

SCHEDULE 1

Regulation 2(1)

PART I OF THE 1997 REGULATIONS

“PART I  
PENSION SHARING

**Pension sharing**

**11.** Pension sharing within the meaning of Part IV of the 1999 Act<sup>(1)</sup> is available under the Teachers' Pension Scheme in respect of all or part of a person's shareable rights as set out in this Part and the Secretary of State shall discharge his liability in respect of a pension credit which derives from the Teachers' Pension Scheme by conferring appropriate rights under the Teachers' Pension Scheme on the person entitled to the credit.

**Safeguarded rights**

**12.—**(1) A pension credit member's safeguarded rights for the purposes of the Teacher's Pension Scheme are such of his rights falling within section 68A(1) of the 1993 Act<sup>(2)</sup> as represent the safeguarded percentage of the rights acquired by him in the Teachers' Pension Scheme by virtue of the pension credit.

(2) For the purposes of these Regulations—

- (a) the “safeguarded percentage” is the percentage of the rights, by reference to which the amount of the pension credit is determined, which are contracted-out rights or safeguarded rights, and
- (b) “contracted-out rights” has the meaning in section 68A(5) of the 1993 Act.

**Pension credit benefits**

**13.—**(1) Subject to paragraph (3) the pension credit benefits to which a pension credit member is entitled shall consist of a pension and a lump sum which are not retirement benefits within the meaning of Part E and that Part shall not apply to pension credit benefits except as provided in this Part.

(2) The pension shall be an amount calculated by reference to the value of the rights conferred on a pension credit member calculated in accordance with regulation 10 of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000<sup>(3)</sup>.

(3) The lump sum shall be three times the initial annual rate of the pension paid under paragraph (2) save that no lump sum shall be paid to the pension credit member if the corresponding pension debit member has already received a lump sum before the pension sharing order takes effect.

(4) Regulation E33 (payment of benefits) shall apply to a pension credit member and for those purposes any reference to benefits payable under Part E shall be a reference to the benefits payable under this Part.

(5) Subject to making an application for payment under regulation E33(2), a pension credit member shall receive payment in accordance with this regulation upon attaining the age of 60.

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(1) The Welfare Reform and Pensions Act 1999 c. 30.

(2) Section 68A is inserted by section 36 of the Welfare Reform and Pensions Act 1999.

(3) S.I.2000/1053, regulation 10 is amended by S.I. 2000/2691.

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(6) A pension credit member's pension under this Part continues to be payable until the death of the person entitled to it.

### **Interest on late payment**

**I4.** Regulation E34 (interest on late payment of certain benefits) shall apply with the following modifications—

- (a) in regulation E34(1) the reference to all or any part of the benefits payable under Part E, other than a pension payable under regulation E24, shall be a reference to all or any part of the benefits payable under this Part, and
- (b) in regulation E34(3)(b) the reference to the death grant paid under regulation E20 or E21 shall be a reference to the death grant paid under this Part.

### **Commutation**

**I5.**—(1) Where a pension credit member is suffering from serious ill-health prior to attaining the age of 60 such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension credit benefit is applied for, the Secretary of State may discharge the liability to pay a pension by payment of a lump sum save in relation to the pension credit member's safeguarded rights.

(2) The amount of the lump sum payable by virtue of paragraph (1) shall be the total of the lump sum that would have been payable under regulation I3(3) and five times the value of the initial annual pension that would have been payable under regulation I3(2) if the pension credit member had attained the age of 60 on the date he applied for commutation under this regulation.

(3) Where the aggregate of total benefits payable to a pension credit member (including, where applicable, any amounts payable under Part E and the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994) does not exceed the sum referred to in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(4)</sup> the Secretary of State may discharge his liability to pay those benefits, save in relation to the pension credit member's safeguarded rights, by payment of a lump sum equal to the aggregated value.

### **Deferment**

**I6.**—(1) This regulation applies where a pension credit member is convicted—

- (a) of an offence of treason, or
- (b) of one offence or more under the Official Secrets Acts 1911 to 1989<sup>(5)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years,

and any pension credit benefit becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), where this regulation applies the Secretary of State may—

- (a) defer or, as the case may be, suspend payment of the pension credit benefit for so long, or
- (b) reduce its amount or rate by so much,

as he may determine.

