

**1987 No. 1850 (S.128)**

**PENSIONS**

**The Local Government Superannuation (Scotland)  
Regulations 1987**

*Made* - - - - - *19th October 1987*  
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The Secretary of State, in exercise of the powers conferred on him by sections 7, 8(3) and 12 of the Superannuation Act 1972(a), and by section 110 of the National Insurance Act 1965(b) as the appropriate Minister of the Crown under that section, and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate in accordance with section 7(5) of the said Act of 1972 and not having considered consultation with any individual local authority desirable, hereby makes the following Regulations:

## PART A

### PRELIMINARY

#### **Citation and commencement**

**A1.** These Regulations may be cited as the Local Government Superannuation (Scotland) Regulations 1987 and shall come into force on 21st December 1987.

#### **Interpretation**

**A2.—(1)** Schedule 1 contains a glossary of expressions and in these Regulations, unless the context otherwise requires, any expression listed in column 1 of that Schedule has the meaning given against it in column 2 of that Schedule or is to be construed in accordance with directions given against it in column 2 of that Schedule.

**(2)** In these Regulations, unless the context otherwise requires—

- (a)** any reference to a numbered regulation, Part or Schedule is to be construed as a reference to the regulation, Part or Schedule, as the case may be, which bears that number in these Regulations, and any reference to a numbered paragraph in a regulation or, or a Schedule to, these Regulations is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule;
- (b)** any reference to, or to things done or falling to be done under or for the purposes of, any provision of these Regulations is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding provision in the 1974 Regulations has or had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision;
- (c)** any reference to—
  - (i)** any enactment applying to Scotland listed in the table in paragraph 5 of Schedule 7 to the Act of 1972, or
  - (ii)** any instrument (including a scheme) made under any enactment so listed, or
  - (iii)** any provision of any such enactment or instrument,is to be construed as a reference to that enactment, instrument or provision as having effect by virtue of sub-paragraph (1) of that paragraph and as amended by the Miscellaneous Provisions Regulations.

**(3)** Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

#### **Application of the Regulations to the Scottish Special Housing Association and its employees**

**A3.** Subject to the modifications set out in Schedule 2, these Regulations and any other Regulations having effect as if made under section 7 of the Act of 1972 shall apply to the

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**(a)** 1972 c.11.

**(b)** 1965 c.51; section 110 was continued in force by regulation 3 of, and Schedule 1 to, the National Insurance (Non-participation-Transitional Provisions) Regulations 1974 (S.I. 1974/2057).

Scottish Special Housing Association and its employees as though it were a body described in Part I of Schedule 3 and an administering authority.

#### **Transfers from England and Wales to Scotland**

**A4.—(1)** In this regulation “previous local government employment” means employment or employments in England and Wales—

- (a) in relation to any time before 1st April 1974, as a contributory employee within the meaning of the Local Government Superannuation Act 1937(a) or as a local Act contributor within the meaning of that Act, and
- (b) in relation to any time after 31st March 1974, in which the person was or was deemed to be a pensionable employee within the meaning of the Local Government Superannuation Regulations 1974(b) or by virtue of which the person was a contributor to the local Act Superannuation Fund within the meaning of the Local Government Superannuation (City of London) Regulations 1977(c).

(2) This regulation shall apply to a person who was in previous local government employment and to whom Part II of the Local Government Superannuation (England and Scotland) Regulations 1948 to 1970(d) did not apply and who—

- (a) entered employment with a scheduled body on or after 1st April 1974, or
- (b) had ceased to be in previous local government employment on or after 1st April 1972, and more than a year after so ceasing became a contributing employee or local Act contributor.

(3) Where this regulation applies—

- (a) “appointed day” for the purposes of the 1974 Regulations shall be 1st April 1974;
- (b) these Regulations shall apply as if any period of previous local government employment was service with a scheduled body;
- (c) except in regulation A5, any reference in these Regulations to an enactment, rule or regulation shall be deemed to include a reference to the corresponding provisions which applied or which apply in England and Wales.

#### **Transfers from Scotland to England and Wales**

**A5.—(1)** This regulation shall apply to a person—

- (a) who on or after 31st March 1972 ceases to be employed in a local government employment;
- (b) who subsequently enters employment with a scheduled body within the meaning of the Local Government Superannuation Regulations 1974 or the Local Government Superannuation Regulations 1986(e) (hereinafter referred to as “the new employment”); and
- (c) to whom Part III of the Local Government Superannuation (England and Scotland) Regulations 1948 did not apply.

(2) Part Q of these Regulations shall apply to a person to whom this regulation applies as if on the date of entry to the new employment he had become employed by a scheduled body and any references to “new local government employment” and “new fund authority” in that Part of these Regulations shall be treated as if they included a reference to the corresponding terms in Part Q of the Local Government Superannuation Regulations 1986.

#### **Payment of benefits**

**A6.** Except where the contrary intention appears any benefit payable under these Regulations shall be paid out of the appropriate superannuation fund.

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(a) 1937 c.68.

(b) S.I. 1974/520; the relevant amending instruments are 1977/1341, 1978/822 and 1979/1534.

(c) S.I. 1977/1341.

(d) S.I. 1948/1131, 1949/631, 1954/1250, 1970/1126.

(e) S.I. 1986/24.

## PART B

### PENSIONABLE EMPLOYMENT

#### **Pensionable employees**

**B1.**—(1) Paragraphs (2) to (10) have effect subject to paragraphs (11) and (12).

(2) A whole-time officer of a body described in Part I of Schedule 3 (“a Part I scheduled body”) is a pensionable employee.

(3) A whole-time manual worker employed by a Part I scheduled body is a pensionable employee if he—

(a) has completed 12 months continuous employment with that body, or

(b) has entered or re-entered the employment of that body—

(i) less than 12 months after completing at least 12 months continuous employment with a Part I scheduled body, or

(ii) after having been in other local government employment and without having applied for a return of the whole of his contributions, or

(c) satisfies the requirements of Part III of Schedule 3.

(4) A variable-time employee of a Part I scheduled body who is also a pensionable employee in a whole-time employment with any such body—

(a) is a pensionable employee in the variable-time employment, and

(b) if he ceases to hold the whole-time employment, remains a pensionable employee while he continues without break of service in the variable-time employment.

(5) An employee described in Part II of Schedule 3 is a pensionable employee if the body employing him have by a statutory resolution—

(a) specified him as a pensionable employee, or

(b) specified a class of employees, to which he belongs, as pensionable employees.

(6) A whole-time member of a passenger transport executive is a pensionable employee if that executive have, with the consent of the passenger transport authority for which they are the executive, by a statutory resolution specified him as a pensionable employee.

(7) A whole-time director of a subsidiary of a passenger transport executive is a pensionable employee if that executive have by a statutory resolution specified him as a pensionable employee.

(8) A person who immediately before 16th May 1974—

(a) was a member of a passenger transport executive or a director of a subsidiary of a passenger transport executive, and

(b) was in that position a contributory employee,

is a pensionable employee while he continues without break in service in that position.

(9) A person who immediately before 21st December 1987 was a pensionable employee by virtue of regulation B2(1)(g) of the 1974 Regulations (certain former contributory employees continuously employed by same body) is a pensionable employee while he continues without break in service in employment with the same body.

(10) Subject to regulation B4, every pensionable employee employed by a scheduled body who before 1st April 1986 ceased to be a whole-time employee but who continued without a break of service in the employment of that body in the same post and who was, notwithstanding the provisions of the Local Government Superannuation (Scotland) Regulations 1974-86 in force before that date, regarded as a pensionable employee by that scheduled body and, where the body was not an administering authority, by the administering authority is a pensionable employee.

(11) A Part I scheduled body may resolve that a person who falls within paragraph (2), (3) or (4), or regulation B2 or B3 shall not become a pensionable employee unless he has undergone a medical examination to their satisfaction; and a resolution under this paragraph may apply to any specified person or to any specified class of persons.

(12) Notwithstanding anything in paragraphs (2) to (11), the following are not pensionable employees—

- (a) subject to regulation B2, a person who elected under paragraph 3 of Schedule 4 to the Act of 1937 not to become a contributory employee and whose election did not cease to have effect before 16th May 1974, so long as he continues as a manual worker in employment with the body to whom he gave notice of the election;
- (b) a person who elected under regulation 23 of the Miscellaneous Provisions Regulations not to become a contributory employee and whose election did not cease to have effect before 16th May 1974, so long as he continues in employment with the body to whom he gave notice of the election;
- (c) a person who has not attained the age of 18 years;
- (d) a person who has attained the age of 65 years and has completed not less than 45 years' reckonable service;
- (e) any other person who has attained the age of 65 years, unless—
  - (i) there has become payable to him a pension which is liable to be reduced or suspended under regulation E15, an ill-health lump sum retiring allowance under regulation E4, or a short service grant under the Benefits Regulations, or
  - (ii) if he were to become a pensionable employee, he would immediately become entitled to reckon any period as reckonable service or qualifying service, or
  - (iii) under any enactment he has received or is entitled to receive compensation for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with a scheduled body, in the like manner and to the like extent as it would have been reduced or suspended if he had remained subject to the pension scheme to which he was subject immediately before suffering the loss;
- (f) a person who is, in the same employment, entitled to participate in the benefits of any other supernannuation scheme provided by or under any enactment (including an enactment in a local Act), other than section 7 of the Act of 1972;
- (g) an employee of a scheduled body in respect of whom contributions to the Merchant Navy Officers Pension Fund are made;
- (h) a person who may elect under regulation B3 to become entitled to participate in the benefits of the appropriate superannuation fund.

(13) In this regulation "statutory resolution" means, in relation to a scheduled body, a resolution passed in the manner in which an ordinary resolution of the body may be passed, except that 28 days' notice of the meeting at which the resolution is passed and of the terms of the resolution and of the fact that it is to be proposed at that meeting must have been given in the manner in which notice for convening ordinary meetings of the body may be given.

**Persons who may elect to be pensionable employees – persons who made election under paragraph 3 of Schedule 4 to the Act of 1937**

**B2. A person who—**

- (a) elected under paragraph 3 of Schedule 4 to the Act of 1937 not to become a contributory employee, and
- (b) had he not so elected, would be a pensionable employee by virtue of regulation B1(3),

may at any time, notwithstanding anything in regulation B1(3), by notice in writing to the body by whom he is employed elect to become a pensionable employee from the date on which the notice is given.

**Other persons who may elect to be pensionable employees**

**B3.—(1)** Subject to paragraph (6) and regulation B4, a person who is in a relevant employment as defined in paragraph (2) may elect to become entitled in relation to that employment to participate in the benefits of the appropriate superannuation fund maintained under these Regulations.

(2) In this regulation and in regulation B4, "relevant employment" means, subject to paragraphs (3) and (4), employment by a scheduled body in which in every period of 12 months—

- (a) the contractual weeks are 35 or more but fewer than 45 and the contractual hours are 30 or more, or
  - (b) the contractual weeks are 35 or more and the contractual hours are 15 or more but fewer than 30.
- (3) If a person is in two or more employments under a single scheduled body, and—
- (a) none of those employments is an employment falling within paragraph (2)(b), but
  - (b) in each of the employments the contractual weeks in every period of 12 months are 35 or more, and
  - (c) the total of the contractual hours in all the employments is 15 or more,
- then each of the employments is a relevant employment, but an election under this regulation in respect of any one of them is of no effect unless elections are made in respect of all of them.
- (4) If a person is in two or more employments under a single scheduled body of which—
- (a) one at least is an employment falling within paragraph (2)(b), and
  - (b) one at least is an employment in which the contractual weeks in every period of 12 months are 35 or more but the contractual hours are fewer than 15,
- then every employment falling within sub-paragraph (b) is a relevant employment, but an election under this regulation in respect of such an employment is of no effect unless an election is made in respect of an employment falling within sub-paragraph (a).
- (5) In paragraphs (2), (3) and (4), “the contractual weeks” means the number of weeks the employee is regularly or usually required to work by the scheduled body, and “the contractual hours” means the number of hours the employee is regularly or usually required to work by the scheduled body in each of those weeks.
- (6) Paragraph (1) shall not apply to—
- (a) a person who falls within regulation B1(12)(a) to (g), or
  - (b) a person who—
    - (i) was on 15th May 1974 a contributory employee or local Act contributor, and
    - (ii) on 16th May 1974 became a pensionable employee,
      - if there has since been no period of a day or more during which he was not a pensionable employee, or
  - (c) any other person who was a pensionable employee on 31st March 1986 if there has since been no period of a day or more during which he was not a pensionable employee, or
  - (d) a manual worker, unless—
    - (i) he has completed 12 months’ continuous employment with his employing body, or
    - (ii) he entered or re-entered the employment of that body less than 12 months after completing at least 12 months’ continuous employment with a scheduled body, or
    - (iii) he has commenced relevant employment following the termination of non-local government employment, and within 12 months of commencing such relevant employment he elected, by notice in writing to the appropriate administering authority for that employment, to become a pensionable employee, and within that 12 months, he has undertaken to apply to have his pension rights relating to his non-local government scheme transferred to such administering authority or preserved in the non-local government scheme on becoming a pensionable employee, or
  - (e) an employee of a scheduled body who are not a body specified in Part I of Schedule 3, unless they have by a statutory resolution as defined in regulation B1(13) specified him as a person, or specified a class of persons to which he belongs as a class of persons, to whom paragraph (1) is to apply, or
  - (f) a part-time member of a fire brigade maintained under the Fire Services Act 1947(a).
- (7) An election under this regulation may be made at any time by giving notice in writing to the employing authority, and—

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(a) 1947 c.41.



- (a) subject to paragraphs (3) and (4), has effect from the date on which it is made, and
- (b) subject to regulation B4, continues to have effect so long as the person who made it remains in the employment in respect of which it was made.

(8) An election made under regulation B2A of the 1974 Regulations shall continue to have effect as if it were an election under this regulation.

#### **Other elections as to pensionability**

**B4.—(1)** A person may by notice in writing to the employing authority elect to cease to be a pensionable employee if—

- (a) he is in a relevant employment as defined in regulation B3(2) or relevant employments, and
  - (i) he was a pensionable employee on 31st March 1986,
  - (ii) there has since been no period of a day or more during which he was not a pensionable employee, and
  - (iii) he is not a person who falls within regulation B3(6)(b), or
- (b) he has made an election under regulation B2A of the 1974 Regulations or regulation B3 while in a relevant employment falling within regulation B3(2)(a), and—
  - (i) is in a single relevant employment falling within regulation B3(2)(b) of that definition and is not in any relevant employment falling within regulation B3(4)(b), or
  - (ii) is in relevant employments falling within regulation B3(3).

(2) An election under paragraph (1) has effect from the date on which it is made, and for so long as the person who made it continues to be in a relevant employment or relevant employments.

(3) While an election under paragraph (1) has effect the person who made it is not entitled—

- (a) under regulation B1 to be a pensionable employee in any superannuation fund maintained under these Regulations, or
- (b) to make any election under regulation B3.

(4) If—

- (a) a person became entitled by virtue of an election or elections under regulation B3 to participate in the benefits of the appropriate superannuation fund in relation to one or more employments, and
- (b) the contractual hours, or as the case may be the total of the contractual hours, have become fewer than 15, or the contractual weeks have become fewer than 35,

he may elect to cease to be a pensionable employee.

(5) An election under paragraph (4) must be made in writing to the employing authority within 6 months from the date on which the contractual hours or as the case may be the total of the contractual hours became fewer than 15, or the contractual weeks became fewer than 35.

(6) For the purposes of these Regulations other than regulation C12 a person who makes an election under paragraph (1) or paragraph (4) shall be treated as if he had, on the date on which the election was made, ceased to hold the employment or employments in which he was a pensionable employee.

#### **Persons deemed to be employees of a scheduled body**

**B5.** For the purposes of these Regulations a person of a class described in column 1 of the Table below shall be deemed to be an officer or manual worker, whichever is appropriate, in employment with the body described opposite that class in column 2.

TABLE

(1) <i>Class</i>	(2) <i>Deemed employing body</i>
Registration officer	The regional council or the islands council who are the local registration authority for the purposes of section 5 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(a) and by whom he was appointed or deemed to have been appointed under section 7 of that Act
Rent officer	Any local authority with whom the Secretary of State has made arrangements under section 43 of the Rent (Scotland) Act 1984(b) to provide for the superannuation of the officer
Employees of a passenger transport authority	The relevant passenger transport executive
Members of passenger transport executives and directors of subsidiaries of passenger transport executives falling within regulation B1(6), (7) or (8)	The relevant passenger transport executive
Employees of a subsidiary of a passenger transport executive	The relevant passenger transport executive
Officers and manual workers of Trinity Hospital	City of Edinburgh District Council
Officers and manual workers of— (a) Heriot Watt College, (b) Heriot Watt University, (c) the Forth Road Bridge Joint Board and (d) Edinburgh College of Art	Lothian Regional Council.

**Power to admit employees of other bodies**

**B6.**—(1) Subject to paragraphs (3) to (6), an administering authority may make an agreement (“an admission agreement”) with any body specified in paragraph (8) providing for employees of that body (“the employing body”) to participate in the benefits of the superannuation fund or further fund maintained by the authority.

(2) In relation to an employee participating in the benefits of a fund by virtue of an admission agreement (“an admitted employee”) these Regulations have effect as if he were a pensionable employee and the employing body were a scheduled body.

(3) Subject to paragraph (4), an admission agreement may provide for members of any specified class or classes of employees of the employing body to become admitted employees.

(4) An admission agreement may not provide for any person who—

(a) has not attained the age of 18 years, or

(b) has attained the age of 65 years and does not fall within regulation B1(12)(e),  
to become an admitted employee.

(5) Except as provided in paragraph (6), an admission agreement cannot confer any greater or lesser rights or liabilities on any admitted employee than those he would have had if he had become a pensionable employee by virtue of regulation B1.

(6) An admission agreement may—

(a) provide that any previous period of employment of an admitted employee by the employing body is to be reckonable as reckonable service to such extent as may be specified in the agreement,

(a) 1965 c.49; section 5 was amended by the Local Government (Scotland) Act 1973 (c.65), section 166(2)(a).  
(b) 1984 c.58.

- (b) where the employing body is a development corporation established under the New Towns (Scotland) Act 1968(a), provide that a percentage, not exceeding 4.4%, of the remuneration of an admitted employee shall, if he is an employee of a description specified for the purpose in the agreement, be treated as not being remuneration for the purposes of these Regulations, and
- (c) in the case of an employee of a body specified in column (1) of Schedule 20 who is admitted to participate in the benefits of a superannuation fund or further fund on or after the date in column (2) of Schedule 20 appropriate to the body by reason of an agreement made under this regulation or regulation B4 of the 1974 Regulations, contain a provision providing for the termination of the agreement and where an agreement is so terminated then for the purposes of these Regulations other than regulation C12 that person shall be treated as if he had on the day on which the agreement terminated ceased to hold the employment or employments in respect of which he was admitted to participate in the benefits of the superannuation fund or further fund.

(7) On making an admission agreement an administering authority shall forthwith inform the Secretary of State of the name of the employing body and the date from which the agreement takes effect.

(8) The bodies mentioned in paragraph (1) are—

- (a) a voluntary organisation engaged in the provision of services—
  - (i) under Part III of the National Health Service (Scotland) Act 1978(b); or
  - (ii) under Part III of the National Assistance Act 1948(c); or
  - (iii) under the Disabled Persons (Employment) Act 1958(d); or
  - (iv) under the Mental Health (Scotland) Act 1984(e); or
  - (v) under section 14 of the Social Work (Scotland) Act 1968(f);
- (b) a body representative of local authorities or of local authorities and officers of local authorities or a body representative of officers of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government;
- (c) a body authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking or any undertaking for the supply of electricity, gas, hydraulic power or water;
- (d) a body approved for the purposes of this regulation by the Secretary of State who are primarily engaged in carrying on any undertaking of a kind mentioned in subparagraph (c) though not authorised by any enactment to carry on any such undertaking;
- (e) a body who provide a public service in the United Kingdom otherwise than for the purposes of gain;
- (f) a body to whose funds any local authority contribute or to whom any grant is made out of monies provided by Parliament;
- (g) a development corporation established under the New Towns (Scotland) Act 1968.

(9) Any agreement made under regulation B4 of the 1974 Regulations, or continued in force by regulation J4 of the 1974 Regulations as if so made, continues in force as if it were an admission agreement made under this regulation.

#### **Treatment of certain additional duties**

**B7.—(1)** This regulation applies where the duties of an officer who is in a whole-time employment of a scheduled body include the additional duty of a returning officer or counting officer at any election or referendum authorised by Act of Parliament in circumstances where fees are paid.

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(a) 1968 c.16.  
 (b) 1978 c.29.  
 (c) 1948 c.29.  
 (d) 1958 c.33.  
 (e) 1984 c.36.  
 (f) 1968 c.49.

(2) Where—

- (a) the officer became a pensionable employee under the 1974 Regulations on 16th May 1974, and
- (b) immediately before that date he was in the whole-time employment and his duties in it included one or both of the additional duties,

then unless the context otherwise requires these Regulations apply to him in relation to each additional duty as if it were a separate variable-time employment with a scheduled body other than the body with whom he is in the whole-time employment.

(3) In any other case these Regulations apply to the officer, unless the context otherwise requires—

- (a) where there is one additional duty, in relation to that duty as if it were, or
  - (b) where there are more than one additional duty, in relation to them as if they were,
- a separate variable-time employment with a scheduled body other than the body with whom he is in the whole-time employment.

**Treatment of certain separate employments**

**B8.** Where a person holds two or more separate employments under one scheduled body, then unless the context otherwise requires these Regulations apply in relation to each of those employments as if the other or others were held by him under another scheduled body.

**Deemed employments**

**B9.** In these Regulations, unless the context otherwise requires, references to employees of a scheduled body shall be construed as including references to persons who are deemed for the purposes of these Regulations to be in the employment of a scheduled body, and other provisions relating to employment by or under a scheduled body shall be construed accordingly.

**Age of compulsory retirement**

**B10.** When a pensionable employee attains the age of 65 years he shall cease to hold his employment, except that the employing authority may, with his consent, extend his services for one year or any lesser period, and so from time to time as they deem expedient.

## PART C

### PAYMENTS BY EMPLOYEES

**Appropriate superannuation fund**

**C1.—(1)** In relation to a pensionable employee of an administering authority the appropriate superannuation fund is the fund administered by that authority.

(2) In relation to a pensionable employee of an employing authority who are a party to an admission agreement or an agreement under regulation B6 made with an admitting authority the appropriate superannuation fund shall be the fund or further fund administered by the admitting authority.

(3) In relation to the pensionable employees of the Western Isles Islands Council the appropriate superannuation fund shall be the fund maintained by Highland Regional Council.

(4) In relation to the pensionable employees of the Central Scotland Water Development Board the appropriate superannuation fund shall be the fund maintained by Strathclyde Regional Council.

(5) Subject to paragraph (6), in relation to a pensionable employee whose case does not fall within paragraphs (1) to (4) the appropriate superannuation fund is the fund maintained by the administering authority within whose area his employing authority or the greater part of the area of his employing authority lies.

(6) Where paragraph (5) applies to any pensionable employees of a scheduled body the Secretary of State may, after consultation with the bodies appearing to him to be concerned,

by direction substitute as the appropriate superannuation fund in relation to those employees or any of them the fund maintained by some other administering authority ("the substituted fund").

- (7) A direction under paragraph (6) shall, if the Secretary of State deems it necessary—
- (a) require the making of financial adjustments between the funds, whether by way of a payment to the substituted fund or of a transfer of assets or both, or
  - (b) contain provision as to the transfer of liabilities to the substituted fund, and any other consequential and incidental matters.

#### **Payment and amount of employee's contributions**

**C2.**—(1) Subject to paragraph (3), a pensionable employee shall, at such intervals as the appropriate administering authority may determine, make contributions to the appropriate superannuation fund in respect of every employment in which he is a pensionable employee.

(2) The amount of the contribution to be made for any period is—

- (a) in the case of a manual worker, 5%, and
- (b) in the case of an officer, 6%,

of his remuneration in the employment.

(3) A pensionable employee shall not make contributions in respect of any employment in relation to which he is entitled to reckon 45 years' reckonable service.

(4) For the purposes of paragraph (3) reckonable service beyond a total of 40 years before attaining the age of 60 years shall be disregarded.

(5) In the case of an officer who—

- (a) is a designated employee, and
- (b) has not had a disqualifying break of service, and
- (c) has not, before entering the employment in which he is a pensionable employee, ceased to hold another local government employment, and—
  - (i) has become entitled to benefits otherwise than under regulation E2(1)(c) of the 1974 Regulations or of these Regulations, or
  - (ii) having become entitled under regulation E2(1)(c) of the 1974 Regulations or of these Regulations, has given notice under regulation E2(9)(c) of these Regulations,

the amount of the contribution to be made for any period is 5% of his remuneration in the employment.

#### **Leave of absence from duty**

**C3.**—(1) A pensionable employee who is on leave of absence from duty in an employment, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall not make any contribution under regulation C2 in respect of the employment for the period of his absence.

(2) Such employee shall for a period of 30 days beginning on the first day of the leave of absence, or for the period of absence if shorter, make contributions to the appropriate superannuation fund of amounts equal to the contributions he would have been required to make under regulation C2 on the remuneration he would have received during that period but for the leave of absence.

(3) If the employee gives notice in writing to the employing authority within the period of 30 days beginning on—

- (a) the day on which he returns to duty, or
- (b) the day on which he ceases to be employed by that authority,

whichever is the earlier, he shall make such contributions as are mentioned in paragraph (2) for the period beginning with the day after the expiration of the period mentioned in paragraph (2) and ending 36 months from the day before the date on which he went on leave of absence, or for the period of leave of absence if shorter.

(4) Where the leave of absence was given to enable the employee to serve on a jury in Scotland before any court there, and the absence continues after the expiration of the period

of 30 days mentioned in paragraph (2), the employee shall be deemed to have given such a notice as is mentioned in paragraph (3).

#### **Absence due to trade dispute**

**C4.—(1)** This regulation applies to a person who—

- (a) has been absent from duty, otherwise than on leave of absence, for a period of one or more days during and in consequence of a trade dispute, and
- (b) immediately before—
  - (i) the period of absence, or
  - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods,was a pensionable employee.

**(2)** For the purposes of paragraph (1)—

- (a) a person whose contract of employment is terminated in consequence of a trade dispute is, notwithstanding the termination, to be treated as having been absent from duty after the termination if, not later than the day after the end of the trade dispute, he again becomes a pensionable employee of the same scheduled body, and
- (b) it is immaterial whether or not—
  - (i) the person was participating in or financing or otherwise directly interested in the trade dispute, or
  - (ii) the employing authority were a party to the trade dispute.

**(3)** Subject to paragraphs (4), (5) and (7), if notice in writing is given for the purpose by—

- (a) a person to whom this regulation applies, or
- (b) the executors of a person to whom this regulation applies who has died before the end of the period of 3 months specified in paragraph (5)(a) without giving such notice (referred to in this regulation as a “deceased employee”),

the amount specified in paragraph (6) is payable in respect of a relevant contribution period to the authority to whom notice was given.

**(4)** Where all or part of more than one relevant contribution period is included in a relevant absence or relevant absences which occurred in consequence of a single trade dispute, notice given for the purpose mentioned in paragraph (3) in respect of any one of those periods is of no effect unless notice is given in respect of all those periods.

**(5)** Notice for the purpose mentioned in paragraph (3) must be given in writing to the authority who are or were the employing authority in relation to the person concerned—

- (a) within the period of 3 months beginning—
  - (i) on the day after the last day of the relevant contribution period, or
  - (ii) where paragraph (4) applies the day after the last day of the relevant contribution periods, or
- (b) in the case of a deceased employee within the period of 12 months beginning on the date of the death of the employee, or
- (c) within such longer period as the employing authority may allow.

**(6)** The amount mentioned in paragraph (3) is an amount equal to 16% of the difference between—

- (a) the person’s remuneration (if any) for the relevant contribution period, and
- (b) the remuneration he would have received for that period if it had not included any relevant absence or part of a relevant absence.

**(7)** Notwithstanding anything in regulation C11, but without prejudice to the power of the appropriate administering authority under that regulation to deduct from any payment by way of benefits under these Regulations any sum remaining due on account of an amount payable under this regulation—

- (a) an employing authority shall not accept from a pensionable employee, or deduct from his remuneration, and
- (b) an administering authority shall not recover from a pensionable employee,

in any period of 12 months ending with 5th April, by way of full or part payment of so much of any amount payable under this regulation as is attributable to any relevant absence during

that period, any sum which, when aggregated with any such amounts as are mentioned in Schedule 8, would exceed 15% of his remuneration for that period.

(8) In this regulation, unless the context otherwise requires—

“relevant absence” means a period for which a person to whom this regulation applies was absent from duty as mentioned in paragraph (1) excluding any part of such period as would result in his reckonable service exceeding 45 years and disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years;

“relevant contribution period” means a period which—

(a) is co-extensive with one of the intervals at which a person to whom this regulation applies was required under regulation C2(1) to contribute to the appropriate superannuation fund, and

(b) includes all or part of a relevant absence;

“remuneration” does not include any guarantee payment under Part II of the Employment Protection (Consolidation) Act 1978(a); and

“trade dispute” has the meaning given by section 29 of the Trade Union and Labour Relations Act 1974(b).

#### **Lump sum payment to increase reckonable service**

C5.—(1) Subject to paragraph (3), a pensionable employee may, by notice in writing given to the appropriate administering authority within 12 months after having first become a pensionable employee under these Regulations or the 1974 Regulations, elect to make a payment into the appropriate superannuation fund in order to become entitled under regulation D4 to reckon an additional period as reckonable service in relation to an employment in which he is a pensionable employee.

(2) The length of the period is not to exceed the maximum length determined in accordance with Schedule 4, the amount of the payment is to be calculated in accordance with Part I of Schedule 5, and the payment is to be made within the period of 1 month beginning on the date on which notice is given.

(3) An employee may not make an election under this regulation if he has attained the age of 65 years.

#### **Periodical payments to increase reckonable service**

C6.—(1) Subject to paragraph (4), a pensionable employee may, by notice in writing given to the appropriate administering authority, elect to make additional contributions to the appropriate superannuation fund in order to become entitled under regulation D5 to reckon an additional period as reckonable service in relation to an employment in respect of which he is a pensionable employee.

(2) The length of the period is not to exceed the maximum calculated in accordance with Schedule 4 and the additional contributions are to be calculated in accordance with Part II of Schedule 5.

(3) The additional contributions—

(a) are payable, at such intervals as the appropriate administering authority may determine, from the employee's birthday next following the date of the election, and

(b) subject to paragraph (5), cease to be payable on the day immediately before the birthday at which, or as the case may be his last birthday before, the employee attains pensionable age.

(4) An employee may not make an election under this regulation if—

(a) he has attained the age of 64 years, or

(b) he was precluded by regulation D13(6)(b) of the 1974 Regulations from making an election under that regulation, or

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(a) 1978 c.44.

(b) 1974 c.52; section 29 was amended by the Trade Union and Labour Relations (Amendment) Act 1976 (c.7), section 1(d), by the Criminal Law Act 1977 (c.45), Schedule 13 and by the Employment Act 1982 (c.46), section 18.

(c) the appropriate administering authority have resolved that he should undergo a medical examination (at his own expense) and he has not done so to their satisfaction.

(5) Payment in accordance with paragraph (3) may be discontinued if the employee satisfies the appropriate administering authority that its continuance would cause financial hardship.

#### **Payment by manual worker in respect of previous service**

**C7.—(1)** A whole-time manual worker who becomes a pensionable employee by virtue of regulation B1(3)(c) may make a payment into the appropriate superannuation fund in order to become entitled under regulation D9 to reckon as reckonable service in relation to the employment in which he is a pensionable employee the period (hereinafter referred to as "the additional period") during which he was in that employment before becoming a pensionable employee.

(2) The amount of the payment shall be an amount equal to the contributions which he would have been required to make under regulation C2 if he had, throughout the additional period, been a pensionable employee, and the payment shall be made, unless the employing authority allow a longer period, within the period of 6 months beginning on the date on which he becomes a pensionable employee.

(3) The payment shall be treated for the purposes of these Regulations as if it were contributions made under regulation C2 in respect of employment in which the person was a pensionable employee.

#### **Payments to avoid reduction of retiring allowance and death gratuity**

**C8.—(1)** This regulation applies to a pensionable employee whose retiring allowance or death gratuity would be subject to reduction under regulation E3(7) or (8) (reduction in respect of reckonable service before 1st April 1972 etc.) or E11 (death gratuity) respectively.

(2) Subject to paragraphs (3) to (9), a person to whom this regulation applies may, by notice in writing given to the appropriate administering authority, elect to make payment to the appropriate superannuation fund in order to avoid all or part of the reduction in his retiring allowance, or any death gratuity that may become payable under regulation E11.

(3) A notice under paragraph (2) must specify whether the reckonable service in respect of which the reduction is to be avoided is the whole, and if not what part it is, of his reckonable service before, as the case may be—

(a) 1st April 1972, or

(b) in the case of a male employee, any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(4) An election may not be made in respect of a period of reckonable service of less than one year unless the period that will be reduced under regulation E3(7) or (8) amounts to less than one year.

(5) A notice under paragraph (2) must specify whether payment is to be made—

(a) by a lump sum, or

(b) by instalments, or

(c) by way of additional contributions.

(6) An election by the pensionable employee to make payment by a lump sum or by instalments must be made within 12 months after first becoming a person to whom this regulation applies.

(7) An election to make payment by a lump sum may not be made by the pensionable employee after attaining the age of 65 years.

(8) An election by a pensionable employee to make payment by instalments may not be made—

(a) before attaining the age of 60 years or after attaining the age of 65 years, or

(b) after making an election to make payment by way of additional contributions, or

(c) if in the particular case the appropriate administering authority so resolve, without having, at his own expense, undergone a medical examination to their satisfaction.

(9) Elections to make payment by way of additional contributions may be made from time to time, but not—



- (a) after attaining the age of 64 years, or
  - (b) after making an election to make payment by instalments, or
  - (c) if in the particular case the appropriate administering authority so resolve, without having at his own expense undergone a medical examination to their satisfaction.
- (10) Subject to paragraph (11) and to Part IV of Schedule 6, payment is to be made—
- (a) in the case of an election to make payment by a lump sum, in accordance with Part I of Schedule 6,
  - (b) in the case of an election to make payment by instalments, in accordance with Part II of that Schedule, and
  - (c) in the case of an election to make payment by way of additional contributions, in accordance with Part III of that Schedule.

(11) Payment in accordance with paragraph (10) may be discontinued if the employee satisfies the appropriate administering authority that its continuance would cause financial hardship.

#### **Continuation of certain payments**

**C9.—**(1) Where immediately before 21st December 1987 any payments remained to be made under a provision of the 1974 Regulations specified in column 1 of the table below, they shall be deemed to be payments due under the corresponding provision of these Regulations specified in column 2.

**TABLE**

(1) <i>(1974 Regulations)</i>	(2) <i>(These Regulations)</i>
Regulation C1A (trade disputes)	Regulation C4
Regulation C2A (avoidance of reduction of retiring allowance etc.)	Regulation C8
Regulation D12 (increase of reckonable service on lump sum payment)	Regulation C5
Regulation D13 (increase of reckonable service on periodical payments)	Regulation C6
Regulation D14A (whole-time manual workers)	Regulation C7

(2) Where immediately before 21st December 1987 any payments remained to be made under a provision of the 1974 Regulations specified in paragraph (3), they remain payable notwithstanding the revocation of the 1974 Regulations by these Regulations.

(3) The payments mentioned in paragraph (2) are payments under regulations D6 (non-contributing service), D7 (previous employment treated as non-contributing service), D8 (additional contributory payments under former Regulations), D10 (added years) and D11 (payments under former Regulations for added years) of the 1974 Regulations.

(4) Schedule 7 applies in relation to any payments under regulation D6, D7 or D8 of the 1974 Regulations which remain payable by virtue of paragraph (2) and, in relation to any payments under regulation D10 or D11 of those Regulations which remain so payable, Schedule 5 to those Regulations shall be deemed to have continued to have effect.

#### **Statement of remuneration received otherwise than from employing authority**

**C10.—**(1) A pensionable employee who receives any part of his remuneration otherwise than from the employing authority shall provide the employing authority with half-yearly statements of his receipts in respect of that part.

(2) The statements are to relate to the periods 1st April to 30th September and 1st October to 31st March, and are to be provided not later than 31st October and 30th April respectively.

(3) As soon as is reasonably practicable after receiving a request in writing from the employing authority the employee shall provide them with a statutory declaration verifying the correctness of any statement specified in the request.

### **Deduction and recovery of employee's contributions**

**C11.—(1)** An employing authority may deduct from the remuneration payable by them to a pensionable employee—

- (a) contributions payable under regulations C2 or C3,
- (b) any amount payable under regulation C4, and
- (c) any instalments or additional contributions payable to the appropriate superannuation fund.

(2) If and so far as deductions are not made under paragraph (1), the appropriate administering authority may recover any sum remaining due—

- (a) in any court of competent jurisdiction, or
- (b) by deducting it from any payment by way of benefits under these Regulations.

### **Return of employee's contributions in certain cases**

**C12.—(1)** Subject to paragraphs (3) and (12), and regulation C13, this regulation applies to a pensionable employee of an employing authority who—

- (a) before becoming entitled to any benefit under these Regulations, other than a retirement pension under regulation E2(2), ceases to be employed by that authority; and
- (b) does not, within one month after ceasing to be so employed, enter further employment with any scheduled body and within that period become in that further employment a pensionable employee; and
- (c) is entitled to reckon an aggregate of less than 5 years' reckonable service and qualifying service.

(2) Subject to paragraph (3), a person to whom this regulation applies shall be entitled to receive a refund of contributions calculated in accordance with paragraph (4).

(3) This regulation shall not apply to a person—

- (a) who is entitled to a pension under regulation E2(1)(d) in respect of any period of service in contracted-out employment; or
- (b) who is entitled to be paid, or has been paid, an ill-health lump sum retiring allowance under regulation E4.

