

SCHEDULE B6

Regulation B14(2).

RELEVANCE OF MEMBERSHIP FOR PURPOSES OF SCHEME

PART I

EXCLUSION OF CERTAIN MEMBERSHIP FOR CERTAIN PURPOSES

**Disregard of “superannuable membership” in determining entitlement to benefits**

1.—(1) Subject to sub-paragraph (2), for the purpose of determining entitlement to any benefit, no account shall be taken of any kind of superannuable membership, that is to say—

- (a) any period of added years,
- (b) any additional period of membership which counts as such by virtue of regulation B7(6), B16 B17 or C9 of these regulations or regulations D4 to D7 or D13 of the 1986 regulations,
- (c) any period which by virtue of interchange rules became reckonable under former regulations only for the purpose of calculating the amount of benefits, or
- (d) subject to sub-paragraph (2), any period of membership which counts as such by virtue of regulation K14(1)(a) (transfer values).

(2) Such membership as is mentioned in paragraph (1)(d) is to be taken into account for the purpose of determining entitlement under regulation D19.

*Death grants*

2. The period of membership mentioned in paragraphs (2) and (3)(b) of regulation E5 does not include a period in respect of which—

- (a) a return of contributions has been made, or
- (b) payment under regulation C13 has been or is to be treated as having been completed.

*Return of contributions: reduction of membership as respects preserved benefits*

3. Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation D12(1)(a) does not apply, for the purposes of—

- (a) regulation D2 (“standard retirement pension” and “standard retirement grant”),
- (b) regulation D7(2) (entitlement to additional period in cases of retirement for ill-health), and
- (c) Schedule D2 (retirement grants),

his period of membership shall be taken to be the period of membership which he is entitled to count after he receives the return of contributions, excluding any period of membership to which the return of contributions relates.

*Re-employed pensioners: disregard of certain former membership*

4.—(1) Subject to Part II of Schedule D5 (combined benefits), a member who—

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- (a) has entered the employment of an LGPS employer or former local authority after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the National Insurance Act 1965(1)), or
- (b) has entered such employment after becoming entitled to a benefit under regulation D11 and has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits), or
- (c) by virtue of regulation K1 of the 1974 regulations—
  - (i) became entitled to receive payment in respect of any benefit under those regulations, or
  - (ii) became entitled to benefit under paragraph (1)(c) of regulation E2 of those regulations and gave notice under paragraph (4)(e) of that regulation,is not entitled to count as a period of membership any period—
  - (I) of which account has been taken for the purpose of determining whether he was entitled to that benefit, or
  - (II) of which account has been or is to be taken for the purpose of calculating its amount.
- (2) Subject to Part II of Schedule D5, a member who—
  - (a) ceased after 5th April 1975 and before 30th March 1978 to hold a local government employment (“the first employment”),
  - (b) within one month and one day after ceasing to hold the first employment—
    - (i) entered the employment in which he is a member, and
    - (ii) became a member in relation to that employment, and
  - (c) in respect of his ceasing to hold the first employment received a return of contributions under the 1974 regulations,

is not entitled to count as a period of membership any period of which the return of contributions was made.

- (3) Subject to Part II of Schedule D5, a member who—
  - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11, and
  - (b) in respect of his ceasing to hold that employment received a return of the whole of the aggregate amount of his contributions to the appropriate pension fund (within the meaning of regulation C22),

is not entitled to count as a period in respect of membership any period in respect of which the return of contributions was made.

- (4) Subject to Part II of Schedule D5, a member who—
  - (a) on ceasing to hold a local government employment became entitled to a benefit under regulation D9 or D11,
  - (b) in respect of his ceasing to hold that employment received a return of part of the aggregate amount mentioned in paragraph (3)(b),
  - (c) did not enter the employment in which he is a member after becoming entitled to receive payment in respect of any superannuation benefit (other than a superannuation benefit under the National Insurance Act 1965(2)), and

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(1) 1965 c. 51.  
(2) 1965 c. 51

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- (d) has not given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits),

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

- (5) Subject to paragraph (6), a member who—

- (a) before entering the employment in which he is a member was in another local government employment (“the first employment”), and
- (b) in respect of his ceasing to hold the first employment received a return of contributions under the 1974 regulations, the 1986 regulations or these regulations,

is not entitled to count as a period of membership any period in respect of which the return of contributions was made.

- (6) Paragraph (5) does not apply where paragraph (2), (3)(a) or (4)(a), (c) and (d) applies.

- (7) Where—

- (a) before entering the employment in which he is a member, a member was in another local government employment (“the first employment”), and
- (b) on his ceasing to hold the first employment a transfer value was paid to a body other than—
  - (i) an administering authority,
  - (ii) a body maintaining a superannuation fund under Part I of the Act of 1937, or
  - (iii) a local Act authority,

the member is not entitled to count as a period of membership any period in respect of which the transfer value was paid.

