

SCHEDULES

SCHEDULE 2

Regulation 18

1.—(1) Paragraph 1(3) applies where a member of the description in paragraph 3(1) or (2) makes a request to receive immediate payment of retirement benefits under—

- (a) regulations 30(1) (choice of early payment of pension) or 30A (choice of payment of pension: pensioner member with deferred benefits)(1) of the Benefits Regulations;
- (b) regulation 30(5) (retirement benefits: early retirement) of the 2013 Regulations if the member was aged 60 or over at the date of making the request;
- (c) regulation 30(5) (retirement benefits: early retirement) of the 2013 Regulations if the member is aged 55 or over but aged under 60 at the date of making the request and the Scheme employer agrees that paragraph 1(3) of this Schedule should apply; or
- (d) regulation 30(6) (retirement benefits: flexible retirement) of the 2013 Regulations.

(2) Paragraph 1(4) applies where paragraph 1(1)(c) would otherwise apply, but the member's Scheme employer does not agree that paragraph 1(3) of this Schedule should apply.

(3) Where this sub-paragraph applies—

- (a) if the member satisfies the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulations 30(4) or 30A(4) of the Benefits Regulations or regulation 30(5) or (6) of the 2013 Regulations; and
- (b) if the member does not satisfy the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if earlier.

(4) Where this sub-paragraph applies—

- (a) if the member satisfies the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and age 60; and
- (b) if the member does not satisfy the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if the member would not satisfy the 85 year rule before that time, or age 60 if later.

(5) In this Schedule, references to a Scheme employer are to be read as including a former employer which is a Scheme employer, or where a member's employer or former employer has ceased to be a Scheme employer, the appropriate administering authority.

2.—(1) A member's Scheme employer may determine on compassionate grounds to waive the reduction referred to in paragraph 1(3)(b), 1(4) or 9(2).

(1) Regulation 30A was inserted by [S.I. 2010/2090](#).

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(2) Regulation 60 of the 2013 Regulations (statements of policy about exercise of discretionary functions) applies to paragraph 1(1)(c) of this Schedule and to this paragraph as if they were specified in paragraph (1) of that regulation.

(3) Where a Scheme employer agrees to the payment of benefits prior to age 60 in the circumstances described in paragraph 1(1)(a) of this Schedule, or that paragraph 1(1)(c) of this Schedule should apply to a member, or determines to waive a reduction under sub-paragraph (1), an administering authority may require the Scheme employer concerned to make additional payments to the appropriate fund in respect of any extra charge on the fund, as calculated by an actuary appointed by the administering authority, resulting from the agreement or waiver of reduction.

3.—(1) For the purposes of paragraph 1, the relevant date for a member who will be aged 60 or more on 31st March 2016 and who was a member of the 1998 Scheme before 1st October 2006, is the earlier of—

- (a) 1st April 2016, and
- (b) the date on the day after the day on which the member leaves local government employment.

(2) For the purposes of paragraph 1, the relevant date for a member who will not be aged 60 or more on 31st March 2016, but who was a member of the 1998 Scheme before 1st October 2006, is 1st April 2008.

4.—(1) For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of—

- (a) the member's age in whole years on the date the request is made under paragraph 1;
- (b) the member's total membership in whole years;
- (c) in a case where the request is made after the member's local government employment ends, the period beginning with the end of that employment and ending with the date the request is made; and
- (d) in the case of a person who was a member of the 1995 Scheme immediately before 1st April 1998, any qualifying period counted by virtue of regulation 123 of the 1997 Regulations (rights as to service not matched by credited period) which was awarded before 1st April 2008,

is 85 years or more.

(2) In calculating the member's total membership—

- (a) the periods of membership taken into account are—
 - (i) the total membership the member accrued under the Earlier Schemes which counts as membership in relation to the employment in respect of which the member has made a request to receive immediate payment of retirement benefits under paragraph 1, plus
 - (ii) the period during which the member paid, or is treated as having paid, contributions under regulations 9 or 10 of the 2013 Regulations (contributions and temporary reduction in contributions), plus
 - (iii) any period after 31st March 2014 of unpaid absence due to industrial action, or absence from work with permission with no pensionable pay otherwise than because of illness or injury, child related leave or reserve forces service leave, if contributions have been paid under regulation 16 of the 2013 Regulations (additional pension contributions) to cover that period, and
- (b) no account is to be taken of—

