

SCHEDULE C5

Regulation C27.

LIMITATIONS ON CONTRIBUTIONS AND BENEFITS

PART I

GENERAL

“Class A members”, “Class B members” and “Class C members”

1.—(1) In this Schedule, unless the context otherwise requires—

“member” includes a former member;

“Class A member” means a member who—

- (a) became a member on or after 1st June 1989 and is not to be treated as a Class B member or Class C member by virtue of sub-paragraph (2); or
- (b) was a Class B member or a Class C member immediately before that date and is deemed to have become a Class A member by virtue of making an election under sub-paragraph (3);

“Class B member” means a member who—

- (a) became a member on or after 17th March 1987 and before 1st June 1989;
- (b) is not to be treated as a Class C member by virtue of sub-paragraph (2); and
- (c) is not deemed to have become a Class A member by virtue of making an election under sub-paragraph (3);

“Class C member” means a member who—

- (a) became a member before 17th March 1987 or is to be treated as a Class C member by virtue of sub-paragraph (2); and
- (b) is not deemed to have become a Class A member by virtue of duly making an election under sub-paragraph (3).

(2) A person may be treated for the purposes of this Schedule as being a Class B member or a Class C member, notwithstanding that he did not become a member of the Scheme before 1st June 1989 or, as the case may be, 17th March 1987, if on application to them by the administering authority the Commissioners of Inland Revenue agree in writing that he may be so treated by virtue of previous membership of a pension scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988⁽¹⁾.

(3) If a Class B member or a Class C member duly elects by notice in writing to the administering authority before the relevant date that he wishes to be treated as a Class A member for the purposes of this Schedule, he shall be deemed to have become a Class A member on 1st June 1989.

(4) For the purposes of sub-paragraph (3) “the relevant date”, in relation to any member, means the date on which he ceases to be a member for any reason (including death).

(5) For the purposes of this paragraph, a person shall only be treated as being a Class B member or a Class C member at any time by virtue of having become a member before 1st June 1989 or, as the case may be, 17th March 1987 if—

- (a) he has continued to be a member throughout a period beginning before that date and ending with that time; or

(1) 1988 c. 1.

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- (b) the conditions mentioned in sub-paragraph (6) are satisfied in relation to the part of that period when he was not a member.
- (6) The conditions mentioned in sub-paragraph (5)(b) are—
 - (a) that his membership ceased on his secondment or posting to another employer, at the time of the secondment or posting he had a definite expectation that he would become a member again when it ended, and he again became a member at the end of his secondment or posting;
 - (b) his membership ceased by reason of his unpaid absence and he began paying contributions again under regulation C4 within one month of returning to work;
 - (c) in the case of a female member, her membership ceased wholly or partly because of pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978(2) (which confers the right to return to work following pregnancy or confinement); or
 - (d) his membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and he began paying contributions again under that regulation within one month of returning to work.

Remuneration of Class A members: “permitted maximum”

2.—(1) Subject to paragraph 6, in determining the remuneration of a Class A member for the purposes of these regulations, any payments in excess of the permitted maximum shall be disregarded.

(2) For the purposes of this Schedule “permitted maximum” shall be construed in accordance with section 590C(2) of the Income and Corporation Taxes Act 1988(3).

PART II

LIMITATIONS ON CONTRIBUTIONS

General 15 per cent. limitation

3.—(1) Subject to paragraph 4, the total contributions to which this paragraph applies, which are paid by a member in any tax year to the appropriate pension fund in respect of all employments in relation to which he is a member, shall not exceed 15 per cent. of his remuneration for that year.

- (2) This paragraph applies to all contributions paid by the member—
 - (a) under Part C of the 1986 regulations (other than under regulation C24), or
 - (b) under Part C of the 1986 regulations, except regulation C9A (in so far as that Part is continued in effect by virtue of Schedule C6 or Schedule M4), including instalments under regulation C7A(14).

(2) 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

(3) 1988 c. 1; section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 18 (2); subsection (8A) of section 590C was inserted by paragraph 5(3) of that Schedule.

Excess contributions payable by lump sum: Class B and C members

4.—(1) If the aggregate of the following amounts payable by a Class B member or a Class C member, namely—

- (a) any amount by way of additional contributions in pursuance of—
 - (i) a notice given under regulation D10 or D10A of the 1974 regulations, or
 - (ii) an election made under regulation C9(1) or C13,
- (b) the amount of an instalment payable in pursuance of an election under regulation C8 of the 1986 regulations,
- (c) any other amounts payable by him under any of those regulations, and
- (d) the amount payable by him by way of contributions under regulation C4,

exceeds 15 per cent. of his remuneration, he shall satisfy his liability in respect of the excess by payment of a lump sum of an amount calculated by the Government Actuary in accordance with the relevant Table in Part II of Schedule C3 to represent the capital value of the excess.

