

SCHEDULE 1

ARRANGEMENT OF RULES

PART E

DEATH BENEFITS

Pensions for Adult Dependants

E.1 Surviving spouses' and civil partners' pensions

(1) If an active member, a deferred member or a pensioner member dies leaving a surviving spouse or civil partner, the surviving spouse or civil partner is entitled to a pension for life.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under rule D.2 (retirement before reaching pension age) if his service had ceased on the date of death otherwise than by reason of death.

(3) The Secretary of State may withhold the pension—

- (a) where it would be payable to a surviving spouse, if the member and the surviving spouse married less than six months before the member's death, and
- (b) where it would be payable to a surviving civil partner, if the civil partnership was formed less than six months before the member's death.

(4) Paragraph (3) is subject to rule E.28 (guaranteed minimum pensions for surviving spouses).

E.2 Other adult dependants' pensions

(1) If an active member, a deferred member or a pensioner member dies leaving a surviving adult dependant and no surviving spouse or civil partner, the Secretary of State may award the surviving adult dependant a pension for life.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under rule D.2 (retirement before reaching pension age) if his service had ceased on the date of death otherwise than by reason of death.

(3) A person is a surviving adult dependant in relation to a member for the purposes of this rule if the person satisfies the Secretary of State that at the time of the member's death—

- (a) the person and the member were cohabiting as partners in an exclusive and substantial relationship,
- (b) the person and the member were not prevented from marrying (or would not have been so prevented apart from both being of the same sex), and
- (c) either the person was financially dependent on the member or the person and the member were financially interdependent.

E.3 Amount of pensions under rules E.1 and E.2: active members

(1) This rule applies in the case of a deceased active member, other than an active member who would not have qualified for a pension under rule D.2 if his service had ceased on the date of death otherwise than by reason of death.

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(2) The annual amount of the pension payable under rule E.1 (surviving spouses' and civil partners' pensions) and rule E.2 (other adult dependants' pensions) is the appropriate fraction of the member's final pensionable earnings multiplied by RS, where RS is the higher of—

- (a) N for the purposes of rule D.5(4) (early payment of benefits: active members with permanent serious ill-health) if the member had become entitled to a pension under rule D.5 on the date of death, and
- (b) the member's reckonable service at the date of death in years.

This is subject to paragraphs (4) and (6).

(3) The appropriate fraction is $1/112$.

(4) If immediately before the member's death he was entitled to exercise the option under rule G.3 or G.4 (aggregation of service), then, unless paragraph (5) applies, these Rules apply as if the member had exercised that option before his death (and accordingly no amount is payable under rule E.4 in respect of the service that is aggregated).

(5) This paragraph applies if in the opinion of the Secretary of State the value of the benefits payable in respect of the member under these Rules would be greater if these Rules did not apply as if the member had exercised that option before his death.

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

- (a) if the pension is payable to a civil partner, N for the purposes of rule D.5(4) is calculated on the basis that reckonable service within rule A.8(1)(a) only counts if and to the extent that it relates to service after 5th April 1988, and
- (b) reckonable service exceeding $37 \frac{1}{3}$ years does not count.

E.4 Amount of pensions under rules E.1 and E.2: deferred members

(1) In the case of a deceased deferred member, the annual amount of a pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated by multiplying the appropriate fraction of the member's final pensionable earnings by the member's reckonable service at the date of death in years.

(2) The appropriate fraction is $1/112$.

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

- (a) if the pension is payable to a civil partner, reckonable service within rule A.8(1)(a) only counts if and to the extent that it relates to service after 5th April 1988, and
- (b) reckonable service exceeding $37 \frac{1}{3}$ years does not count.

(4) This rule is subject to rule E.3(4) (no amount payable under this rule in certain cases where the member was both an active member and a deferred member).