(4) A person to whom this regulation applies shall be entitled—

- (a) if he so ceases to be employed by reason of his voluntary resignation, or his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct (not being such an offence or grave misconduct in connection with his employment), to receive out of the appropriate superannuation fund a sum equal to the aggregate amount of his contributions to the fund;
- (b) if he so ceases to be employed for any reason not specified in paragraph (a), to receive out of the appropriate superannuation fund a sum equal to the aggregate amount of his contributions to the fund, together with compound interest thereon, calculated to the date on which he ceased to hold his employment—
  - (i) for any period before 1st April 1972, at the rate of 3 per cent per annum with half-yearly rests,
  - (ii) for any period between 1st April 1972 and 31st March 1980, at the rate of 4 per cent per annum with yearly rests, and
  - (iii) for any period after 31st March 1980, at the rate of 9 per cent per annum with yearly rests.

(5) Subject to paragraph (6), where a person to whom this regulation applies ceases to be employed as mentioned in paragraph (1)(a) in consequence of an offence of a fraudulent character or of grave misconduct, being such an offence or such misconduct in connection with his employment, the employing authority may, if they think fit, direct the return to him out of the appropriate superannuation fund of a sum equal to the whole or a part of the aggregate amount of his contributions to the fund or, if he so ceases to be employed in consequence of such an offence of a fraudulent character as aforesaid, the payment out of that fund of an equivalent sum to his spouse or any dependant of his.

(6) In the case of a person to whom paragraph (5) applies and who ceases to be employed in the circumstances mentioned in regulation E2(1)(c), the power of the employing authority

under this paragraph shall apply only in respect of any contributions relating to a period of service in respect of which the employing authority has given a direction as to forfeiture under regulation M1.

(7) No return of contributions shall be payable to a person under paragraph (4)–

- (a) before the expiration of a year from the date on which he ceases to be employed, or
- (b) until a claim for payment made not earlier than 1 month and two days after the date on which he ceases to be employed as mentioned in paragraph (1)(a) has been made to them,

whichever event first occurs.

(8) No payment shall be made under paragraph (7)(a) where the person has given a written notice to the administering authority requesting postponement of such payment.

(9) On making any repayment of contributions (with or without interest) under this regulation, the administering authority shall deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(a) (which relates to charge to tax on repayment of employee's contributions).

(10) For the purposes of this regulation a pensionable employee who–

- (a) ceases to be employed in the circumstances mentioned in regulation E2(1)(c) (other than a person who elects under regulation E2(6) to receive benefits from the date on which he so ceased or to whom, on so ceasing, regulation E2(6)(c) applies), or
- (b) satisfies the requirements of regulation E2(1)(d) (other than a person who elects under regulation E2(8)(a)),

shall be treated as not being entitled to any benefit under these Regulations.

(11) Subject to paragraph (13) references in this regulation to the aggregate amount of an employee's contributions to a superannuation fund include references to–

- (a) any contributions paid by him to any superannuation fund–
  - (i) under regulation C2 or C3, or
  - (ii) under regulation C1 or C2 of the 1974 Regulations, or
  - (iii) under Part I of the Act of 1937, or
  - (iv) under the Act of 1922, or
  - (v) under a local Act scheme;
- (b) any contributions which, if the former Regulations had not been revoked by the 1974 Regulations and he had immediately before ceasing to be employed as mentioned in paragraph (1)(a) been a contributory employee, he would, by virtue of interchange rules, have been deemed to have made to the appropriate superannuation fund within the meaning of the Act of 1937;
- (c) any amount–
  - (i) which, if the former Regulations had not been revoked as aforesaid and he had immediately before so ceasing been a contributory employee, would, by virtue of interchange rules, have been included in any amount which would, on his so ceasing, have become payable to him by way of a return of contributions under section 10 of the Act of 1937; or
  - (ii) by which, if the former Regulations had not been revoked as aforesaid and he had, immediately before so ceasing, been a contributory employee, the last-mentioned amount would, by virtue of interchange rules, have been deemed to have been increased;
- (d) any sum paid by him into a superannuation fund under an old modification scheme made in accordance with section 28(3) of the Widows', Orphans' and Old Age Contributory Pensions Act 1936(b);
- (e) any sum paid by him by way of additional contributory payments or under regulation C4;
- (f) any amount paid by him by way of added period payments; and

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(a) 1970 c.24; paragraph 2 was substituted by the Finance Act 1971 (c.68), Schedule 3, paragraph 7.

(b) 1936 c.33.

- (g) any amount paid by him under regulation C8, but only in so far as any such contribution, sum or amount—
  - (i) has not been returned to the person or, if it has been returned, has subsequently been repaid by him;
  - (ii) is attributable to service which might have been reckoned under Part D in relation to the employment he has ceased to hold; and
  - (iii) is not attributable to any earlier period or service in respect of which a benefit under Part E has been paid.

(12) The foregoing paragraphs shall apply to a person who is entitled to reckon an aggregate of not less than 5 years reckonable service and qualifying service, where—

- (a) part of the service of that person is attributable to a period prior to 6th April 1975,
- (b) the person elects that this regulation applies in his case by notice in writing given to the appropriate authority not earlier than one month after the date he ceases to be employed but within 12 months of that date, and
- (c) the person has not, before giving the notice referred to in paragraph (b), again become a pensionable employee and given notice under regulation E2(10),

subject to the modification that he shall only be entitled to receive a refund of contributions for any service prior to 6th April 1975.

(13) Where paragraph (12) applies paragraph (11) shall have effect as if sub-paragraphs (e) and (f) were omitted.

#### **Effect of return to local government on right to a return of contributions**

**C13.** A person's right to a payment under regulation C12 is extinguished if—

- (a) he returns to local government employment after leaving previous local government employment with a right to such a payment, and
- (b) on the date on which he returns to local government employment he has not received the payment, and
- (c) he has not given, within 3 months after that date or such longer period as his previous fund authority and, if different, his new fund authority may allow, written notice to his previous fund authority that he wishes to receive an immediate payment.

#### **Restoration of right to reckon service in transitional cases where there has been a return of contributions**

**C14.—(1)** Notwithstanding regulation D3, service for which a return of contributions has been received shall be reckonable as reckonable service if the conditions in paragraph (2) are satisfied and the person makes the payment required by paragraph (3).

(2) The conditions are that—

- (a) the person ceased to be employed in local government employment on or after 16th May 1974 and before 6th April 1978; and
- (b) on the cessation of that employment the aggregate of his reckonable and qualifying service amounted to less than 5 years; and
- (c) the return of contributions was made in relation to that employment; and
- (d) he subsequently returns to local government employment.

(3) Within six months, or such longer period as may be provided in paragraph (4), of his return to local government employment the person must pay to his previous fund authority for the credit of their superannuation fund—

- (a) a sum equal to the contributions returned to him (together with any increase under regulation J11 and any interest he was paid); and
- (b) compound interest on that sum calculated in accordance with regulation J7 for the period beginning with the date on which he received the return of contributions and ending on the date of the payment of that sum.

(4) The previous fund authority may in any particular case extend the period mentioned in paragraph (3).

### **Reduction of returned contributions following payment in lieu of contributions**

**C15.—(1)** Subject to the provisions of this regulation, where a pensionable employee leaves employment in circumstances—

- (a) to which regulation 6 of the Transitional Provisions Regulations does not apply, and
- (b) in which returned contributions are due and a payment in lieu of contributions has previously been made in respect of him in circumstances in which returned contributions were not due,

those returned contributions shall be reduced by a sum equal to the amount, or the aggregate of the amounts, by which under section 60(5) of the Insurance Act (which defines an employer's rights against an insured person in respect of payments in lieu of contributions) they could have been reduced if returned at the time when the previous payment in lieu of contributions was made.

(2) Paragraph (1) shall also apply for the reduction of returned contributions where a payment in lieu of contributions has been made under any insurance code in respect of any period of former employment which is reckonable as service as a pensionable employee if—

- (a) that payment in lieu was made in circumstances not involving the return of any superannuation contributions made by him in that employment; and
- (b) the transfer value payable in respect of that employment has been adjusted to take account of that payment in lieu;

and where no superannuation contributions were payable in that employment, any amount returnable in respect of contributions deemed to have been made therein shall be reduced by a sum equal to one half of that payment in lieu.

(3) No payment in lieu of contributions shall be taken into account for the purposes of paragraphs (1) and (2)—

- (a) on more than one occasion; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation – Assurance of Equivalent Pension Benefits) Regulations 1960(a) or any corresponding enactment in force in Northern Ireland or the Isle of Man.

(4) Where the employment of a pensionable employee comes to an end in circumstances to which regulation 6 of the Transitional Provisions Regulations applies, the amount of returned contributions to which he is entitled shall be reduced by any amount which, under section 60 of the Insurance Act as modified by the said regulation 6, the person who has made or is liable to make a payment in lieu of contributions in respect of such employee, or would be so liable had the employee not been assured of equivalent pension benefits, is entitled either to recover from the person liable for the returned contributions or to retain out of the returned contributions.

(5) Where returned contributions are due in the circumstances mentioned in paragraph (1) or paragraph (4) on the cessation of two or more concurrently held employments, the reduction required by that paragraph shall be made by such one of the authorities paying the returned contributions as they may agree or, in default of agreement, as is determined by the Secretary of State, and where those employments were held under the same employing authority, the reduction shall be made in relation only to such one of the employments as is determined by the authority.

(6) Where returned contributions are reduced under paragraph (1) or under section 60(5) of the Insurance Act or the said section 60(5) as modified by regulation 6 of the Transitional Provisions Regulations or under any corresponding provision of the Northern Ireland Act or the Isle of Man Act, any sum so deducted shall not form part of any amount payable to or in respect of him, either as returned contributions or as a benefit ascertained by reference to the amount of the contributions paid by him on the occasion of any later cessation of his employment.

(7) In this regulation “returned contributions” means an amount payable under regulation C12 to or in respect of a pensionable employee by way of a return of contributions.

### **Limitation of payments**

**C16.** Schedule 8 has effect for the limitation of payments under this Part.

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(a) S.I. 1960/1103.

## PART D

### SERVICE

#### Reckonable service

**D1.—**(1) Reckonable service is time that counts both for the purpose of ascertaining entitlement to benefits under these Regulations and for the purpose of calculating them.

(2) Subject to paragraphs (3) and (4) and regulations D3 and D8, a pensionable employee is entitled to reckon as reckonable service, in relation to an employment in which he is a pensionable employee—

- (a) any period for which he has paid contributions under regulation C2 or C3,
- (b) any period which he became entitled to reckon as reckonable service by virtue of regulation D1(1)(b) to (g) of the 1974 Regulations, and
- (c) any period which he is entitled to reckon as reckonable service by virtue of regulations D4 to D7 or Part F (war service).

(3) A period of absence from duty without remuneration, otherwise than on leave of absence, may not be reckoned as reckonable service unless—

- (a) that period was a relevant absence, and
- (b) the amount specified in regulation C4(6) has been paid in respect of every relevant contribution period all or part of which was included in that relevant absence.

(4) Where the amount specified in regulation C4(6) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may be reckoned as reckonable service whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

#### Qualifying service

**D2.—**(1) Qualifying service is time that counts for the purpose of ascertaining entitlement to benefits under these Regulations but not for the purpose of calculating them.

(2) Subject to regulation D3, a pensionable employee's qualifying service is—

- (a) any period which he is entitled to reckon as qualifying service by virtue of regulations D10, D11, H8 or J9(1)(b); and
- (b) in the case of a person who was at any time from 1st April 1974 until 31st March 1986 or, in the case of a manual worker, at any time from 1st April 1973 until 31st March 1986, in relevant employment as defined in regulation B3(2), any period of service during that time in which the employee was employed for at least 15 hours in a week except—
  - (i) any period of reckonable service,
  - (ii) where the employee's relevant employment was interrupted for 12 months or more, any period of relevant employment occurring before the interruption, and
  - (iii) in the case of a manual worker, the first 12 months of any period of relevant employment not otherwise excepted; and
- (c) any period which he became entitled to reckon as qualifying service by virtue of regulation D2 of the 1974 Regulations.

#### Exclusion from reckonable service and qualifying service

**D3.—**(1) Subject to regulation E16 (combined benefits), a pensionable employee who—

- (a) has entered the employment of a scheduled body after becoming entitled to receive payment in respect of any superannuation benefit other than a superannuation benefit under the Insurance Act, or
- (b) has entered such employment after becoming entitled to a benefit under regulation E2(1)(c) and has given notice under regulation E2(9)(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 a benefit under paragraph (1)(c) of, and gave notice under paragraph (4)(e) of, regulation E2 of those Regulations,  
is not entitled to reckon as reckonable service any period of which account has been taken for the purpose of determining whether he was entitled to that payment or benefit or of which account has been or is to be taken for the purpose of calculating its amount.

(2) Subject to regulation E16, a pensionable employee who—

- (a) ceased after 5th April 1975 to hold a local government employment (“the first employment”), and
- (b) after an interval not exceeding one month after ceasing to hold the first employment—
  - (i) entered the employment in which he is a pensionable employee, and
  - (ii) became in that employment a pensionable employee, 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 reckon as reckonable service any period for which the return of contributions was made.

(3) Subject to regulation E16, a pensionable employee who—

- (a) on ceasing to hold a local government employment became entitled to a benefit under regulation E2(1)(c) or (d), 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 superannuation fund within the meaning of regulation C12,

is not entitled to reckon as reckonable service any period for which the return of contributions was made.

(4) Subject to regulation E16, a pensionable employee who—

- (a) on ceasing to hold a local government employment became entitled to a benefit under regulation E2(1)(c) or (d), and
- (b) in respect of his ceasing to hold that employment received a return of part of the aggregate amount mentioned in paragraph (3)(b), and
- (c) has not given notice under regulation E2(9)(c),

is not entitled to reckon as reckonable service any period for which the return of contributions was made.

(5) Except where paragraphs (2), (3)(a) or (4)(a) and (c) apply, a pensionable employee who—

- (a) before entering the employment in which he is a pensionable employee 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 or under these Regulations,

is not entitled to reckon either as reckonable service or as qualifying service any period for which the return of contributions was made.

(6) Where—

- (a) before entering the employment in respect of which he is a pensionable employee he 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 an administering authority, a body maintaining a superannuation fund under Part I of the Act of 1937 or a local Act authority,

a pensionable employee is not entitled to reckon either as reckonable service or as qualifying service any period in respect of which the transfer value was paid.

#### **Increase of reckonable service on lump sum payment**

**D4.** A pensionable employee who has made a payment in accordance with regulation C5 is entitled to reckon as reckonable service in relation to the relevant employment the period in respect of which the payment was made.

#### **Increase of reckonable service on making periodical payments**

**D5.** A pensionable employee is entitled to reckon as reckonable service in relation to the relevant employment—

- (a) if he completes payment of additional contributions in accordance with regulation C6(3), the additional period in respect of which payment was made, or
- (b) if he begins such payment but does not complete it, an additional period calculated in accordance with Schedule 9.

**Increase of reckonable service on completion or cessation of payments under previous Regulations**

**D6.—**(1) Where regulation C9(1) applies, on the making or, as the case may be, the completion or discontinuance of any payments deemed to be due under regulation C5, C6 or C7, a pensionable employee is entitled to reckon additional service in accordance, respectively, with regulation D4, D5 or D9.

(2) Where regulation C9(2) applies, on the making or as the case may be the completion or discontinuance of any payments of a kind there mentioned, a pensionable employee is entitled to reckon additional service to the same extent as if such making, completion or discontinuance had occurred before 21st December 1987.

**Increase of reckonable service of certain late entrants at discretion of employing authority**

**D7.—**(1) Subject to paragraphs (2) and (3), if the employing authority are satisfied that, having regard to the interests of the efficient exercise of their functions, there are exceptional reasons for doing so, they may resolve to add an additional period to a pensionable employee's reckonable service.

(2) A resolution under paragraph (1) may be passed not later than 6 months after the person becomes a pensionable employee in the authority's employment, but not after he has attained the age of 59 years unless he did so after becoming such an employee.

(3) The additional period is to be specified in the resolution and is not to exceed the maximum determined in accordance with Schedule 4.

(4) Where the employing authority have passed a resolution under paragraph (1) or under regulation D14 of the 1974 Regulations and the employee—

- (a) remains in his employment under that authority until he attains pensionable age, or
- (b) ceases to hold that employment, before attaining that age, on the ground that he is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body, or
- (c) dies while in that employment,

he is entitled to reckon as reckonable service the additional period specified in the resolution.

(5) Where the employee leaves in any other circumstances and the employing authority have passed such a resolution mentioned in paragraph (1) the employee is entitled to reckon as reckonable service an additional period of  $\frac{A \times T}{R}$ , where—

A is the additional period specified in the resolution,

T is the period during which the employee has been in the employment of the authority who passed the resolution, and

R is the period during which the employee would have been in that employment if paragraph (4)(a) had applied.

**Reduction of added years reckonable on payment as reckonable service**

**D8.—**(1) This regulation applies where—

- (a) a consent—
  - (i) was given under regulation D10 of the 1974 Regulations, or
  - (ii) was given under regulation 12 of the Benefits Regulations in respect of a person who became a pensionable employee under the 1974 Regulations on 16th May 1974, and
- (b) the person in respect of whom the consent was given is a person in relation to whom regulation F3 applies, and
- (c) the notice of election under regulation R3 of the 1974 Regulations was given within the period of 6 months beginning on the relevant date specified in paragraph (2),



or in the case of a deceased employee (within the meaning of Part F) who died during that period, within the period of 12 months beginning on the date of his death, and

- (d) apart from this regulation some of the person's reckonable service would, or would if payments under regulation C9(2) were to continue up to the age specified in paragraph 1(a) or, as the case may be, paragraph 1(b) of Schedule 6 to the 1974 Regulations, be left out of account in accordance with regulation E30(1)(a) or (5).

(2) For the purposes of paragraph (1)(c) the relevant date—

- (a) where regulation F3(2)(f) applies, is 5th September 1984, and
- (b) in any other case, is 15th October 1982.

(3) Where this regulation applies, the consent shall be deemed always to have related not to the original number of added years but instead to the longest additional period that would not entail any such leaving out of account of reckonable service as is mentioned in paragraph (1)(d), and payments made and any remaining to be made are to be adjusted accordingly.

#### **Previous service of certain whole-time manual workers**

**D9.** A pensionable employee who has made a payment in accordance with regulation C7 is entitled to reckon as reckonable service, in relation to the employment in which he became a pensionable employee, the period during which he was in that employment before becoming a pensionable employee.

#### **Previous service of certain variable-time employees**

**D10.—(1)** This regulation applies to a person who—

- (a) while a pensionable employee in the whole-time employment of a scheduled body becomes a variable-time employee of any scheduled body, and
- (b) while remaining a pensionable employee in the whole-time employment becomes a pensionable employee in the variable-time employment.

(2) A person to whom this regulation applies is entitled to reckon as qualifying service in relation to the variable-time employment any period which, when he became a pensionable employee in the variable-time employment, he was entitled to reckon as reckonable service or qualifying service in relation to the whole-time employment.

#### **Previous service of certain re-employed pensioners**

**D11.—(1)** A person who—

- (a) has become entitled to a retirement pension, otherwise than by virtue of regulation E2(2), and
- (b) enters further employment with any scheduled body in which he becomes a pensionable employee,

is entitled to reckon as qualifying service the period in respect of which he became entitled to the retirement pension.

(2) A person—

- (a) who is in receipt of a pension payable out of public funds or under a local Act scheme,
- (b) who enters employment with any scheduled body in which he becomes a pensionable employee, and
- (c) whose pension is on that account liable to be reduced or suspended,

is entitled to reckon as qualifying service the period in respect of which the pension was granted.

(3) 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) enters further employment with any scheduled body in which he becomes a pensionable employee, 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 to the appropriate superannuation fund within the meaning of regulation C12,

is entitled to reckon as qualifying service the period in respect of which the return of contributions was made.

(4) In paragraph (1) "retirement pension" includes a short service grant under the Benefits Regulations, an ill-health lump sum retiring allowance under regulation E21 of the 1974 Regulations, an ill-health lump sum retiring allowance under regulation E4, a superannuation allowance under Part I of the Act of 1937, and an annual pension under the former Regulations.

## PART E

### BENEFITS

#### **Guaranteed minimum pension for certain pensionable employees and their widows**

**E1.—(1)** This regulation applies if the employment of a pensionable employee in any local government employment is contracted-out employment.

(2) Where this regulation applies it overrides any other provision of these Regulations that is inconsistent with it, except regulations E15 (reduction of retirement pension in the case of certain re-employed pensioners), E21 (power to compound certain small pensions) and M1 (forfeiture of rights).

(3) Where this regulation applies and the pensionable employee has a guaranteed minimum under section 35 of the Pensions Act, in relation to benefits under these Regulations—

- (a) unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum,
- (b) if he attains state pensionable age while in local government employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum, and
- (c) if he dies at any time and leaves a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in section 36(6) of the Pensions Act, entitled to a pension at a weekly rate equal to half that guaranteed minimum.

#### **Entitlement to retirement pension and retiring allowance**

**E2.—(1)** Subject to paragraphs (3) to (10), when a person ceases to hold a local government employment he shall be entitled in relation to that employment to an annual retirement pension and a lump sum retiring allowance if—

- (a) he has attained the age of 60 years and his reckonable service and any qualifying service when added together amount to not less than 25 years; or
- (b) his reckonable service and any qualifying service when added together amount to not less than 5 years, and—
  - (i) he is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body, or
  - (ii) he has attained the age of 65 years, or
  - (iii) he has attained the age of 50 years and one of the conditions in paragraph (4) is satisfied; or
- (c) neither sub-paragraph (a) nor sub-paragraph (b) applies, and—
  - (i) his reckonable service and any qualifying service when added together amount to not less than 5 years, or
  - (ii) he is a person who by virtue of regulation B4(6) or J13(3) is to be treated as if he had ceased to be employed; or
- (d) none of the preceding sub-paragraphs applies and he—
  - (i) has attained state pensionable age, or
  - (ii) would attain state pensionable age before the following 6th April.

(2) When a person ceases to hold a local government employment he shall be entitled in relation to that employment to an annual retirement pension if—

- (a) he is not so entitled under paragraph (1)(a) to (c), or he is entitled under paragraph (1)(c) and receives a return of contributions (in which case he shall be treated as having ceased to hold the employment on the day before the date of receipt), and
- (b) the whole or some part of his reckonable service was service in a non-participating employment or was reckonable service which relates to employment with a non-local government employer in a non-participating employment, and
- (c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 56(1) of the Insurance Act or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation – Assurance of Equivalent Pension Benefits) Regulations 1960 as modified by regulation 9(2)(a) or (b) of the Transitional Provisions Regulations, and
- (d) no payment in lieu of contributions is made in respect of such service as is mentioned in sub-paragraphs (b) and (c).

(3) Where but for the revocation of the 1974 Regulations, regulation E2(2) of those Regulations (certain female nursing and other staff deemed to have satisfied regulation E2(1)(b)(iii) of those Regulations) would have applied to a person on her ceasing to hold a local government employment, she shall be deemed to have ceased to hold the employment in the circumstances mentioned in paragraph (1)(b)(iii).

(4) The conditions mentioned in paragraph (1)(b)(iii) are–

- (a) that the employing authority certify that the person has ceased to hold the local government employment by reason of redundancy or in the interests of the efficient exercise of their functions, or
- (b) that the person was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.

(5) Benefits to which a person is entitled by virtue of paragraph (1)(a) or (b) are payable immediately.

(6) Subject to paragraphs (9) to (11), preserved benefits become payable from the date on which the person attains pensionable age, or if earlier–

- (a) from any date on which he becomes incapable by reason of permanent ill-health or infirmity of mind or body of discharging efficiently the duties of the employment he ceased to hold, or
- (b) from any date after he has attained the age of 50 years from which the employing authority determine on compassionate grounds that the benefits are to become payable, or
- (c) in the case of a woman, from the first date on which she is both–
  - (i) at least 60 years old, and
  - (ii) no longer in any employment,

unless he is a man who has attained the age of 60 years and has, on or after but not more than 3 months after the date of his attaining that age or of his ceasing to be employed, whichever is the later, by notice in writing to the employing authority, elected to receive payment from that date.

(7) Benefits to which a person has become entitled by virtue of paragraph (1)(d) are payable immediately if the person had attained the age of 65 years before he ceased to hold the employment.

(8) Subject to paragraph (11), benefits to which a person has become entitled by virtue of paragraph (1)(d) but which have not become payable by virtue of paragraph (7) and benefits to which a person was entitled by virtue of regulation E2(1)(d) of the 1974 Regulations immediately before 21st December 1987 which have not otherwise become payable, become payable–

- (a) in the case of a man who has so elected by notice in writing given to the employing authority not later than 3 months after ceasing to hold the employment, as from the date on which he ceased to hold it, or
- (b) in the case of a woman, from the first date (if earlier than the date mentioned in sub-paragraph (c)) on which she both–
  - (i) has attained the age of 60 years, and
  - (ii) is no longer in any employment, or
- (c) in any other case, from the date on which the person attains the age of 65 years.

- (9) A person who is entitled to preserved benefits ceases to be entitled to them—
- (a) if the whole of the aggregate amount of his contributions to the appropriate superannuation fund, within the meaning of regulation C12, has been returned to him under that regulation or under regulation C8 of the 1974 Regulations and, after receiving the return of contributions, he has no further right to reckon any reckonable service to which a transfer value accepted under regulation J8 relates, or
  - (b) if rights in respect of the reckonable service he was entitled to reckon in relation to the employment he ceased to hold have been transferred to a non-local government scheme by virtue of the payment of a transfer value, or
  - (c) if he re-enters local government employment, unless he elects to remain entitled to the preserved benefits.

(10) An election for the purposes of paragraph (9)(c) must be made by giving notice in writing to the appropriate administering authority, within 3 months after re-entering local government employment unless they, or where there is a change of fund the administering authorities of both funds, allow a longer period.

(11) A person may not make an election under paragraph (6) or (8)(a) if the retirement pension to which he has become entitled—

- (a) is a pension in relation to which he has a guaranteed minimum under section 35 of the Pensions Act, and
- (b) would, but for regulation E1(3)(a), be reduced under regulation E3(14) to less than his guaranteed minimum pension.

(12) A retirement pension to which a person has become entitled by virtue of paragraph (2) is payable from the first date on which he both—

- (a) has attained state pensionable age, and
- (b) is no longer in any local government employment.

#### **Amount of retirement pension and retiring allowance**

E3.—(1) Subject to paragraphs (2) and (12) to (16), and to regulation E30, the annual rate of a person's retirement pension is the amount obtained by multiplying one eightieth of his pensionable remuneration by the length in years of his reckonable service.

(2) In the case of a person who—

- (a) is entitled under regulation D4, D5, D6(1) or D7 to reckon an additional period as reckonable service, and
- (b) had at the appropriate time (as defined in paragraph 1(2) of Schedule 4) attained the age of 45 years,

the rate specified in paragraph (1) is increased by the amount obtained by multiplying one two hundred and fortieth of his pensionable remuneration by the length in years of that additional period.

(3) Subject to paragraphs (4) to (14) and to regulation E30, the amount of a person's retiring allowance is the amount obtained by multiplying three eightieths of his pensionable remuneration by the length in years of his reckonable service; but where paragraph (2) applies his reckonable service does not for the purposes of this paragraph include the additional period.

(4) Where but for the revocation of the 1974 Regulations regulation E3(4) of those Regulations (preservation of certain rights under former Regulations to increased retiring allowance) would have applied to a person on ceasing to hold a local government employment, the amount calculated in accordance with paragraph (3) is increased by the amount by which it would have been increased if that regulation had applied.

(5) For the purposes of paragraph (4)—

- (a) an additional period which a person has become entitled to reckon as reckonable service by virtue of, or of payments commenced under, regulation D10 of the 1974 Regulations shall be treated as reckonable service ending immediately before the date on which he first became a contributory employee or, if earlier, a local Act contributor, and
- (b) no account shall be taken of any period which a person has become entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) (war service).

(6) In the case of a person to whom regulation E19 of the 1974 Regulations applied but who made an election under paragraph (2) of that regulation, paragraph (4) of this regulation applies as if he had at no time been entitled as mentioned in paragraph (1)(b) of that regulation and had immediately before the time mentioned in that regulation been such a person as was mentioned in regulation 14(a) or (b) of the Benefits Regulations.

(7) Subject to paragraph (10), where the person is a married man and a widow's pension may become payable under regulation E5, the amount calculated in accordance with paragraphs (3) to (6) is reduced by the amount obtained by multiplying two eightieths of his pensionable remuneration by the length in years of any reckonable service before 1st April 1972.

(8) Subject to paragraphs (10) and (11), where—

- (a) the person is a widower, or
- (b) he and his wife are judicially separated, or
- (c) his marriage has been dissolved,

and the death, separation or dissolution occurred after the relevant date specified in paragraph (9), the amount calculated in accordance with paragraphs (3) to (6) is reduced by two eightieths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 or, if earlier, the date of the death, separation or dissolution.

(9) The relevant date for the purposes of paragraph (8) is—

- (a) 30th September 1950, or
- (b) if, but for the revocation of the 1974 Regulations, sub-paragraph (ii) of paragraph (6) of regulation E3 of those Regulations (certain cases where local Act provisions had applied before 16th May 1974) would have applied, the date that would have been the relevant date for the purposes of that paragraph.

(10) In calculating any reduction under paragraph (7) or (8), no account shall be taken of any reckonable service in respect of which payment under regulation C8 has or is to be treated as having been completed.

(11) No reduction is to be made under paragraph (8) where the person is a woman in relation to whom this regulation applies as provided in regulation E12 and who has not made any election under regulation E12(1)(b) or (2).

(12) Where regulation E2(1)(b)(i) (permanent ill-health etc.) applies, the person is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 10.

(13) Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation E2(9)(a) does not apply, for the purposes of this regulation his reckonable service shall be taken to be the reckonable service which he is entitled to reckon after he receives the return of contributions, excluding reckonable service to which the return of contributions relates.

(14) Subject to paragraph (15), where benefits have become payable—

- (a) to a man by virtue of an election under regulation E2(6) or E2(8)(a), or
- (b) to a woman by virtue of regulation E2(6)(c) or E2(8)(b),

the amounts calculated in accordance with paragraphs (1) to (13) are reduced in accordance with Schedule 11.

(15) A person's retirement pension is not to be reduced under paragraph (14)—

- (a) to less than any minimum rate of equivalent pension benefits applicable under the Insurance Acts, or
- (b) in the case of a woman, to less than the annual rate determined by multiplying one eightieth of her pensionable remuneration by the length in years of the whole period of her service in contracted-out employment.

(16) The rate of a retirement pension payable by virtue of regulation E2(2) is the rate of equivalent pension benefits applicable to the person in respect of any period of reckonable service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

### **Ill-health lump sum retiring allowance**

**E4.—(1)** This paragraph applies to a person—

- (a) who has at any time after 13th November 1978 ceased to hold a local government employment, and
- (b) who when he ceased to hold that employment—
  - (i) was entitled to reckon an aggregate of one or more but less than 5 years' reckonable service and qualifying service, and
  - (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body, and
- (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation C12(5), and
- (d) who is not apart from this regulation entitled, whether by virtue of his having made a claim under regulation C12(7)(b) or otherwise, to any benefit under these Regulations, other than a return of contributions, and has not—
  - (i) received any return of contributions other than one in respect of which a payment was made under regulation E21(3) of the 1974 Regulations, or
  - (ii) been granted any gratuity under Part K, under Part T of the 1974 Regulations, under section 18 of the Act of 1953, or under any local Act, or
  - (iii) received an allowance under regulation E21 of the 1974 Regulations, and
- (e) who if a return of contributions were made to him would receive a net amount smaller than that of an allowance calculated in accordance with paragraph (2).

(2) A person to whom paragraph (1) applies is, subject to paragraph (3), entitled to be paid an allowance ("an ill-health lump sum retiring allowance") of an amount equal to—

- (a) one twelfth of his pensionable remuneration multiplied by the length in years of his reckonable service, or
- (b) three eightieths of his pensionable remuneration multiplied by the length in years of the total period he would have been entitled to reckon as reckonable service if—
  - (i) he had continued in local government employment until he had attained the age of 65 years, and
  - (ii) any added period payments had been completed,

whichever is the lesser amount.

(3) A person to whom paragraph (1) applies—

- (a) may, notwithstanding that he is for the time being entitled to an ill-health lump sum retiring allowance, at any time before such an allowance is paid to him be granted a gratuity under Part K, and
- (b) on being so granted a gratuity under Part K he shall cease to be entitled to an ill-health lump sum retiring allowance.

(4) In the case of a person falling within paragraph (1)(a) to (c) who has ceased to hold his employment after 20th December 1987, the appropriate administering authority are, without prejudice to any subsequent decision under regulation N5 or N6, to notify him in writing, within 3 months after the date on which he ceased to hold his employment, of the amount of the ill-health retirement grant to which he would, subject to paragraph (3), be entitled if he were and remained a person to whom paragraph (1) applies.

### **Entitlement to widow's short-term and long-term pensions**

**E5.—(1)** If at the time of his death a man—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of regulation E15 (reduction of certain retirement pensions), or
- (c) was in a local government employment and—
  - (i) the total of his reckonable service and any qualifying service when added together amounted to not less than 5 years, or
  - (ii) he would if he had then ceased to be employed otherwise than by reason of his death have become entitled to benefits by virtue of regulation E2(1)(d),

and he leaves a widow or widows she is, or as the case may be they are jointly, entitled, subject to paragraphs (3) to (5), to a widow's short-term pension for 3 months after his death and then to a widow's long-term pension.

(2) If at the time of his death a man was entitled to preserved benefits and he leaves a widow or widows she is, or as the case may be they are jointly, entitled, subject to paragraphs (3) to (5), to a widow's long-term pension.

(3) A widow is not entitled to any pension by virtue of paragraph (1) or (2) if when her husband died or became entitled to a retirement pension she was judicially separated from him.

(4) A widow is not entitled to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if—

(a) she was not her husband's wife at some time while he was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension, or

(b) her husband became entitled to a retirement pension by virtue of regulation E2(2).

(5) Where but for paragraph (4)(a) a widow would have been entitled—

(a) under paragraph (1) to a widow's short-term pension and to a widow's long-term pension, or

(b) under paragraph (2) to a widow's long-term pension,

she is entitled, where sub-paragraph (a) applies to a short-term pension and a long-term pension and where sub-paragraph (b) applies to a long-term pension only, calculated in each case in accordance with regulation E6(4).

(6) A pension to which a widow is entitled by virtue of this regulation—

(a) is not payable to her during any subsequent marriage or any period of cohabitation outside marriage, and

(b) is payable from the end of any such marriage or period only if the appropriate administering authority in their discretion so decide.

#### **Amount of widow's short-term and long-term pensions**

**E6.—(1)** Subject to paragraphs (3) to (5), the annual rate of a widow's short-term pension is—

(a) where regulation E5(1)(a) or (b) applies and any new employment for the purposes of regulation E15 (re-employed pensioners) was not a local government employment, the annual rate of her husband's retirement pension immediately before the date of his death, disregarding any reduction under regulation E15, or

(b) where regulation E5(1)(c) applies and the local government employment was not a new employment for the purposes of regulation E15, a rate equal to his pensionable remuneration, or

(c) where regulation E5(1)(c) applies and the local government employment was such a new employment, a rate equal—

(i) if the retirement pension was not reduced under regulation E15, to the total of his pensionable remuneration in the new employment and the annual rate of the retirement pension, or

(ii) if the retirement pension was so reduced, to the total of his pensionable remuneration in the new employment and the annual rate, if any, at which the reduced retirement pension was payable.

(2) Subject to paragraphs (3) to (5), the annual rate of a widow's long-term pension is—

(a) where paragraph (1)(a) applies, half the annual rate of her husband's retirement pension immediately before the date of his death,

(b) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(i), one half of the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.),

(c) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(ii), one half of the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(d),

- (d) where paragraph (1)(c) applies, the greater of—
    - (i) the total of half the annual rate of her husband's retirement pension and half the annual rate of the retirement pension to which he would have been entitled in respect of the new employment if on the date of his death he had become entitled under regulation E2(1)(b)(i), and
    - (ii) half the annual rate of the retirement pension to which he would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) and notice had been given under regulation E16, and
  - (e) where regulation E5(2) applies, half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(ii).
- (3) For the purposes of paragraph (2)—
- (a) the retirement pension mentioned in paragraph (2)(a) is to be taken to be the pension that would have been payable but for—
    - (i) any increase under regulation E3(2), (certain cases where additional service is reckonable),
    - (ii) any reduction under regulation E3(14) (early payments) or E15 (re-employed pensioners) or E32 (National Insurance), and
    - (iii) any surrender under regulation E20, and
  - (b) any retirement pension mentioned in paragraph (2)(b) or (d) is to be taken to be the pension that would have been payable but for any surrender under regulation E20, and if the pension would have been increased under regulation E3(2) or reduced under regulation E32 no account is to be taken of that increase or reduction.
- (4) Where regulation E5(5) (post-retirement marriages) applies—
- (a) the references in paragraphs (1)(a), (2)(a), (c), (d) and (e), and the second reference in paragraph (1)(c)(i), to the retirement pension are to be construed as references to, and
  - (b) for the purposes of paragraph (1)(c)(ii), any annual rate at which the retirement pension was payable is to be taken not to have exceeded the rate of, the part of the pension attributable to the whole period of his service in respect of which the pension was payable which was in contracted-out employment.
- (5) The annual rate of the pension payable under this regulation shall not be less than the amount determined by multiplying one one hundred and sixtieth of the pensionable remuneration of the deceased husband by the length in years of the whole period of his service in contracted-out employment.

#### **Widow's special short-term pension**

**E7.—(1)** If at the time of his death a man was in a local government employment and he leaves a widow or widows but neither of the conditions in regulation E5(1)(c) is satisfied, then she is, or as the case may be they are jointly, entitled to a widow's special short-term pension at an annual rate equal to his pensionable remuneration except that any widow's entitlement shall cease if she is—

- (a) judicially separated from him, or
- (b) cohabiting with another man.

(2) Where the deceased leaves no eligible child or there is no eligible child in the widow's care, the pension is payable for 3 months after the day of his death.

(3) While there is one eligible child in the widow's care, the pension is payable for 4½ months after the day of his death.

(4) While there are two or more eligible children in the widow's care, the pension is payable for 6 months after the day of his death.

#### **Entitlement to children's short-term and long-term pensions**

**E8.—(1)** If at the time of his death a man—

- (a) was entitled to receive payments in respect of a retirement pension, or
- (b) would have been so entitled but for the operation of regulation E15 (re-employed pensioners), or



(c) was in a local government employment and the total of his reckonable service and any qualifying service when added together amounted to not less than 5 years, and he leaves one or more eligible children, they are, subject to paragraphs (3) to (5), entitled to, or to the benefit of, a children's short-term pension for 3 months after the death and then a children's long-term pension.