(2) The contributions to which paragraph 3 applies do not include any payment made by a Class B member or a Class C member under regulation C19(5).

Additional voluntary contributions

5. The amount of the contributions payable under regulation C24 in any tax year, when aggregated with the amount of any other contributions payable under these regulations or to an additional voluntary contributions scheme, within the meaning of that regulation, (whether or not payable under these regulations), shall not exceed the amount allowed to be deducted under subsection (7) of section 592 of the Income and Corporation Taxes Act 1988 as specified in or under subsection (8) or, as the case may be, subsection (8A) of that section.

PART III

LIMITATIONS ON BENEFITS

Restrictions on “pensionable remuneration”: Class A members with transferred-in membership

6. Where regulation 5(2) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(4) applies in relation to a member, for the purpose of calculating any benefit in respect of him under these regulations, paragraph 2(1) does not apply to so much of the benefit as is calculated by reference to membership which he is entitled to count by virtue of regulation K14.

Pensionable remuneration: retirement grants for Class B members

7. For the purpose of calculating the retirement grant of a Class B member, his pensionable remuneration shall not exceed £100,000 (or such other sum as may for the time being be specified by the Treasury for the purposes of section 590(3) of the Income and Corporation Taxes Act 1988 as that section continues to have effect as respects Class B members by virtue of paragraph 18(2) of Schedule 6 to the Finance Act 1989(5)).

(4) S.I. 1990/2101; a relevant amending instrument is S.I. 1993/3220.

(5) 1989 c. 26.

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Restrictions on membership period used for calculating amounts of benefits

- 8.—**(1) For the purpose of calculating the amount of any benefit under Part D—
- (a) no account shall be taken of so much of the member’s total period of membership as—
 - (i) in the case of a Class A member, exceeds 40 years; and
 - (ii) in the case of a Class B member or a Class C member, is membership before he attains the age of 60 years and exceeds 40 years, and
 - (b) where an amount is recovered or retained under regulation L17 (recovery or retention where former member has misconduct obligation), membership shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation L17(2) by that amount.

(2) For the purposes of sub-paragraph (1)(a), a period which a person is entitled to count as a period of membership by virtue of regulation D7(2) (permanent ill-health) or F6(1)(a) or (b) of the 1986 regulations (war service) shall be treated as membership before attaining the age of 60 years.

(3) Where a retirement grant falls to be increased under paragraph 1(1) of Schedule D2 (preservation of right under 1974 regulations to increases in standard retirement grants), any membership to be left out of account by virtue of paragraph (1)(a) shall be taken from the end of the person’s period of membership.

(4) Where a retirement grant falls to be reduced under paragraph 2, 3(1) or 4(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse’s pension), any period of membership to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person’s period of membership.

- 9.** Where the aggregate length of—
- (a) the total period of membership in relation to the relevant employment (excluding any membership which is to be left out of account by virtue of paragraph 8(1)(a));
 - (b) any earlier period which was taken into account in the calculation of a retirement pension, an annual pension under the former regulations, or a superannuation allowance under Part I of the Act of 1937, or in respect of which any pension was granted under a local Act scheme; and
 - (c) any period by reference to which an additional benefit has been granted under regulation E13 of the 1986 regulations (discretionary additional benefits for certain female nursing staff) or under regulation 13 of the Benefits regulations,

exceeds—

- (i) in the case of a Class A member, 40 years, or
- (ii) in the case of a Class B or Class C member, 45 years,

then, for the purpose of calculating any benefit the period mentioned in paragraph (a) is reduced by a period equal to the excess.

Death grants

- 10.—**(1) Subject to sub-paragraph (2), for the purpose of calculating the amount of a death grant under Part E no account shall be taken of so much of the member’s total period of membership as—
- (a) in the case of a Class A member, exceeds 40 years; and
 - (b) in the case of a Class B member or a Class C member, is membership before he attains the age of 60 years and exceeds 40 years.

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(2) Where a death grant is reduced under regulation E5, any period of membership to be left out of account under sub-paragraph (1) is to be taken from the beginning of the period of membership.