E.5 Amount of pensions under rules E.1 and E.2: pensioner members

(1) In the case of a deceased pensioner member, the annual amount of a pension payable under rule E.1 (surviving spouses' and civil partners' pensions) or rule E.2 (other adult dependants' pensions) is calculated by multiplying the appropriate fraction of the member's final pensionable earnings—

- (a) if the member's pension was calculated under rule D.1(3), D.2(3) or D.7(2), by the reckonable service mentioned in that rule,
- (b) if the member's pension was calculated under rule D.4(4), by the reckonable service used for the first calculation mentioned in that rule, and
- (c) if the member's pension was calculated under rule D.5(4) or D.6(2), by the figure that is N for the purposes of that rule.

This is subject to paragraph (3).

- (2) The appropriate fraction is $1/112$.
- (3) For the purposes of paragraph (1)—
 - (a) if the pension is payable to a civil partner—
 - (i) in a case within paragraph (1)(a) or (b), reckonable service within rule A.8(1)(a) only counts if and to the extent that it relates to service after 5th April 1988, and
 - (ii) in a case within paragraph (1)(c), N for the purposes of rule D.5(4) or D.6(2) is calculated on the basis that reckonable service within rule A.8(1)(a) only counts if and to the extent that it relates to service after that date, and
 - (b) reckonable service exceeding $37 \frac{1}{3}$ years does not count.
- (4) This rule is subject to rule D.10 (member's option to exchange lump sum for pension).

E.6 Reduction in pensions under rules E.1 and E.2 in cases of wide age disparity

(1) Where on the death of a member a pension is payable under rule E.1 or E.2 to a person (“the beneficiary”) who is more than 12 years younger than the member, the amount of the pension calculated in accordance with rule E.3, E.4 or E.5 is reduced by the appropriate amount.

- (2) That amount is the lesser of—
 - (a) 50% of the pension so calculated, or
 - (b) $2.5\% \times (N - 12)$ of the pension so calculated,

where N is the number of whole years by which the beneficiary is younger than the member.

- (3) This rule is subject to rule K.8.

E.7 Adult dependants entitled to two or more pensions under this Part

- (1) This rule applies if—
 - (a) pensions are payable to a person under rule E.1 or E.2 in respect of more than one deceased member, and
 - (b) the total reference service for the pensions exceeds the dependant's maximum.
- (2) In this rule “reference service” means—
 - (a) in the case of a pension calculated under rule E.3, the higher of the figures given by rule E.3(2)(a) and (b),
 - (b) in the case of a pension calculated under rule E.4, the figure by which the appropriate fraction of the member's final pensionable earnings is multiplied under rule E.4(1), and
 - (c) in the case of a pension calculated under rule E.5—
 - (i) if the member's pension was calculated under rule D.1(3), D.2(3) or D.7(2), the reckonable service mentioned in that rule,
 - (ii) if the member's pension was calculated under rule D.4(4), the reckonable service used for the first calculation mentioned in that rule, and
 - (iii) if the member's pension was calculated under rule D.5(4) or D.6(2), N for the purposes of that rule.
- (3) In this rule “the dependant's maximum” means—
 - (a) if none of the deceased members' reckonable service exceeded 35 years, 35 years,
 - (b) if one (and only one) of the deceased members' reckonable service exceeded 35 years, that member's reckonable service (but not exceeding $37 \frac{1}{3}$ years), and

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- (c) if two or more of the deceased members' reckonable service exceeded 35 years, the reckonable service of the member with the greatest reckonable service (but not exceeding 37 1/3 years).
- (4) The total amount of the pensions payable as mentioned in paragraph (1) immediately after the death, excluding any amount that is attributable to any increase made as a result of rule D.10 (member's option to exchange lump sum for pension), must not exceed such amount as results from the pensions being calculated by reference to the dependant's maximum.
- (5) In determining the amount of each of the pensions so payable to arrive at that total amount, the reference service for the pensions is to be reduced in such a manner as results in the greatest total amount.
- (6) In determining for the purposes of the Scheme whether a pension is payable under rule E.1 or E.2, the fact that the amount of any pension that would otherwise be payable under that rule is reduced to nil as a result of this rule is to be disregarded.