(2) If at the time of his death a man was entitled to preserved benefits and he leaves one or more eligible children, they are, subject to paragraphs (4) and (5), entitled to, or to the benefit of, a children's long-term pension.

(3) No children's short-term pension is payable while a widow's short-term pension is payable under regulation E5.

(4) There is no entitlement to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if the deceased became entitled to a retirement pension by virtue of regulation E2(2).

(5) Payments in respect of a pension under this regulation shall not be made to or for the benefit of a female eligible child—

- (a) while she is married or during any period of cohabitation outside marriage, or
- (b) from the end of any marriage or period of cohabitation outside marriage unless the appropriate administering authority in their discretion so decide.

#### **Amounts of children's short-term and long-term pensions**

**E9.**—(1) Subject to paragraph (2), the annual rate of a children's short-term pension is the rate at which a widow's short-term pension is or would have been payable by virtue of regulation E6(1).

(2) Where a widow's short-term pension is payable by virtue of regulation E5(5), the children's short-term pension rate specified in paragraph (1) is reduced by the rate of that pension.

(3) Subject to paragraphs (4) and (5), the annual amount of a children's long-term pension is—

- (a) where there is one eligible child and he is in the care of a widow of the deceased person, one quarter of the deceased person's retirement pension,
- (b) where there is one eligible child and he is not in the care of such a widow, one third of the retirement pension,
- (c) where there are two or more eligible children and—
  - (i) half or more of them are in the care of such a widow, or
  - (ii) fewer than half of them are in the care of such a widow but a widow's pension under regulation E5 is for the time being payable, one half of the retirement pension, and
- (d) where there are two or more eligible children and fewer than half of them are in the care of such a widow and no such widow's pension is payable, two thirds of the retirement pension.

(4) For the purposes of paragraph (3)—

- (a) the retirement pension of a deceased person who died while in local government employment shall be deemed to be the retirement pension to which he would have become entitled if regulation E2(1)(b)(i) (permanent ill-health, etc.) had applied,
- (b) the retirement pension of a person who was entitled at the time of his death to preserved benefits shall be deemed to be the retirement pension to which he would have become entitled if regulation E2(1)(b)(ii) (retirement on or after pensionable age) had applied,
- (c) the retirement pension of a person who was entitled at the time of his death to receive payments in respect of a retirement pension shall be deemed to be the retirement pension that would have been payable but for—
  - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable),
  - (ii) any reduction under regulation E3(14) (early payments) or E15 (re-employed pensioners) or E32 (National Insurance), and
  - (iii) any surrender under regulation E20, and

(d) where a children's long-term pension is payable under paragraph (3)(b) or (d) and a widow's long-term pension is payable under regulation E5(5) the amount of the children's long-term pension shall not exceed an amount equal to the difference between—

(i) the aggregate amount that would have been payable by way of widow's and children's long-term pensions had the post-retirement marriage been a pre-retirement marriage, and

(ii) the long-term widow's pension payable under regulation E5(5),

and for the purposes of sub-paragraphs (a) and (b) it is to be assumed that the pension to which the person would have become entitled would not have been subject to any increase under regulation E3(2) or reduction under regulation E3(14), and that there has been no surrender under regulation E20.

(5) If a child in respect of whom a children's long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate defined in paragraph (6), then—

(a) the annual rate of the pension is to be reduced by the amount of the excess, or

(b) the child is to be disregarded for the purpose of calculating the pension,

whichever results in the smaller reduction in its annual rate.

(6) In paragraph (5) "the indexed training rate" means the annual rate at which an official pension within the meaning of the Pensions (Increase) Act 1971(a) would for the time being be payable if it had begun on 1st June 1972 and had then been payable at an annual rate of £250.

(7) The appropriate administering authority may—

(a) apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit, and

(b) pay the pension or any part of it to a person other than an eligible child, to be applied in accordance with any directions they may give for the benefit of any eligible child or eligible children.

#### **Children's special short-term pension**

**E10.**—(1) If at the time of his death a man was in a local government employment and—

(a) the total of his reckonable service and any qualifying service is less than 5 years, and

(b) he leaves one or more eligible children, and

(c) any such child is in the care of a guardian,

a children's special short-term pension at an annual rate equal to the deceased's pensionable remuneration shall be paid to the guardian.

(2) In this regulation "guardian" means a person who is not entitled in respect of the deceased to either—

(a) a widow's special short-term pension by virtue of regulation E7, or

(b) a widow's short-term pension and a widow's long-term pension by virtue of regulation E5(1)(c)(ii).

(3) Where the deceased left a widow who is entitled as mentioned in paragraph (2)(a) or (b)—

(a) if there is no eligible child in the widow's care, the pension is payable to the guardian—  
(i) for 1½ months after the day of death if there is one eligible child in the care of the guardian, and

(ii) for 3 months after the day of death if there are two or more eligible children in the care of the guardian, and

(b) if there is an eligible child in the widow's care, the pension is payable to the guardian for 1½ months after the day of death.

(4) Where the deceased did not leave a widow who is entitled as mentioned in paragraph (2)(a) or (b), the pension is payable to the guardian—

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(a) 1971 c.56.

- (a) for 2 months after the day of death if there is one eligible child in the care of the guardian, and
- (b) for 4 months after the day of death if there are two or more eligible children in the care of the guardian.

**Death gratuity**

**E11.**—(1) Subject to paragraphs (9) to (11), if at the time of his death a person—

- (a) was in a local government employment, or
- (b) was entitled to receive payments in respect of a retirement pension in relation to which this paragraph applies, or
- (c) would have been so entitled but for the operation of regulation E15 (re-employed pensioners), or
- (d) was entitled to preserved benefits,

his executors are entitled to receive a lump sum death gratuity.

(2) Paragraph (1) applies in relation to a retirement pension if—

- (a) the reckonable service taken into account in calculating the pension amounted to less than 10 years and he had been entitled for less than 5 years to receive payments in respect of the pension, or
- (b) the reckonable service taken into account in calculating the pension amounted to 10 years or more.

(3) In paragraphs (4) to (11)—

A is the deceased's pensionable remuneration,

B is three eighths of his pensionable remuneration,

C is the length in years of his reckonable service,

D is two eighths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 in respect of which a widow's pension is payable under regulation E5, other than service in respect of which a return of contributions has been made or payment under regulation C8 has been or is to be treated as having been completed,

E is the total of any payments made to him in respect of retirement pension and lump sum retiring allowance,

F is the length in years of the reckonable service he would have had on attaining pensionable age,

G is the annual rate of his retirement pension, and

H is the total of any payments made to him in respect of retirement pension.

(4) Subject to paragraphs (9) and (11), where—

- (a) paragraph (1)(a) applies, or
- (b) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c),

the amount of the death gratuity is the greater of A and  $(B \times C)$  but, where paragraph (1)(a) applies, C is to be treated as having included an additional period calculated as if Schedule 10 had applied.

(5) Where—

- (a) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension by virtue of regulation E2(1)(c), or
- (b) paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased—
  - (i) became entitled to the retirement pension by virtue of regulation E2(1)(c), and
  - (ii) would have had 10 years' or more reckonable service on attaining pensionable age,

the amount of the death gratuity is the greater of  $(B \times C) - (D + E)$  or  $\frac{C}{F} \times (A - (D + E))$ .

(6) Subject to paragraph (10), where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (d), the amount of the death gratuity is  $5 \times G$ .

(7) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased—

- (a) became entitled to the retirement pension by virtue of regulation E2(1)(c) and would have had less than 10 years' reckonable service on attaining pensionable age, or
- (b) became entitled to the retirement pension by virtue of regulation E2(1)(d),

the amount of the death gratuity is  $\frac{C}{F} \times ((5 \times G) - H)$ .

(8) Subject to paragraph (9), where paragraph (1)(d) applies the amount of the death gratuity is  $B \times C$ .

(9) Where—

- (a) paragraph (1)(a) or (d) applies, or
- (b) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c),

and a widow's pension is payable under regulation E5, the amount of the death gratuity is reduced by D.

(10) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (d), the amount of the death gratuity is reduced—

- (a) by H, or
- (b) where the pension was reduced under regulation E15 or had been surrendered in part under regulation E20, by the amount which would have been paid in respect of the pension but for the reduction or surrender.

(11) Where paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c), the amount of the death gratuity is reduced—

- (a) by E, or
- (b) where the pension was reduced under regulation E15 or had been surrendered in part under regulation E20, by the amount which would have been paid in respect of retirement pension and retiring allowance but for the reduction or surrender.

(12) Subject to paragraph (13), for the purpose of calculating the amount of a death gratuity under the preceding provisions of this regulation no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years.

(13) Where a death gratuity is reduced under paragraph (9), any reckonable service to be left out of account under paragraph (12) is to be taken from the beginning of the period of reckonable service.

#### **Pensions of widowers etc.**

**E12.—**(1) Where a woman who is a pensionable employee—

- (a) has no husband but has a potentially eligible child or eligible children, or
- (b) having a husband who is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, elects,

she will participate in the benefits provided by the Regulations as if she were a man and, where sub-paragraph (b) applies, as if her husband were a woman.

(2) Where a female pensionable employee makes an election under paragraph (1)(b) and thereafter she re-marries, the subsequent marriage and—

- (i) the legitimate children of the subsequent marriage;
- (ii) any adopted child of hers, adopted after re-marriage;
- (iii) any legitimate child of hers, born after the expiration of one year after the date of the death of her former husband;
- (iv) any step-child of hers, being a child of an earlier marriage of her husband by the subsequent marriage; and
- (v) any adopted child of her husband by the subsequent marriage,

shall be left out of account for all the purposes of this Part unless her husband by the subsequent marriage is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, and she makes a further election under paragraph (1)(b).

(3) An election under paragraph (1)(b) or (2) is to be made by giving notice in writing to the appropriate administering authority.

(4) In this regulation "potentially eligible child" means a child who might become an eligible child on the woman's death.

#### **Discretionary additional benefits for certain female nursing staff**

**E13.—(1)** This regulation applies to a woman who—

- (a) immediately before 16th May 1974 was a nurse, midwife or health visitor to whom section 16(1) of the Act of 1937 applied,
- (b) became a pensionable employee on 16th May 1974,
- (c) has not since had a disqualifying break of service,
- (d) on or after attaining the age of 60 years, but before completing 40 years' reckonable service, becomes entitled, otherwise than by virtue of regulation E2(2), to a retirement pension, and
- (e) immediately before becoming entitled to the pension was employed as a nurse, midwife or health visitor.

(2) The employing authority of a woman to whom this regulation applies may grant her an additional benefit not exceeding the difference between the benefit to which she is entitled and the benefit to which she would have been entitled if she had remained in their employment until she attained the age of 65 years receiving an annual remuneration equal to her pensionable remuneration.

#### **Reduction of retirement pension in the case of certain former teachers**

**E14.—(1)** Where a person becomes entitled to a retirement pension in the calculation of the amount of which account is taken of service which he was entitled to reckon under section 15 of the Act of 1937 (which related to teachers), the amount receivable by him in any year in respect of that pension shall be reduced by a sum equivalent to the amount (if any) which is receivable by him in that year by virtue of the Teachers Superannuation (Scotland) Regulations 1969 to 1976 or the Teachers' Superannuation (Scotland) Regulations 1977(a) (together in this regulation referred to as "the Teachers' Regulations"), or would have been so receivable by him in that year but for any reduction made under regulation 51 of the Teachers Superannuation (Scotland) Regulations 1969(b) or regulation 61 of the Teachers' Superannuation (Scotland) Regulations 1977.

(2) In computing the reduction to be made under paragraph (1), account shall be taken of any sum paid or payable at any time under the Teachers' Regulations which was or is in the nature of a capital payment or which represents a return of contributions in respect of a period of service which has been taken into account in calculating the amount of the retirement pension, in the following manner, that is to say—

- (a) the amount of any sum paid under the Teachers' Regulations on or before the date on which the person became entitled to that retirement pension or becoming payable under the Teachers' Regulations at any time thereafter which was or is in the nature of a capital payment shall be divided by the factor shown in the following Table in relation to the class of the person and to his age at the date on which the sum was paid or becomes payable, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year;
- (b) the amount representing any balance of his contributions under the Teachers' Regulations which he has become entitled to be repaid at the date on which he became entitled to the retirement pension in respect of a period of service which has been taken into account in calculating the amount of the retirement pension shall be divided by the factor shown in the Table in relation to the class of the person and to his age at the date on which he became entitled to the retirement pension, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year;

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(a) S.I. 1977/1360.

(b) S.I. 1969/77.

- (c) the amount representing any balance of his contributions under the Teachers' Regulations which he may become entitled to be repaid after the date on which he became entitled to the retirement pension in respect of a period of service which has been taken into account in calculating the amount of the retirement pension shall be divided by the factor shown in the Table in relation to the class of the person and to his age at the date on which he so becomes entitled to be repaid that balance of his contributions, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year:

Provided that if, after the provisions of either sub-paragraph (b) or (c) have become applicable in relation to any person, an additional allowance under the Teachers' Regulations is granted to him then, if the aggregate amount of the deductions made from his retirement pension by reason of the previous operation of those provisions is less than the amount granted to him by way of additional allowance under the Teachers' Regulations, such latter amount for the purpose of the application of sub-paragraph (a) shall be deemed to be the difference between that amount and such aggregate amount as aforesaid and sub-paragraphs (b) and (c) shall cease to have any further effect in relation to him.

(3) If, after the provisions of either paragraph (2)(b) or (c) have become applicable in relation to any person, a repayment of the amount representing the balance of the person's contributions under the Teachers' Regulations is made to him, those provisions shall, in respect of the amount so repaid, continue to apply in the same manner as they had previously applied in relation to him for the purpose of computing the reduction to be made in his retirement pension in any year under paragraph (1) and no further account for that purpose shall be taken of that amount.

(4) If a person allocates or has allocated in accordance with Part VI of the Teachers Superannuation (Scotland) Regulations 1969, or the Teachers' Superannuation (Scotland) Regulations 1977, part of the annual allowance payable to him under the Teachers' Regulations, the annual allowance receivable in any year by virtue of the Teachers' Regulations shall for the purpose of paragraph (1) be deemed to be the annual allowance which would have been receivable by him in that year but for the allocation.

(5) Any reference in this regulation to the date on which a person becomes entitled to a retirement pension shall, in relation to a person who ceased to be employed in the circumstances mentioned in regulation E2(1)(c), be construed as a reference to the date on which he becomes entitled to receive payments in respect of that pension.

TABLE

*Factor*

Age	Men		Women	
	A.	B.	A.	B.
Under 60 years	10	-	12.5	-
60 years but under 61 years	10	11.6	12.5	13.4
61 years but under 62 years	10	11.2	12.5	13
62 years but under 63 years	10	10.8		12.5
63 years but under 64 years	10	10.4		12.1
64 years but under 65 years		10		11.7
65 years but under 66 years		9.7		11.2
66 years but under 67 years		9.3		10.8
67 years but under 68 years		8.9		10.3
68 years but under 69 years		8.5		9.9
69 years but under 70 years		8.1		9.5
70 years but under 71 years		7.7		9

A. Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1)(b)(i).

B. Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1), other than sub-paragraph (b)(i).

### **Reduction of retirement pension in the case of certain re-employed pensioners**

**E15.**—(1) Subject to paragraph (12), this regulation applies to a person who, since becoming entitled to a retirement pension in relation to a former employment, has entered a new employment with any scheduled body, other than an employment by virtue of which he is entitled to participate in benefits provided under Regulations made under section 9 of the Act of 1972 (superannuation of teachers).

(2)(a) In paragraph (3)–

A is the annual rate of remuneration of the former employment,

B is the amount (if any) by which, immediately before the first day of the new employment, A would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974<sup>(a)</sup> or the Pensions Act, beginning on and payable from the day after the last day of the former employment,

C is the annual rate of remuneration of the new employment,

D is the reduced rate of the retirement pension, and

E is the amount (if any) by which D would, immediately before the first day of the new employment, have been increased under the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act if it had been the rate of the retirement pension;

(b) in paragraph (5) A, B and C have the same meanings as in paragraph (2)(a), and–

F is the annual rate of remuneration of the concurrent employment on the last day of that employment, and

G is the amount (if any) by which, immediately before the first day of the new employment, F would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act, beginning on and payable from the day after the last day of the concurrent employment.

(3) Subject to paragraphs (4), (5) and (11), while the person holds the new employment the annual rate of the retirement pension is reduced–

(a) if C equals or exceeds  $(A + B)$ , to zero, and

(b) in any other case by the amount (if any) which is necessary to secure that  $C + D + E$  does not exceed  $A + B$ .

(4) This paragraph applies where within the last 12 months of the former employment the person held another concurrent employment with any scheduled body, former local authority or local Act authority, has ceased to hold the concurrent employment without becoming entitled in relation to it to a retirement pension, and–

(a) has–

(i) ceased to hold the concurrent employment before ceasing to hold the former employment, and

(ii) entered the new employment within 12 months after ceasing to hold the concurrent employment, or

(b) has ceased to hold the concurrent employment after ceasing to hold the former employment.

(5) Where paragraph (4) applies–

(a) if the person does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced, and

(b) in any other case, the annual rate of the retirement pension is reduced by the amount (if any) by which the aggregate of that rate and C exceeds  $A + B + F + G$ .

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(a) 1974 c.9.

(6) For the purposes of this regulation the annual rate of remuneration of the former employment is, subject to paragraph (7), to be ascertained in accordance with the Table below.

TABLE

<i>Source of entitlement to the retirement pension</i>	<i>Annual rate of remuneration</i>	
	<i>Fixed-rate emoluments</i>	<i>Fees</i>
These Regulations or the 1974 Regulations	Rate on last day of relevant period for the purposes of regulation E22.	Average rate during period by reference to which pensionable remuneration fell to be calculated under regulation E22(11).
Other	Rate on last day of employment.	Average rate during period, within last 3 years of employment, during which fees were receivable.

(7) For the purposes of paragraph (6), where the person's remuneration was at any material time reduced or discontinued by reason of his absence from duty, and either the absence was due to illness or injury or he made contributions or payments under section 6(5) of the Act of 1937 or regulation C3 or C4, then—

- (a) any reduction or discontinuance of fixed-rate emoluments is to be disregarded, and
- (b) any fees are to be averaged over a period of the same length as the period mentioned in the Table to paragraph (6) but ending immediately before the reduction or discontinuance.

(8) For the purposes of this regulation the annual rate of remuneration of the new employment is, subject to paragraph (9), to be ascertained in accordance with the Table below.

TABLE

<i>Nature of remuneration</i>	<i>Annual rate of remuneration</i>
Fixed-rate emoluments	Rate on first day of employment.
Fees	(1) Where fees were receivable in the former employment, the annual rate of those fees ascertained in accordance with paragraph (6). (2) Where no fees were receivable, a rate agreed by the person and the body employing him or, in default of agreement, determined by the Secretary of State.

(9) For the purposes of paragraph (8), if fees were receivable in the former employment and are receivable in the new employment and H is greater than J, where—

H is the annual rate of remuneration of the former employment, and

J is the annual rate of remuneration of the new employment ascertained in accordance with the Table,

the annual rate of the fees receivable in the new employment, ascertained in accordance with the table, is to be multiplied by  $\frac{J}{H}$ .

(10) If—

- (a) the person's contractual hours in a part-time new employment are altered, or
- (b) he is transferred to another post under the same employing body at an altered remuneration,

this regulation applies as if he had again entered a new employment.

(11) If this regulation applies to two or more retirement pensions, each is reduced in proportion to its amount.

(12) This regulation does not apply to a person who has become entitled to a retirement pension payable to him in respect of service rendered without a disqualifying break of service—

- (a) as a designated employee and a contributory employee, or



(b) as a designated employee, a contributory employee and a pensionable employee, unless, within 3 months after entering his new employment, he elects by notice in writing to the employing authority that it is to apply to him.

(13) Where a person who has become entitled to a retirement pension proposes to accept any further employment with any scheduled body, he shall inform that body that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the body from whom he receives the pension.

(14) In this regulation, "retirement pension" includes an annual pension under the former Regulations and a retirement pension under the 1974 Regulations.

#### **Combined benefits in the case of certain re-employed pensioners**

**E16.—(1)** Subject to paragraph (7), where—

- (a) a person has become entitled to a retirement pension other than one to which he became entitled under regulation E2(2) or one which is reduced under regulation E3(14) ("the first retirement pension"), and
- (b) after becoming so entitled he entered further whole-time local government employment, and
- (c) at any time while he held the further employment the first retirement pension was liable to be reduced or suspended under regulation E15, and
- (d) he has ceased to hold the further employment and has become entitled, in relation to it, to a retirement pension which has become payable ("the second retirement pension"),

he may, by notice in writing given to the appropriate administering authority within 3 months after the date on which the second retirement pension became payable, elect that this regulation is to apply to him.

(2) Subject to paragraphs (4) to (7), a person to whom this regulation applies is to be treated as having, on the date on which the second retirement pension became payable—

- (a) become entitled to payment of an annual retirement pension ("the annual pension") and a lump sum payment ("the lump sum") each calculated by reference to both his reckonable service in the further employment and the reckonable service taken into account in calculating the first retirement pension, and
- (b) ceased to be entitled to the first retirement pension and the second retirement pension.

(3) In paragraph (2) "the reckonable service" includes any period by reference to which an additional benefit has been granted under regulation E13 or under regulation 13 of the Benefits Regulations (both of which concern additional benefits for certain female nursing staff).

(4) If in conjunction with the first retirement pension the person received a retiring allowance—

- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation E3(3) from the calculation of the retiring allowance,
- (b) if the lump sum would be the same as or less than the retiring allowance, the person—
  - (i) is not entitled to payment of the lump sum, and
  - (ii) is not entitled to the annual pension unless, within 3 months after giving notice under paragraph (1), he pays to the appropriate administering authority the amount of any difference, and
- (c) if the lump sum is greater than the retiring allowance, the lump sum is reduced by the amount of the allowance.

(5) If—

- (a) the first retirement pension was, and
- (b) the second retirement pension would not have been,

reduced under Part F of the 1974 Regulations or regulation E32, the annual pension is reduced by the same amount as the first retirement pension.

(6) If part of the first retirement pension was surrendered under regulation E20—

- (a) the annual pension is to be treated as having been surrendered to the same extent, and
  - (b) any resulting pension becoming payable on the person's death is to be paid by the authority by whom the annual pension is payable.
- (7) In relation to a person who—
- (a) before 1st April 1972—
    - (i) became entitled to a superannuation allowance under Part I of the Act of 1937 or to an annual pension under the former Regulations, and
    - (ii) again became a contributory employee, and
  - (b) has not, since he again became a contributory employee, had a disqualifying break of service,

this regulation has effect as if references to the first retirement pension were references to that superannuation allowance or annual pension and references to a retiring allowance were references to a retirement grant under the former Regulations.

#### **Separate benefits in the case of certain re-employed pensioners**

**E17.—**(1) This regulation applies to a person who—

- (a)(i) has become entitled to a retirement pension (a "previous pension"), and
- (ii) after becoming so entitled entered further local government employment, and
- (iii) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an "additional pension"), and
- (iv) has not become entitled to the annual pension mentioned in regulation E16 (combined benefits), or

(b) is subject to regulation E18.

(2) If—

- (a) on the person's ceasing to hold an employment in relation to which he became entitled to a previous pension (a "previous employment") regulation E2(1)(b)(i) (permanent ill-health) applied, and

(b) he gave a notice under paragraph 4 of Schedule 10, regulation E3(12) (additional reckonable service) does not apply on his ceasing to hold any further employment.

(3) If regulation E2(1)(b)(i) did not apply on the person's ceasing to hold a previous employment, but does apply on his ceasing to hold a further employment—

(a) sub-paragraph (1) of paragraph 2 of Schedule 10 applies with the substitution for the words from "the period specified" to the end of the sub-paragraph of the words "6  $\frac{243}{365}$  years", and

(b) paragraph 4 of Schedule 10 does not apply.

(4) Subject to paragraph (5), if when the person dies paragraph (4) of regulation E11 (death gratuity) applies, it applies with the substitution for the words "is the greater of A and (B × C)" of the words "is (B × C)".

(5) If the person became entitled to a previous pension or to an additional pension by virtue of regulation E2(1)(c) or (d)—

- (a) if P equals or exceeds Q, there is no entitlement under regulation E11 to a death gratuity in relation to the further employment, and
- (b) if P is less than Q but (P + R) is greater than Q, R is reduced by the amount of the excess.

(6) In paragraph (5)—

(a) P is the total of—

- (i) every death gratuity payable in relation to any previous employment calculated in accordance with regulation E11,
- (ii) payments made in respect of every previous pension,
- (iii) every retiring allowance to which the person became entitled in conjunction with any previous pension,

- (iv) any payments made in respect of the additional pension, and
  - (v) any retiring allowance to which the person became entitled in conjunction with the additional pension,
- including in each case any increase under the Pensions (Increase) Act 1971;
- (b) Q is the greater of—
    - (i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension, within the meaning of that Act, beginning on and payable from the day after the last day of the relevant previous employment, and
    - (ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated; and
  - (c) R is the amount of the death gratuity calculated in accordance with regulation E11 in relation to the further employment.
- (7) In this regulation “retirement pension” includes—
- (a) a superannuation allowance under Part I of the Act of 1937,
  - (b) an annual pension under the former Regulations,
  - (c) a pension under a local Act scheme, and
  - (d) a short service grant under regulation 9 of the Benefits Regulations.

#### **Adjustment of superannuation rights on death of certain re-employed pensioners**

**E18.—(1)** This paragraph applies where—

- (a) a person was entitled to a retirement pension other than one which was reduced under regulation E3(14),
- (b) after becoming so entitled he entered further local government employment,
- (c) he dies in the further employment, and
- (d) if he had then ceased to be employed otherwise than by reason of his death he would have been entitled to give notice under regulation E16 (combined benefits).

(2) Where paragraph (1) applies—

- (a) any benefits payable in respect of the person (except any widow’s short-term pension or children’s short-term pension) are to be calculated, and
- (b) any surrender of part of a retirement pension has effect,

as if immediately before his death he had become entitled to benefits under regulation E16 or E17, whichever is the more favourable to the person entitled to receive the benefits payable.

(3) Where—

- (a) a person was entitled to a superannuation allowance under Part I of the Act of 1937 or an annual pension under the former Regulations or a pension under a local Act scheme,
- (b) after becoming so entitled he entered further local government employment,
- (c) the pension or allowance was on that account reduced or suspended, and
- (d) he dies in the further employment,

any benefits payable in respect of him (except any widow’s short-term pension or children’s short-term pension) are to be calculated as if immediately before his death he had become entitled to benefits under regulation E17 (separate benefits).

#### **Benefits of certain persons employed before 16th May 1974**

**E19.** In relation to a pensionable employee who is a person to whom regulation E19 of the 1974 Regulations applied but who did not make an election under that regulation, this Part applies—

- (a) if paragraph (1)(b)(i) of that regulation (no previous right to retiring allowance or widow’s pension) applied to him, subject to the modifications set out in Parts I and III of Schedule 12, or
- (b) if paragraph (1)(b)(ii) of that regulation (no previous right to widow’s pension) applied to him, subject to the modifications set out in Parts II and III of Schedule 12.

### **Surrender of part of retirement pension**

**E20.—(1)** This regulation has effect subject to Schedule 13.

(2) A person who—

- (a) has become entitled to receive payments in respect of a retirement pension, or
- (b) is a pensionable employee and has attained pensionable age,

may surrender as from the relevant date, in favour of his spouse or any dependant of his (“the beneficiary”), a part of the retirement pension which is or, as the case may be, may become payable to him.

(3) For the purposes of this regulation the relevant date is the date of becoming entitled to receive payments in respect of the retirement pension; and if the person dies while a pensionable employee he is to be treated as having become so entitled immediately before he died.

(4) An annual pension at a rate which is (according to tables to be prepared from time to time by the Government Actuary) actuarially equivalent at the relevant date to the value of the surrendered part of the retirement pension becomes payable to the beneficiary on the person’s death.

(5) A person who has surrendered part of a retirement pension may surrender further parts of it.

### **Power to compound certain small pensions**

**E21.—(1)** Where—

- (a) a pensionable employee has become entitled to a retirement pension or pensions and has attained the age of 65 years in the case of a man or 60 years in the case of a woman; and
- (b) the annual rate of that pension or the aggregate of the annual rates of those pensions, including the amount of any pensions increase payable thereon under the Pensions (Increase) Act 1971(a), the Pensions (Increase) Act 1974 or the Pensions Act, does not exceed £78,

the administering authority may discharge their liability in respect of—

- (i) that pension or those pensions; and
- (ii) if the pensionable employee is a male—

(A) the widow’s long-term pension which, in the event of his dying leaving a widow, would be payable to her in respect of his reckonable service; and

(B) the children’s long-term pension which, in the event of his dying leaving an eligible child or eligible children, would be payable to or for the benefit of his eligible child or eligible children in respect of his reckonable service,

by payment to the pensionable employee of a lump sum of such amount as represents the capital value of the pensions mentioned in sub-paragraphs (i) and (ii) above, calculated in accordance with tables prepared by the Government Actuary.

(2) For the purposes of paragraph (1) a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) or who satisfies the requirements of regulation E2(1)(d) shall not be treated as having become entitled to a retirement pension until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(3) Where the annual rate of the widow’s long-term pension or pensions payable to a widow does not exceed in total £104, including the amount of any pensions increase payable thereon under the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act, the administering authority may discharge their liability in respect of that pension or those pensions by payment to the widow of a lump sum of such amount as represents the capital value of that pension or pensions, calculated in accordance with the tables mentioned in paragraph (1).

(4) Where the annual amount of the children’s long-term pension payable to or for the benefit of an eligible child or eligible children does not exceed £104, the administering authority

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(a) 1971 c.56.

may discharge their liability in respect of that pension by payment of a lump sum of such amount as represents the capital value of that pension, calculated in accordance with the tables mentioned in paragraph (1).

### **Pensionable remuneration**

**E22.**—(1) Subject to paragraphs (4) and (6) to (13) and regulations E23 (further provision as to pensionable remuneration) and G1 (certain former contributory employees), a person's pensionable remuneration in relation to a local government employment is his remuneration for so much of the relevant period as he is entitled to reckon as reckonable service in relation to that employment.

(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

(3) Subject to paragraphs (4) and (5), where—

(a) the person is not entitled to reckon the whole of the period specified in paragraph (2) as reckonable service because he has been absent from duty otherwise than by reason of illness or injury, and

(b) this paragraph applies to him by virtue of a notice or determination, the relevant period comprises the last 365 days which he is entitled to reckon as reckonable service.

(4) Where a person's remuneration has been reduced and the employing authority have certified under regulation E24 that the reduction in his remuneration was in consequence of a material change in his circumstances, then the relevant period is—

(a) if the reduction occurred during the 13 years ending with the day mentioned in paragraph (2), either—

(i) such one of the last 5 of those 13 years, or

(ii) such consecutive 3 of those 13 years,

as is specified in the notice or determination, or

(b) if the reduction occurred during the last 5 of those 13 years, such one of those 5 years as is specified in the notice or determination;

and where by virtue of this paragraph the relevant period is a period of 3 consecutive years, the person's pensionable remuneration is the aggregate of his remuneration during that period divided by 3.

(5) Where—

(a) the relevant period would otherwise be the period specified in paragraph (2), and

(b) either one or each of the 2 immediately preceding years would yield a higher amount of pensionable remuneration, and

(c) this paragraph applies to the person by virtue of a notice or determination, the relevant period is the year which yields the highest amount.

(6) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or suspended during absence from duty by reason of illness or injury, he is for the purposes of this regulation to be treated as having received the remuneration which he would have received but for the reduction or suspension.

(7) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or discontinued during absence from duty otherwise than by reason of illness or injury and he—

(a) made contributions under regulation C3 (leave of absence) or a payment under regulation C4 (absence due to trade dispute), or

(b) contributed under section 6(5) of the Act of 1937 (leave of absence etc.),

he is for the purposes of this regulation to be treated as having received for any period in respect of which he made such contributions or payment the remuneration which he would have received but for the reduction or discontinuance.

(8) The remuneration of any period of part-time local government service shall be treated as being the remuneration the person would have received in respect of a single comparable whole-time employment except for—

- (a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,
- (b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or
- (c) ascertaining the value of "A" for the purposes of regulation E11(4).

(9) Where immediately before ceasing to be a pensionable employee a person was in the employment in respect of which he was an employee and was required to serve for fewer than 45 weeks in every period of 12 months, his remuneration shall be deemed to be the remuneration which would have been paid for a single comparable whole-time employment in which remuneration was payable for 52 weeks in every period of 12 months except for—

- (a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,
- (b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or
- (c) ascertaining the value of "A" for the purposes of regulation E11(4).

(10) Where—

- (a) the person was at any time employed in a single local government employment ("the first employment"), and
- (b) he becomes entitled to a benefit in relation to one of two or more concurrent local government employments ("the second employment"), and
- (c) his remuneration in the first employment becomes material for the purposes of calculating that benefit,

that remuneration is for that purpose to be multiplied by  $\frac{A}{B}$ , where A is the annual rate of remuneration of the second employment at the date of cessation and B is the total of the annual rates of remuneration of all the concurrent employments at that date.

(11) Where the whole or a part of the person's remuneration consisted of fees, his pensionable remuneration in respect of them is the annual average of the fees earned by him—

- (a) during the period of 3 years ending with the last day of the relevant period, or
- (b) during such more favourable period, of more than 3 but not more than 5 years, as his last employing authority may allow, or
- (c) if he was entitled to receive fees during part only of the period mentioned in subparagraph (a), during that part of the period.

(12) Where the person is entitled to reckon as reckonable service, in relation to the employment which he ceases to hold, only part of the period specified in paragraph (2), his pensionable remuneration is his remuneration during that part multiplied by  $\frac{365}{A}$ , where A is the number of days comprised in that part.

(13) Where—

- (a) any part of the person's remuneration during the relevant period was determined in accordance with an agreement under regulation G3 (standard remuneration agreements), and
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) exceed one and a half times the lower earnings limit, but do not exceed the upper earnings limit, in force under section 4(1) of the Social Security Act 1975(a) at the end of the period, and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

his pensionable remuneration is to be determined by reference to those earnings.

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(a) 1975 c.14; section 4(1) was amended by the Social Security Pensions Act 1975 (c.60), Schedule 4, Part I, paragraph 36(a).

(14) References in this regulation to a notice are references to a notice in writing given by the person to the appropriate administering authority not later than one month after he is notified under regulation N7 of his entitlement to a benefit.

(15) References in this regulation to a determination are references to a determination given by the appropriate administering authority in respect of a person who has died while still in local government employment or without having given a notice.

#### **Further provision as to pensionable remuneration**

**E23.—(1)** This regulation applies to a person who has at any time after 31st March 1978 ceased to hold an employment in which he was a pensionable employee and who—

(a) was at a material time a person whose remuneration fell to be determined by reference to the Scottish Teachers Salaries Memorandum 1978, as from time to time amended, or

(b) was affected by a staging agreement.

(2) A person who has ceased to hold an employment as mentioned in paragraph (1) is affected by a staging agreement if—

(a) there has been an agreement or award—

(i) which, whether before or after he ceased to hold his employment, gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time, and

(ii) which, whether or not it entitled him to any interim increase, entitled him, or would if he had not ceased to hold his employment have entitled him, in that employment to the payment of remuneration from a specified date at an increased rate (“the final rate”) which was either specified in or to be determined by a method or in a manner specified in the agreement or award, and

(iii) under the terms of which either the final rate or any interim increase became payable on or before 1st January 1980;

(b) but for considerations of economy the final rate would have been payable from a date (“the relevant date”) earlier than the date mentioned in sub-paragraph (a)(ii); and

(c) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(3) Subject to paragraph (4), where this regulation applies to a person the amount of any remuneration that is material for the purpose of regulation E22 shall for those purposes—

(a) where paragraph (1)(a) applies, be taken to be what it would have been on the hypotheses set out in regulation 3(2) of the Teachers’ Superannuation (Notional Salaries) (Scotland) Regulations 1982(a), and

(b) where paragraph (1)(b) applies, be taken to be what it would have been if the final rate had become payable from the relevant date.

(4) Paragraph (3) does not apply to the calculation of a person’s pensionable remuneration for the purposes of regulations E6(1)(b) or (c), E7 and E10.

(5) For the purposes of this regulation—

(a) a material time is a time material for the purpose of calculating the person’s pensionable remuneration under regulation E22,

(b) in paragraph (1)(a) the reference to the Scottish Teachers Salaries Memorandum 1978 is a reference to the document published by Her Majesty’s Stationery Office on 14th December 1978 under that title, and

(c) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

(6) In relation to a person to whom regulation G1 applies, any reference in this regulation to regulation E22 is to be construed as a reference to regulation E22 as it has effect in relation to him by virtue of regulation G1.

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(a) S.I. 1982/1302.

### **Certificates as to reduction in remuneration**

**E24.—**(1) Where a pensionable employee other than a person who is a pensionable employee by virtue of an election under regulation B3 suffers a material change in circumstances (being a change resulting from his incapacity to continue to discharge efficiently the duties of his post or otherwise from circumstances beyond his control) which results in a reduction in the remuneration of an employment which he continues to hold, he shall, subject to paragraph (4), be entitled to be issued by the employing authority with a certificate to that effect.

(2) Subject to paragraph (3), a change in circumstances is material if, and only if, the employee's pensionable remuneration would be likely to be less if the relevant period were the period specified in regulation E22(2) than if it were a period mentioned in regulation E22(4).

(3) A change in circumstances is not material if—

- (a) it did not result from circumstances beyond the employee's control, or
- (b) it was temporary, or
- (c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.

(4) The employing authority may issue a certificate without an application from the employee, but need not issue a certificate if he does not apply for one within 12 months after the date of the reduction.

(5) A certificate issued under this regulation is to specify the date of the material reduction and the authority are to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying regulation E22(4).