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<sup>(4)</sup> S.I. 2000/1054. The sum currently referred to is £260.

<sup>(5)</sup> 1911 c. 28; 1920 c. 75; 1939 c. 121; 1989 c. 6.

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(3) A determination under paragraph (2) may not deprive a pension credit member of a pension payable to him by reference to his safeguarded rights.

### **Death grant**

**I7.**—(1) Upon the death of a person after a pension sharing order has been made but before the Secretary of State has discharged his liability in respect of the pension credit to which that person would otherwise be entitled, a death grant shall be paid in accordance with paragraph (3).

(2) Upon the death of a pension credit member, a death grant shall be paid in accordance with paragraph (4) if, at the time of his death, he has not received any pension credit benefits or if he has received a pension for less than five years.

(3) The amount of the death grant to be paid in the circumstances set out in paragraph (1) is—

- (a) if the deceased had attained the age of 60 on or before the date of his death, the total of a lump sum calculated in accordance with regulation I3(3) and a lump sum equal to five times the amount of the pension which would otherwise have been payable, or
- (b) in all other circumstances, a lump sum equal to that to which the deceased would have been entitled if, on the date of his death, he had attained the age of 60.

(4) The amount of the death grant to be paid in the circumstances set out in paragraph (2) is—

- (a) if the pension credit member was already entitled to payment of pension credit benefits, a lump sum equal to five times the amount of the pension which would otherwise have been payable less any amount which has already been paid, or
- (b) if the pension credit member was not entitled to pension credit benefits, a lump sum equal to that to which he would have been entitled if, on the date of his death, he had attained the age of 60.

(5) The death grant is to be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination—

- (a) if the deceased is survived by one widow or by a widower, to the widow or widower,
- (b) if there are two or more widows, to the widows in equal shares, or
- (c) if there is no widow or widower, to the personal representatives.

(6) Any nomination for the purposes of paragraph (5) shall be made by giving written notice to the Secretary of State.

### **Transfer values**

**I8.** The Secretary of State shall not pay or accept a transfer value within the meaning of Part F in respect of any pension credit rights or pension credit benefits.

### **Additional contributions and additional periods**

**I9.**—(1) Subject to paragraph (2), a pension debit member may not replace any rights debited as a consequence of a pension sharing order with any rights which he would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made.

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(2) Paragraph (1) shall not apply to pension debit members who are moderate earners within the meaning of regulations 5(4) to (6) of the Retirement Benefits Schemes (Sharing of Pensions on Divorce or Annulment) Regulations 2000<sup>(6)</sup>.

### **Excluded membership**

**I10.** Where a pension credit member is in pensionable employment or is not in pensionable employment but is qualified for retirement benefits, he may not count any period which could otherwise count for a purpose in connection with his pension credit benefit towards any qualifying period or period of reckonable service required under the Teachers' Pension Scheme before he is entitled to any benefit.

### **Assignment**

**I11.—(1)** Any assignment of or charge on or agreement to assign or charge any pension credits or pension credit benefits is void.

(2) Paragraph (1) shall not preclude any assignment of a pension credit or payment or pension credit benefits pursuant to an order of the court under section 25B or 25C of the Matrimonial Causes Act 1973, to regulations under section 25D of that Act<sup>(7)</sup> or to pension sharing under Chapter I of Part IV of the 1999 Act or corresponding Northern Ireland legislation.

(3) On the bankruptcy of a person entitled to a pension credit or pension credit benefits, no part thereof passes to any trustee or any other person acting on behalf of the creditors except in accordance with an income payments order made by a court under section 310 of the Insolvency Act 1986<sup>(8)</sup>.”

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<sup>(6)</sup> S.I. 2000/1085.

<sup>(7)</sup> 1973 c. 18. Sections 25B, 25C and 25D were inserted by section 166 of the 1995 Act.

<sup>(8)</sup> 1986 c. 45.