- (i) any increase in membership awarded under regulations 12 (power of employing authority to increase total membership of active members) or 12B (conversion of periods under Discretionary Compensation Regulations etc into membership)(2) of the Benefits Regulations,
- (ii) any membership credited after 1st October 2012 under regulation 84 (right to count credited period) of the Administration Regulations or regulation 9 of these Regulations (transfers),
- (iii) any membership credited under regulation 40A (Water Act company pensions: Environment Agency payments)(3) of the Administration Regulations, or
- (iv) subject to paragraph 5, any period on or after the date specified in regulation 32(4) of the 2013 Regulations (commencement of pensions following flexible retirement) or the date benefits became payable under regulations 18(4) or 18A(5) of the Benefits Regulations or regulation 35(1A) of the 1997(6) Regulations (retirement benefits: flexible retirement).

5.—(1) This paragraph applies to a member who received immediate payment under regulation 30(6) of the 2013 Regulations, regulation 18 or 18A of the Benefits Regulations, or regulation 35(1A) of the 1997 Regulations (retirement benefits: flexible retirement) of some, but not all, of the benefits to which that member was entitled.

(2) Where this paragraph applies, this Schedule, with the exception of paragraph 4(2)(b)(iv), continues to apply to any undrawn benefits accrued by the member before the date the member started to receive payment of benefits under those regulations.

6.—(1) This paragraph applies to a member to whom regulation 4 of the 2008 Scheme Transitional Regulations (membership accrued before 1st April 2008: deferred members), regulation 16 of the Administration Regulations (re-employed and rejoining deferred members), or regulation 10(1) of these Regulations (interfund adjustments) applies.

(2) Where such a member does not choose, or does not choose as respects all periods of membership, to be treated as if regulation 3 of the 2008 Scheme Transitional Regulations (membership accrued before 1st April 2008: active members) applies, or to have the member's membership aggregated under regulation 16 of the Administration Regulations (re-employed and rejoining deferred members), or under regulation 22 of the 2013 Regulations (pension accounts), as the case may be, then in applying paragraphs 1 to 5 and 9 of this Schedule as respects any later membership, the total membership excludes unaggregated periods.

7.—(1) This paragraph applies to a member who was a member of the 1998 Scheme before 1st October 2006 who—

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase total membership under regulation 55(1) of the 1997 Regulations (payments to increase total membership); and
- (b) was assumed to retire from a local government employment on a date before the member's 65th birthday ("the assumed date") for the purposes of calculating additional contributions under regulation 55(6) of the 1997 Regulations.

(2) Where a member to whom this paragraph applies—

(2) Regulation 12B was inserted by [S.I. 2009/3150](#).
(3) Regulation 40A was inserted by [S.I. 2009/3150](#).
(4) Regulation 18 has been amended by [S.I. 2008/1083](#), [2010/1990](#) and [2012/1989](#).
(5) Regulation 18A was inserted by [S.I. 2010/528](#).
(6) Regulation 35(1A) was inserted by [S.I. 2006/966](#) and was amended by [S.I. 2006/2008](#); it was revoked, with savings, by [S.I. 2008/238](#).

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- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

the member shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of the total membership for the purposes of paragraphs 1 to 5 and 9 of this Schedule.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

8.—(1) This paragraph applies to a person who was an active member of one of the Earlier Schemes before 1st October 2006 and who—

- (a) ceases to be an active member of the 1998 Scheme, the 2008 Scheme or the 2014 Scheme (whether before, on, or after that date); and
- (b) resumes active membership.

(2) If a member to whom this paragraph applies aggregates any period of membership after the resumption of employment with the period of membership accrued in the previous local government employment—

- (a) where the member resumed active membership in the 2014 Scheme and has had a disqualifying break, this Schedule does not apply to the earlier period, except in applying this Schedule to the later period of membership, for the purposes of paragraph 4 (determining whether the member satisfies the 85 year rule); or
- (b) where the member resumed active membership in an Earlier Scheme, or resumed active membership in the 2014 Scheme without a disqualifying break, this Schedule applies to the whole period of the aggregated membership.

(3) A disqualifying break for the purposes of paragraph (2) is a continuous break in active membership of a public service pension scheme of more than five years.

9.—(1) This paragraph applies to a member who was a member before 1st October 2006, who will reach or has reached the age of 60 on or after 1st April 2016 and before 1st April 2020, and whose retirement benefits would (but for the provisions of this paragraph) have been actuarially reduced on account of the age at which they were drawn.

(2) That part of the member's retirement benefits which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with actuarial guidance issued by the Secretary of State.