### **Calculation of part-time service**

**E25.** For the purposes of calculating the amount of any benefit which is or will become payable under these Regulations other than under regulation E3(4) to or in respect of a pensionable employee who—

- (a) has served as a part-time employee, or
- (b) who has made an election under regulation B3 but is not an employee whose contract of employment requires him to serve for less than 45 weeks in every period of 12 months,

the period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

### **Calculation of service in certain other cases**

**E26.—**(1) For the purposes of calculating the amount of any benefit under these Regulations which is or will become payable to or in respect of a pensionable employee, being an employee whose contract of employment requires him to serve for fewer than 45 weeks in every period of 12 months, the period of service in each income tax year during which he was a pensionable employee by virtue of an election under regulation B3 shall be multiplied

by  $\frac{A}{B}$ , where—

A is the remuneration he would have received during the income tax year on the assumption that there had been no discontinuance or reduction of remuneration during any absence from duty owing to illness or injury, and

B is the remuneration that would, on that assumption, have been paid during the income tax year in respect of a single comparable whole-time employment under a scheduled body in which remuneration was payable for 52 weeks in every period of 12 months.

(2) For the purposes of paragraph (1) "service" includes any period of time covered by the contract of employment but not a period of absence without leave.

### **Counting of non-contributing service**

**E27.—**(1) Subject to paragraph (3), any period which—

- (a) is reckonable as reckonable service by virtue of its having been reckonable under the former Regulations as non-contributing service, and



(b) does not fall to be treated as having been reckonable as contributing service, shall for the purposes of these Regulations be counted at half its full length.

(2) For the purposes of paragraph (1), the full length of a period of part-time non-contributing service is its length as calculated under regulation E25.

(3) This regulation does not apply for the purpose of—

- (a) determining whether a person is entitled to, or to payment of, a benefit,
- (b) ascertaining, where notice was given under Schedule 2 to the Benefits Regulations or regulation D6 or D7 of the 1974 Regulations, the maximum length of any additional period to which Schedule 4 applies, or
- (c) ascertaining the length of the additional period where notice is given under paragraph 4 of Schedule 10.

#### **Disregard of certain reckonable service in determining entitlement to benefits**

**E28.** For the purpose of determining entitlement to any benefit, no account shall be taken of—

- (a) any added years,
- (b) any additional period reckonable as reckonable service by virtue of regulations D4 to D7,
- (c) any period which by virtue of interchange rules became reckonable under the former Regulations only for the purpose of calculating the amount of benefits, or
- (d) except in relation to regulation E2(2), any period reckonable by virtue of regulation J9(1)(a).

#### **Counting of certain reckonable service and qualifying service in determining entitlement to benefits**

**E29.** For the purpose of determining whether a person is entitled to, or to payment of, a benefit, any reckonable service and qualifying service which was reckonable for the purpose of determining entitlement to benefits under the former Regulations shall be counted at the same length as it would have been counted for the latter purpose.

#### **Disregard of certain reckonable service in calculating amount of benefits**

**E30.—(1)** For the purpose of calculating the amount of any benefit under regulation E3—

- (a) subject to paragraphs (2) to (4), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years, and
- (b) where an amount is recovered or retained under regulation M3, reckonable service shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation M3(2)(b) by that amount.

(2) For the purposes of paragraph (1)(a), a period which a person is entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) (war service) shall be treated as reckonable service before attaining the age of 60 years.

(3) Where a retiring allowance is to be reduced under regulation E3(7) or (8) (potential widow's pensions), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person's reckonable service.

(4) Where a retiring allowance is to be increased under regulation E3(4) (preservation of certain rights under former Regulations), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the end of the person's reckonable service.

(5) Where  $A + B + C$  exceeds 45 years, for the purpose of calculating any benefit A is reduced by a period equal to the excess.

(6) In paragraph (5)—

A is the total length of the periods reckonable as reckonable service in relation to the relevant employment, excluding any service which is to be left out of account by virtue of paragraph (1)(a),

B is the length of 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 is the length of any period by reference to which an additional benefit has been granted under regulation E13 or under regulation 13 of the Benefits Regulations.

#### **Counting of certain reckonable service in calculating amount of benefits**

**E31.** For the purpose of calculating the amount of any benefit—

- (a) any period which is reckonable as reckonable service by virtue of its having been reckonable under the former Regulations as contributing service shall, subject to regulations E25 and E27 (part-time and non-contributing service), be counted at the same length as it would have been counted for the purpose of calculating any benefit under the former Regulations, and
- (b) such part (if any) of the reckonable service of an employee as does not amount to a number of complete years shall be counted as a fraction of a year, of which the denominator shall be 365 and the numerator shall be the number of completed days comprised in that part.

#### **National Insurance**

**E32.—(1)** Where but for the revocation of the 1974 Regulations the amount of a benefit would have fallen to be reduced under Part F of those Regulations, the amount shall be reduced as if that Part had not been revoked.

(2) No provision in these Regulations—

- (a) for the surrender or assignation of a pension, or
- (b) for the reduction, termination or suspension of a pension, where the provision is invoked for any cause other than one prescribed by Regulations made or deemed to have been made under section 57(1)(c) of the Insurance Act (which section describes equivalent pension benefits),

shall apply so as to reduce a pension payable in respect of any period of service to an employee who attains state pensionable age below the minimum rate of equivalent pension benefits applicable in respect of that period under the Insurance Acts.

(3) For the purposes of paragraph (2) “service” means service in a non-participating employment which is reckonable for the purposes of calculating any benefits payable to the employee, except any earlier period of such service in respect of which—

- (a) a payment in lieu of contributions has been made, or
- (b) equivalent pension benefits satisfying the requirements of the Insurance Acts had already been assured to him.

#### **Benefits not assignable**

**E33.** Every benefit, including a payment under regulation C12 (return of contributions)—

- (a) is payable to, or in trust for, the person who is entitled to it under these Regulations, and
- (b) is not assignable and is not chargeable with that person’s debts or other liabilities.

#### **Payment of benefits**

**E34.** Payments in respect of annual benefits paid under these Regulations shall be made at such interval, not being longer than 3 months, as the appropriate administering authority may determine.

## **PART F**

### **WAR SERVICE**

#### **Interpretation etc.**

**F1.—(1)** In this Part, unless the context otherwise requires—

“deceased employee” means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation F3(2) to (10) were or are deemed to have been satisfied when he died;

“excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces;

“non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No.2) Act 1945(a), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

“occupational pension scheme” means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

and references to war service are to be construed in accordance with regulation F2.

(2) Where by virtue of a determination or determinations given under one or more of the following, that is to say section 12(6) of the Act of 1937, section 7(3) of the Act of 1953 and regulation D4 of the 1974 Regulations, a period comprising the whole or a part or parts of a person’s indirect service was, or has fallen to be treated as having been, reckonable by him as non-contributing service for the purposes of the former Regulations, then—

- (a) for the purposes of regulation F2(2)(b), the period shall be deemed to have been so reckonable only to the extent that its length exceeds that of his civilian indirect service, and
- (b) if the period is not the whole of the indirect service—
  - (i) it shall for the purposes of regulation F3(2)(c) be deemed to have been a continuous period ending on the last day of the indirect service, and
  - (ii) none of the indirect service shall for the purposes of regulation F2(2)(d) be taken to be or to have been capable of being taken into account as there mentioned.

(3) For the purposes of paragraph (2)—

- (a) a person’s indirect service is the total of any service, employment and periods in respect of which determinations could have been given under any of the provisions mentioned in that paragraph, and
- (b) a person’s civilian indirect service is any of his indirect service that was not such whole-time service as is described in regulation F2(1).

### War service

**F2.—**(1) For the purposes of this Part, a person’s war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women’s services specified in Schedule 14.

(2) Subject to regulation F1(2), a person’s war service does not include—

- (a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded,
- (b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations, or of a local Act scheme,
- (c) any period that has at any time been taken into account (whether at its full length or otherwise) for the purpose of calculating any benefit under any other occupational pension scheme, or
- (d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme; but in the case of a person to whom regulation F3(2)(f) applies “benefit” does not include a benefit under the war service provisions of a public service scheme.

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(a) 1945 c.13 (9 & 10 Geo. 6).

### **Election as to war service**

**F3.—(1)** A person with war service in relation to whom the conditions specified in paragraphs (2) to (10) are satisfied, or the executors of a deceased employee, may by notice given in accordance with regulation F5 elect that this regulation shall apply in relation to him.

**(2)** One at least of the following must be the case:—

- (a)** he became before 1st July 1950 entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act, or
- (b)** he became before 1st July 1950 a participant in a scheme which was a relevant policy scheme within the meaning of regulation P13 of the 1974 Regulations or a relevant scheme within the meaning of regulation G14 of the Local Government Superannuation Regulations 1974(a), and is a person to whom regulation P13 of the 1974 Regulations applied, or
- (c)** a period beginning before 1st July 1950 was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules as non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations or of a local Act scheme, or
- (d)** if sub-paragraph (c) is not the case, and he is a person to whom regulation D4 of the 1974 Regulations applied, and—
  - (i)** his period of previous employment (within the meaning of that regulation) began before 1st July 1950, and
  - (ii)** an application was made by or in respect of him under regulation D4 of the 1974 Regulations, or
- (e)** he was on 30th June 1950 undergoing a full-time course of training for, and subsequently obtained, the Royal Sanitary Institute's Diploma in Public Health Inspection, and not later than 6 months after completing the course of training he became entitled to participate or was a participant as mentioned in sub-paragraph (a) or (b) respectively or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in sub-paragraph (c), or
- (f)** a transfer value was accepted and received in relation to him by an administering authority or a former local authority before 1st April 1978 and a scheme is designated under regulation F5(2)(b).

**(3)** He must on 1st April 1978 have been—

- (a)** an employee entitled to participate in the benefits of a superannuation fund maintained under the 1974 Regulations, or
- (b)** a participant in a scheme which was a relevant scheme within the meaning of regulation P13 of those Regulations, or
- (c)** entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under those Regulations or would have been so entitled but for the operation of regulation E15 of those Regulations, or
- (d)** entitled to an annual pension under regulation E2(1)(c) of those Regulations.

**(4)** Except where paragraph (2)(e) or (f) is the case, there must not since the date specified in paragraph (11) have been a continuous period of 12 months or more throughout which none of the following was the case—

- (a)** he was entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or
- (b)** the period mentioned in paragraph (2)(c) or (d)(i) was running, or
- (c)** he was undergoing such a course of training as is mentioned in paragraph (2)(e), or
- (d)** he was entitled to participate or was a participant as mentioned in paragraph (3), or
- (e)** he was entitled to receive payments in respect of a pension out of a superannuation fund mentioned in paragraph (2)(a), or
- (f)** he was a person to whom regulation E15, section 6 of the Act of 1953 or section 26 of the Act of 1937 applied.

**(5)** Where paragraph (2)(e) is the case, paragraph (4) applies—

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**(a)** S.I. 1974/520; the relevant amending instrument is S.I. 1978/1739.

- (a) with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in paragraph (2)(c), and
- (b) with the substitution for the reference in paragraph (4)(b) to the period mentioned in paragraph (2)(c) or (d)(i) of a reference to such a period as is mentioned in subparagraph (a).

(6) Where paragraph (2)(f) is the case, paragraph (4) applies with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he last became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b).

(7) If he is a person to whom regulation D1(2) of the 1974 Regulations applied in respect of any service after the end of his war service, he must have repaid to the appropriate administering authority the sum or amount there mentioned.

(8) If he is an employee entitled to participate in the benefits of a superannuation fund maintained under these Regulations, he must not be entitled to reckon more than 45 years' reckonable service, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

(9) If he has become entitled to receive payment in respect of an annual pension out of a superannuation fund maintained under these Regulations (including a pension which is for the time being subject to reduction or suspension under regulation E15), no more than 45 years' service must have been taken into account in calculating the amount of that pension.

(10) Where paragraph (2)(f) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 15, war service is for the purposes of paragraph (1) to be assumed.

(11) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—

- (a) he became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or
- (b) the period mentioned in paragraph (2)(c) or (d)(i) began.

#### **Modified application of regulation F3 in certain cases**

**F4.—**(1) Regulation F3 applies in accordance with paragraphs (3) to (5) of this regulation in the cases specified in those paragraphs.

(2) In this regulation, unless the context otherwise requires, "service" means service or employment with any employer.

(3) In the case of a person to whom rule 11 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1969(a) applied otherwise than by virtue of rule 3(3)(c) of those Rules, or to whom rule 6 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1958(b), rule 3 of the Superannuation (Local Government, Commonwealth and Foreign Service) Interchange (Scotland) Rules 1952(c), or rule 3 of the Superannuation (Local Government and Colonial Service) (Scotland) Interchange Rules 1949(d) applied—

- (a) service reckonable by virtue of the provisions of any of those Rules shall for the purposes of regulation F3(2)(c) be deemed to have been reckonable by him otherwise than by virtue of interchange rules, and
- (b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

(4) In the case of a person to whom regulation 4 of the Electricity (Pension Rights) Regulations 1948(e) applied, or to whom regulation 4 of the Gas (Pension Rights) Regulations

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(a) S.I. 1969/1642.  
 (b) S.I. 1958/1402.  
 (c) S.I. 1952/433.  
 (d) S.I. 1949/1988.  
 (e) S.I. 1948/2172.

1950(a) applied as mentioned in paragraph (4) of that regulation, and who has re-entered local government employment not more than 12 months after ceasing to hold the employment by virtue of which the relevant regulation applied to him—

- (a) any period of service beginning before 1st July 1950—
  - (i) in respect of which a transfer value has been accepted under interchange rules, or has been accepted or fallen to be treated as if it had been accepted under Part J, or
  - (ii) which he became entitled to reckon as reckonable service, or as non-contributing or contributing service or a period of contribution for the purposes of the former Regulations or of a local Act scheme,shall be deemed to be such a period as is mentioned in regulation F3(2)(c), and
- (b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

(5) In the case of a person—

- (a) who after the date specified in regulation F3(11) left local government employment and became entitled to participate in the benefits of another occupational pension scheme, and
- (b) who re-entered local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (a) and became entitled in that employment to reckon a period at least equal in length to the whole of his service from the date specified in regulation F3(11)—
  - (i) as reckonable service or qualifying service, or
  - (ii) as non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations or of a local Act scheme, or
  - (iii) a service material for the purposes of regulation H5(8),

the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

#### Notice of election

**F5.—**(1) Notice of an election under regulation F3 is to be given in writing—

- (a) in the case of a person who has, or a deceased employee who before he died had—
  - (i) become entitled to receive payments in respect of any annual pension out of a superannuation fund maintained under these Regulations (including a pension subject for the time being to reduction or suspension under regulation E15), or
  - (ii) become entitled to any annual pension under regulation E2(1)(c), to the administering authority maintaining the superannuation fund which is or was liable in respect of the pension or, where there is more than one pension, the first of them, or
- (b) in the case of a person in respect of whom a transfer value has been paid after 31st March 1978, under Part J or under Part P of the 1974 Regulations, to the administering authority maintaining the superannuation fund out of which it was paid, or
- (c) in any other case, to the appropriate administering authority.

(2) The person giving notice of an election under regulation F3—

- (a) is to give the authority, in writing—
  - (i) all information in his possession, and
  - (ii) if the authority notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain, concerning the war service of the person to whom the notice relates and his past membership of any scheme designated under sub-paragraph (b), and
- (b) is to designate in the notice the scheme, if any, which he believes complies with regulation F6(3), and
- (c) may—

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(a) S.I. 1950/1206.

- (i) in that notice, or
  - (ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation F3(2) to (11) are satisfied in relation to the person to whom that notice relates by a further notice in writing to the same authority,
- elect that regulation F6 shall apply with the substitution, in paragraph (1)(a) or (b) or (12) as the case may be, for "47 per cent" (or for any reduced percentage substituted under paragraph (13)) of any specified lesser percentage, and
- (d) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation F3.

#### **Reckonable service and benefits**

**F6.**—(1) Subject to regulation F5(2)(c) and paragraphs (2) to (16), a person in relation to whom regulation F3 applies is entitled, or as the case may be shall be deemed to have been entitled—

- (a) in the case of a person entitled on the relevant date—
  - (i) to participate in the benefits of a superannuation fund maintained under these Regulations, or
  - (ii) to a retirement pension,
 other than a person to whom regulation P13 of the 1974 Regulations applied, to reckon as reckonable service a period equal to 47 per cent of his war service; or
- (b) in the case of a person to whom on the relevant date regulation P13 of the 1974 Regulations applied, to have a period equal to 47 per cent of his war service treated as having been for the purposes of paragraph (4) of that regulation a period during which the whole of his relevant policies were fully maintained; or
- (c) in the case of a person who, having become entitled to receive an annual pension under the former Regulations or a local Act scheme, was on the relevant date entitled to receive payments in respect of that pension out of a superannuation fund maintained under these Regulations or the 1974 Regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (11).

(2) Where regulation F3(2)(f) applies and the scheme designated under regulation F5(2)(b) ("the designated scheme") is a scheme specified in Schedule 15, paragraph (1) applies only if that scheme complies with paragraph (3).

(3) A scheme complies with this paragraph if—

- (a) it is the first public service scheme the war service provisions of which could have become applicable to the person if he had remained a member of it, and
- (b) he is, or in the case of a deceased employee was, immediately before he died—
  - (i) entitled to reckon the employment in which he was subject to the scheme as reckonable service, or
  - (ii) entitled to a retirement pension in the calculation of which that employment was taken into account as reckonable service.

(4) Where the designated scheme is a scheme specified in Part I of Schedule 15 and complies with paragraph (3), this regulation applies with the substitution throughout for references to 47 per cent of references to 63½ per cent.

(5) Where the designated scheme is a scheme specified in Part II of Schedule 15 and complies with paragraph (3), this regulation applies with the substitution throughout for references to 47 per cent of references to 46½ per cent.

(6) Where the designated scheme is not a scheme specified in Schedule 15, paragraph (1) applies only if a transfer value, calculated in accordance with Part V of Schedule 16, is received in respect of the period that could have become reckonable under the war service provisions of that scheme.

(7) Where paragraph (1) applies by virtue of the acceptance of such a transfer value, this regulation applies with the substitution throughout for references to a period equal to 47 per cent of the person's war service of references to the period that could have become reckonable under the war service provisions of the designated scheme.

- (8) Where the person was entitled on the relevant date to a retirement pension—
- (a) his entitlement under paragraph (1)(a) or (b), and to any resulting increase in the rate of his retirement pension, shall be taken to have arisen on—
    - (i) 1st April 1978, or
    - (ii) the date on which he ceased to hold his employment, whichever is the later, and
  - (b) if regulation E3(9) of the 1974 Regulations applied to him before 15th October 1982—
    - (i) any increase by virtue of paragraph (1)(a) or (b) in the amount of any benefit is not subject to reduction under regulation E3(14), and
    - (ii) the period that he is entitled by paragraph (1)(a) or (b) to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation E3(14),

and for the purpose of this sub-paragraph any reference to regulation E3(14) shall be taken to include a reference to regulation 4 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1961(a) and regulation 36 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1970(b).

(9) The relevant date for the purposes of paragraphs (1) and (8) is the date of the election under regulation F3, except in the case of a deceased employee where it is the date of his death.

(10) Any period which a person is or is deemed to have been entitled to reckon as reckonable service by virtue of paragraph (1)(a) or (b) shall for the purposes of regulation E3(7) to (10) and of regulation E11(5) and (9) be deemed to be reckonable service before, as the case may be—

- (a) 1st April 1972, or
- (b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(11) The additional benefits mentioned in paragraph (1)(c) are—

- (a) an additional pension, payable from—
  - (i) 1st April 1978, or
  - (ii) the date on which the person became entitled to receive payments in respect of a pension as mentioned in paragraph (1)(c), whichever is the later date, and
- (b) if the person has received or is entitled to receive payment of any lump sum of the same nature as a retiring allowance, an additional lump sum,

calculated in accordance with paragraph (12).

(12) Subject to regulation F5(2)(c) and paragraphs (13) and (16)—

- (a) the annual rate of an additional pension, and
- (b) the amount of an additional lump sum,

specified in paragraph (11) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original lump sum would have been increased if a period equal to 47 per cent of the person's war service had been service, or a period, of a kind which (however described) counted in full in the calculation of the original pension or lump sum.

(13) If a period of part-time service or employment falling to be treated under section 12(5) of the Act of 1937 or under regulation E25 or under regulation P13(4)(b) of the 1974 Regulations as though it were whole-time service or employment for a proportionately reduced period—

- (a) began before and ended on or after 1st July 1950, and
- (b) was not preceded, without any break, by a period of whole-time service or employment,

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(a) S.I. 1961/206.  
(b) S.I. 1970/1307.



paragraph (1)(a) or, as the case may be, paragraph (1)(b) or paragraphs (12) and (16) apply with the substitution for "47 per cent" of the percentage obtained by reducing 47 per cent in the same proportion.

(14) Where—

(a) before the date of notification of a decision or determination that he is entitled to reckon a period as reckonable service by virtue of paragraph (1)(a) or (b), a person in relation to whom regulation F3 applies has been credited with an additional period of service under—

(i) any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation, or

(ii) regulation E3(12),  
("the enhancement provision"), and

(b)  $A + B + C$  exceeds 40 years, where—

A is the period which would but for this paragraph be reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b),

B is the remainder of his reckonable service, and

C is the additional period of service with which he has been credited under the enhancement provision,

the period which is reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b) is the total of  $40 - (B + C)$  and the amount, if any, by which  $(A + B + C) - 40$  exceeds C; except that where the instrument referred to in sub-paragraph (a) above is the Local Government Re-organisation (Retirement of Chief Officers) (Scotland) Regulations 1974(a) for the figure "40" wherever it occurs in this sub-paragraph there shall be substituted the figure "45".

(15) Where a person who was entitled or deemed to be entitled to any additional benefit specified in paragraph (11) dies and there is payable in respect of him out of a superannuation fund maintained under these Regulations any benefit similar to a widow's pension, children's pension or death gratuity payable under Part E ("the death benefit"), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate or, as the case may be, of any amount which bears the same proportion to the death benefit as the first additional benefit bears to the corresponding original benefit.

(16) The total of an additional benefit under paragraph (11) or (15) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

(a) the period equal to 47 per cent of the person's war service had been a period of service before he attained the age of 60 years, and

(b) no more than—

(i) 40 years' service before attaining that age, and

(ii) 45 years' service in all,

had been capable of counting in the calculation of the original benefit.

(17) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

(a) multiplying the number of complete years of war service, if any, by 365, and

(b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

and any fraction of a day resulting from the calculation is to be excluded from the period.

#### Revision of certain elections

F7.—(1) Subject to paragraph (2), where—

(a) notice of one or more elections under regulation C8(2) or notice under regulation C2B(1) of the 1974 Regulations has been given by or in respect of a person in relation to whom regulation F3 applies, and

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(a) S.I. 1974/1754.

- (b) the service thereby specified amounts to the whole of his reckonable service before, as the case may be—
  - (i) 1st April 1972, or
  - (ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,
 he or his executors may elect that the period which he is or is deemed to be entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) is to be treated as having been included in the service specified in the latest notice.
- (2) An election under paragraph (1)—
  - (a) may not be made unless notice of election under regulation R3 of the 1974 Regulations was given within the period of 6 months beginning on the relevant date, or in the case of a deceased employee who died during that period within the period of 12 months beginning on the date of his death, and
  - (b) must, unless they allow a longer period, be made by giving notice in writing to the administering authority concerned within 3 months after the date of notification of a decision by that authority, or as the case may be a determination by the Secretary of State under regulation N8, that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1).
- (3) For the purposes of paragraph (2)(a) the relevant date—
  - (a) where regulation F3(2)(b) applies, is 5th September 1984 and
  - (b) in any other case, is 15th October 1982.

## PART G

### SPECIAL PROVISIONS FOR CERTAIN CASES

#### **Preservation of rights and liabilities of persons to whom the provisions of a local Act scheme applied immediately before 16th May 1974**

- G1.—**(1) This regulation applies to a person who—
- (a) immediately before 16th May 1974 was a local Act contributor; and
  - (b) became on 16th May 1974 a pensionable employee under a scheduled body.
- (2) Where any provision of the person's former local Act scheme which was similar to a provision of regulation C2, E2(1)(a) or E22 would have been more beneficial than the provision of such regulation, these Regulations have effect, for the appropriate period, as if the former provision had applied.
- (3) The appropriate period for the purposes of this regulation is the period of application specified in the relevant provision of the person's former local Act scheme, or, if no period is so specified, the period during which he continues in the employment of the scheduled body mentioned in paragraph (1)(b) or of any successor body.

#### **Modification of the Regulations in their application to employees previously subject to a local Act scheme**

- G2.—**(1) Where an employee—
- (a) was immediately before 16th May 1974 a local Act contributor; and
  - (b) became on that day a pensionable employee under a scheduled body,
- these Regulations shall, so long as he remains in the employment of that body or of any successor body, have effect in relation to him as if—
- (i) for any reference to a provision in the former Regulations there were substituted a reference to the corresponding or similar provision in the local Act scheme; and
  - (ii) for any reference to an expression in column 1 of the following Table (which lists certain expressions used in these Regulations) there were substituted a reference to the expression appearing opposite thereto in column 2.

## TABLE

(1)	(2)
1. The Acts of 1937 to 1953 and the Regulations made thereunder.	The appropriate local Act scheme.
2. The appropriate superannuation fund within the meaning of the Act of 1937.	A superannuation fund maintained under the appropriate local Act scheme.
3. Contributory employee.	Local Act contributor.
4. (a) Contributing service, and (b) Non-contributing service, for the purposes of the former Regulations.	Service for the purposes of the appropriate local Act scheme.
5. The former Regulations.	The appropriate local Act scheme.

(2) In this regulation "the appropriate local Act scheme" means the local Act scheme to which an employee mentioned in paragraph (1) was subject immediately before 16th May 1974.

### Standard remuneration agreements

G3. A scheduled body may from time to time enter into an agreement with the bodies or persons representative of any class or description of employee of that scheduled body specifying the method which shall for the duration of the agreement determine—

- (a) an amount representing the whole of the remuneration, or
  - (b) such part of his remuneration as is specified in the agreement,
- of a member of that class or employee of that description.

## PART H

### LOCAL GOVERNMENT REORGANISATION ETC.

#### Definitions

H1. In this Part unless the context otherwise requires—

"Health Service Regulations" means the National Health Service (Superannuation) (Scotland) Regulations 1961 to 1974(a);

"transferred employee" means—

- (a) any person transferred on or after 16th May 1975 by or under an Order or Regulations made under the Local Government (Scotland) Act 1973(b) which, in accordance with the provisions of section 216 of that Act, contain a provision as to the transfer of that person;
- (b) any person appointed by a local authority or a river purification board to hold any office or employment before or as from 16th May 1975, who, but for the appointment, would be transferred on that day under the said section 216; or
- (c) any person who at 16th May 1975 remained in the employment of the same body as immediately before that date but who, in consequence of the Local Government (Scotland) Act 1973, or anything done thereunder or of the 1974 Regulations, became on that day entitled to participate in the benefits of a superannuation fund maintained under those Regulations by a body different from the body which maintained the superannuation fund in the benefits of which he was immediately before 16th May 1975 entitled to participate;

"new employment" means employment to which a person is so transferred or appointed; and

(a) S.I. 1961/1398, 1966/1522, 1972/1356, 1604, 1973/304, 746, 1713, 1974/441 and 1357.  
(b) 1973 c.65.

“new employing body” means the body which becomes the employing authority in relation to a person so transferred or appointed;  
and in relation to a person appointed as aforesaid his taking up the office or employment to which he is appointed shall for the purposes of this Part be deemed to be a transfer.

### **Continuity of employment and preservation of status**

**H2.—**(1) Subject to paragraph (2)—

- (a) any provision of these Regulations has effect, in relation to a transferred employee to whom it applies, as if his new employment and his former employment had been one continuous employment, and
- (b) notwithstanding anything in these Regulations, a transferred employee who is transferred after 20th December 1987 and was a pensionable employee immediately before the date on which he is transferred continues in his new employment to be a pensionable employee.

(2) Paragraph (1) does not affect the operation of regulation H3 or of regulations Q1 to Q3.

### **Discretionary powers**

**H3. Where—**

- (a) a transferred employee has continued in the employment of his new employing body, and
  - (b) immediately before he was transferred (whether before or after the commencement of these Regulations) it was the prevailing practice of the body employing him, in relation to employees of that description, to exercise so as to secure the payment of, or of increased, gratuities, allowances or pensions any discretionary power exercisable by them by virtue of any enactment relating to pensions, and
  - (c) that or any corresponding power becomes exercisable in relation to him,
- the new employing body shall exercise the power in a way which is not less beneficial than the general character of that practice.

### **Contributions of transferred manual workers**

**H4.** A transferred employee who immediately before he was transferred (whether before or after the commencement of these Regulations) was paying contributions at a rate appropriate to a manual worker shall continue to contribute at the like rate so long as he continues to be employed by his new employing body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

### **Persons transferred to scheduled bodies under an Order under section 34 of the Local Government (Scotland) Act 1975 or in consequence of section 1 of the Education (Mentally Handicapped Children) (Scotland) Act 1974**

**H5.—**(1) This regulation applies to a person—

- (a)(i) who was by or under an order made under section 34 of the Local Government (Scotland) Act 1975(a), or
- (ii) who was in consequence of section 1 of the Education (Mentally Handicapped Children) (Scotland) Act 1974(b), transferred to the employment of a scheduled body, and

- (b) who immediately before he was so transferred was in an employment in which he was an officer within the meaning of the Health Service Regulations, and
- (c) to whom neither paragraph (6) nor paragraph (8) applies.

(2) Subject to paragraph (8), a person to whom paragraph (1) applies is entitled to reckon—

- (i) as reckonable service, any service which for the purposes of the Health Service Regulations he was entitled to reckon in relation to the employment mentioned in paragraph (1)(b) as, or as a period of, contributing service, and

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(a) 1975 c.30.  
(b) 1974 c.27.

- (ii) as qualifying service, any service which for the purposes of those Regulations he was entitled to reckon in relation to that employment for the purpose of determining whether he was entitled to a benefit under those Regulations, but for no other purpose.

(3) Where, immediately before he was transferred, a person to whom paragraph (1) applies was in the process of making payments which were or were deemed to be payments under Schedule 2 to the Health Service Regulations, he is entitled—

- (a) to make the outstanding payments as if they had been instalments of an amount payable under regulation D6 of the 1974 Regulations, and
- (b) if he completes the payments in the manner provided in Schedule 7, to have the service in respect of which they were made counted for all the purposes of these Regulations at its full length.

(4) Where, immediately before he was transferred, a person to whom paragraph (1) applies was in the process of making payments in respect of added years under Schedule 8 to the Health Service Regulations, he is entitled—

- (a) to make the outstanding payments as if they had been payments of an amount payable under regulation D10 of the 1974 Regulations, and
- (b) in respect of the added years for which those payments are made he shall enjoy rights and be subject to liabilities as if those years were added years reckonable under regulation D6 in the employment to which he is so transferred.

(5) For the purposes of paragraph (2) any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period and, except for the purposes referred to in regulation E27(3), any service which was reckonable under the Health Service Regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall, subject to paragraph (3), be counted at half its length.

(6) Where, immediately before he was transferred, a person in relation to whom paragraph (1) is satisfied was a person in respect of whom the Secretary of State paid contributions under regulation 46 of the Health Service Regulations (persons subject to non-statutory superannuation schemes and arrangements) or carried out any such scheme or arrangements as are referred to in that regulation, that person shall not be subject to any provisions of these Regulations except those contained in this regulation, and the body to which that person was transferred shall—

- (a) where immediately before 16th May 1974 the Secretary of State was under regulation 46 of the Health Service Regulations paying in respect of that person the contributions authorised or required by the relevant scheme to be paid by the employer, pay those contributions, and
- (b) deduct from the person's remuneration the amount of any contribution required by the scheme or under the arrangements to be paid by the employee.

(7) A person to whom sub-paragraph (1)(a) of this regulation applies but who was not, immediately before he was so transferred, an officer within the meaning of the Health Service Regulations and who would otherwise have become a pensionable employee in terms of regulation B2 of the 1974 Regulations shall not become a pensionable employee in terms of regulation B1 without his agreement so long as he is employed without a disqualifying break of service by a scheduled body on duties reasonably comparable to those on which he was engaged immediately before he was so transferred.

(8) In relation to a person who gave notice under regulation N12(3)(e) of the 1974 Regulations that he did not wish to avail himself of the benefits provided under those Regulations, these Regulations have effect as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service Regulations, and continue so to apply so long as he is employed without a disqualifying break of service by a scheduled body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

(9)(a) Notwithstanding anything in paragraph (3) and subject to paragraph (6), regulations D3, D11, E5, E6, E15 and E33 shall have effect in relation to a pensionable employee who had given notice under regulation N12(3)(e) of the 1974 Regulations as if—

- (i) any reference to reckonable service or qualifying service included a reference to service reckonable for the purpose of determining whether any benefit is payable to or in respect of him;
  - (ii) any reference to a retirement pension included a reference to a pension payable to him in terms of paragraph (8);
  - (iii) any reference to regulation E2(1)(c) included a reference to any right conferred upon him by virtue of paragraph (8) corresponding to regulation 10(1)(a)(iv) of the Health Service Regulations; and
  - (iv) in regulation D3(3)(b) the reference to the appropriate superannuation fund within the meaning of regulation C12 included a reference to the employing authority under the Health Service Regulations.
- (b) In the case where the conditions of entitlement mentioned in regulation E5 or E6, as modified by sub-paragraph (a)(i), are satisfied, the widow's pension payable in terms of paragraph (8) shall be payable at an annual rate of not less than the amount determined by multiplying one one hundred and sixtieth of the pensionable remuneration of her deceased husband by the length of years of the whole period of his service in contracted-out employment.
- (10)(a) Notwithstanding anything in paragraph (8), in the case of a pensionable employee who has given notice under regulation N12(3)(e) of the 1974 Regulations a refund of contributions shall not be payable—
- (i) if his period of reckonable service and qualifying service after 5th April 1975 is not less than 5 years, in respect of any period of reckonable service and qualifying service after that date; or
  - (ii) if his period of reckonable service and qualifying service commenced before 6th April 1975 and is not less than 5 years, in respect of any period of reckonable service and qualifying service after 5th April 1975 of less than 5 years unless a payment is being or has been made in respect of the period of reckonable service and qualifying service before 6th April 1975; or
  - (iii) if he is entitled to any right conferred upon him by virtue of regulation N12(3)(e) of the 1974 Regulations corresponding to regulation 10(1)(a)(iv) of the Health Service Regulations,  
and any reference in this paragraph to reckonable service and qualifying service shall include any service reckonable for the purpose of determining whether any benefit is payable to or in respect of him.
- (b) Notwithstanding anything in paragraph (3)(e) of regulation N12 of the 1974 Regulations, a pensionable employee who has given notice in terms of that paragraph shall not surrender such part of his pension as would result in that pension being reduced to—
- (i) an annual rate less than an annual rate determined by multiplying one eightieth of his pensionable remuneration by the length in years of the whole period of his service in contracted-out employment; and
  - (ii) if he has a guaranteed minimum under section 35 of the Pensions Act in relation to that pension, but for the provisions of regulation E1, less than his guaranteed minimum pension.

#### **Gratuities etc. granted by former local authorities**

**H6.** Notwithstanding the revocation of the 1974 Regulations, an authority who became responsible under regulation N6(1)(a) of those Regulations for the continued payment of a gratuity or allowance remain so responsible as if the 1974 Regulations had not been revoked.

#### **Policy schemes**

**H7.** Any agreement or trust deed which immediately before 21st December 1987 had effect as mentioned in regulation N7 of the 1974 Regulations continues so to have effect, and any policy of insurance held by a scheduled body immediately before that date for the purposes mentioned in that regulation shall continue to be held by them for those purposes.

## Overseas employment

H8.—(1) This regulation applies—

- (a) to a person who as at 31st March 1972 was subject to the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1969(a) (in this regulation referred to as the “Rules of 1969”); or
- (b) to a person who had ceased to be a contributory employee or local Act contributor before 1st April 1972 and had become so subject before the appointed day; and shall apply to such a person who left his overseas employment and entered other overseas employment, whether or not he gave notice of the change of employment to the first fund authority or there was a break of more than 12 months between the overseas employments and who had not—
  - (i) again become a contributory employee or a local Act contributor, or
  - (ii) received any benefit under rule 6 of the Rules of 1969.

(2) Subject to paragraph (3), where a person, to whom this regulation applies, becomes a pensionable employee then, notwithstanding that there may have been a break of more than 12 months between his ceasing his overseas employment and becoming a pensionable employee, he shall be entitled—

- (a) to reckon as reckonable service—
  - (i) any service, employment or period which immediately before he ceased to be a contributory employee in the employment of a local authority or other body he was, or for the purposes of the Regulations is treated as having been, entitled under or by virtue of the former Regulations or any other enactment to reckon as or aggregate with service he was entitled to reckon as either contributing service in relation to his employment under that body or non-contributing service for the purposes of the former Regulations, or
  - (ii) any service, employment or period which he would have been entitled to reckon as service (or a period of contribution) for the purpose of calculating a benefit payable to him under a local Act scheme if at the date on which he ceased to be a local Act contributor he had been entitled to a benefit payable under that scheme;
- (b) to reckon as qualifying service—
  - (i) any service, employment or period which immediately before he so ceased he was entitled under or by virtue of the former Regulations or any other enactment to reckon either for the purpose of determining whether he was entitled to receive a benefit under the former Regulations or, as the case may be, for the purpose of determining whether he was entitled to a benefit under a local Act scheme, but for no other purpose, and
  - (ii) any period of overseas employment;
- (c) where he gives notice in writing to the new fund authority, to aggregate the service he is entitled to reckon as reckonable or qualifying service by virtue of this regulation with any other service he is entitled to reckon as reckonable or qualifying service respectively by reason of the employment in respect of which he became a pensionable employee for the first time; and
- (d) for the purpose of these Regulations to be regarded as if he had ceased to be a contributory employee or a local Act contributor immediately before 16th May 1974 and became a pensionable employee on that day but, for the purpose of observing any time limit related to the appointed day of the 1974 Regulations, the appointed day shall be taken to be the date on which he became a pensionable employee for the first time:

Provided that nothing in this paragraph shall entitle any person to reckon as reckonable service any period between the date he ceased to be a contributory employee or a local Act contributor and became for the first time a pensionable employee, or to reckon as qualifying service any period between those dates other than service in overseas employment.

