

## SCHEDULES

## SCHEDULE 7

32.

## Final salary link

*Persons who remain in an old scheme for past service*

1.—(1) This paragraph applies in a case where—

- (a) a person is a member of an existing scheme to which section 18(1) applies or a scheme to which section 32(2) applies (the “old scheme”) by virtue of his or her pensionable service for that scheme (“the old scheme service”), and
- (b) the person is also a member of a scheme under section 1 or a new public body pension scheme (“the new scheme”) by virtue of his or her pensionable service for that scheme (“the new scheme service”).

(2) If, in a case where this paragraph applies—

- (a) the old scheme service and the new scheme service are continuous, and
- (b) the person’s employer in relation to the old scheme service is the person’s employer in relation to the new scheme service (or any other employer in relation to the new scheme),

then, in determining the person’s final salary for any purpose of the old scheme—

- (i) the old scheme service is to be regarded as having ended when the new scheme service ended, and
- (ii) such earnings as scheme regulations for the new scheme may specify, being earnings derived by the person from the new scheme, are to be regarded as derived from the old scheme service (subject to sub-paragraph (3)).

(3) The amount of the earnings that are to be regarded as derived from the old scheme service must not be materially less than the amount of the earnings that would have been the person’s pensionable earnings derived from that service had the new scheme service been old scheme service.

*Persons whose benefits under an old scheme are transferred to another closed scheme*

2.—(1) This paragraph applies in a case where—

- (a) a person has been a member of an existing scheme to which section 18(1) applies or a scheme to which section 32(2) applies (“the old scheme”) by virtue of his or her pensionable service for that scheme (“the old scheme service”),
  - (b) the person is also a member of a scheme under section 1 or a new public body pension scheme (“the new scheme”) by virtue of his or her pensionable service for that scheme (“the new scheme service”),
  - (c) the person’s rights to benefit under the old scheme have been transferred after the date referred to in section 18(1) or section 32(2) to an existing scheme to which section 18(1) applies or a scheme to which section 32(2) applies (“the transfer scheme”), and
  - (d) the old scheme service is treated, by virtue of that transfer, as pensionable service of the person for the transfer scheme (“the deemed transfer scheme service”).
- (2) If, in a case where this paragraph applies—
- (a) the deemed transfer scheme service and the new scheme service are continuous, and
  - (b) the person’s employer in relation to the new scheme service is an employer in relation to the transfer scheme,
- then, in determining the person’s final salary for any purpose of the transfer scheme—
- (i) the deemed transfer scheme service is to be regarded as having ended when the new scheme service ended, and
  - (ii) such earnings as scheme regulations for the new scheme may specify, being earnings derived by the person from the new scheme service, are to be regarded as derived from the deemed transfer scheme service (subject to sub-paragraph (3)).
- (3) The amount of the earnings that are to be regarded as derived from the deemed transfer scheme service must not be materially less than the amount of the earnings that would have been the person’s pensionable earnings derived from that service had the new scheme service been deemed transfer scheme service.
- (4) In sub-paragraph (1)(c), the reference to a transfer of rights to benefit includes the making of a transfer payment in respect of such rights.

#### *Continuity of employment*

- 3.—(1)** For the purposes of paragraphs 1(2)(a) and 2(2)(a), there are to be disregarded—
- (a) any gap in service where the person was in pensionable public service;

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*Status: This is the original version (as it was originally enacted).*

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- (b) a single gap of service where the person was not in pensionable public service, if that gap does not exceed 5 years;
  - (c) two or more gaps in service where the person was not in pensionable public service, if none of the gaps exceeds 5 years.
- (2) In this paragraph, “pensionable public service” means service which is pensionable service in relation to—
- (a) a scheme under section 1, or
  - (b) a new public body pension scheme.

*Movement between new schemes*

4. Where the condition in sub-paragraph (1)(b) of paragraph 1 or 2 applies by virtue of periods of pensionable service for two or more different schemes—
- (a) identify the last period of pensionable service by virtue of which that paragraph applies and the scheme to which that service relates, and
  - (b) disregard, for the purposes of that sub-paragraph, periods of pensionable service relating to other schemes.

*Final salary link not to apply again to a pension in payment*

- 5.—(1) Scheme regulations may provide that where a pension in payment under a scheme to which section 18(1) or 32(2) applies has been calculated by reference to this Schedule, the pension cannot be recalculated by reference to this Schedule where there is a subsequent period of pensionable public service (within the meaning of paragraph 3).
- (2) Provision made under sub-paragraph (1) may in particular be made by amending the scheme under which the pension is in payment.