final remuneration less the value of any retained benefits in lump sum form.

(2) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant on retirement at NRD for a Class C member must not exceed the lesser of–

- (a) if the member has less than 20 years service, his final remuneration multiplied by the fraction set out in the table below–

Years of service to NRD	80ths of final remuneration
1 to 8	3 for each year
9	30
10	36
11	42
12	48
13	54
14	63

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Years of service to NRD	80ths of final remuneration
15	72
16	81
17	90
18	99
19	108; and

(b) one and a half times the member's final remuneration less the value of any retained rights in lump sum form.

(3) If it results in a higher sum than the maximum under sub-paragraphs (1) or (2), the maximum aggregate retirement grant is three eightieths of the member's final remuneration multiplied by each year of service or 40 years if less.

(4) But for a retirement grant payable under regulation 27, the limit is the maximum retirement grant payable under sub-paragraph (1), (2) or (3) assuming he continued as an active member until his NRD.

(5) The aggregate benefit payable to a Class C member by way of retirement grant before NRD is the greater of—

- (a) three eightieths of the member's final remuneration multiplied by his years of service or 40 years if less; and
- (b) the maximum lump sum that could have been payable on retirement at NRD under sub-paragraph (2) multiplied by the fraction of which
 - (i) the numerator is the member's actual period of local government employment prior to leaving the Scheme or 40 years if less, and
 - (ii) the denominator is his total period of membership assuming he had remained an active member until his NRD or 40 years if less.

This amount may be increased in line with any increase in the retail prices index between the relevant date and the date on which the benefit becomes payable.

(6) The aggregate benefit payable to a Class B member or a Class C member by way of a retirement grant on retirement after NRD must not exceed the greatest of

- (a) the amount payable under sub-paragraph (1), (2) or (3) on the basis that the actual retirement date was the member's NRD;
- (b) the amount that could have been payable under sub-paragraph (1), (2) or (3) on retirement at NRD together with interest in respect of the period of the delay in payment between his NRD and the actual date of payment;
- (c) three eightieths of the member's final remuneration multiplied by his increased period of membership.

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

- (a) his total membership ending with his NRD; and
- (b) his total period of membership after his NRD

but must not exceed 45 years.

(8) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final remuneration (disregarding the provisos in paragraph 1(8) and (9) and paragraph 9(6)) less any lump sum death in service retained rights (other than a refund of the member's contributions and any interest on such contributions) or, if greater, £5,000.?"

27. In paragraph 6, for sub-paragraph (1) substitute—
 - “(1) The years of service taken into account under paragraph 4(1) and (2) and the total membership taken into account under paragraphs 4(7)(a) and 5(7)(a) must not exceed 40 years.”.
28. In paragraph 7(1), after “regulations 12, 17 and 18” insert “and any FSAVC scheme” and for “his pay” substitute “his remuneration”.
29. In paragraph 8(2)(b), for “he was aged 65” substitute “his NRD”.
30. In paragraph 8(3), for “retained benefits” substitute “retained rights”.
31. In paragraph 8(4)(b), after “retirement grant” insert “or, in the case of a Class C member, the aggregate of the retirement grant attributable to his period of membership before his NRD and any retained rights in lump sum form,”.
32. In paragraph 8(5), for “relevant benefits” substitute “retained rights”.
33. In paragraph 9(5)—
 - (a) for “paragraph 1(3)(a)” substitute “paragraphs 1(3)(a) and 1(3A)”, and
 - (b) add the following—
 - “(6) Final remuneration shall be ascertained in accordance with paragraph 1(5)(b) and paragraph 1(5)(a) shall not apply.”.