(3) Paragraph (2) shall not apply to a person who has received a return of contributions from the first fund authority on or after ceasing to hold his last overseas employment unless

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(a) S.I. 1969/1642.

he pays to the new fund authority an amount equal to the returned contributions (other than voluntary contributions) and compound interest thereon at a rate of three per cent per annum with half-yearly rests for a period beginning either with the date 12 months after the date on which he left overseas employment or, where this is later, the date on which he received the return of contributions and ending on the date on which he pays the said amount.

(4) Where a person gives notice in terms of paragraph (2)(c) and pays any amount required by paragraph (3) and the first fund authority and the new fund authority are not the same authority, then the first fund authority shall pay to the new fund authority a transfer value in accordance with the provisions of regulation Q2(1).

(5) Where a person to whom this regulation applies does not become a pensionable employee, then where he is, or but for the revocation of the Rules of 1969 would be, entitled to a benefit under rule 6 of the Rules of 1969 he shall, notwithstanding the revocation of the Rules of 1969, continue to be entitled to that benefit and the said benefit shall become payable without any requirement that he ceases to be in his overseas employment, but nothing in this paragraph shall entitle a person to reckon any service as reckonable service under regulation D1.

(6) Where a person to whom this regulation applies—

- (a) does not become a pensionable employee,
- (b) would not under the former Regulations or appropriate local Act scheme and the Rules of 1969 have had an entitlement to a benefit (other than a refund of contributions),
- (c) was when he ceased to be a contributory employee or a local Act contributor entitled under the former Regulations to reckon not less than 5 years' contributing service, or not less than 5 years' service (or a period of not less than 5 years' contributions) under a local Act scheme,
- (d) has attained the age of 60 years, or any lesser age at which under the conditions of service applicable to him in his overseas employment he is required by reason of age to retire from that employment,
- (e) gives notice to the first fund authority, and
- (f) has not received a refund of contributions, or has received a refund of contributions and either previously repaid such a refund, or within one month of giving notice under this regulation makes payment to the first fund authority of an amount equal to the refunded contributions (other than voluntary contributions) together with a like sum of interest as he would have had to pay had the repayment of refunded contributions been made under paragraph (3) of this regulation,

he shall be entitled to receive a benefit (not being a refund of contributions) calculated on the basis of the former Regulations or the appropriate local Act scheme, and the Rules of 1969 as they applied to that person at the time he ceased to be a contributory employee or a local Act contributor, but nothing in this paragraph shall entitle a person to reckon any service as reckonable service under regulation D1.

(7) This regulation shall apply to any person to whom rule 16 of the Rules of 1969 applied as if, in any paragraph other than this paragraph, there were substituted for any reference to the Rules of 1969 a reference to the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1958 (a) and for any reference to rule 6 of the Rules of 1969 a reference to rule 5 of the said Rules of 1958.

(8) Notwithstanding regulation J2(5)(d) or Part Q, where before 5th September 1984 there was paid a transfer value under Part P or Part Q of the 1974 Regulations in respect of a person to whom this regulation applies and that transfer value took no account of any additional reckonable service to which that person is entitled by virtue of this regulation, an additional transfer value shall be paid in respect of that person as regards the said additional reckonable service calculated in accordance with the provisions of Part J or Part Q as the case may be.

(9) In this regulation—

“appointed day” means 16th May 1974;

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(a) S.I. 1958/1402, as amended by S.I. 1961/1156.



“contributing service” and “non-contributing service” mean the service which a person to whom this regulation applies was entitled to reckon as contributing or non-contributing service within the meaning of the Act of 1937;

“first fund authority” means the successor to the local authority administering the superannuation fund to which the person last contributed before entering overseas employment;

“new fund authority” means the local authority administering the superannuation fund to which the person contributes after first becoming a pensionable employee;

“overseas employment” means employment in the service of—

- (a) the central or local government of an overseas country or a government constituted for two or more overseas countries or any Authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more overseas countries;
- (b) a university or college in an overseas country;
- (c) a public institution or other organisation engaged in health, welfare, research or educational services in an overseas country;
- (d) an organisation receiving grants from Her Majesty’s Government in connection with functions overseas;
- (e) the United Nations Organisation or any of its specialised agencies or any other inter-governmental organisation to which Her Majesty’s Government may be party; or
- (f) the Overseas Development Administration or any predecessor body for service overseas, being employment which is either pensionable employment within the meaning of section 17(1) of the Superannuation (Miscellaneous Provisions) Act 1948(a) or employment undertaken with the approval of the first fund authority;

“voluntary contributions” means payments made voluntarily by a contributory employee for the purpose of securing benefits for his widow, children or other dependants and payments (other than payments made in respect of a liability which has been wholly discharged) of any of the following categories—

- (a) additional contributory payments of the kind referred to in section 2(3) and (4) of the Act of 1953;
- (b) any similar payments made under a local Act scheme as a condition of reckoning any period of employment as service or as a period of contribution for the purposes of the scheme or where the local Act scheme provides for the reckoning of non-contributing service for the purposes of the scheme;
- (c) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme;
- (d) any payments made in respect of added years.

## PART J

### INTERCHANGE ETC.

#### Interpretation

**J1.** In this Part, unless the context otherwise requires—

“Communities’ scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities;

“Community institution” includes a body treated as one of the Community institutions for the purposes of the Communities’ scheme;

“fund authority” means—

- (a) in relation to a person who became, or ceased to be, employed in his local government employment before 16th May 1974, the local authority within the meaning of the

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(a) 1948 c.33.

Act of 1937 maintaining the superannuation fund to which the person became a contributor after he ceased to be employed in non-local government employment or, as the case may be, was last a contributor before he became employed in approved non-local government employment; and

- (b) in relation to a person who became, or ceased to be, employed in his local government employment on or after 16th May 1974, the scheduled body maintaining the superannuation fund to which the person became a contributor after he ceased to be employed in non-local government employment or, as the case may be, was last a contributor before he became employed in approved non-local government employment;

“local Act authority” and “local Act scheme” have—

- (a) in relation to any time before 25th March 1972, the same meanings as in the Act of 1937, and
- (b) in relation to any time on or after 25th March 1972, the same meanings as in section 8 of the Act of 1972;

“local government employer”, in relation to a person who is, or has been, employed in local government employment, means the body which is, or is treated as being, the employing authority or former employing authority for the purposes of the Acts of 1937 to 1953, the local Act scheme or these Regulations, as the case may be;

“pension” does not include an allowance or gratuity; and

“service” means service or employment with any employer.

### **Outwards transfers**

**J2.**—(1) Subject to paragraphs (5) and (6), a transfer value shall be paid in relation to a person who has ceased to be employed in local government employment and has become employed in approved non-local government employment if the conditions in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the local government employment, or the commencement of the approved non-local government employment, or both the cessation and the commencement, occurred before 21st December 1987.

(3) The conditions are that—

- (a) he has made a written request to his fund authority for the transfer value to be paid; and
- (b) subject to paragraph (4), the request was made not later than 6 months after 21st December 1987 or, if later, 6 months after the date on which he became employed in his approved non-local government employment; and
- (c) the scheme managers of his approved non-local government scheme have agreed to accept the transfer value; and
- (d) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, his local government employer has consented to the payment of the transfer value; and
- (e) in the case of a person who received a return of contributions in relation to his local government employment (other than a person falling within paragraph (6)), he has within 3 months of making his request under sub-paragraph (a) paid his fund authority for the credit of their superannuation fund—
  - (i) a sum equal to the contributions returned to him (together with any interest which he was paid),
  - (ii) a sum equal to any deduction made on account of tax under section 378(2) of the Income Tax Act 1952(a) or section 209(2) of the Income and Corporation Taxes Act 1970(b); and
  - (iii) compound interest on both those sums calculated in accordance with regulation J7 for the period beginning with the date on which he received the return of contributions and ending on the date of his request under sub-paragraph (a) (but no interest is to be paid if that period is less than 6 months).

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(a) 1952 c.10.

(b) 1970 c.10.

(4) The local government employer may in any particular case extend the period mentioned in paragraph (3)(b).

(5) A transfer value shall not be paid in relation to a person—

- (a) who has received any benefit (other than a return of contributions) under the Acts of 1937 to 1953 and the Regulations made thereunder, the former Regulations, any local Act scheme, the 1974 Regulations or these Regulations in respect of his local government employment, or
- (b) who ceased to be employed in local government employment on or after 6th April 1978 having reached state pensionable age, unless his accrued pension for the purposes of Schedule 16 relates solely to service after he reached state pensionable age, or
- (c) who ceased to be employed in local government employment on or after 6th April 1978 and who has become employed in approved non-local government employment (other than employment with a Community institution) which is not contracted-out employment for the purposes of the Pensions Act, unless—
  - (i) the person is a married woman or widow who, by virtue of an election made or treated as made for the purposes of Regulations under section 3 of the Pensions Act, is either liable to pay primary Class 1 contributions or Class 2 contributions (within the meaning of the Social Security Act 1975(a) at a reduced rate prescribed by such Regulations or is exempt from liability to pay Class 2 contributions; or
  - (ii) the person's reckonable service and qualifying service amounts in aggregate to less than 5 years; or
- (d) in respect of whom a transfer value has been paid by the fund authority or a predecessor of that authority since he ceased to be employed in his local government employment; or
- (e) who, on becoming employed in approved non-local government employment, became entitled, without any condition as to receipt of a transfer value, to reckon service in his local government employment in relation to his approved non-local government employment; or
- (f) if a direction has been made in relation to his service in his local government employment under regulation C12(5) or M1 or any corresponding provision of earlier legislation or a local Act scheme.

(6) In relation to a person who ceased to be employed in local government employment on or after 6th April 1978 and has received a return of contributions in relation to that employment, a transfer value may only be paid in relation to service in respect of which he is entitled to preserved benefits.

#### **Additional transfer value for certain persons transferring to public service pension schemes**

**J3.—**(1) Notwithstanding regulation J2(5)(d), where after 31st March 1978 and before 5th September 1984 there has been paid in respect of a person to whom regulation F3 applies a transfer value in the calculation of which the period that he became entitled by regulation F6(1)(a) or (b) to reckon as reckonable service was not taken into account, an additional transfer value shall be paid in respect of that period.

(2) Notwithstanding regulation J2(5)(d), where a transfer value has been paid before 1st April 1978 in respect of a person in relation to whom one of the conditions in regulation F3(2)(a) to (e) is satisfied and the conditions in regulation F3(4) to (9) were satisfied at the time of payment, an additional transfer value shall be paid if the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

- (a) the scheme managers of a public service scheme not specified in Schedule 15—
  - (i) have made a written request to the fund authority for the additional transfer value to be paid, and
  - (ii) have given them particulars of the service (being such whole-time service as is described in regulation F2(1)) to which it is to relate, and the rate or amount,

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(a) 1975 c.14.

as the case may be, to be used in ascertaining C of the formula set out in Part V of Schedule 16, and

- (b) on payment of the additional transfer value the service to which it relates will be reckonable as service in respect of which benefits are payable under the war service provisions of the scheme.

#### **Amount of transfer value**

**J4.**—(1) The amount of any transfer value payable under regulation J2 and of any additional transfer value payable under regulation J3(1) shall be calculated in accordance with the provisions of Parts I to III of Schedule 16.

(2) The amount of any additional transfer value payable under regulation J3(2) shall be calculated in accordance with Part V of Schedule 16.

(3) The transfer value or additional transfer value shall be paid to the scheme managers by the fund authority out of their superannuation fund.

(4) The fund authority shall provide the scheme managers and the person to whom the transfer value or additional transfer value relates with a written notice showing how it was calculated.

(5) A notice provided to a person under paragraph (4) shall include a statement of the kind required by regulation N7(2)(c).

#### **Termination of right to payment out of fund authority's superannuation fund**

**J5.** Notwithstanding anything in the Acts of 1937 to 1953 and the Regulations made thereunder, the former Regulations, any local Act scheme, the 1974 Regulations or any other provision of these Regulations (excepting regulations H8(8), J3 and J6), where a transfer value is to be or has been paid under regulation J2 no other payment or transfer of assets shall, subject to regulations H8(8), J3 and J6, be made out of the superannuation fund on account of the service to which the transfer value relates.

#### **Rights where a person transfers to the Communities' scheme and leaves without a right to either an immediate or prospective pension**

**J6.**—(1) Where a person—

- (a) became employed by a Community institution and became a participant in the Communities' scheme after having been employed in local government employment, and
- (b) the scheme managers of the Communities' scheme were paid a transfer value under regulation J2 in relation to his previous service in local government employment, and
- (c) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension, and
- (d) his fund authority has been paid for the credit of their superannuation fund—
  - (i) a sum equal to the amount of the transfer value which the scheme managers received, and
  - (ii) compound interest on that sum calculated in accordance with regulation J7 for the period beginning with the date on which the transfer value was received by the scheme managers and ending on the date on which the fund authority was paid the sum required by (i) above (but no interest is to be paid if that period is less than 6 months),

the person and those claiming through him shall be entitled to the rights specified in paragraphs (2) and (3) below and nothing in regulation J5 shall apply to any such rights unless a transfer value under regulation J4 is subsequently paid.

(2) Where the person ceased to be employed in his local government employment before 31st March 1972, he and those claiming through him shall have the same rights (other than to a refund of contributions) as they would have had by virtue of the Acts of 1937 to 1953 and the Regulations made thereunder, the former Regulations, any local Act scheme and these Regulations (so far as applicable) if—

- (a) he had reached the age of 65 by the termination of his local government employment, and
- (b) he had been able to reckon 10 years' service, and
- (c) the payment of the transfer value had not been requested or made.

(3) Where the person ceased to be employed in his local government employment on or after 31st March 1972, he and those claiming through him shall be entitled to the like benefits (other than to a return of contributions) as those which—

- (a) if, on so ceasing, he had become entitled to benefits under Part E other than a pension under regulation E1 or E2(2)(a) or a local Act scheme, would have become payable to or in respect of him under that Part or that scheme in respect of service for which the transfer value mentioned in paragraph (1) above was paid if this Part had not applied to him, or
- (b) if, on so ceasing, he had not become so entitled, would have become payable to or in respect of him under Part E or a local Act scheme in respect of such service as aforesaid if, immediately before he ceased that employment, he had been entitled to reckon an aggregate of 5 years' reckonable service and qualifying service or 5 years' service for the purpose of determining whether he was entitled to a benefit under a local Act scheme and if this Part had not applied to him,

and such benefits shall be deemed to be benefits under regulation E2(1)(c).

(4) This regulation shall not confer any right to the payment of any benefit for any period ending on or before—

- (a) in relation to a person who ceased to be employed in his local government employment before 31st March 1972, the date on which he ceased to be employed in the service of the Community institution mentioned in paragraph (1) above or, where this is later, the earliest date at which, if he had remained in his local government employment without any break of service and become a pensionable employee on 16th May 1974, he would have become entitled, on ceasing to be employed, to a retirement pension by virtue of sub-paragraph (a) or, as the case may be, (b)(ii) of regulation E2(1); and
- (b) in relation to a person who ceased to be employed in his local government employment on or after 31st March 1972, the date on which he ceased to be employed in the service of the Community institution mentioned in paragraph (1) above or, where this is later, the date on which the benefits to which he became entitled on ceasing to be employed in his local government employment or, as the case may be, to which he would have become so entitled if, immediately before he ceased to be employed in that employment, he had been entitled to reckon an aggregate of 5 years' reckonable service and qualifying service would, if this Part had not applied to him, have become payable to him under Part E.

(5) For the purposes of this regulation references to those claiming through a person shall be construed as references to his widow, dependants, children and executors so far as is appropriate in his particular case.

#### **Compound interest on certain sums**

**J7.** Compound interest under regulations J2(3)(e)(iii) and J6(1)(d)(ii) and Parts I (paragraph 1(2)) and V of Schedule 16 is to be calculated—

- (a) at the rate of 6 per cent with yearly rests for each complete period of a year ending before 1st April 1977 (and any residual period of less than a year is to be ignored), and
- (b) at the rate of 2½ per cent with 3-monthly rests for each complete period of 3 months beginning after 31st March 1977 (and any residual period of less than 3 months is to be ignored).

#### **Inward transfers**

**J8.—(1)** Subject to paragraphs (5) and (6), a transfer value offered to a person's fund authority by the scheme managers of his previous non-local government scheme shall be accepted by them and shall, together with the amount of any limited revaluation premium under section 45 of the Pensions Act repaid to the fund authority by the Secretary of State,

be credited to their superannuation fund if the conditions specified in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the non-local government employment, or the commencement of the local government employment, or both the cessation and commencement, occurred before 21st December 1987.

(3) The conditions are that—

- (a) except where the transfer value is offered as mentioned in paragraph (5)(a) and is in respect of such a period as is mentioned in paragraph (5)(b), or relates only to service reckonable under the war service provisions of a public service scheme, he has made a written request to his fund authority for the transfer value to be accepted, and
- (b) subject to paragraph (4), the request was made not later than 6 months after 21st December 1987 or, if later, 6 months after the date on which he became employed in his local government employment, and
- (c) the transfer value is not offered on conditions which are inconsistent with the provisions of these Regulations, and
- (d) his local government employer has consented to the transfer value being accepted, except in the case of a person who became employed in his local government employment on or after 6th April 1978 and who ceased to be employed in his non-local government employment on or after 31st March 1972, and
- (e) in the case of a person who became employed in his local government employment before 31st March 1972, he was employed in local government employment on that date.

(4) The local government employer may in any particular case extend the period mentioned in paragraph (3)(b).

(5) A transfer value which—

- (a) is offered by the scheme managers of a public service scheme in relation to a person in relation to whom a transfer value was accepted and received before 1st April 1978, and
- (b) is in respect of a period which could, if he had not ceased to be employed in his non-local government employment, have become reckonable under the war service provisions of the scheme,

shall not be accepted unless it is one calculated in accordance with Part V of Schedule 16.

(6) A transfer value under paragraph (1) shall not be accepted in relation to a person if—

- (a) his non-local government employment was contracted-out employment for the purposes of the Pensions Act, and
- (b) his non-local government scheme was not a statutory scheme or a scheme which is to be treated for the purposes of Schedule 17 as being a statutory scheme, and
- (c) the transfer value would not secure a resultant pension calculated under paragraph (7) at least equal to—
  - (i) the annual equivalent of his guaranteed minimum in respect of service to which the transfer value relates, and
  - (ii) where equivalent pension benefits were, but would not remain, assured by his non-local government scheme, the annual rate of those benefits.

(7) A person's resultant pension shall be calculated in accordance with the formula—

$$R = \frac{N}{80} \times S, \text{ where—}$$

R is the annual amount of the resultant pension,

N is the reckonable service (expressed in years and fractions of a year) which would, apart from paragraph (5), be credited to him under regulation J9(1)(a) if the transfer value were to be accepted by the fund authority, and

S is the annual rate of his remuneration on becoming employed in his local government employment (if he is paid weekly, the annual rate shall be calculated by multiplying the weekly rate by 52.18).

(8) A person's guaranteed minimum shall be calculated in accordance with section 35 of the Pensions Act and the annual equivalent shall be calculated by multiplying the guaranteed minimum by 52.18.

### **Right to reckon service**

**J9.—(1)** Where a transfer value (other than one to which regulation J8(5) applies) has been accepted in relation to a person under regulation J8—

(a) he shall, subject to regulation J10, be entitled to reckon as reckonable service a period calculated in accordance with Schedule 17 for all purposes of these Regulations except that of determining whether there is any entitlement to benefit (other than any benefit under regulation E2(2)), and

(b) he shall be entitled to reckon as qualifying service any service to which the transfer value relates which would not otherwise be qualifying service.

(2) A period reckonable under paragraph (1)(a) shall be treated as reckonable service after 31st March 1972 for the purposes of making any calculation under these Regulations.

(3) Service reckonable under paragraph (1)(b) shall count at its actual length.

(4) The fund authority shall provide the person with a written notice stating the periods of service which he is entitled to reckon under paragraph (1)(a) and (b) and, in the case of a person who became employed in his local government employment before 1st April 1980, whether or not his retirement pension is subject to reduction under regulation J12.

(5) A notice under paragraph (4) shall contain a statement of the kind required by regulation N7(2)(c).

### **Adjustment to crediting of reckonable service and qualifying service on payment of refund of contributions**

**J10.** Where a person on ceasing local government employment has received a return of contributions in relation to part only of the service which, but for the provisions of this regulation, he would be entitled to reckon as reckonable service under regulation J9, that reckonable service which he would otherwise be so entitled to reckon shall be reduced by X years, where X is a period expressed in years and fractions of a year in accordance with the following formula—

$$X = \frac{A}{B} \times C, \text{ where—}$$

A is the length of service in the non-local government scheme which reckoned for the purpose of determining whether he was entitled to a benefit thereunder in respect of which contributions were returned by the fund authority on his ceasing local government employment;

B is the service which he is entitled to reckon under regulation J9(1)(b); and

C is the period he would, but for the provisions of this regulation, be entitled to reckon as reckonable service under regulation J9(1)(a).

### **Computation of contributions**

**J11.—(1)** Where a person to whom regulation J8 applies ceases to be employed in his local government employment in circumstances in which there is payable to him under regulation C12(4) an amount by way of return of contributions (with or without interest), then, in calculating that amount, the amount of the contributions paid by him shall be deemed to be increased by the aggregate of the following two sums:—

(i) if his non-local government scheme contains provision for return of contributions, such sum as would have been payable by way of a return of contributions, including interest (if any), under his non-local government scheme at the date of payment of the transfer value received under regulation J8(1) had that transfer value not been paid, and

(ii) such sum as was paid by him by way of superannuation contributions during the period which has become reckonable as reckonable service under regulation J9 which has not been taken into account under sub-paragraph (i).

(2) Where under regulation C12(4) the amount payable by way of return of contributions is a sum equal to the amount of a person's contributions with compound interest thereon, compound interest shall also be payable on the amount by which those contributions are increased under paragraph (1) above, calculated in the manner described in regulation C12(4)(b) in respect of the period from the date of payment of the transfer value.

(3) Notwithstanding anything previously contained in this regulation, the sum by which contributions are increased under paragraph (1) above shall not include any sum in respect of contributions which were returned to and retained by the person who had paid them.

#### **National Insurance modification**

**J12.**—(1) The retirement pension of a person to whom regulation J9 applies shall be reduced in accordance with paragraph (2) where—

- (a) he became employed in his local government employment before 1st April 1980, and
- (b) on becoming employed in his local government employment he did not enjoy unmodified status for the purposes of Part F of the 1974 Regulations, and
- (c) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation J9(1)(a).

(2) Regulation F7 of the 1974 Regulations shall be taken to have applied in relation to the period which he is entitled to reckon under regulation J9(1)(a) as if—

- (a) during that period he had been a person within Case B of Part F of the 1974 Regulations, and
- (b) that period were service after 31st August 1947.

(3) Where a person to whom paragraph (1)(a) applies was in his non-local government employment subject to a statutory scheme under which he was subject to a reduction of pension in connection with graduated retirement benefit under section 36 of the Insurance Act, any retirement pension payable to him at the termination of his local government employment shall be reduced by the amount by which his pension under that scheme would have been reduced in connection as aforesaid.

(4) The reduction shall take effect on the date when a retirement pension becomes payable unless the person has not then reached pensionable age within the meaning of the Social Security Act 1975, in which case the reduction shall take effect on the date on which he reaches that age.

#### **Certain persons who become subject to certain other superannuation schemes**

**J13.**—(1) Subject to the conditions in paragraph (2) being satisfied, this regulation applies to a person—

- (a) who either—
  - (i) is in the employment of a passenger transport executive by virtue of which he is a pensionable employee; or
  - (ii) is in the employment of a body (other than a scheduled body) mentioned in regulation B5 by virtue of which he is deemed to be a pensionable employee; or
  - (iii) is in the employment of a body mentioned in paragraph (8) of regulation B6 and by virtue of an agreement made, or continued in force as if made, under that regulation is in that employment entitled to participate in the benefits of a superannuation fund maintained under Part P; and
- (b) for whose superannuation in that employment that body can make other provision under an approved non-local government scheme.

(2) The conditions referred to in paragraph (1) are that—

- (a) the person shall notify the body in whose employment he is as mentioned in paragraph (1)(a) and the appropriate administering authority in writing that he desires this regulation to apply to him; and
- (b) that body and that authority shall consent to the application to him of this regulation.

(3) A person to whom this regulation applies—



- (a) shall not, on and after the date on which he becomes subject in the employment mentioned in paragraph (1)(a) to an approved non-local government scheme, in that employment be liable to contribute to the appropriate superannuation fund; and
- (b) shall be treated for the purposes of these Regulations (other than regulation C12 and, in the case of a person to whom regulation J14 applies, regulation J2) as if he had ceased to hold that employment on the day immediately before that date.

(4) In this regulation, for the purpose of giving on or after 21st December 1987 a notification under paragraph (2), "approved non-local government scheme" means such a scheme which is a contracted-out scheme within the meaning of the Pensions Act.

#### **Transfer of rights of persons to whom regulation J13 applies**

##### **J14.—(1) Where—**

- (a) regulation J13 applies to a person; and
- (b) on the date on which he becomes subject to the approved non-local government scheme he has not reached pensionable age within the meaning of the Social Security Act 1975(a); and
- (c) he gives written notice to the appropriate administering authority that he wishes to transfer his rights under these Regulations to the approved non-local government scheme; and
- (d) both the appropriate administering authority and the body by whom he is employed have given their consent,

the appropriate administering authority shall, subject to paragraphs (3), (4) and (5), pay to the scheme managers of the approved non-local government scheme out of the superannuation fund a transfer value calculated in accordance with Schedule 16.

(2) The appropriate administering authority shall not give their consent under paragraph (1)(d) unless they are satisfied that the person transferring his rights will acquire rights under the approved non-local government scheme at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers under regulation J2 or J3.

##### **(3) If—**

- (a) the number of persons transferring their rights under paragraph (1) from a particular superannuation fund to the same or a different approved non-local government scheme as part of the same transfer scheme is more than 9 but less than 100; and
- (b) the superannuation fund's assets immediately before any transfer takes place are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time,

the total payable under paragraph (1) (or, as the case may be, the respective totals) shall be adjusted by an actuary appointed by the administering authority to the extent he considers appropriate in the circumstances, subject to the agreement of that authority and the scheme managers.

(4) If the parties are unable to agree on the adjustment to be made under paragraph (3), the adjustment (if any) to be made shall be decided by an actuary appointed by the Secretary of State.

(5) If the number of persons transferring their rights under paragraph (1) from a particular superannuation fund to the same or a different approved non-local government scheme as part of the same transfer scheme is 100 or more—

- (a) no payment shall be made under that paragraph; and
- (b) the superannuation fund shall be apportioned in accordance with Schedule 18.

(6) Notwithstanding anything in the Acts of 1937 to 1953 and the Regulations made thereunder, the former Regulations, any local Act scheme, the 1974 Regulations or any provision of these Regulations, where a payment or transfer of assets is to be or has been made under this regulation or under Schedule 18, no other payment or transfer of assets shall be made out of the superannuation fund on account of service or employment to which the payment or transfer of assets under this regulation or under Schedule 18 relates.

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(a) 1975 c.14.

(7) A person to whom this regulation applies shall be treated for the purposes of this regulation and of Schedule 18 as if a transfer value had been paid in terms of these Regulations on the day on which he becomes subject to the approved non-local government scheme.

(8) For the purposes of this regulation, a transfer scheme is a scheme, agreed between the scheme managers, the appropriate administering authority and, if different, the employing authority, providing for the transfer of rights under this regulation of a number of employees.

(9) In this regulation "accrued actuarial liabilities" means the actual and potential liabilities of the fund in connection with any service or employment before any transfer takes place.

## PART K GRATUITIES

### Interpretation

**K1.** In this Part, unless the context otherwise requires—

"annual pay" means the remuneration received by an employee in respect of his employment with an employing authority during the final year of his employment, except that if the annual remuneration in either of the two consecutive preceding years was higher, then the pay received in either of those years, whichever is the greater, shall be deemed to be the annual pay received by the employee in the final year of his employment with an employing authority;

"benefits" means any allowance or lump sum payable under this Part;

"employing authority" means a scheduled body or the Scottish Special Housing Association in whose employment the employee was immediately before he ceased to be employed under the terms of regulation K2;

"lower earnings limit" means the lower earnings limit prescribed for the purposes of section 4(1) of the Social Security Act 1975(a) applying at the time the employee ceases to be employed or, if earlier, at the end of the period used to determine annual pay;

"relevant policy scheme" means the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or a scheme which the Secretary of State approved for the purposes of regulation P13 of the 1974 Regulations or approved under rule 3 or 3A of the Superannuation (Policy and Local Government Schemes) Interchange (Scotland) Rules 1948 to 1971(b) or a scheme to which any person contributed by reason of regulation N12(2) of the 1974 Regulations;

"upper earnings limit" means the upper earnings limit prescribed for the purposes of section 4(1) of the Social Security Act 1975 applying at the time the employee ceases to be employed or, if earlier, at the end of the period used to determine annual pay;

"war service" means 50% of any period after 2nd September 1939 and before 30th June 1950 during which the employee concerned was over 18 years of age and was serving in the armed forces of the Crown, the merchant navy or mercantile marine, or in any of the women's services specified in Schedule 14 and after which the employee concerned before 1st July 1950 entered the employment of an employing authority and remained in the employment of such a body, without there having been a continuous period of 12 months or more during which he was not employed by an employing authority, but does not include any war service of a kind specified in regulation F2(1) or taken into account for the purposes of Part F of these Regulations.

### Persons to whom Part K applies

**K2.—(1)** This Part shall apply to an employee who ceases to be employed by an employing authority and who—

(a) has not attained the age of 60 but has completed not less than 5 years' service; or

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(a) Section 4(1) was amended by the Social Security Pensions Act 1975 (c.60), Schedule 4, Part I, paragraph 36(a).

(b) S.I. 1948/1462, 1955/982, 1971/1879.

(b) has not attained the age of 60 but has completed not less than one year's service and is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body; or

(c) has attained age 60 and completed not less than one year's service;

and, where an employee dies while in the employment of an employing authority, to his widow or any other dependant provided that the employee was a person to whom this regulation would have applied had he remained in service to age 60, or where at the time of his death his age exceeded 60 and he had completed at least one year's service.

(2) With consent of the Secretary of State this Part may apply to a former employee of an employing authority or to the widow or any other dependant of such an employee.

#### **Payment of benefit**

**K3.—**(1) An employing authority may pay to any person to whom this Part applies a benefit of an amount not exceeding that determined in accordance with regulation K4.

(2) Any benefit payable under paragraph (1) may take the form of—

(a) a lump sum; or

(b) an annuity, the capital value of which does not exceed the amount payable under paragraph (1).

(3) Where an employing authority have granted a benefit to an employee under paragraph (1) by way of an annuity, and the employee dies before receiving an aggregate amount equal to the capital value of the annuity, the authority may grant a benefit to the widow or any other dependant of the employee and for that purpose regulation K2 shall have effect as if the employee had died while in the employment of the authority but as if for the amount specified in paragraph (2) there were substituted the difference between the capital value of the annuity and the aggregate amount of the payments made to the employee before his death.

#### **Calculation of benefit**

**K4.—**(1) Where an employing authority have granted a benefit in respect of an employee under regulation K3, subject to paragraph (2) the amount of that benefit shall not exceed the aggregate of—

(a) 5% of his annual pay for each year of service, including war service, prior to 1st April 1986 with an employing authority in respect of which he is not entitled to receive a benefit under a public service scheme; and

(b) 5% of either his annual pay or the lower earnings limit, whichever is the lower, for each year of service after 31st March 1986 with an employing authority in respect of which—

(i) he is not entitled to receive a benefit under a public service scheme; and

(ii) he, not having attained the age of 55 on 1st April 1986, could not have exercised an option under regulations B2, B3, B4(1) or B4(4); and

(c) 5% of the excess of his annual pay over the upper earnings limit for each year of service after 1st April 1986 with an employing authority in respect of which—

(i) he was not entitled to receive a benefit under a public service scheme; and

(ii) he, not having attained the age of 55 on 1st April 1986, could not have exercised an option under regulations B2, B3, B4(1) or B4(4).

(2) For the purposes of this regulation—

(a) no account shall be taken of service before the age of 18 and after attaining the age of 70;

(b) no account shall be taken of service for which a payment has been made under the Act of 1953, the former Regulations, the 1974 Regulations or this Part of these Regulations;

(c) no account shall be taken of service after 1st April 1986 for which a return of contributions under the terms of regulation C12 has been made;

(d) no account shall be taken of service for which the employee has rights in a relevant policy scheme;

- (e) no account shall be taken of service exceeding 40 years in total and, where actual service exceeds 40 years, the period of service after 1st April 1986 shall be reduced by that excess; and
- (f) no payment under this regulation shall exceed an amount equal to twice annual pay.

#### **Financial**

**K5.** Any benefit under this Part shall not be paid out of the superannuation fund.

## **PART L**

### **INJURY ALLOWANCES ETC.**

#### **Interpretation**

- L1.** In this Part, unless the context otherwise requires—
- “benefits” means any allowance or lump sum payable under this Part;
  - “relevant body” has the meaning given by regulation L7; and
  - “relevant employment” has the meaning given by regulation L2(2).

#### **Persons to whom Part L applies**

**L2.—(1)** Subject to paragraph (4), this Part applies to a person employed in a relevant employment if he—

- (a) sustains an injury, or
- (b) contracts a disease,

as a result of anything he was required to do in carrying out his work.

(2) “Relevant employment” is employment, otherwise than as a teacher, with a body specified in Part I of Schedule 3 or in Part II of that Schedule or the predecessor of such a body, and for the purposes of this Part a police cadet appointed under section 8 of the Police (Scotland) Act 1967(a) shall be deemed to be in employment with the police authority who maintain the police force with which he is undergoing training.

(3) A person is to be treated for the purpose of paragraph (1) as having sustained an injury as mentioned in that paragraph if—

- (a) he sustains the injury while travelling by vehicle as a passenger with the express or implied permission of his employer to or from his place of work, and
- (b) at the time of the injury the vehicle was being operated, otherwise than in the course of a public transport service, by or on behalf of his employer or pursuant to arrangements made by his employer.

(4) This Part does not apply where the injury or disease is one in respect of which the person is entitled to an injury award under a scheme made in accordance with section 26 of the Fire Services Act 1947(b) or is entitled to injury benefits under Regulations made in accordance with section 27 of the Police (Scotland) Act 1967.

#### **Loss of employment through permanent incapacity**

**L3.—(1)** If, as a result of an incapacity which is likely to be permanent caused by the injury or disease, a person to whom this Part applies ceases to be employed in a relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted), he shall be entitled to an annual allowance.

(2) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

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(a) 1967 c.77.

(b) 1947 c.41.

(3) The relevant body may suspend or discontinue the allowance if the person becomes capable of working again.

(4) The allowance shall not exceed 85 per cent of the person's annual rate of remuneration in respect of the employment when he ceased to be employed.

(5) In ascertaining for the purposes of paragraph (4) a person's annual rate of remuneration in respect of the employment when he ceased to be employed—

- (a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;
- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;
- (d) if at that date he was entitled to an allowance under regulation L4 by reason of a reduction in his remuneration, whether as a result of the same or of some other injury or disease, the annual rate is to be taken to be the annual rate which would have applied if his remuneration had not been reduced;
- (e) if his remuneration is retrospectively altered as a result of a pay award, the annual rate of his remuneration is to be based on the retrospective pay award; and
- (f) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed.

(6) In determining the amount of the allowance the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation L8.

#### **Reduction in remuneration**

**L4.—**(1) If as a result of the injury or disease to a person to whom this Part applies that person suffers a reduction in his remuneration while he is employed in relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted) and regulation L3 does not apply, he shall be entitled to an allowance while the reduction continues.

(2) A person's remuneration is to be treated for the purposes of paragraph (1) as reduced if at any time it is lower than it would have been but for the injury or disease.

(3) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(4) The amount of the allowance, together with the person's remuneration in the relevant employment, is not in any year to exceed the remuneration he would have been paid if he had not sustained or contracted the injury or disease.

(5) In determining the amount of an allowance under this regulation the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation L8.

#### **Allowances for pensioners**

**L5.—**(1) If on ceasing to be employed in a relevant employment a person becomes entitled under regulation E2 to receive payments in respect of an annual retirement pension and—

- (a) immediately before ceasing to be so employed he was entitled to an allowance under regulation L4, and
- (b) on ceasing to be so employed he does not become entitled to an allowance under regulation L3, and
- (c) regulation E22(4) does not apply,

the relevant body may pay him an allowance under this regulation.

(2) An allowance under this regulation—

- (a) is not in any year to exceed the amount by which the annual rate of the retirement pension falls short of what it would have been if the amount of the allowance paid

- under regulation L4 during the relevant period (within the meaning of regulation E22(2)) had been part of his remuneration in the relevant employment, and
- (b) continues for such period as the relevant body may determine.

#### **Death benefits**

**L6.—(1)** If a person to whom this Part applies dies as a result of the injury or disease—

- (a) if he leaves a widow who qualifies under paragraph (2), she shall be entitled to an annual allowance or lump sum, and
- (b) if he leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.

(2) A widow qualifies for an annual allowance or lump sum unless—

- (a) her marriage to the person in question took place after he ceased to be employed in relevant employment and he was not subsequently employed in such employment; or

(b) at the date of death she was judicially separated or cohabiting with another man.

(3) The allowance or lump sum is to be paid by the relevant body and is to be of such amount as the body may from time to time determine or, as the case may be, may determine.

(4) In determining the amount of any allowance or lump sum the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation L8.

(5) An allowance to a widow shall cease if she remarries or cohabits with another man, but if she again becomes a widow or the marriage is dissolved or she no longer cohabits with a man the relevant body may restore the allowance for such period as they may determine.

(6) An allowance to a dependant shall continue for such period as the relevant body may determine.

(7) This regulation shall apply with necessary modifications to a widower who at the date of his wife's death is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her.

#### **The relevant body**

**L7.—(1)** The relevant body for the purposes of this Part is—

- (a) the body by whom the person in question was employed immediately before he first qualifies for any benefit under this Part; or
- (b) if he dies without qualifying for any benefit under this Part, the body which last employed him in a relevant employment before his death; or
- (c) if the body specified in sub-paragraph (a) or (b) has ceased to exist, the body to which he would have been transferred if he had continued in the employment in question.

(2) Any question arising under paragraph (1)(c) as to the identity of the body to which the person would have been transferred shall be determined by the Secretary of State.