- (8) A woman who exercises, in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978(3), a right to return to work after being absent from work wholly or partly because of pregnancy or confinement is, unless she has given notice under regulation D12(1)(c) (retention of entitlement to preserved benefits), to be treated as not having entered a local government employment in any of the circumstances mentioned in this paragraph.

## PART II

### RELEVANCE OF FORMER AND RELATED MEMBERSHIP FOR CERTAIN PURPOSES

*Total period of membership to include former and related membership for some purposes of entitlement etc.*

- 5. In the following provisions, namely—

- (a) paragraphs (a) and (b) of the definition of “normal retirement date” in regulation C3(1);
- (b) regulation C21(1) (return of contributions);
- (c) regulation D3 (statutory pension entitlement);
- (d) regulation D7(2) (entitlement to additional period under Schedule D3 in cases of early retirement on grounds of ill-health);
- (e) regulation D8(1) (entitlement to ill-health retirement grants);

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(3) 1978 c44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

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- (f) regulation F2(2)(a) (amount of member's spouse's long-term pension);
- (g) regulation K7(2)(b) (reduction of transfer values: pre-1988 service);

the references to a member's total period of membership include the periods to which this Part of this Schedule applies by virtue of paragraphs 6 to 11.

*Former "qualifying service"*

6. Any period which any person was immediately before the commencement date entitled to count as qualifying service for any purpose (or would have been so entitled if he had been a member), shall, subject to the following provisions of this Part of this Schedule, count as a period to which this Part of this Schedule applies for that purpose (or if he is not such a member, shall so count if he becomes a member in relation to it) and shall so count as a period of the same length as it then counted for that purpose.

*Previous service of certain variable-time employees*

7. In the case of a person who—
- (a) while a member in the whole-time or part-time employment of a LGPS employer becomes a variable time employee of any such employer; and
  - (b) while remaining a member in the whole-time or part-time employment becomes a member in the variable-time employment,

any period which at the time he becomes a member in the variable-time employment he is entitled to count as a period of membership or as a period to which this Part of this Schedule applies in relation to the whole-time or part-time employment counts as a period to which this Part of this Schedule applies in relation to the variable-time employment.

*Previous service of certain re-employed pensioners*

- 8.—(1) In the case of a person who—
- (a) has become entitled to a retirement pension under the Scheme, (otherwise than by virtue of regulation D19(1)), and
  - (b) enters further employment with any LGPS employer in which he becomes a member, the period in respect of which he became entitled to the retirement pension counts as a period to which this Part of this Schedule applies in relation to the further employment.
- (2) In the case of a person who—
- (a) after becoming entitled on ceasing to hold an employment ("the first employment") to a retirement pension by virtue of regulation E2(1)(c) of the 1986 regulations (or any corresponding previous provision) enters further employment with a LGPS employer in which he becomes a member; and
  - (b) in respect of his ceasing to hold the first employment has received a return of the whole or a part of the aggregate amount of his contributions (within the meaning of regulation C22) to the appropriate pension fund,

the period in respect of which the return of contributions was made counts as a period to which this Part of this Schedule applies.

- (3) In sub-paragraph (1) "retirement pension" includes—
- (a) a short service grant under the Benefits regulations,

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- (b) an ill-health grant under regulation D8 of these regulations or under regulation E4 of the 1986 regulations,
- (c) a superannuation allowance under Part I of the Act of 1937, and
- (d) an annual pension under the former regulations.

*Previous service of certain part-time employees*

9.—(1) In the case of a person who—

- (a) became a member by virtue of an election under paragraph 1(1) of Part IV of Schedule 2 to the 1986 regulations made before 1st April 1988 or by virtue of paragraph 4 of that Part, or
- (b) became a member in a whole-time employment at any time after 31st March 1974 and before 1st April 1988 and had previously been in a part-time employment under a LGPS employer,

any previous period of employment under a LGPS employer after the material date, except a period which was followed by one of 12 months or more during which he was not employed by such an employer counts as a period to which this Part of this Schedule applies in relation to the employment in which he is a member.

(2) For the purpose of sub-paragraph (1), “the material date” is the earliest date from which, if Part IV of Schedule 2 to the 1986 regulations had come into force on 1st April 1974, an election or, as the case may be, a deemed election by him could have effect.

*Transfers in*

10. Any period which a person is entitled to count under regulation K14(1)(b) counts as a period to which this Part of this Schedule applies.

*Excluded periods*

11. Paragraph 4(5) and (7) have effect as respects the counting of a period as a period to which this Part of this Schedule applies as they have effect as respects the counting of periods of membership.