#### **Rights and payments to be taken into account in determining amount of benefit**

**L8.** In determining the amount of any benefit under this Part the relevant body is to have regard to—

- (a) any right to benefit under Chapter IV or Chapter V of Part II of the Social Security Act 1975 or corresponding provisions of earlier enactments;
- (b) any other statutory right to benefit or compensation;
- (c) any right to receive superannuation benefit (whether payable under an enactment or otherwise) out of any fund to which any body which employed him in relevant employment has made any contributions in respect of him or out of any fund to which assets of any such fund were transferred; and
- (d) any damages recovered, and any sum received by virtue of a contract of insurance.

#### **Retrospective effect**

**L9.—(1)** Subject to the following provisions of this regulation, this Part applies even if the injury or disease was sustained or contracted before 21st December 1987.

(2) Regulation L3, L4, L5 or L6, as the case may be, does not apply if the relevant event occurred before 31st March 1972 but, subject to the following provisions of this regulation, does apply if the relevant event occurred on or after that date and before 21st December 1987.

(3) For regulations L3 and L5 the relevant event is the cessation of the employment, for regulation L4 it is the reduction of remuneration and for regulation L6 it is the death of the employee.

(4) If adequate provision has already been made for the person in question under regulation 7 of the Benefits Regulations or the 1974 Regulations, this Part does not apply to him.

(5) If regulation L3, L4, L5 or L6 applies in any case by virtue of paragraph (2) and paragraph (4) does not apply, the relevant body shall decide what benefit, if any, is to be granted in accordance with the applicable regulation for any past or future period but in making that decision they shall take into account any allowance to which the person is or was entitled under regulation 7 of the Benefits Regulations.

(6) For the purpose of this Part any injury benefit payable under Part S of the 1974 Regulations shall be treated as if it had been paid under this Part.

#### **Finance**

**L10.** Benefits under this Part are not to be met out of any superannuation fund.

#### **Appeals**

**L11.** Regulation N8(3)(b) shall not apply to this Part.

#### **Notice of decisions**

**L12.** The relevant body shall give notice in writing of any decision relating to any benefit under this Part to the person affected and shall inform him about his right of appeal under regulation N8 and the time in which it must be exercised.

## **PART M**

### **FORFEITURE ETC.**

#### **Forfeiture of rights**

**M1.—(1) If—**

- (a) a person has been convicted of an offence in connection with an employment in which he was a pensionable employee, and
- (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence, and
- (c) on an application made within 3 months after the conviction by the body who were his employing authority in that employment, the Secretary of State has certified that the offence either was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service,

that body may direct that all or any of the rights enjoyed by or in respect of him under these Regulations with respect to his previous service shall, subject to paragraphs (2) and (5), be forfeited.

(2) Unless the person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Acts 1911 to 1939(a) 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,

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(a) 1911 c.28, 1920 c.75, 1939 c.121.

no direction may be given under paragraph (1) which would deprive him of his guaranteed minimum pension or would, in the event of his leaving a widow, deprive her of her widow's guaranteed minimum pension.

(3) If—

- (a) a person has ceased to hold an employment in which he was a pensionable employee in consequence of an offence in connection with his employment, and
- (b) the body who were his employing authority have neither notified a decision under Part N on any question as to entitlement to a benefit nor given any direction under paragraph (1),

the appropriate administering authority shall if so directed by that body make interim payments to any person specified by them who would be entitled to receive payment of a benefit under these Regulations if no direction under paragraph (1) were given.

(4) Directions under paragraph (3) may be given from time to time and—

- (a) must specify the amounts to be paid and the persons to whom they are to be paid,
- (b) must not require any person to be paid more than he would for the time being be entitled to have been paid on the assumption that no direction under paragraph (1) were given, and
- (c) do not constitute decisions under Part N as to any person's entitlement to a benefit.

(5) Payments made to a person in accordance with directions under paragraph (3) shall, notwithstanding any direction given under paragraph (1) or any decision under Part N as to entitlement, be deemed to have been payments in respect of a benefit to which he was entitled.

(6) A body making an application to the Secretary of State for a certificate under paragraph (1)(c) shall at the same time send copies of the application to the person concerned and to the appropriate administering authority.

#### **Transfer of certain sums from the superannuation fund**

**M2.—**(1) This regulation applies where—

- (a) a person ("the former employee") has ceased to hold an employment in which he was a pensionable employee in consequence of—
  - (i) an offence of a fraudulent character, or
  - (ii) grave misconduct,in connection with that employment, and
- (b) the body who were his employing authority in that employment ("the former employing authority") have suffered direct financial loss by reason of the offence or misconduct.

(2) Where this regulation applies and the former employing authority are an administering authority, they may take out an appropriate amount from their superannuation fund.

(3) Where this regulation applies and the former employing authority are not an administering authority, the appropriate administering authority shall pay them an appropriate amount out of the superannuation fund if requested to do so.

(4) An appropriate amount is an amount which does not exceed the lesser of—

- (a) the amount of the direct financial loss, or
- (b) the amount of any contributions which could have, but have not, been returned to the former employee, or paid to his spouse or a dependant, under regulation C12(4)(a).

(5) If after making a payment under paragraph (3) the administering authority are required to pay a transfer value in respect of the former employee, the former employing authority shall repay them the amount of that payment if requested to do so.

#### **Recovery or retention by employing authority of certain sums from the superannuation fund**

**M3.—**(1) This regulation applies where a person ("the former employee")—

- (a) has ceased to hold an employment, in which he was a pensionable employee, in consequence of a criminal, negligent or fraudulent act or omission on his part in connection with that employment, and



- (b) has incurred some monetary obligation, arising out of that act or omission, to the body who were his employing authority in that employment ("the former employing authority").

(2) Where this regulation applies, the former employing authority may recover or retain out of the appropriate superannuation fund an amount which (subject to any different agreement in writing between them and the former employee) does not exceed the lesser of—

- (a) the amount of the monetary obligation, or
- (b) the actuarial value, at the time of the recovery or retention, of all rights enjoyed by or in respect of the former employee under these Regulations with respect to his previous service, other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme.

(3) The former employing authority shall give the former employee not less than 3 months' notice of the amount to be recovered or retained under paragraph (2).

(4) The former employee is entitled to a certificate from the former employing authority showing the amount retained under paragraph (2), the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.

(5) In the event of any dispute as to the amount to be recovered or retained under paragraph (2), the former employing authority are not entitled to recover or retain any amount except after the monetary obligation has become enforceable under an order of a competent court or the award of an arbiter.

## PART N

### DECISIONS AND APPEALS

#### Initial decisions

N1.—(1) Any question concerning—

- (a) the rights or liabilities under these Regulations of an employee, or a person claiming to be treated as an employee, of a scheduled body, or
- (b) the rights under these Regulations of a person who has been an employee of a scheduled body, or of his widow, dependants or executors, or
- (c) the rights of any person under Part F (war service),

shall be decided in the first instance by the body concerned.

(2) Where the body by whom any such question falls to be decided is ascertainable by reference to regulations N2 to N6, that body is for the purposes of this regulation and of regulation N8 (appeals) the body concerned.

(3) A decision by the body concerned does not bind any other scheduled body or the Secretary of State.

#### Decisions by employing authorities as to status of employees

N2.—(1) In relation to every employment under them of each of their employees a scheduled body are to decide—

- (a) whether the employee is an officer or a manual worker,
- (b) whether he is a whole-time, a variable-time or a part-time employee,
- (c) whether he has undergone to their satisfaction any medical examination required under regulation B1(11), and
- (d) whether or not he is a pensionable employee.

(2) If the body decide that a person is a pensionable employee in any employment they shall also decide—

- (a) which of his emoluments are remuneration on which contributions are payable, and
- (b) if he is a part-time employee, the proportion which his contractual minimum hours of employment in each week bear to those of a comparable whole-time employee.

(3) The questions specified in paragraph (1) and, where applicable, paragraph (2) are to be decided—

- (a) within 3 months after the person enters the employment, and
- (b) as soon as is reasonably practicable after—
  - (i) any statutory resolution is passed by the body for the purposes of regulation B1(5),
  - (ii) any change occurs in the number of his regular or usual hours of employment, or
  - (iii) any other change occurs in or in relation to the employment, which is material for the purposes of these Regulations.

#### **Decisions by administering authorities as to status of employees**

**N3.—**(1) In relation to any employment in which a person is a pensionable employee the appropriate administering authority are to decide—

- (a) what previous service or employment (if any) he is entitled to reckon—
  - (i) as reckonable service, and
  - (ii) as qualifying service,
- (b) whether it includes any, and if so what, periods of service as a part-time employee,
- (c) what proportion of whole-time service his service during any such period represents,
- (d) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the Insurance Act in respect of any period of non-participating employment,
- (e) the amount of any payment in lieu of contributions,
- (f) what rate of contribution the employee is liable to pay to the appropriate superannuation fund, and
- (g) whether he is entitled to reckon as reckonable service—
  - (i) any, and if so how many, added years, or
  - (ii) any, and if so what, additional period.

(2) The questions specified in paragraph (1) are to be decided as soon as is reasonably practicable after the person becomes a pensionable employee in the relevant employment but not later than 6 months after that event.

#### **Decisions by administering authorities as to war service**

**N4.—**(1) Within 6 months after receiving notice of an election under regulation F3 (election as to war service) and the information mentioned in regulation F5(2)(a), an administering authority are to decide whether the conditions specified in regulation F3(2) to (9) are satisfied in relation to the person in respect of whom the notice was given.

(2) If they decide, or the Secretary of State determines under regulation N8, that those conditions are satisfied in relation to the person, the authority are, within 12 months after the date of notification of that decision or determination—

- (a) in the case of a person who is a pensionable employee or entitled to a retirement pension under regulation E2, to decide what period if any he is entitled, or is to be deemed to have been entitled, to reckon as reckonable service by virtue of regulation F6(1)(a) or (b), or
- (b) in any other case, to decide to which if any of the additional benefits specified in regulation F6(11) and (15) he or any other person is entitled.

(3) If the authority decide, or the Secretary of State determines under regulation N8, that a period is reckonable as mentioned in paragraph (2)(a), the authority are, within 3 months after the date of notification of that decision or determination, to decide whether regulation D8 applies.

#### **Decisions by employing authorities as to benefits**

**N5.—**(1) Any question whether a person is entitled to a benefit under these Regulations is to be decided by the employing authority employing the person in respect of whose employment the question arises.

(2) For the purposes of paragraph (1) "benefit" includes a return of contributions but does not include a benefit specified in Part L or regulation F6(11) or (15).

(3) Any such question as is mentioned in paragraph (1) is to be decided as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee.

#### **Decisions by administering authorities as to the amount of benefits**

**N6.—**(1) Where a person is entitled to a benefit which is or may become payable out of their superannuation fund, an administering authority are to decide the amount of the benefit.

(2) The amount of a benefit is to be decided as soon as is reasonably practicable after the person becomes entitled to it.

(3) For the purposes of this regulation "benefit" includes a return of contributions and a benefit specified in regulation F6(11) or (15).

#### **Notification of decisions**

**N7.—**(1) As soon as is reasonably practicable after deciding any question, the body concerned shall send a written notification of their decision to every person whose rights or liabilities the question concerns.

(2) The written notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision, and
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated, and
- (c) in any case, a conspicuous statement directing the person's attention—
  - (i) to the address from which he may obtain further information about the decision, including details of any calculation of service or benefits, and
  - (ii) to his right of appeal under regulation N8 to the Secretary of State.

#### **Appeals**

**N8.—**(1) Where the body concerned have either decided or failed to decide any such question as is mentioned in regulation N1 and written notice of appeal is served on the Secretary of State, the question shall, subject to paragraph (2), be determined by him and his determination of it shall be final.

(2) The Secretary of State shall not under this regulation determine any question that fell to be decided by the body concerned in the exercise of a discretion conferred on them by these Regulations.

(3) Notice of appeal (which may be sent by post) may be served—

(a) by—

- (i) an employee of a scheduled body or a person claiming to be treated as such an employee who is dissatisfied with any decision made under these Regulations by the body concerned as to his rights or liabilities or with the body's failure to make any such decision; or
- (ii) a person who has been an employee of a scheduled body, his widow, any dependant or his executors who is or are dissatisfied with any decision made under these Regulations by the body concerned as to his or their rights or with the body's failure to make any such decision; or
- (iii) any other person who is dissatisfied with any decision made by the body concerned as to his rights under Part F or with the body's failure to make any such decision,

within 3 months from the date on which he was notified of an authority's decision or 3 months after their failure to make a decision, and

- (b) where the body concerned are not an administering authority, by the administering authority maintaining the superannuation fund to which the body pay employer's contributions, within the period of 3 months from the date of the employing authority's decision or their failure to make a decision.

(4) For the purpose of this regulation the body concerned shall be deemed to have failed to have made a decision if, after 3 months from the date on which they receive a written request from a person or administering authority that they decide a question, they have not decided that question.

(5) If the Secretary of State is satisfied that there are reasonable grounds for not serving the notice within the period specified in paragraph (3)(a), it may be extended by such longer period as the Secretary of State may allow.

## PART P

### SUPERANNUATION FUNDS AND PAYMENTS BY AUTHORITIES

#### Superannuation funds

**P1.**—(1) The superannuation fund, other than any further fund established under the Local Government Superannuation (Funds) (Scotland) Regulations 1986(a), maintained immediately before 21st December 1987 under the 1974 Regulations—

- (a) by each regional council,
- (b) by the Orkney Islands Council, and
- (c) by the Shetland Islands Council,

shall be maintained by those bodies for the purposes of these Regulations and for the purposes of regulations P2, P3, P4 and P10 shall be known as "the fund".

(2) Any further fund established under the Local Government Superannuation (Funds) (Scotland) Regulations 1986 by a council mentioned in paragraph (1) immediately before 21st December 1987 shall subject to regulation P4 be maintained by those bodies for the purposes of these Regulations.

(3) Every regional council and islands council who by virtue of paragraph (1) is administering a superannuation fund and who enters into an admission agreement under regulation B6 may establish and administer for the purposes of these Regulations a further superannuation fund or funds which shall be known as the further fund or further funds respectively.

#### Apportionment of the fund

**P2.**—(1) Upon the establishment of a further fund the fund shall be apportioned and the provisions of Schedule 19 shall apply in all cases for the purposes of such apportionment and for the transfer of assets from the fund to the further fund as those provisions apply where such a change of employment occurs as is mentioned in regulation Q2(6); and as if—

- (a) references to the previous fund to be apportioned under that Schedule were references to the fund, and references to the fund of the new fund authority were references to the further fund; and
- (b) paragraph 7 of that Schedule and, in paragraph 8, the words "Subject to paragraph 7" were omitted.

(2) The administering authority shall bear the costs of the apportionment required by this regulation.

#### Pensions increase

**P3.**—(1) In respect of any employee of a body specified in column (1) of Schedule 20 who is a person admitted to the fund or a further fund, that fund shall bear the cost of increases of pensions, allowances and gratuities under the provisions of the Pensions (Increase) Act 1971(b) where and to such extent as those pensions, allowances and gratuities relate to service undertaken by the employee following the date referred to in column (2) of Schedule 20 in relation to his employing body or the date of his admission to the fund or a further fund, if later.

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(a) S.I. 1986/1449.

(b) 1971 c.56.

(2) For the purposes of paragraph (1) above the costs of pensions increase attributable to any part of the pension, allowance or gratuity payable by virtue of—

- (a) an election under regulation D12 or D13 of the 1974 Regulations or regulation C5 or C6;
- (b) any increase in reckonable service made in accordance with the provisions of Schedule 9 to the 1974 Regulations or the provisions of Schedule 10; or
- (c) a transfer value received under the provisions of Part P or Part Q of the 1974 Regulations or Part J or Part Q of these Regulations;

shall be borne by that fund to which the employee has been admitted.

(3) Where under the provisions of regulation P4 a further fund is dissolved, the fund shall subsequent to the date of such dissolution meet the cost of pensions increase so far as these costs would have been met by the further fund in respect of liabilities arising before the date of dissolution.

#### **Dissolution of further funds**

**P4.**—(1) The administering authority may if they think fit dissolve a further fund and transfer the assets thereof to the fund, and thereupon—

- (a) any entitlement to participate in the benefits of the further fund shall become an entitlement to participate in the benefits of the fund; and
- (b) the fund shall become the appropriate superannuation fund for those participants.

(2) The administering authority may not dissolve a further fund unless they have given notice of not less than 28 days to the bodies whose employees are entitled to participate in that fund of their intention to dissolve the fund.

#### **Management of superannuation funds**

**P5.** Every administering authority shall in each year carry and credit to the appropriate superannuation funds—

- (a) the amounts contributed during the year by pensionable employees entitled to participate in the benefits of that fund,
- (b) the employer's contributions payable by scheduled bodies under regulation P12,
- (c) all dividends and interest arising during the year out of the investment or use of that fund or any part thereof, and any capital moneys resulting from the realisation of investments or from the repayment of moneys used temporarily for other authorised purposes,
- (d) the amount of any additional contributory payments received by the administering authority under these Regulations, and
- (e) any other sum which the administering authority may become liable to carry to that fund under these Regulations.

#### **Use and investment of superannuation funds' moneys**

**P6.**—(1) Subject to paragraphs (3) to (7), an administering authority—

- (a) shall invest any moneys forming part of the superannuation fund or funds maintained by them ("fund moneys") that are not for the time being required to meet payments to be made out of the funds under these Regulations, and
- (b) may vary the manner in which any fund moneys are for the time being invested.

(2) For the purposes of this regulation and of regulation P5(c), investment includes—

- (a) any contract which by virtue of section 45 of the Finance Act 1984(a) (extension of pension schemes' tax exemptions to dealings in financial futures and traded options) is to be regarded as an investment for the purposes of the enactments referred to in that section, and
- (b) use by the administering authority for any purpose for which they have a statutory borrowing power.

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(a) 1984 c.43.

(3) On the total of any fund moneys used by them and for the time being not repaid an administering authority shall pay interest to the fund at a rate no lower than the lowest rate at which that amount could have been borrowed by them at arm's length, otherwise than by way of overdraft from a bank, at 7 days' notice.

(4) An administering authority shall not—

(a) make any investment in securities of companies other than listed securities so as to cause the total value of such investments (except investments made in accordance with a scheme under section 11 of the Trustee Investments Act 1961(a) to exceed 10% of the value at the time of all investments of fund moneys, or

(b) make any investment, other than—

(i) an investment made in accordance with a scheme under section 11 of the Trustee Investments Act 1961, or

(ii) an investment falling within paragraph 1 of Part I or paragraph 1 or 2 of Part II of Schedule 1 to that Act, or

(iii) a deposit with an institution authorised for the purposes of section 3 of the Banking Act 1987(b) or with a person for the time being specified in Schedule 2 to that Act,

so as to result in more than 5% of the value at the time of all investments of any fund's moneys being represented by a single holding, or

(c) make any deposit falling within sub-paragraph (b)(iii) so as to bring the aggregate of any fund's moneys deposited with any one bank, institution or person other than the National Savings Bank to an amount which exceeds 10% of the value at the time of all investments of that fund's moneys, or

(d) lend to any person other than Her Majesty's Government in the United Kingdom or the Government of the Isle of Man, or use as mentioned in paragraph (2), or deposit with a person specified in paragraph 12 or 13 of Schedule 2 to the Banking Act 1987, any fund moneys so as to bring the aggregate of any fund's moneys so lent, used or deposited to an amount which exceeds 10% of the value at the time of all investments of that fund's moneys.

(5) For the purposes of paragraph (4)(d) moneys are not lent if they are invested in registered securities to which section 1 of the Stock Transfer Act 1963(c) applies or in listed securities.

(6) In the discharge of their functions under this regulation an administering authority shall have regard—

(a) to the need for diversification of investments of fund moneys,

(b) to the suitability of investments of any description of investment proposed and of any investment proposed as an investment of that description, and

(c) to proper advice, obtained at reasonable intervals.

(7) Paragraph (6)(c) does not apply where functions under this regulation are lawfully discharged, under arrangements made under section 56 of the Local Government (Scotland) Act 1973(d) or otherwise, by an officer who is competent to give proper advice.

(8) Where any fund moneys are used as mentioned in paragraph (2), sub-paragraphs (2) and (3) of paragraph 25 of Schedule 3 to the Local Government (Scotland) Act 1975(e) shall apply as they apply in the case of money so used under that paragraph; but except as aforesaid that paragraph shall not apply to a superannuation fund maintained under these Regulations.

(9) An administering authority may pay out of fund moneys any costs, charges and expenses incurred by them in the discharge of their functions under this regulation.

(10) For the purposes of this regulation—

“companies” includes companies established under the law of any territory outside the United Kingdom;

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(a) 1961 c.62.

(b) 1987 c.22.

(c) 1963 c.18; section 1 was amended by virtue of the Interpretation Act 1889 (c.63), section 38(1), and by the Finance Act 1964 (c.49), Schedule 9, and the Post Office Act 1969 (c.48), section 108(1)(f).

(d) 1973 c.65; section 56 was amended by the Local Government and Planning (Scotland) Act 1982 (c.43), section 32.

(e) 1975 c.30.

“listed securities” means securities in respect of which a listing has been granted and not withdrawn—

- (a) on a stock exchange in the United Kingdom which is a recognised stock exchange within the meaning of the Prevention of Fraud (Investments) Act 1958(a), or
- (b) on a stock exchange outside the United Kingdom of international repute;

“local authority” means a local authority within the meaning of the Local Government (Scotland) Act 1973 or the Local Government Act 1972(b), the Common Council of the City of London, the Council of the Isles of Scilly, and a district council within the meaning of the Local Government (Northern Ireland) Act 1972(c);

“proper advice” means the advice of a person, including an officer of theirs, who is reasonably believed by the administering authority to be qualified by his ability in, and practical experience of, financial matters;

“securities” includes shares, stock and debentures;

“single holding” means investments—

- (a) in securities of, or in units or other shares of the investments subject to the trusts of unit trust schemes managed by, or in loans to or deposits with, any one body, or
- (b) in the acquisition, development or management of, or in any advance of money upon the security of, any separate interest in any one item of heritable property, or
- (c) in the acquisition of any one item of moveable property;

and the value at any time of all investments of fund moneys is to be taken to include the amount of any fund moneys used as mentioned in paragraph (2) and for the time being not repaid.

#### **Accounts and audit**

**P7.** As soon as may be after an audit of any of their superannuation funds an administering authority shall send each body whose employees contribute to that fund copies of the revenue account and balance sheet of the fund and of any report by the auditor.

#### **Periodical valuation of superannuation funds**

**P8.—(1)** Every administering authority shall obtain an actuarial valuation of the assets and liabilities of each of their superannuation funds as at 31st March in the year 1990 and in every fifth year thereafter, together with a report by the actuary and shall for that purpose provide the actuary with the consolidated revenue account of each fund and such other information as he may require.

(2) Unless the Secretary of State allows an extended period, the valuation and report are to be obtained within 21 months from the date as at which the valuation is made.

(3) Forthwith upon receiving any such valuation and report an administering authority shall—

- (a) send copies of them to the Secretary of State and to each body whose employees contribute to the fund,
- (b) send the Secretary of State a copy of the consolidated revenue account with which the actuary was provided, and
- (c) unless the report contains a summary of the assets of the fund at the date as at which the valuation was made, send the Secretary of State such a summary.

#### **Actuary's certificates**

**P9.—(1)** Every administering authority shall, as soon as is reasonably practicable after obtaining a valuation under regulation P8, obtain from the same actuary a certificate for each fund specifying—

- (a) the common rate of employer's contribution, and
- (b) any individual adjustments,

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(a) 1958 c.45.  
(b) 1972 c.70.  
(c) 1972 c.9 (N.I.).

for each year of the period of 5 years beginning with 1st April third following the date as at which the valuation was made.

(2) The common rate of employer's contribution is the percentage of their pensionable employees' contributions to a fund during the year under regulation C2 or C3 which should in the actuary's opinion be paid to that fund, so as to ensure its solvency, by all bodies whose employees contribute to it, having regard to—

- (a) the existing and prospective liabilities of the fund arising from circumstances common to all those bodies, and
- (b) the desirability of maintaining as nearly constant a rate as possible.

(3) An individual adjustment is any percentage or amount by which in the actuary's opinion contributions at the common rate should in the case of a particular body be increased or reduced having regard to existing or prospective—

- (a) liabilities of the fund, or
- (b) benefits accruing to the fund,

arising from circumstances peculiar to that body.

(4) Forthwith upon receiving a certificate under this regulation an administering authority shall send a copy of it to the Secretary of State and to each body whose employees contribute to the fund.

(5) If—

- (a) the common rate for the first year of the period to which an actuary's certificate relates ("the new rate") is less than the common rate for the last year of the period immediately preceding the period to which the certificate relates ("the preceding period"), and
- (b) the certificate has been obtained more than 6 months before the end of the preceding period,

the new rate shall, if the actuary and the administering authority so agree, have effect for the whole or part of the last year of the preceding period.

#### **Valuation and actuary's certificates for further funds**

**P10.** The administering authority shall, upon the establishment of a further fund, obtain from an actuary a certificate in respect of that further fund in accordance with the requirements of regulation P9 but for the period specified in regulation P8(1) there shall be substituted the period beginning with the date of the establishment of the further fund until the date of coming into effect of the rate specified by the actuary under regulation P8 for each fund following the first actuarial valuation of the original fund after the establishment of the further fund.

#### **Cost of pensions increase**

**P11.** Where under the provisions of regulation P3 the cost of pensions increase is to be met by a fund, the actuary, when setting a contribution rate for the purposes of regulation P9 or P10 for an employer specified in column (1) of Schedule 20, shall set a rate which shall be sufficient to cover the cost of the liabilities to be met from that fund including the cost of pensions increase under the Pensions (Increase) Act 1971 insofar as the latter cost is not met by other payments received by the fund.

#### **Employer's contributions**

**P12.—(1)** A scheduled body shall contribute to the appropriate superannuation fund in each year of any period of 5 years for which a certificate is required under regulation P9 at the common rate increased or, as the case may be, reduced by any individual adjustment which has been specified for the year in respect of the employing authority under regulation P9(1)(b).

(2) A scheduled body shall pay the contributions required by paragraph (1) at the intervals determined under regulation P15.

(3) If all or part of any sum due under paragraph (1) remains unpaid at the end of the period of one month after the date on which it becomes due, or of any subsequent period of one month, the employing authority shall pay to the appropriate fund a further contribution equal



to one-twelfth of a year's interest, at 1% above what was the base rate at the end of the first day of that month or period, on the amount remaining unpaid.

(4) Interest paid under paragraph (3) shall be carried to the appropriate superannuation fund.

#### **Employer's additional contributions**

**P13.—**(1) Where immediately before 21st December 1987 any payments remained to be made by an employee under regulation D10 (added years) or D11 (payments under former Regulations for added years) of the 1974 Regulations, his employing authority shall, so long as he remains in their employment, pay to the appropriate superannuation fund—

- (a) contributions equal to the amounts payable by the employee under regulation C9(2), or
- (b) where the amounts payable by the employee—
  - (i) were reduced under proviso (ii) to regulation 12(3) of the Benefits Regulations or the proviso to paragraph 1 of Schedule 6 to the 1974 Regulations, or
  - (ii) were or are reduced by virtue of the payment of a lump sum under Schedule 4 to the 1974 Regulations or Schedule 8 to these Regulations,contributions equal to the amounts that would have been payable by the employee but for the reduction.

(2) Where on the employee's ceasing to hold his employment the employing authority agree to pay a sum under paragraph 2A of Schedule 5 to the 1974 Regulations and the employee pays the required amount for the purposes of that paragraph, the employing authority shall pay the agreed sum to the appropriate superannuation fund before the end of the period of one month beginning on the date of the payment by the employee.

(3) If all or part of any sum due under the provisions of this regulation remains unpaid at the end of the period of one month after the date on which it becomes due, or of any subsequent period of one month, the employing authority shall pay to the administering authority a further sum equal to one-twelfth of a year's interest, at 1 per cent above what was the base rate at the end of the first day of the period, on the amount remaining unpaid.

(4) Payments made in pursuance of paragraph (3) shall be paid into the appropriate superannuation fund.

(5) Where by virtue of paragraph 6 of Schedule 5 to the 1974 Regulations an election under regulation D10 of the 1974 Regulations continues to have effect, then for the purposes of this regulation the employing authority in whose employment the employee again became a pensionable employee shall be deemed from the date of his again becoming a pensionable employee to be the employing authority who gave consent to the election under regulation D10 of the 1974 Regulations.

#### **Employer's further payments**

**P14.** Any extra charge on the appropriate superannuation fund resulting from—

- (a) a determination under regulation D4 of the 1974 Regulations (previous employment under an officer to be treated as non-contributing service), or
  - (b) a resolution under regulation D9 of the 1974 Regulations (non-contributing service to be treated as contributing service), or
  - (c) a resolution under regulation D14 of the 1974 Regulations or regulation D7 of these Regulations (increase of reckonable service), or
  - (d) an additional benefit granted under regulation E13 of the 1974 Regulations or regulation E13 of these Regulations (additional benefits for female nursing staff),
- shall be repaid to that fund by the scheduled body concerned.

#### **Payments by employing authorities to administering authorities**

**P15.—**(1) Every scheduled body who are not an administering authority shall pay to the appropriate administering authority, at such intervals of not more than 12 months as that authority may determine—

- (a) all amounts from time to time deducted from the remuneration of their pensionable employees under these Regulations,

- (b) any amounts received by them under regulation C4, by deduction from remuneration or otherwise, during the interval,
- (c) any amount due under regulation P13(1) and (5),
- (d) any extra charge payable under regulation P14, the amount of which has been notified to them by the administering authority during the interval, and
- (e) a contribution towards the cost of the administration of the fund of which their pensionable employees are members.

(2) The annual amount of the contributions payable under paragraph (1)(e) is to be agreed between the body concerned and the administering authority or, in default of agreement, determined by the Secretary of State.

(3) Payments made in pursuance of, and interest paid under paragraph (6) on sums due under, paragraph (1)(a) to (d) shall be carried to the appropriate superannuation fund.

(4) Subject to paragraph (5), every payment under paragraph (1)(a) is to be accompanied by a statement showing—

- (a) the name and remuneration of each of the pensionable employees in relation to whom the payment is made,
- (b) the amounts comprised in the payment which represent deductions from the remuneration of each of those employees and the periods in respect of which the deductions were made,
- (c) the amount of the remuneration of those employees from or in respect of whom deductions have not been made, and
- (d) the names of any pensionable employees from whose remuneration no deductions have been made.

(5) An administering authority may direct that, instead of complying with paragraph (4), the bodies making payments to them under paragraph (1)(a) are to provide them with the information mentioned in paragraph (4) in such form, and at such intervals of not more than 12 months, as may be specified in the direction.

(6) If all or part of any sum due under the provisions of this regulation remains unpaid at the end of the period of one month after the date on which it becomes due, or of any subsequent period of one month, the employing authority shall pay to the administering authority a further sum equal to one-twelfth of a year's interest, at one per cent above what was the base rate at the end of the first day of the period, on the amount remaining unpaid.

#### **Funds out of which combined benefits are to be paid**

**P16.**—(1) Where under regulation E16 a person elects to receive a combined benefit, or where under regulation E18(1) the benefits in respect of any person fall to be calculated as a combined benefit in accordance with regulation E16, and the superannuation fund concerned is not the same in the case of the employments in respect of which the benefits become payable, then the fund authority maintaining the fund out of which the combined benefit has become payable (in this regulation referred to as the “second fund authority”) shall intimate to the fund authority maintaining the fund out of which the retirement pension was payable (in this regulation referred to as the “first fund authority”) that such a combined benefit has become payable.

(2) Where a first fund authority receives an intimation in terms of paragraph (1), that authority in lieu of any payments of benefits to or in respect of such a person shall make payments in accordance with paragraph (3) out of its superannuation fund to the second fund authority for the credit of its superannuation fund.

(3) The payments to be made for the purposes of paragraph (2) are to be equivalent in amount to the payments which would have been payable from the fund maintained by the first fund authority, but for the operation of either—

- (a) regulation E16 in relation to the person who elected to receive combined benefits in terms of that regulation commencing with the date of his election, or
- (b) regulation E18(1) in relation to the person or persons entitled to combined benefits in terms of that regulation commencing with the date of the death of the pensionable employee concerned in further pensionable employment,

and such payments (which shall comprise all sums due in respect of the period immediately prior to the date of payment) shall be made at quarterly intervals on the last day of March,

June, September and December respectively or at such longer intervals as the fund authorities concerned may agree.

(4) Whenever all or part of any payment due under the foregoing provisions of this regulation remains unpaid at the end of the period of one month after the date on which it becomes due, or any subsequent period of one month, the first fund authority shall pay to the second fund authority a further sum equal to one-twelfth of a year's interest, at one per cent above what was the base rate at the end of the first day of that period, on the amount remaining unpaid.

(5) Where after the combined benefit becomes payable the first fund authority make any payment in respect of the retirement pension to a person appearing to them to be entitled to it, the amount of that payment shall be deducted—

- (a) by the second fund authority from the combined benefit payable to the pensioner, and
- (b) by the first fund authority from the amount to be paid by them under paragraphs (2) and (3).

#### **Provision as to protection of pension**

**P17.** Any increase in a pension which is required by virtue of sections 41A to 41C (protection of pensions) of the Pensions Act shall be paid out of the appropriate superannuation fund.

## **PART Q**

### **INTERFUND ADJUSTMENTS**

#### **Interpretation**

**Q1.** For the purposes of this Part, unless the context otherwise requires—

“fund authority” means—

- (a) in relation to a person's previous local government employment, the body maintaining the superannuation fund to which he was a contributor immediately before he ceased to be employed in his previous local government employment, or its successor body; and
- (b) in relation to a person's new local government employment, the body maintaining the superannuation fund to which he became a contributor in his new local government employment or its successor body;

“new local government employment” has the same meaning as in regulation Q2(1)(a) and “new employing authority” is to be construed accordingly;

“pension” does not include an allowance or gratuity;

“previous local government employment” has the same meaning as in regulation Q2(1)(a) and “previous employing authority” is to be construed accordingly.

#### **Change of local government employment and fund authority**

**Q2.—(1)** Where—

- (a) a person who has ceased to be employed in a local government employment (“the previous local government employment”) subsequently becomes employed in some other local government employment (“the new local government employment”), and
- (b) in his new local government employment the fund authority (“the new fund authority”) is different from the fund authority (“the previous fund authority”) in his previous local government employment, and
- (c) in his new local government employment he is entitled to reckon any reckonable service which he was entitled to reckon in his previous local government employment, and

(d) no direction has been made at any time in relation to his reckonable service in his previous local government employment under regulation M1, regulation L12 of the 1974 Regulations, or any corresponding provision of any earlier enactment, the previous fund authority shall, subject to the following provisions of these Regulations, pay, out of a superannuation fund to which the person was a contributor to the new fund authority for the credit of their superannuation fund to which the person will be a contributor, a transfer value calculated in accordance with Part IV of Schedule 16.

(2) Subject to paragraphs (3), (4) and (5), if the change of employment occurs as a result of an Order or Regulations made under the Local Government (Scotland) Act 1973 in accordance with section 216 of that Act (a) and the number of persons changing superannuation funds is more than 9 but less than 100, the transfer values payable under paragraph (1) shall be calculated as if they were payable under Part I of Schedule 16.

(3) An adjustment shall be made to the total sum payable under paragraph (2) if the assets of the fund of the previous fund authority immediately before any change of employment occurs are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time.

(4) The total shall be adjusted to the extent that the actuaries of the funds concerned consider appropriate in the circumstances.

(5) If any question arises as to the application of paragraphs (3) and (4) or the actuaries are unable to agree on the adjustment to be made, the adjustment (if any) to be made shall be decided by an actuary appointed by the Secretary of State.

(6) If the change of employment occurs as a result of an Order or Regulations made under the Local Government (Scotland) Act 1973 in accordance with section 216 of that Act and the number of persons changing superannuation funds is 100 or more—

(a) no payment shall be made under paragraph (1); and

(b) the superannuation fund of the previous fund authority to which the persons were contributors shall be apportioned in accordance with Schedule 19.

(7) “Accrued actuarial liabilities” means the actual and potential liabilities of the fund in connection with any service or employment before the change of employment takes place.

#### **Partial forfeitures**

**Q3.—(1) Where—**

(a) a direction has been made in relation to any person under regulation M1, or any corresponding provision of any earlier enactment, and

(b) any right to benefit under these Regulations, the 1974 Regulations or the former Regulations is retained, and

(c) the conditions of regulation Q2(1) are satisfied with the exception of the conditions in sub-paragraph (d) of that regulation,

the previous fund authority shall pay out of their superannuation fund to which the person was a contributor a transfer value to the new fund authority for the credit of their superannuation fund.

(2) The transfer value is to be an amount equal to the actuarial value of the remaining benefits.

## **PART R**

### **MISCELLANEOUS POWERS AND DUTIES OF AUTHORITIES**

#### **Information to be supplied by certain employees**

**R1.—(1) Subject to paragraph (4)—**

(a) within 3 months after a person enters the employment of a scheduled body, and

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(a) Section 216 was amended by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 4, Part I.

(b) within 6 months after any change which is material for the purposes of these Regulations occurs in or in relation to a person's employment under a scheduled body, the body are to request the person in writing to provide them with the documents specified in paragraph (2).

(2) The documents mentioned in paragraph (1) are—

- (a) a statement in writing of all his previous periods of employment (whether by a scheduled body or by any other person) and any national service and war service, and
- (b) copies of all notifications previously given to him under these Regulations, the 1974 Regulations, the Local Government Superannuation (Administration) (Scotland) Regulations 1954(a) or the Local Government Superannuation (Administration) (Scotland) Regulations 1938(b).

(3) A request under paragraph (1) is to include a conspicuous statement directing the attention of the employee to the importance of his providing full and accurate information and warning him that any omission or inaccuracy may prejudice the ascertainment of his rights under these Regulations.

(4) Paragraph (1) does not apply where the body are satisfied—

- (a) that the person is not a pensionable employee, or
- (b) that they, or the administering authority if different, already have a complete and accurate record of any previous service or employment which is relevant for the purposes of these Regulations.

#### **Records to be kept by authorities**

**R2.—**(1) A scheduled body are to keep, in such form as they think fit, a record of—

- (a) the name of, and
- (b) all their decisions under regulation N2 in relation to,

each of their pensionable employees.

(2) An administering authority are to keep, in such form as they think fit, a record of—

- (a) the name of, and
- (b) all their decisions under regulation N3 or N4 in relation to,

every pensionable employee in relation to whom they are the appropriate administering authority.

#### **Transmission of documents and information**

**R3.—**(1) A scheduled body who are not an administering authority are to send the appropriate administering authority, as soon as is reasonably practicable—

- (a) copies of all documents provided under regulation R1,
- (b) copies of all notifications of decisions made under regulation N2 or N5,
- (c) copies of all statements and statutory declarations provided under regulation C10, and
- (d) such other documents and information as the administering authority may reasonably require for the purposes of discharging their functions under these Regulations.

(2) A scheduled body who are not an administering authority—

- (a) on receiving from a pensionable employee notice of his intended retirement, or
- (b) on giving an employee notice to terminate his employment in circumstances in which he may become entitled to a return of contributions or to a benefit payable out of the appropriate superannuation fund, or
- (c) on becoming aware of any other circumstances which may necessitate any payment out of that fund,

are to comply, as soon as is reasonably practicable, with the requirements in paragraph (3).

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(a) S.I. 1954/1243.

(b) S.R. & O. 1938/245.

(3) The requirements mentioned in paragraph (2) are to inform the appropriate administering authority of the notice or other circumstances and—

- (a) send them particulars of the employee's remuneration during the period that is relevant to a decision on the amount of the benefit that may become payable to or in respect of him, and
- (b) send them a copy of any relevant medical or death certificate and of any certificate issued by the body under regulation E24.

(4) An administering authority when notifying a person who is not in their employment of a decision under regulation N3 or N4 are to send a copy of the notification to the body, if any, who are the employing authority in relation to that person.

(5) If an administering authority decide, or the Secretary of State determines under regulation N8, that the conditions specified in regulation F3(2) to (9) are satisfied in relation to a person, and regulation F3(2)(f) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 15, the authority shall as soon as is reasonably practicable—

- (a) inform the scheme managers of the designated scheme that on receipt by the authority of a transfer value (calculated in accordance with Part V of Schedule 16) regulation F6(1) (reckonable service and benefits in respect of war service) would apply to the person, and
- (b) inform them of the rate or amount, as the case may be, to be used in ascertaining C of the formula set out in that Part.

#### **Provisions as to contributions equivalent premiums**

**R4.—**(1) Where a scheduled body pay a contributions equivalent premium under Part III of the Pensions Act in respect of any pensionable employee, they are entitled to recover, or if they are an administering authority to retain, out of the appropriate superannuation fund a sum not exceeding the amount of that premium, less the amount (if any) which they could recover or retain under section 47 of that Act in respect of the premium.

(2) Where such a contributions equivalent premium is refunded under regulation 8(3)(c) of the Occupational Pension Schemes (Contracting-out) Regulations 1984(a), the authority to whom it is refunded shall pay to the superannuation fund to which the person involved has become a contributor a sum equal to the amount of the premium.

## **PART S**

### **MISCELLANEOUS AND SUPPLEMENTAL**

#### **Periods of time**

**S1.** Where a period of time specified in any Regulations revoked by these Regulations is current at the commencement of these Regulations, these Regulations have effect as if the corresponding provision of these Regulations had been in force when that period began to run.

#### **Application to benefits in respect of former employments**

**S2.—**(1) Subject to paragraph (2), these Regulations apply in relation to benefits which—

- (a) were before 21st December 1987 being paid, or
- (b) may on or after that date become payable,

to or in respect of persons who before that date ceased to hold, or died while in, a local government employment.

(2) Where—

- (a) a provision of these Regulations ("the new provision") re-enacts with any modification a provision of any Regulations revoked by these Regulations ("the former provision"), and

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(a) S.I. 1984/380, to which there are amendments not relevant to these Regulations.

(b) a person, to whom a benefit in relation to which the new provision applies was being paid, or may become payable, as mentioned in paragraph (1), is placed in a worse position by the new provision than he would have been in if the former provision had continued to have effect,

he may, by notice in writing given to the appropriate administering authority within 3 months after 21st December 1987, elect that the new provision shall apply in relation to the benefit as if it had re-enacted the former provision without modification.

(3) In this regulation "benefit" includes an allowance, a gratuity and a return of contributions.

#### **Revocations**

**S3.** The Regulations specified in Schedule 21 are revoked.

New St. Andrew's House, Edinburgh  
19th October 1987

*Michael B. Forsyth*  
Parliamentary Under Secretary of State,  
Scottish Office

## GLOSSARY OF EXPRESSIONS

(1) <i>Expression</i>	(2) <i>Meaning</i>
"The Act of 1922"	The Local Government and other Officers' Superannuation Act 1922(a).
"The Act of 1937"	The Local Government Superannuation (Scotland) Act 1937(b).
"The Act of 1953"	The Local Government Superannuation Act 1953(c).
"The Acts of 1937 to 1953"	The Local Government Superannuation (Scotland) Acts 1937 to 1953(d).
"The Act of 1972"	The Superannuation Act 1972(e).
"Actuary"	A Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland.
"Added period payment"	A payment made for the purposes of regulation C5 or C6, regulation D10 of the 1974 Regulations, or section 2(1) of the Act of 1953 or any similar provision contained in a local Act scheme.
"Added years"	An additional period which a person has become entitled to reckon as reckonable service by virtue of— (a) regulation D10 of the 1974 Regulations, or (b) regulation D6(2), or (c) regulation 12 of the Benefits Regulations, or (d) regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) (Scotland) Regulations 1954(f), or (e) regulation 4(2)(b) of the Local Government Superannuation (England and Scotland) Regulations 1948 to 1954(g), or (f) any similar provision of a local Act scheme.
"Additional contributory payment"	A payment made under— (a) regulation D6 or D7 of the 1974 Regulations, or (b) regulation C9(2), or (c) section 2(3) of the Act of 1953 as originally enacted or as having effect as mentioned in regulation A2(2)(c), or (d) the Act of 1937 as originally enacted, the Act of 1922 or a local Act scheme, as a condition of being entitled to reckon any service either as service generally or as service of a particular character, or (e) proviso (ii) to section 8(2)(b) of the Act of 1937.
"Administering authority"	A body required to maintain a superannuation fund under these Regulations.
"Admission agreement"	An agreement made or continued in force as if made under regulation B6.
"Appropriate administering authority"	In relation to a pensionable employee and to the employing authority means the body maintaining the superannuation fund which is, in relation to him and to the employing authority, the appropriate superannuation fund.

- (a) 1922 c.59.  
 (b) 1937 c.69.  
 (c) 1953 c.25.  
 (d) 1937 c.69, 1939 c.18, 1953 c.25.  
 (e) 1972 c.11.  
 (f) S.I. 1954/1241.  
 (g) S.I. 1948/1131, 1949/631, 1954/1250.



(1) <i>Expression</i>	(2) <i>Meaning</i>
"Appropriate superannuation fund"	Shall be construed in accordance with regulation C1.
"Approved non-local government employment"	Employment in which a person participates in an approved non-local government scheme.
"Approved non-local government scheme"	A non-local government scheme— (a) the fund of which is wholly approved under section 208 of the Income and Corporation Taxes Act 1970(a), or (b) which is approved under section 222 of that Act or under Chapter II of Part II of the Finance Act 1970(b), or (c) which is approved by the Commissioners of Inland Revenue for the purposes of these Regulations.
"Base rate"	The highest base rate for lending purposes fixed by the Governors and Company of the Bank of Scotland, Clydesdale Bank plc and The Royal Bank of Scotland plc.
"The Benefits Regulations"	The Local Government Superannuation (Benefits) (Scotland) Regulations 1954 and 1955(c).
"Child"	A person who— (a) has not attained the age of 17 years, or (b) has attained the age of 17 years and has since been receiving full-time education or undergoing a full-time course of training, of not less than 2 years' duration, for a trade, profession or calling, either— (i) continuously, or (ii) except during a period which the appropriate administering authority, being satisfied that his education or training ought not to be regarded as completed, have in their discretion decided to disregard, or (c) has attained the age of 17 years and is incapacitated by reason of ill-health or infirmity of mind or body which arose either before he attained that age or while receiving such full-time education or training.
"Contracted-out employment"	Shall be construed in accordance with section 30 of the Pensions Act.
"Contributory employee"	A person who was entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937.
"Death gratuity"	A death gratuity payable under regulation E11.
"Disqualifying break of service"	A continuous period of 12 months or longer during no part of which was the person concerned a pensionable employee, contributory employee or local Act contributor or subject to the Act of 1922.
"Eligible child"	A child in relation to a person who has died after becoming entitled to a retirement pension is an eligible child if he is— (a) (i) a child of that person born within 12 months of the date on which he became entitled to that pension, or (ii) wholly or mainly dependent upon that person both before he became entitled to that pension and at the time of his death, (b) a child adopted by the person before he became entitled to the retirement pension, or (c) a child wholly or mainly dependent on the person both before he became entitled to the retirement pension and at the time of his death who is— (i) the person's step-child, or

(a) 1970 c.10.  
 (b) 1970 c.24.  
 (c) S.I. 1954/1059, 1955/1226.

(1) <i>Expression</i>	(2) <i>Meaning</i>
	<ul style="list-style-type: none"> <li>(ii) an adopted child of a woman who married the person before he became entitled to the retirement pension, or</li> <li>(iii) a child accepted by the person as a member of the family.</li> </ul> <p>A child in relation to a person who has died in an employment in which he was a pensionable employee is an eligible child if he is—</p> <ul style="list-style-type: none"> <li>(a) the person's child born before the expiration of 12 months from the date of the person's death or an adopted child of that person, or</li> <li>(b) a child wholly or mainly dependent on the person at the time of his death who is— <ul style="list-style-type: none"> <li>(i) the person's step-child, or</li> <li>(ii) an adopted child of a woman who has been married to the person, or</li> <li>(iii) a child accepted by the person as a member of the family.</li> </ul> </li> </ul>
"Employee"	An employee whether permanent or temporary, other than a person appointed to a post in a temporary capacity for a period of not more than 3 months or whose employment is of a casual nature.
"Employer's contribution"	A sum payable under regulation P12(1).
"Employing authority"	The body employing a pensionable employee.
"Employment"	Shall be construed as including office.
"Enactment"	Shall be construed as including any instrument made under an Act.
"Equivalent pension benefits"	Has the meaning given by section 57(1) of the Insurance Act.
"The former Regulations"	Those of the enactments and instruments referred to in paragraph 5 of Schedule 7 to the Act of 1972 as applying to Scotland that were in force immediately before 16th May 1974 and the Miscellaneous Provisions Regulations.
"A further fund"	Has the meaning given to it by regulation P1(3).
"Guaranteed minimum"	A guaranteed minimum under section 35 of the Pensions Act.
"Guaranteed minimum pension"	A guaranteed minimum pension under section 26 of the Pensions Act.
"The Insurance Act"	The National Insurance Act 1965(a).
"The Insurance Acts"	The National Insurance Acts 1965 to 1973(b).
"Insurance code"	The Insurance Act, the Northern Ireland Act or the Isle of Man Act.
"Interchange rules"	Rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(c) (pensions of persons transferring to different employment) and any similar instrument made, or having effect as if made, under any other Act which makes similar provision.
"The Isle of Man Act"	The National Insurance (Isle of Man) Act 1961 (an Act of Tynwald).
"Judicially separated"	Judicially separated in circumstances in which the husband is not required by decree or order of any competent court to contribute to the support of his wife and is not in fact so contributing.

(a) 1965 c.51.

(b) 1965 c.51, 1966 c.6, 1969 c.44, 1971 c.50, 1972 c.57, 1973 c.42.

(c) 1948 c.33.

(1) <i>Expression</i>	(2) <i>Meaning</i>
"Local Act contributor"	A person who was entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme.
"Local Act scheme"	Has the same meaning as in section 8 of the Act of 1972.
"Local government employment"	In relation to any time before 16th May 1974, the expression means employment by virtue of which the person employed was, or is deemed to have been, a contributory employee or a local Act contributor. In relation to any time after 15th May 1974, the expression means employment by virtue of which the person employed is, or is deemed to be, a pensionable employee.
"Manual worker"	An employee who is not an officer.
"The Miscellaneous Provisions Regulations"	The Local Government Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1973(a).
"New fund authority"	Has the meaning given by regulation Q2(1)(b).
"The 1974 Regulations"	The Local Government Superannuation (Scotland) Regulations 1974(b).
"Non-local government employment"	Means employment in which the person participates in a non-local government scheme.
"Non-local government scheme"	A superannuation scheme or other arrangement for superannuation, other than— (a) the superannuation scheme provided in the Acts of 1937 to 1953 and the Regulations made thereunder, or in the Local Government Superannuation Acts 1937 to 1953(c) and the Regulations made thereunder, (b) a superannuation scheme provided in Regulations for the time being in force under section 7 of the Act of 1972, and (c) a local Act scheme.
"Non-participating employment"	Has the same meaning as in section 56(1) of the Insurance Act.
"The Northern Ireland Act"	The National Insurance Act (Northern Ireland) 1959(d).
"Officer"	An employee whose duties are wholly or mainly administrative, professional, technical or clerical.
"Part-time employee"	An employee who is neither a whole-time employee nor a variable-time employee.
"Passenger transport executive"	The Executive for a designated area within section 9(1) of the Transport Act 1968(e).
"Payment in lieu of contributions"	A payment in lieu of contributions under Part III of the Insurance Act.
"Pensionable age"	A person's pensionable age is the earliest age at which (assuming continuous local government employment) he could become entitled by virtue of regulation E2(1)(a) or (b)(ii) to a retirement pension.
"Pensionable employee"	In relation to any time before 21st December 1987, the expression means a person who was a pensionable employee under the 1974 Regulations. In relation to any time after 20th December 1987, the expression is to be construed in accordance with regulation B1.

(a) S.I. 1973/503.

(b) S.I. 1974/812, amended by S.I. 1975/638, 1978/425, 1378, 1794, 1926, 1980/198, 342, 1885, 1981/1892, 1982/385, 1303, 1983/1421, 1984/254, 1232, 1986/214, 1449.

(c) 1937 c.68, 1939 c.18, 1953 c.25.

(d) 1959 c.21 (N.I.).

(e) 1968 c.73.

(1) <i>Expression</i>	(2) <i>Meaning</i>
"Pensionable remuneration"	Shall be construed in accordance with regulation E22.
"The Pensions Act"	The Social Security Pensions Act 1975(a).
"Preserved benefits"	Benefits to which a person— (a) was entitled immediately before 21st December 1987 by virtue of regulation E2(1)(c) of the 1974 Regulations, or (b) has become entitled by virtue of regulation E2(1)(c), and which have not become payable.
"Previous fund authority"	Has the meaning given by regulation Q2(1)(b).
"Public service scheme"	The Universities' Superannuation Scheme and any occupational pension scheme which— (a) cannot come into force or be amended without the scheme or amendment being approved by a Minister of the Crown or government department, and (b) includes provisions for any such whole-time service as is described in regulation F2(1), rendered before becoming entitled to participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme.
"Qualifying service"	Shall be construed in accordance with regulation D2.
"Reckonable service"	Shall be construed in accordance with regulation D1.
"Registration officer"	A person holding, or deemed to be holding, an appointment under section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(b).
"Relevant absence" and "relevant contribution period"	The meanings given by regulation C4(8).
"Remuneration"	Except to the extent that any standard remuneration agreement has been agreed under regulation G3, the expression means all the salary, wages, fees, poundage and other payments paid or made to an employee as such for his own use and the money value of any apartments, rations or other allowances in kind appertaining to his employment. The expression does not include— (a) payments for non-contractual overtime, (b) any allowance paid to an employee to cover the cost of office accommodation or clerk's assistance, (c) any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, (d) any payment made to him on his ceasing to hold his employment in consideration of loss of holidays, or (e) any payment accepted by him in lieu of notice to terminate his contract of employment; and for the purposes of calculating any payment based on remuneration to be made by an employee under these Regulations any reduction in remuneration by reason of the actual or assumed enjoyment of any statutory entitlement by the employee during any period of absence from duty shall be disregarded.
"Rent officer" and "deputy rent officer"	Any person who has been appointed a rent officer under section 43 of the Rent (Scotland) Act 1984(c).
"Retirement pension"	A retirement pension payable under regulation E2.

- (a) 1975 c.60.  
(b) 1965 c.49.  
(c) 1984 c.58.

(1) <i>Expression</i>	(2) <i>Meaning</i>
"Retiring allowance"	A retiring allowance payable under regulation E2.
"Scheduled body"	A body or the predecessor of a body described in Schedule 3.
"Scheme managers"	In relation to a statutory scheme, the expression means the Minister of the Crown or police or fire authority administering the scheme. In any other case, the expression means the person responsible for the management of a non-local government scheme.
"Service"	Except in Part J, where it has the meaning given by regulation J1, the expression means service rendered to a scheduled body. Service rendered by an employee of a scheduled body whose services are placed at the disposal of a Minister of the Crown or a government department in pursuance of any enactment is to be treated as service rendered to the scheduled body.
"State pensionable age"	In the case of a man, 65; in the case of a woman, 60.
"Statutory scheme"	A scheme established under— (a) section 1 of the Act of 1972, (b) arrangements for superannuation maintained in pursuance of Regulations made or having effect as if made under section 9 or 10 of that Act, (c) section 1 of the Police Pensions Act 1976(a), or (d) the Firemens' Pension Scheme made under the Fire Services Act 1947(b).
"Trade dispute"	Has the meaning given by regulation C4(8).
"The Transitional Provisions Regulations"	The National Insurance (Non-participation – Transitional Provisions) Regulations 1974(c).
"Variable-time employee"	An employee who has no contractual hours of employment.
"War service"	Shall be construed in accordance with regulation F2.
"War service provisions"	In relation to a public service scheme, means provisions of the kind specified in paragraph (b) of the definition of "public service scheme" in this Schedule.
"Water development board"	A board established under section 3 or 5 of the Water (Scotland) Act 1967(d).
"Whole-time"	A person is a "whole-time employee", and as the case may be a "whole-time officer" or a "whole-time manual worker", if his contractual minimum hours of employment regularly or usually amount to 30 hours or more in each week.

- (a) 1976 c.35.  
(b) 1947 c.41.  
(c) S.I. 1974/2057.  
(d) 1967 c.78.

## SCHEDULE 2

Regulation A3

### MODIFICATIONS TO THE REGULATIONS IN THEIR APPLICATION TO EMPLOYEES OF THE SCOTTISH SPECIAL HOUSING ASSOCIATION

1. Regulation C12(5) shall have effect as if it provided that any direction required by that regulation shall not have effect unless it has been approved by the Secretary of State.
2. For the purposes of Part D "service" rendered to the Association before 16th May 1945 shall not be construed as qualifying or reckonable service.
3. Regulation P6 shall have effect as if paragraph (2)(b) of that regulation were deleted.
4. Arrangements for actuarial valuations of, and reports on, the assets and liabilities of the fund administered by the Association and arrangements for making good any deficiency or for disposal of a disposable surplus disclosed by a valuation and report shall be made by the Secretary of State.
5. Where the General Manager of the Association elects by notice in writing given to the Association, a percentage, not exceeding 4.4%, of his remuneration shall be treated as not being remuneration for the purposes of these Regulations.

## SCHEDULE 3

Regulation B1

### PENSIONABLE EMPLOYEES

#### PART I

1. A regional council, an islands council or a district council.
2. A joint board or joint committee appointed under any enactment, order or scheme, all the constituent authorities of which are such councils as aforesaid.
3. A water development board.
4. A river purification board.

#### PART II

1. A variable-time employee of a body described in Part I who is also in the whole-time employment of such a body.
2. A whole-time employee or a variable-time employee of any other body to which section 270 of the Local Government (Scotland) Act 1947(a) applied.
3. A whole-time employee of a passenger transport executive.

#### PART III

1. The requirements to be satisfied in order that a whole-time manual worker employed by a body described in Part I may be a pensionable employee by virtue of regulation B1(3)(c) are that—
  - (a) he became employed by that body as such a worker after ceasing to be employed in non-local government employment, and
  - (b) he has, not later than 12 months after the date on which he became employed by that body as such a worker, elected to become a pensionable employee by notice in writing given to that body.
2. A notice under paragraph 1(b) must also contain a declaration by the worker that his pension rights under his non-local government scheme will be preserved or that he has applied, or will apply, for their transfer to the appropriate administering authority.

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(a) 1947 c.43.

MAXIMUM LENGTH OF ADDITIONAL PERIODS

1.—(1) Subject to paragraph 2, the maximum length of the period in respect of which payment may be made under regulation C5 or C6 or which may be specified in a resolution under regulation D7 is A - B, where—

A is the number of years specified in column (2) of the Table below against the age specified in column (1) which the person had attained at the appropriate time, and

B is the period he would otherwise be entitled to reckon as reckonable service in relation to his local government employment if he continued in it until he attained the age of 65 years.

TABLE

(1) <i>Age attained</i>	(2) <i>Number of years</i>
Any age less than 55	40
55	32
56	24
57	16
58	8
59	0

(2) Subject to sub-paragraph (3), the appropriate time is the first day of the earliest period that the person is entitled to reckon as reckonable service in relation to his local government employment.

(3) Where that period is one of service as an officer of a scheduled body or former local authority, or one during which the person was subject to a non-local government scheme other than one which was or became a statutory scheme, the appropriate time is the first day of the earliest period of local government employment that the person is entitled to reckon as mentioned in sub-paragraph (2).

2.—(1) In the case of a person who at the appropriate time was entitled to or had received superannuation benefits (including a return of contributions and any benefit by way of a lump sum payment) in respect of any local government employment or under any non-local government scheme, the number of years specified in column (2) of the Table in paragraph 1(1) is to be reduced, in accordance with the certificate of an actuary, to the extent necessary to ensure that—

- (a) the aggregate annual amount of—
  - (i) the actuarial value, expressed as an annuity payable to him, of those superannuation benefits, and
  - (ii) the part of his retirement pension attributable to reckonable service before attaining pensionable age, and
  - (iii) the actuarial value, expressed as an annuity payable to him, of the part of his retiring allowance attributable to such reckonable service, will not exceed two-thirds of his pensionable remuneration, and
- (b) the aggregate amount of—
  - (i) his retiring allowance, and
  - (ii) any lump sum comprised in those superannuation benefits, will not exceed one hundred and twenty eightieths of his pensionable remuneration.

- (2) For the purposes of this paragraph—
  - (a) it is to be assumed that the person will, until he attains pensionable age, continue in the same local government employment and on the same scale of remuneration as at the material date,
  - (b) any reckonable service on or after the material date is to be disregarded,
  - (c) the material date is the date of, as the case may be, the election under regulation C5 or C6 or the resolution under regulation D7,
  - (d) a person who, when a scheduled body passed a resolution in respect of him under regulation D7, had not become a pensionable employee in their employment is to be treated as if he had on the date of the resolution become such an employee on the scale of remuneration at which the employment was offered to him, and
  - (e) regard is to be had to any Inland Revenue advice as to the calculation of the value of the earlier benefits.

## AMOUNT TO BE PAID FOR ADDITIONAL PERIOD

## PART I

## LUMP SUM PAYMENT

1. The amount to be paid by an employee who has made an election under regulation C5 is  $\frac{A \times B \times C}{100}$ , where—

- A is the length of the additional period, expressed in complete years and any fraction of a year,
- B is his remuneration at the time when he made the election, and
- C is the figure in Table I or II below appropriate to his age on his birthday next following the date of the election and to his pensionable age.



TABLE I  
MALES

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age							
	Employee to whom on retirement regulation E3(2) would apply		Others					
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
26		22.20						
27		21.40						
28		20.80						
29		20.30						
30		19.90						
31		19.60						
32		19.30						
33		19.10						
34		18.90						
35		18.80						
36		18.70	18.50					
37		18.60	18.40	18.00				
38		18.60	18.40	17.90	17.50			
39		18.60	18.40	17.90	17.50	17.10		
40		18.60	18.40	17.90	17.50	17.10	16.70	
41		18.70	18.40	18.00	17.60	17.20	16.70	16.50
42		18.80	18.50	18.00	17.60	17.20	16.80	16.60
43		18.90	18.60	18.10	17.70	17.20	16.80	16.60
44		19.00	18.70	18.20	17.80	17.30	16.90	16.70
45		19.10	18.80	18.30	17.90	17.40	16.90	16.70
46	17.30	19.20	18.90	18.40	18.00	17.50	17.00	16.80
47	17.40	19.30	19.00	18.50	18.10	17.60	17.10	16.90
48	17.50	19.40	19.10	18.60	18.20	17.70	17.20	17.00
49	17.60	19.50	19.20	18.70	18.30	17.80	17.30	17.10
50	17.70	19.70	19.40	18.80	18.40	17.90	17.40	17.20
51	17.80	19.90	19.60	19.00	18.50	18.00	17.50	17.30
52	17.90	20.10	19.80	19.20	18.70	18.10	17.60	17.40
53	18.00	20.30	20.00	19.40	18.90	18.30	17.70	17.50
54	18.10	20.50	20.20	19.60	19.10	18.50	17.80	17.60
55	18.30	20.70	20.40	19.80	19.30	18.70	18.00	17.80
56	18.50	20.90	20.60	20.00	19.50	18.90	18.20	18.00
57	18.70	21.20	20.90	20.20	19.70	19.10	18.40	18.20
58	18.90	21.50	21.20	20.50	19.90	19.30	18.60	18.40
59	19.10	21.80	21.50	20.80	20.10	19.50	18.80	18.60
60	19.40			21.10	20.40	19.70	19.10	18.80
61	19.70				20.70	19.90	19.30	19.00
62	20.00					20.10	19.50	19.30
63	20.30						19.70	19.60
64	20.70							19.90

TABLE II

## FEMALES

Age on birthday next following election	<i>Figure to be used by reference to the under-mentioned pensionable age</i>							
	<i>Employee to whom on retirement regulation E3(2) would apply</i>		<i>Others</i>					
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
26		20.40						
27		19.80						
28		19.40						
29		19.00						
30		18.70						
31		18.60						
32		18.60						
33		18.70						
34		18.70						
35		18.80						
36		18.90	18.60					
37		19.00	18.70	18.20				
38		19.10	18.80	18.30	17.80			
39		19.30	19.00	18.40	17.90	17.30		
40		19.40	19.10	18.60	18.00	17.40	16.90	
41		19.60	19.30	18.70	18.10	17.50	17.00	16.70
42		19.70	19.40	18.80	18.20	17.60	17.10	16.80
43		19.80	19.50	18.90	18.30	17.80	17.20	16.90
44		19.90	19.60	19.00	18.40	17.90	17.30	17.00
45		20.10	19.70	19.10	18.50	18.00	17.40	17.10
46	18.80	20.20	19.90	19.20	18.60	18.10	17.50	17.20
47	18.90	20.40	20.00	19.40	18.80	18.20	17.60	17.30
48	19.00	20.50	20.20	19.50	18.90	18.30	17.70	17.40
49	19.10	20.60	20.30	19.60	19.00	18.40	17.80	17.50
50	19.20	20.80	20.40	19.80	19.20	18.60	17.90	17.60
51	19.30	21.00	20.60	19.90	19.30	18.70	18.00	17.70
52	19.40	21.10	20.80	20.10	19.40	18.80	18.20	17.90
53	19.50	21.30	21.00	20.30	19.60	19.00	18.30	18.00
54	19.60	21.50	21.20	20.40	19.80	19.10	18.40	18.10
55	19.80	21.70	21.40	20.60	19.90	19.20	18.60	18.20
56	20.00	21.90	21.60	20.80	20.10	19.40	18.70	18.30
57	20.20	22.10	21.80	21.00	20.30	19.60	18.80	18.50
58	20.40	22.30	22.00	21.20	20.50	19.80	19.00	18.70
59	20.60	22.60	22.20	21.40	20.70	20.00	19.20	18.90
60	20.80			21.70	20.90	20.20	19.40	19.10
61	21.10				21.20	20.40	19.60	19.30
62	21.40					20.50	19.80	19.50
63	21.70						20.00	19.80
64	22.00							20.10

## PART II

### PERIODICAL PAYMENTS

2. The amount to be paid by way of additional contributions by an employee who has made an election under regulation C6 is  $\frac{A \times B \times C}{100}$ , where—

A is the length of the additional period, expressed in complete years and any fraction of a year,

B is his remuneration for the time being, and

C is the figure in Table I or II below appropriate to his age on his birthday next following the date of the election and to his pensionable age.

TABLE I

## MALES

Age on birthday next following election	<i>Figure to be used by reference to the under-mentioned pensionable age</i>							
	<i>Employee to whom on retirement regulation E3(2) would apply</i>		<i>Others</i>					
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
26		0.58						
27		0.60						
28		0.62						
29		0.64						
30		0.66						
31		0.68						
32		0.71						
33		0.74						
34		0.77						
35		0.80						
36		0.84	0.83					
37		0.88	0.87	0.82				
38		0.93	0.91	0.86	0.81			
39		0.98	0.96	0.90	0.85	0.80		
40		1.03	1.01	0.95	0.90	0.84	0.80	
41		1.09	1.07	1.00	0.95	0.89	0.84	0.81
42		1.16	1.14	1.06	1.00	0.94	0.88	0.85
43		1.23	1.22	1.13	1.06	0.99	0.93	0.89
44		1.31	1.30	1.20	1.12	1.05	0.98	0.93
45		1.40	1.39	1.28	1.19	1.11	1.04	0.98
46	1.08	1.51	1.49	1.37	1.27	1.18	1.10	1.04
47	1.15	1.64	1.61	1.48	1.36	1.26	1.17	1.11
48	1.23	1.79	1.75	1.61	1.47	1.35	1.25	1.18
49	1.31	1.97	1.92	1.76	1.60	1.45	1.34	1.26
50	1.40	2.18	2.13	1.93	1.75	1.57	1.44	1.35
51	1.50	2.42	2.38	2.12	1.92	1.71	1.56	1.45
52	1.62	2.74	2.69	2.36	2.11	1.88	1.70	1.57
53	1.76	3.15	3.09	2.66	2.33	2.08	1.86	1.71
54	1.92	3.68	3.62	3.05	2.63	2.31	2.05	1.87
55	2.12	4.44	4.36	3.57	3.02	2.60	2.28	2.06
56	2.36	5.53	5.45	4.30	3.53	2.98	2.56	2.29
57	2.66	7.40	7.28	5.36	4.23	3.49	2.94	2.58
58	3.04	11.08	10.90	7.17	5.30	4.18	3.43	2.95
59	3.56	22.25	21.88	10.70	7.06	5.21	4.12	3.45
60	4.26			21.50	10.55	6.95	5.12	4.12
61	5.32				21.11	10.37	6.83	5.14
62	7.09					20.41	10.18	6.84
63	10.64						20.14	10.25
64	21.10							20.32

TABLE II  
FEMALES

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age							
	Employee to whom on retirement regulation E3(2) would apply		Others					
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
26		0.59						
27		0.61						
28		0.63						
29		0.65						
30		0.68						
31		0.71						
32		0.74						
33		0.77						
34		0.80						
35		0.83						
36		0.87	0.86					
37		0.91	0.90	0.85				
38		0.96	0.94	0.89	0.83			
39		1.01	0.99	0.93	0.87	0.82		
40		1.07	1.05	0.98	0.91	0.86	0.80	
41		1.13	1.11	1.03	0.96	0.90	0.84	0.80
42		1.20	1.18	1.09	1.01	0.93	0.88	0.84
43		1.28	1.26	1.16	1.07	1.00	0.93	0.88
44		1.37	1.34	1.23	1.14	1.06	0.98	0.93
45		1.46	1.43	1.31	1.21	1.12	1.04	0.98
46	1.14	1.57	1.54	1.40	1.29	1.19	1.11	1.04
47	1.21	1.70	1.67	1.51	1.38	1.27	1.18	1.11
48	1.29	1.85	1.82	1.64	1.49	1.36	1.26	1.18
49	1.38	2.03	1.99	1.79	1.62	1.46	1.35	1.26
50	1.48	2.24	2.20	1.96	1.77	1.58	1.45	1.35
51	1.59	2.50	2.46	2.17	1.94	1.72	1.57	1.45
52	1.72	2.83	2.78	2.42	2.14	1.89	1.71	1.57
53	1.87	3.24	3.19	2.73	2.38	2.09	1.87	1.71
54	2.05	3.80	3.73	3.13	2.69	2.33	2.06	1.87
55	2.26	4.58	4.50	3.67	3.08	2.63	2.30	2.06
56	2.52	5.73	5.64	4.40	3.60	3.02	2.59	2.30
57	2.84	7.66	7.53	5.51	4.33	3.54	2.96	2.59
58	3.24	11.47	11.26	7.36	5.40	4.24	3.47	2.96
59	3.79	22.86	22.45	11.05	7.20	5.30	4.15	3.46
60	4.53			22.15	10.79	7.05	5.17	4.14
61	5.65				21.64	10.59	6.89	5.17
62	7.52					20.72	10.24	6.87
63	11.28						20.34	10.29
64	22.44							20.46

3.—(1) For the purposes of paragraph 2, in relation to any additional contribution falling to be paid by an employee under regulation C6 his remuneration for the time being is, subject to sub-paragraph (2), the remuneration received by him for the interval (being an interval determined under regulation C6(3)(a)) at the end of which the additional contribution falls to be paid.

(2) For the purposes of sub-paragraph (1), an employee is to be taken to have received for any period for which, while a contract of employment subsisted, he was absent from duty with reduced remuneration or without remuneration, otherwise than by reason of illness or injury, the remuneration that he would have received but for his absence from duty.

## SCHEDULE 6

Regulation C8

### PAYMENT TO AVOID REDUCTION OF RETIRING ALLOWANCE

#### PART I

##### LUMP SUM PAYMENT

1. The amount to be paid by an employee who has under regulation C8 elected to make payment by a lump sum is  $\frac{A \times B \times C}{100}$ , where—

A is the length of the period of reckonable service specified in his notice of election, expressed in complete years and any fraction of a year,

B is his remuneration at the date of the election, and

C is, in the case of a man, the figure specified in column (2) of the Table below against his age as specified in column (1) on his birthday following the date of the election and, in the case of a woman, a figure to be specified by the Government Actuary.

TABLE

(1) <i>Age on birthday next following election</i>	(2) <i>Figure to be used</i>
25	2.76
26	2.61
27	2.51
28	2.44
29	2.39
30	2.35
31	2.31
32	2.28
33	2.25
34	2.23
35	2.21
36	2.20
37	2.18
38	2.17
39	2.16
40	2.15
41	2.14
42	2.13
43	2.12
44	2.11
45	2.10
46	2.09
47	2.08
48	2.08
49	2.09
50	2.10
51	2.12
52	2.14
53	2.16
54	2.18
55	2.20
56	2.22
57	2.24
58	2.26
59	2.28
60	2.30
61	2.31
62	2.32
63	2.33
64	2.34

2. The amount is to be paid within one month after the date of the election.

## PART II

### INSTALMENTS

3. The amount to be paid by an employee who has under regulation C8 elected to make payment by instalments is the amount he would have been required to pay under Part I if he had on the same date elected to make payment by a lump sum, increased by 5% for each complete year, and *pro rata* for any fraction of a year, during which, under paragraph 4, instalments are due to be paid.

4. The employee is to specify in his notice of election the date up to which instalments are to be paid, which may not be—

- (a) later than his 65th birthday, or
- (b) earlier than the date on which he would attain pensionable age.

5. Instalments are to be of equal amounts and to be paid at such intervals as the appropriate administering authority may determine, the first instalment being due to be paid not later than one month after the date of the election.

### PART III

#### ADDITIONAL CONTRIBUTIONS

6. The amount to be paid by way of additional contributions by an employee who has under regulation C8 elected to make payment in that manner is  $\frac{A \times B \times C}{100}$ , where—

A is the length of the period of reckonable service specified in his notice of election, expressed in complete years and any fraction of a year,

B is his remuneration for the time being, and

C is in the case of a man, the figure in column (2), (3), (4), (5), (6) or (7) of the Table below appropriate to his age on his birthday next following the date of the election and to his specified birthday (within the meaning of paragraph 8), and, in the case of a woman, a figure to be specified by the Government Actuary.



TABLE

Age on birthday next following election	Figure to be used by reference to the under-mentioned specified age					
	(2) 60	(3) 61	(4) 62	(5) 63	(6) 64	(7) 65
25	0.07					
26	0.07					
27	0.07					
28	0.07					
29	0.08					
30	0.08					
31	0.08					
32	0.08					
33	0.09					
34	0.09					
35	0.09					
36	0.10					
37	0.10	0.10				
38	0.11	0.10	0.10			
39	0.12	0.11	0.10	0.09		
40	0.12	0.11	0.11	0.10	0.09	
41	0.13	0.12	0.11	0.10	0.10	0.09
42	0.14	0.13	0.12	0.11	0.10	0.10
43	0.14	0.13	0.12	0.12	0.11	0.10
44	0.15	0.14	0.13	0.12	0.11	0.11
45	0.16	0.15	0.14	0.13	0.12	0.11
46	0.17	0.16	0.15	0.14	0.13	0.12
47	0.19	0.17	0.16	0.15	0.14	0.13
48	0.21	0.19	0.17	0.16	0.15	0.14
49	0.23	0.21	0.18	0.17	0.16	0.15
50	0.25	0.23	0.20	0.18	0.17	0.16
51	0.28	0.25	0.22	0.20	0.18	0.17
52	0.32	0.28	0.25	0.22	0.20	0.18
53	0.37	0.32	0.28	0.24	0.22	0.20
54	0.43	0.36	0.31	0.27	0.24	0.22
55	0.52	0.42	0.36	0.31	0.27	0.24
56	0.65	0.51	0.42	0.35	0.30	0.27
57	0.87	0.63	0.50	0.41	0.34	0.30
58	1.30	0.84	0.62	0.49	0.40	0.35
59	2.62	1.26	0.83	0.61	0.48	0.41
60		2.53	1.24	0.82	0.60	0.48
61			2.48	1.22	0.80	0.60
62				2.40	1.20	0.80
63					2.37	1.21
64						2.39

7.—(1) For the purposes of paragraph 6, in relation to any additional contribution falling to be paid by an employee his remuneration for the time being is, subject to sub-paragraph (2), the remuneration received by him for the interval (being an interval determined under paragraph 9) at the end of which the additional contribution falls to be paid.

(2) For the purposes of sub-paragraph (1), an employee is to be taken to have received for any period for which, while a contract of employment subsisted, he was absent from duty with reduced remuneration or without remuneration, otherwise than by reason of illness or injury, the remuneration that he would have received but for his absence from duty.

8. An employee is to specify in his notice of election the birthday ("the specified birthday") up to which additional contributions are to be paid, which may be—

- (a) his 65th birthday, or
- (b) any earlier birthday falling on the date on which he would attain pensionable age, or
- (c) the birthday immediately prior to the date on which he would attain pensionable age.

9. Additional contributions are to be paid, at such intervals as the appropriate administering authority may determine, from the employee's birthday next following the date of the election.

## PART IV

### UNCOMPLETED PAYMENTS

10. This Part applies where an employee has under regulation C8 elected to make payment by instalments or by way of additional contributions and has commenced payment, but before, as the case may be—

- (a) the date specified under paragraph 4, or
- (b) the birthday specified under paragraph 8,

a relevant event occurs.

11. The relevant events are—

- (a) the discontinuance of payment under regulation C8(11), and
- (b) where there has been no such discontinuance of payment—
  - (i) the employee's ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body,
  - (ii) the death of the employee while in local government employment, or
  - (iii) the employee's ceasing to hold his employment for any reason other than that specified in sub-paragraph (i) or (ii) above.

12. Where the relevant event is the discontinuance of payment under regulation C8(11), the period of reckonable service in respect of which the election was made is to be treated as having been  $\frac{A \times B}{C}$ , where—

- A is the length of the period during which instalments or additional contributions have been paid,
- B is the length of the period of reckonable service in respect of which the election was made, and
- C is the length of the period during which, under Part II or Part III, instalments or additional contributions were to have been paid,

each period being expressed in complete years and any fraction of a year.

13. Where the relevant event is—

- (a) the death of the employee, or
  - (b) his ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body,
- he is to be treated as having completed payment in accordance with Part II or, as the case may be, Part III.

14.—(1) Where the relevant event is the employee's ceasing to hold his employment in any other circumstance, he may within 3 months of so ceasing elect to pay to the appropriate superannuation fund within the period specified in sub-paragraph (2) the actuarial equivalent of the balance of contributions or instalments outstanding and shall in that event be treated as having completed payment in accordance with Part II or, as the case may be, Part III.

(2) The period for making a payment under sub-paragraph (1) is the period of one month beginning on the date on which the person is notified by the appropriate administering authority of the amount calculated as mentioned in that sub-paragraph.

15.—(1) Where the employee ceases to hold his employment and neither paragraph 13(b) nor paragraph 14 applies, he is, unless sub-paragraph (2) applies, to be treated as if paragraph 12 (discontinuance of payment) had applied.

(2) This sub-paragraph applies where the employee—

- (a) elected under regulation C8 to make payment by way of additional contributions, and
- (b) has within 12 months after ceasing to hold his employment again entered local government employment, without having—
  - (i) become entitled in relation to the first employment to the payment of any benefit, or
  - (ii) elected to receive a payment under regulation C12(4) (return of contributions), or
  - (iii) made a request for earlier payment under regulation C12(7)(b), and
- (c) has not made an election for the purposes of regulation E2(9)(c) (retention of right to preserved benefits), and
- (d) within 3 months after his again entering local government employment pays to his new employing authority an amount equal to any additional contributions that would have been payable if he had not ceased to hold the first employment.

(3) Where sub-paragraph (2) applies, the election under regulation C8 continues to have effect as if the relevant event had not occurred.

## SCHEDULE 7

Regulation C9(4)

### OUTSTANDING PAYMENTS UNDER 1974 REGULATIONS

1. Paragraphs 2 to 7 apply while any amount is outstanding in respect of payments under regulation D6, D7 or D8 of the 1974 Regulations which remain payable by virtue of regulation C9(4) of these Regulations.

2. Compound interest, calculated at the rate of 3% per annum with half-yearly rests, is payable on the amount for the time being outstanding.

3. If a benefit calculated by reference to the length of the employee's reckonable service becomes payable to or in respect of him, the amount outstanding is to be recovered by deducting it from any amount payable by way of benefits.

4. If benefits become payable to or in respect of the employee under these Regulations but none of them is calculated by reference to the length of his reckonable service, the amount outstanding ceases to be payable.

5. Subject to paragraphs 6 and 7, if the employee ceases to hold his employment and no benefit becomes payable to him, the amount then outstanding ceases to be payable.

6. If the employee becomes entitled to preserved benefits and does not elect to receive a payment under regulation C12(4) (return of contributions), he may, by notice in writing given to his employing authority within 3 months after becoming entitled to those benefits, elect to pay in a lump sum to that authority the amount outstanding.

7.—(1) If the employee ceases to hold his employment and—

(a) no benefit becomes payable to him, and

(b) he has paid all the instalments due up to the date when he ceased to hold his employment, and

(c) within 12 months after that date he has again entered local government employment, without having—

(i) elected to receive a payment under regulation C12(4), or

(ii) made a request for earlier payment under regulation C12(7)(b),

he may, subject to sub-paragraphs (2) and (3), pay the amount outstanding as if he had not ceased to hold the first employment.

(2) The amount outstanding is payable to the new employing authority or, where there are more than one, among them in the proportions which the employee's remuneration in each of the employments bear to the aggregate of his remuneration in all the employments.

(3) An apportionment under sub-paragraph (2) takes effect as if the employee had entered all the employments to which it relates on the date on which he entered the first of them, and any payments made by him under this paragraph before the apportionment are to be adjusted accordingly.

## SCHEDULE 8

Regulation C16

### LIMITATION ON PAYMENT BY WAY OF ADDITIONAL CONTRIBUTIONS OR BY INSTALMENTS

1. If the amount payable by the pensionable employee by way of additional contributions in pursuance of a notice given under regulation D10 or D10A of the 1974 Regulations or an election made under regulation C6 or C8, or the amount of an instalment payable in pursuance of an election made under regulation C8, as the case may be, when aggregated with—

(a) any other amounts payable by him under any of those regulations in addition to the first-mentioned amount; and

(b) the amount payable by him by way of contributions under regulation C2,

exceeds 15% of his remuneration, he shall satisfy his liability in respect of the excess over 15% by payment in a lump sum of a sum—

- (i) in the case of an election under regulation C6 or, in the case of a male employee, an election under regulation C8 to pay by the method described in regulation C8(5)(c), determined in accordance with the formula in paragraph 2; and
- (ii) in any other case, calculated by the Government Actuary to represent the capital value of the excess.

2. The formula mentioned in paragraph 1 is—

$$\frac{T \times R \times F}{100}, \text{ where—}$$

T is the length in years and fractions of a year of the period relating to the excess;

R is the remuneration of the employee at the time he made the election under regulation C6 or, in the case of a male employee, an election under regulation C8 to pay by the method described in regulation C8(5)(c);

F is the figure specified, opposite to the age of the employee on his birthday next following the date on which he made that election, in the relevant column of Table I or Table II in relation to an election under regulation C6 and Table III below in relation to an election under regulation C8 appropriate to his pensionable age as defined in paragraph 3.

TABLE I  
MALES

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age							
	Employee to whom on retirement regulation E3(2) would apply	Others						
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
40		18.60	18.40	17.90	17.50	17.10	16.70	16.50
41		18.70	18.40	18.00	17.60	17.20	16.70	16.50
42		18.80	18.50	18.00	17.60	17.20	16.80	16.60
43		18.90	18.60	18.10	17.70	17.20	16.80	16.60
44		19.00	18.70	18.20	17.80	17.30	16.90	16.70
45		19.10	18.80	18.30	17.90	17.40	16.90	16.70
46	17.30	19.20	18.90	18.40	18.00	17.50	17.00	16.80
47	17.40	19.30	19.00	18.50	18.10	17.60	17.10	16.90
48	17.50	19.40	19.10	18.60	18.20	17.70	17.20	17.00
49	17.60	19.50	19.20	18.70	18.30	17.80	17.30	17.10
50	17.70	19.70	19.40	18.80	18.40	17.90	17.40	17.20
51	17.80	19.90	19.60	19.00	18.50	18.00	17.50	17.30
52	17.90	20.10	19.80	19.20	18.70	18.10	17.60	17.40
53	18.00	20.30	20.00	19.40	18.90	18.30	17.70	17.50
54	18.10	20.50	20.20	19.60	19.10	18.50	17.80	17.60
55	18.30	20.70	20.40	19.80	19.30	18.70	18.00	17.80
56	18.50	20.90	20.60	20.00	19.50	18.90	18.20	18.00
57	18.70	21.20	20.90	20.20	19.70	19.10	18.40	18.20
58	18.90	21.50	21.20	20.50	19.90	19.30	18.60	18.40
59	19.10	21.80	21.50	20.80	20.10	19.50	18.80	18.60
60	19.40			21.10	20.40	19.70	19.10	18.80
61	19.70				20.70	19.90	19.30	19.00
62	20.00					20.10	19.50	19.30
63	20.30						19.70	19.60
64	20.70							19.90

TABLE II  
FEMALES

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age							
	Employee to whom on retirement regulation E3(2) would apply				Others			
	65	60	Over 60 and under 61	61 and under 62	62 and under 63	63 and under 64	64 and under 65	65
40		19.40	19.10	18.60	18.00	17.40	16.90	16.60
41		19.60	19.30	18.70	18.10	17.50	17.00	16.70
42		19.70	19.40	18.80	18.20	17.60	17.10	16.80
43		19.80	19.50	18.90	18.30	17.80	17.20	16.90
44		19.90	19.60	19.00	18.40	17.90	17.30	17.00
45		20.10	19.70	19.10	18.50	18.00	17.40	17.10
46	18.80	20.20	19.90	19.20	18.60	18.10	17.50	17.20
47	18.90	20.40	20.00	19.40	18.80	18.20	17.60	17.30
48	19.00	20.50	20.20	19.50	18.90	18.30	17.70	17.40
49	19.10	20.60	20.30	19.60	19.00	18.40	17.80	17.50
50	19.20	20.80	20.40	19.80	19.20	18.60	17.90	17.60
51	19.30	21.00	20.60	19.90	19.30	18.70	18.00	17.70
52	19.40	21.10	20.80	20.10	19.40	18.80	18.20	17.90
53	19.50	21.30	21.00	20.30	19.60	19.00	18.30	18.00
54	19.60	21.50	21.20	20.40	19.80	19.10	18.40	18.10
55	19.80	21.70	21.40	20.60	19.90	19.20	18.60	18.20
56	20.00	21.90	21.60	20.80	20.10	19.40	18.70	18.30
57	20.20	22.10	21.80	21.00	20.30	19.60	18.80	18.50
58	20.40	22.30	22.00	21.20	20.50	19.80	19.00	18.70
59	20.60	22.60	22.20	21.40	20.70	20.00	19.20	18.90
60	20.80			21.70	20.90	20.20	19.40	19.10
61	21.10				21.20	20.40	19.60	19.30
62	21.40					20.50	19.80	19.50
63	21.70						20.00	19.80
64	22.00							20.10

TABLE III

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age					
	60	61	62	63	64	65
25	2.76					
26	2.61					
27	2.51					
28	2.44					
29	2.39					
30	2.35					
31	2.31					
32	2.28					
33	2.25					
34	2.23					
35	2.21					
36	2.20					
37	2.19	2.11				
38	2.19	2.11	2.06			
39	2.19	2.11	2.06	2.01		
40	2.20	2.12	2.06	2.01	1.97	
41	2.20	2.12	2.07	2.02	1.97	1.95
42	2.21	2.12	2.07	2.02	1.98	1.95
43	2.22	2.13	2.08	2.03	1.98	1.96
44	2.23	2.14	2.09	2.04	1.99	1.96
45	2.24	2.15	2.10	2.05	2.00	1.97
46	2.25	2.16	2.11	2.06	2.01	1.98
47	2.27	2.17	2.12	2.07	2.02	1.99
48	2.29	2.19	2.13	2.08	2.03	2.00
49	2.31	2.21	2.15	2.09	2.04	2.01
50	2.33	2.23	2.17	2.10	2.05	2.02
51	2.35	2.25	2.19	2.12	2.06	2.03
52	2.37	2.27	2.21	2.14	2.07	2.04
53	2.39	2.29	2.23	2.16	2.09	2.06
54	2.41	2.31	2.25	2.18	2.11	2.08
55	2.44	2.33	2.27	2.20	2.13	2.10
56	2.47	2.35	2.29	2.22	2.15	2.12
57	2.50	2.38	2.31	2.24	2.17	2.14
58	2.53	2.41	2.34	2.26	2.19	2.16
59	2.56	2.44	2.37	2.29	2.21	2.18
60		2.48	2.40	2.32	2.24	2.21
61			2.43	2.35	2.27	2.24
62				2.38	2.30	2.27
63					2.33	2.30
64						2.34

3. In paragraph 2 "pensionable age" means the earliest age at which, if the employee were to remain a pensionable employee without any break of service, he would become entitled by virtue of regulation E2(1)(a) or (b)(ii), if he then ceased to be employed, to a retirement pension or, if at the birthday next following an election under regulation C8(5)(c) he satisfies the requirements of regulation E2(1)(a), the age at which he has indicated he intends to retire.

## SCHEDULE 9

Regulation D5

### UNCOMPLETED PAYMENT OF ADDITIONAL CONTRIBUTIONS

1. This Schedule applies where an employee has made an election under regulation C6 (periodical payments to increase reckonable service) and has commenced payment, but before he attains pensionable age a relevant event occurs and any payment made to him under regulation C12 (return of contributions) does not include the amount already paid by him under regulation C6(3).

2. The relevant events are—
- (a) the discontinuance of payment under regulation C6(5), and
  - (b) where there has been no such discontinuance of payment—
    - (i) the employee's ceasing to hold his employment, and
    - (ii) the death of the employee while in local government employment.
3. Where the relevant event is the discontinuance of payment under regulation C6(5), the employee is entitled to reckon as reckonable service an additional period of  $\frac{A \times B}{C}$ , where—
- A is the length of the period during which additional contributions have been paid,  
 B is the length of the additional period in respect of which the election was made, and  
 C is the length of the period during which, under regulation C6(3), the additional contributions were to have been paid,  
 each period being expressed in complete years and any fraction of a year.
4. Where the relevant event is—
- (a) the death of the employee, or
  - (b) his ceasing to hold his employment by reason of permanent ill-health or infirmity of mind or body,
- he is to be treated as having completed payment in accordance with regulation C6(3).
- 5.—(1) Where the relevant event is the employee's ceasing to hold his employment, and—
- (a) he then, by virtue of the satisfaction of condition (a) or (b) in regulation E2(4), becomes entitled to benefits under regulation E2(1)(b)(iii), and
  - (b) he gives notice in writing for the purpose to the appropriate administering authority within the period of 3 months beginning on the day after the last day of his employment,
- he may pay to the appropriate superannuation fund within the period specified in sub-paragraph (2) the actuarial equivalent of the balance of his contributions due, and shall in that event be treated as having completed payment in accordance with regulation C6(3).
- (2) The period for making a payment under sub-paragraph (1) is the period of one month beginning on the date on which the person is notified by the appropriate administering authority of the amount calculated as mentioned in that sub-paragraph.
- 6.—(1) Where the relevant event is the employee's ceasing to hold his employment and neither paragraph 4(b) nor paragraph 5 applies, he is, unless sub-paragraph (2) applies, to be treated as if paragraph 3 (discontinuance of payment) had applied.
- (2) This sub-paragraph applies where the employee—
- (a) has within 12 months after ceasing to hold his employment again entered local government employment, without having—
    - (i) become entitled in relation to the first employment to the payment of any benefit, or
    - (ii) received any payment under regulation C12(4) (return of contributions) which includes the amount already paid by him under regulation C6(3), or
    - (iii) made a request for earlier payment under regulation C12(7)(b), and
  - (b) has not made an election for the purposes of regulation E2(9)(c) (retention of right to preserved benefits), and
  - (c) within 3 months after his again entering local government employment pays to his new employing authority an amount equal to any additional contributions that would have been payable if he had not ceased to hold the first employment.
- (3) Where sub-paragraph (2) applies, the election under regulation C6 continues to have effect as if the relevant event had not occurred.

## SCHEDULE 10

Regulation E3(12)

### ADDITIONAL RECKONABLE SERVICE FOR ILL-HEALTH

1. For the purposes of this Schedule—
- (a) a person's relevant service is so much of his contributing service and non-contributing service as did not consist of years added to his service—



- (i) under regulation 12 of the Benefits Regulations or under that regulation as applied by or under any enactment, or
- (ii) under a provision of a local Act scheme which has the same effect, and
- (b) a person's relevant reckonable service is the total of-
  - (i) any relevant service which became reckonable service by virtue of regulation D1 of the 1974 Regulations, and
  - (ii) any subsequent reckonable service except additional periods purchased by lump sum or additional contributions.

2.—(1) Subject to sub-paragraph (2) and paragraphs 3 and 4, the additional period which a person is to be treated as being entitled to reckon as reckonable service under regulation E3(12) is the period specified in column (2) of the Table below appropriate to the length of the person's relevant reckonable service specified in column (1) of that Table.

TABLE

(1) <i>Length of relevant reckonable service</i>	(2) <i>Additional period</i>
Not exceeding 10 years	A period equal to the length of the relevant reckonable service
Exceeding 10 years but not exceeding 13 121/365 years	The period by which the length of the relevant reckonable service falls short of 20 years
Exceeding 13 121/365 years	6 243/365 years

(2) The additional period is not to exceed the period by which the person's reckonable service would have been increased if he had continued in the employment which he has ceased to hold—

- (a) until he attained the age of 65 years, or
- (b) until his reckonable service amounted to 40 years,

whichever would have occurred first.

3.—(1) Subject to paragraph 4, this paragraph applies where, before entering the employment which he has ceased to hold, the person had, on ceasing to hold a previous employment, become entitled to benefits under regulation E2(1)(b)(i) or under regulation 5(1)(a) of the Benefits Regulations.

(2) Where this paragraph applies, the person's relevant reckonable service is to be treated for the purposes of paragraph 2 as having included A – B, where—

A is the length of his relevant reckonable service or, as the case may be, his relevant service, in relation to the previous employment, and

B is the length of the additional period which became reckonable in relation to the previous employment by virtue of regulation E3(12) or, as the case may be, the period by which his relevant service in relation to that employment is by virtue of sub-paragraph (3) to be deemed to have been increased.

(3) For the purposes of sub-paragraph (2)—

- (a) where the person's retirement pension in respect of the previous employment was calculated under regulation 5(3)(a) of the Benefits Regulations, his relevant service shall be deemed to have been increased by the period by which its length fell short of 20 years, and
- (b) where that pension was calculated under regulation 5(3)(b) of the Benefits Regulations, his relevant service shall be deemed to have been increased by the period by which it would have been increased if he had continued in the previous employment until he reached the age of 65 years.

4.—(1) This paragraph applies where—

- (a) the person either-
  - (i) was a contributory employee immediately before 16th May 1974 and became a pensionable employee on that day, or
  - (ii) became a pensionable employee within 12 months after having ceased to be a contributory employee, and
- (b) the length of his relevant reckonable service is not less than 10 years, and
- (c) notice that this paragraph is to apply is given in accordance with sub-paragraph (3) or (4).

(2) Where this paragraph applies, paragraphs 2 and 3 do not apply and the additional period is the shorter of—

- (a) the period by which the person's reckonable service would have been increased if he had continued in the employment which he has ceased to hold until he attained the age of 65 years, and
- (b) the period by which his reckonable service falls short of 20 years.
- (3) Subject to sub-paragraph (4), notice that this paragraph is to apply must be given by the person to the appropriate administering authority, in writing, within one month after ceasing to hold his employment or such longer period as the authority may allow.
- (4) If the person dies within the period allowed for giving notice without having given it, notice may be given—
- (a) if the person was a man and has left a widow, by her, or
- (b) if the person was a man and has not left a widow, or his widow has died without giving notice, by his executors, or
- (c) if the person was a woman, by her executors,
- within 6 months after the date of the person's death, or such longer period as the authority may allow.

## SCHEDULE 11

Regulation E3(14)

### REDUCTION OF BENEFITS ON EARLY PAYMENT

Where regulation E3(14) applies, benefits are reduced by the percentage shown in columns (2) and (3) of the Table below for the retirement pension for males and females respectively and column (4) of the Table for the retiring allowance opposite the period set out in column (1), being the period remaining from the date from which the person became entitled to receive benefits to the attainment of pensionable age; and where the period remaining is not an exact number of years the necessary interpolations are to be made in the Table.

TABLE

<i>Period remaining (years)</i>	<i>Percentage reduction</i>		
	<i>Retirement pension</i>		<i>Retiring allowance</i>
	<i>Male</i>	<i>Female</i>	<i>Both sexes</i>
(1)	(2)	(3)	(4)
0	0	0	0
1	8	7	2
2	15	13	5
3	22	18	7
4	28	23	9
5	33	27	11

## SCHEDULE 12

Regulation E19

### MODIFICATIONS TO PART E WHERE NO RIGHT TO RETIRING ALLOWANCE ETC.

#### PART I

- In regulation E2(1), the words "and a lump sum retiring allowance" shall be deleted.
- In regulation E3—
  - in paragraph (1), for the words "one eightieth" there shall be substituted "one sixtieth"; and
  - paragraphs (2) to (11) shall be deleted.
- In regulation E11—

- (a) in paragraph (1)(b), after the word "pension" there shall be inserted the words ", other than a pension under regulation E2(2),"; and
- (b) paragraph (11) shall be deleted.

4. In regulation E17, paragraph (6)(a)(iii) and (v) shall be deleted.

## PART II

5. In regulation E3, paragraphs (4) to (11) shall be deleted.

6. In regulation E11, paragraph (10) shall be deleted.

## PART III

7. In regulation E6, for paragraphs (2) to (4) there shall be substituted—

"(2) Subject to paragraphs (3) and (5), the annual rate of a widow's long-term pension is the aggregate of—

- (a) one four hundred and eightieth of her husband's pensionable remuneration multiplied by the length in years of his reckonable service before 1st April 1972, and
- (b) one one hundred and sixtieth of his pensionable remuneration multiplied by the length in years of his reckonable service after 31st March 1972, and
- (c) in the case of a person to whom regulation E2(1)(b)(i) applied or who dies in employment in which he was a pensionable employee, the amount ascertained by multiplying one one hundred and sixtieth of his pensionable remuneration by the length in years of the additional period of reckonable service determined in accordance with Schedule 10 or, in the case of a person who dies in employment as aforesaid, an additional period of reckonable service determined as if at the date of his death he were a person to whom regulation E2(1)(b)(i) applied.

(3) For the purpose of calculating the rate of the pension under paragraph (2), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years, and any reckonable service which is accordingly to be left out of account shall be taken from the beginning of the period of reckonable service."

8. In regulation E8—

- (a) in paragraph (1), sub-paragraph (b) and the words "and then a children's long-term pension" shall be deleted;
- (b) paragraph (2) shall be deleted; and
- (c) in paragraph (4), the words "or (b) or paragraph (2)" shall be deleted.

9. In regulation E11—

- (a) in paragraph (1)(b), the words "in relation to which this paragraph applies" shall be deleted;
- (b) paragraph (2) shall be deleted;
- (c) in paragraphs (4)(b) and (5)(a), for the words "and paragraph (2)(b) apply" there shall be substituted "applies";
- (d) in paragraph (5)(b), for the words "and paragraph (2)(a) apply" there shall be substituted "applies";
- (e) in paragraph (5), for the words from "the greater of" to the end of the paragraph there shall be substituted "the greater of  $(B \times C) - E$  or  $\frac{C}{F} \times (A - E)$ ";
- (f) paragraphs (6), (7) and (9) shall be deleted;
- (g) in paragraph (12), the words "Subject to paragraph (13)," shall be deleted; and
- (h) paragraph (13) shall be deleted.

## SCHEDULE 13

Regulation E20

### SURRENDER OF PART OF RETIREMENT PENSION

#### PART I

##### LIMITS ON AMOUNT SURRENDERED

- 1.—(1) The part of the retirement pension surrendered on any occasion—
- (a) must be an exact number of pounds, and

- (b) must secure for the beneficiary a pension of at least £39 per annum.
- (2) The surrendered part must not, together with any parts previously surrendered—
  - (a) exceed the lower of—
    - (i) the amount which would result in the reduction of the retirement pension to less than the rate of the pension which would become payable to the beneficiary under this Schedule, or
    - (ii) one third of the retirement pension, or where regulation E14 (former teachers) applies one third of the retirement pension receivable after reduction under that regulation, or
  - (b) be of an amount which would result in the reduction of the retirement pension to less than any minimum rate of equivalent pension benefits applicable under the Insurance Acts, or
  - (c) where the person's local government employment is or was contracted-out employment, be of an amount which would result in the retirement pension—
    - (i) becoming payable at an annual rate less than that obtained by multiplying one eightieth of his pensionable remuneration by the length in years of the whole period of his service in contracted-out employment, or
    - (ii) being, but for regulation E1(3), less than his guaranteed minimum if any.

2. Where the person falls within regulation E20(2)(b), references in paragraph 1 to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.

## PART II PROCEDURE

3. Upon a person's first becoming eligible to notify his wish to surrender part of his retirement pension the appropriate administering authority shall send him a notice stating that provision has been made by these Regulations for the surrender of part of a retirement pension to a spouse or dependant and informing the person to whom the notice is addressed that he may on application to the authority obtain further information on the subject.

4. Where a person wishes to make a surrender he may—
- (a) in the case of a pensionable employee who on ceasing to hold his employment becomes entitled to a retirement pension (in this Schedule referred to as "a retiring employee"), not more than 2 months before or within one month after the date on which he ceases to be employed; and
  - (b) in the case of a pensionable employee who would, if he were to retire from his employment, become entitled to a retirement pension (in this Schedule referred to as "a continuing employee"), within 2 months before or at any time after becoming a continuing employee and while he is still employed;

notify his desire to surrender a part of that retirement pension by completing a copy of the form specified at the end of this Schedule, or a form to the like effect, and sending it to the appropriate administering authority:

Provided that where the appropriate administering authority are satisfied that it has not been reasonably practicable for a retiring employee to notify his desire to surrender a part of a retirement pension within the time limit imposed by sub-paragraph (a) owing to circumstances beyond his control, they may at their discretion extend that limit to a date not more than 6 months after the date on which he ceases to be employed.

5. On receipt by the appropriate administering authority of a notification given by a person under paragraph 4, that authority shall—

- (a) forthwith arrange for the person to be examined by a registered medical practitioner nominated by them and for a report to be given to them by the practitioner stating whether, in his opinion, the person is in good health, regard being had to his age; and if the opinion stated in such report is that the person is not in good health, the appropriate administering authority shall notify him accordingly and offer him an opportunity of a further examination by some other registered medical practitioner nominated by them with a view to that practitioner reporting to them on the state of the person's health; and
- (b) require the person to furnish at his own expense—
  - (i) a certificate of his birth, except where the date of birth has been duly recorded by the authority and is not disputed;
  - (ii) in respect of a beneficiary who is the person's spouse, a birth certificate and a marriage certificate;

- (iii) in respect of a beneficiary who is a dependant, a birth certificate and such evidence as may be appropriate to prove dependency, and any other information or evidence which the authority consider necessary: Provided that, if for any reason a birth or marriage certificate cannot be supplied, the authority may accept such other evidence of birth or marriage as they think fit in order to determine the age or the question of marriage of the person concerned, as the case may be.

6. Any fee payable to a practitioner in respect of an examination and report under paragraph 5 shall be paid by the person examined at the time of the examination.

7.—(1) Subject to the provisions of this Schedule, unless the appropriate administering authority are of the opinion, on consideration of a report obtained by them under paragraph 5, that the person to whom the report relates is not in good health or they are of the opinion that the evidence produced in regard to marriage or dependency is not satisfactory, they shall allow the surrender of such part of the retirement pension as is specified in the person's notification and as is in conformity with this Schedule and shall grant to the beneficiary named in the notification a pension, payable in the event of the beneficiary's surviving the person and to be calculated in accordance with regulation E20(4):

Provided that a decision by an appropriate administering authority to allow a surrender by a retiring employee shall not be made before the date on which he ceases to be employed and a decision by an appropriate administering authority to allow a surrender by a continuing employee shall not be made before the date on which he becomes such an employee.

(2) Notwithstanding anything in sub-paragraph (1), the appropriate administering authority shall, if they are dissatisfied with the evidence of marriage, but are nevertheless satisfied on the evidence already before them or after making such further enquiries as they think necessary that a person named as spouse in the notification given under paragraph 4 is a dependant of the person who gave the notification, treat the notification as if the person named therein as spouse had been named as a dependant of the person giving the notification.

(3) As soon as is reasonably practicable after coming to a decision in regard to a notification given by a person, the appropriate administering authority shall notify him that they have allowed a surrender in favour of the person named in his notification or that they have decided not to allow a surrender of any part of the retirement pension, as the case may be, and if the appropriate administering authority have allowed a surrender they shall also furnish him with a statement as to the amount of the pension to which the beneficiary may become entitled after his death and, if the person who gave the notification under paragraph 4 is a retiring employee, with a statement as to the amount of the reduced retirement pension to which he is entitled.

(4) A notification of a decision not to allow a surrender shall state the grounds for the decision.

(5) A notification sent to an employee in pursuance of sub-paragraph (3) shall, if it has been posted in a prepaid envelope addressed to the employee by the appropriate administering authority, be deemed to have been received by the employee at the time at which a letter would be delivered in the ordinary course of post.

8. A person who has given a notification of his desire to surrender a part of his retirement pension under paragraph 4 may cancel or amend the notification by a notice in writing addressed to the appropriate administering authority and posted in a prepaid envelope to, or left at, the principal office of the authority at any time before he has received notification from the authority that his surrender has been allowed.

9.—(1) A notification given by a person under paragraph 4 shall become null and void if—

- (a) the beneficiary dies before the person receives notification from the appropriate administering authority that his surrender has been allowed; or
- (b) the person dies at any time before midnight on the day on which the appropriate administering authority decide to allow the surrender.

(2) Subject as aforesaid, a surrender allowed in pursuance of a notification given by a person shall have effect as from the date on which the person ceases to hold his employment.

FORM OF NOTIFICATION OF SURRENDER

LOCAL GOVERNMENT SUPERANNUATION (SCOTLAND) REGULATIONS

(Regulation E20 and Schedule 13)

SURRENDER OF PART OF RETIREMENT PENSION

To(a).....

Name of employing authority or former employing authority

Particulars relating to person desiring to make the surrender

- (a) Name in full.....
(b) Date of birth.....
(c) Address (private).....

Particulars relating to beneficiary

- (a) Name in full.....
(b) Date of birth.....
(c) Address (private).....
(d) Sex .....
(e) Relationship of beneficiary to person desiring to make the surrender
(f) If the beneficiary is spouse of person desiring to make the surrender, date of marriage

A.(b) In pursuance of paragraph 4(a) of Schedule 13 to the above-mentioned Regulations, I hereby notify my desire to surrender in favour of the above-named beneficiary the under-mentioned part of the retirement pension to which, on ..... 19...., I became/expect to become(c) entitled to receive payments in respect thereof.

B.(b) In pursuance of paragraph 4(b) of Schedule 13 to the above-mentioned Regulations, I hereby notify my desire to surrender in favour of the above-named beneficiary the under-mentioned part of the retirement pension to which, if I were to retire immediately/on ..... 19....(c), I would become entitled.

Table with columns for pounds (£) and pence (p). Rows include: (1) Amount of retirement pension to be surrendered(d), (2) Amount of retirement pension expected after deduction of amount surrendered(e), (3) Pension to beneficiary expected in return for amount surrendered(f)

Signature .....
Date .....

- (a) Insert name of local authority administering the superannuation fund.
(b) Delete paragraph A or B, whichever does not apply.
(c) Delete the word or words which do not apply.
(d) This must be an exact number of pounds.
(e) This must not be less than the pension payable under the above-mentioned Regulations to the beneficiary.
(f) This must not be less than £39.

## WOMEN'S SERVICES

1. Member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof.
2. Member of the Women's Royal Naval Service.
3. Woman medical or dental practitioner serving in the Royal Navy or any Naval reserve.
4. Member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof or of Queen Alexandra's Royal Army Nursing Corps or any reserve thereof.
5. Member of the Territorial Army Nursing Service or any reserve thereof.
6. Member of the Auxiliary Territorial Service.
7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.
8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.
9. Member of the Women's Auxiliary Air Force.
10. Woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.
11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council.

## SCHEDULE 15

## PUBLIC SERVICE SCHEMES

## PART I

1. Regulations from time to time in force under the Police Pensions Act 1948(a) or the Police Pensions Act 1976(b).
2. Orders and Regulations from time to time in force under the Constabulary Acts (Northern Ireland) 1922 to 1949(c) or section 25 of the Police Act (Northern Ireland) 1970(d).
3. The Firemen's Pension Scheme brought into operation under section 26 of the Fire Services Act 1947(e), as in force from time to time.
4. Orders from time to time in force under section 10 of the Fire Services (Amendment) Act (Northern Ireland) 1950(f) ("the Act of 1950") or section 17 of the Fire Services Act (Northern Ireland) 1969(g) ("the Act of 1969"), and schemes from time to time in force under section 13 of the Act of 1950 or section 26 of the Act of 1969.

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(a) 1948 c.24.

(b) 1976 c.35.

(c) 1922 c.8 (N.I.), 1924 c.17 (N.I.), 1928 c.4 (N.I.), 1930 c.18 (N.I.), 1933 c.27 (N.I.), 1934 c.10 (N.I.), 1944 c.9 (N.I.), 1949 c.9 (N.I.).

(d) 1970 c.9 (N.I.); section 25 was amended by the Police (Northern Ireland) Order 1977 (S.I. 1977/53 (N.I. 2)), article 13.

(e) 1947 c.41.

(f) 1950 c.4 (N.I.); section 10 was amended by the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1958 (c.21 (N.I.)), section 5.

(g) 1969 c.13 (N.I.); section 17 was amended by the Fire Services (Northern Ireland) Order 1973 (S.I. 1973/601 (N.I. 9)), articles 7 and 12.

## PART II

5. The Teachers (Superannuation) Act 1925(a) and Rules from time to time in force under that Act, a Teachers' Superannuation Scheme within the meaning of section 145 (47) of the Education (Scotland) Act 1962(b), and Regulations from time to time in force under section 102 of that Act or under the Teachers' Superannuation Act 1965(c), the Teachers' Superannuation Act 1967(d), the Teachers' Superannuation (Scotland) Act 1968(e) or section 9 of the Act of 1972.

6. A 1923 Act scheme within the meaning of the Teachers' (Superannuation) Act (Northern Ireland) 1950(f), and Regulations from time to time in force under the Teachers' Superannuation Acts (Northern Ireland) 1950 to 1967(g) or article 11 of the Superannuation (Northern Ireland) Order 1972(h).

## PART III

7. Provisions of or under the Local Government Superannuation Act 1937(i), the Act of 1953, section 7 of the Act of 1972, or a local Act scheme, as in force from time to time, being provisions relating to the payment of pensions, allowances or gratuities by local authorities or other bodies in England.

8. Regulations from time to time in force under section 67 of the National Health Service Act 1946(j), section 66 of the National Health Service (Scotland) Act 1947(k) or section 10 of the Act of 1972.

9. Regulations from time to time in force under section 61 of the Health Services (Northern Ireland) Act 1948(l) or article 12 of the Superannuation (Northern Ireland) Order 1972.

10. Regulations from time to time in force under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(m), or article 9 of the Superannuation (Northern Ireland) Order 1972.

## SCHEDULE 16

Regulations F6(6),  
J2 to J4, J8, J14 and Q2

### CALCULATION OF TRANSFER VALUES

#### PART I

1. The transfer value payable under regulation J2, J3(1), J14 or Q2(2) in respect of any person is an amount equal to—

(1) the aggregate of the sums calculated in accordance with paragraph 2 below in respect of his accrued pension, accrued retiring allowance and, if the person is a man, his accrued widow's pension, less—

(a) a sum (calculated in accordance with paragraph 2 below) in respect of accrued modification, and where a request has been received under regulation J2(3) his guaranteed minimum pension,

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(a) 1925 c.59.

(b) 1962 c.47.

(c) 1965 c.83.

(d) 1967 c.12.

(e) 1968 c.12.

(f) 1950 c.33 (N.I.).

(g) 1950 c.33 (N.I.), 1951 c.28 (N.I.), Part I, 1956 c.22 (N.I.), 1963 c.7 (N.I.), 1967 c.3 (N.I.).

(h) S.I. 1972/1073 (N.I. 10).

(i) 1937 c.68.

(j) 1946 c.81; section 67 was amended by the National Health Service (Amendment) Act 1949 (c.93), Schedule, Part I, by the Local Government Superannuation Act 1953 (c.25), section 4(1)(c), and by S.I. 1968/1699; the 1946 Act was repealed by the National Health Service Act 1977 (c.49), Schedule 16.

(k) 1947 c.27; section 66 was amended by the National Health Service (Amendment) Act 1949, Schedule, Part II, by the Local Government Superannuation Act 1953, section 4(2)(c), and by S.I. 1968/1699; the 1947 Act was repealed by the National Health Service (Scotland) Act 1978 (c.29), Schedule 17.

(l) 1948 c.3 (N.I.); section 61 was amended by the Health Services Act (Northern Ireland) 1953 (c.6 (N.I.)), section 11, by the Health Service Act (Northern Ireland) 1958 (c.29 (N.I.)), section 8, by the Health Services (Amendment) Act (Northern Ireland) 1963 (c.20 (N.I.)), section 2, by the Administration of Estates (Small Payments) Act (Northern Ireland) 1967 (c.5 (N.I.)), section 1, and by the Health Services (Amendment) Act (Northern Ireland) 1969 (c.36 (N.I.)), sections 21 to 24.

(m) 1950 c.10 (N.I.).



- (b) any additional contributory payments remaining unpaid when he ceased to be employed in his local government employment, and
- (c) in the case of a person in relation to whom when he ceases to be employed in local government employment—
  - (i) a contributions equivalent premium is paid under section 42 of the Pensions Act, or
  - (ii) a limited revaluation premium is paid under section 45 of that Act otherwise than by the scheme managers of his approved non-local government scheme, a sum equal to the amount of that premium,

together with—

(2) compound interest calculated in accordance with regulation J7 in respect of the period beginning immediately after the date on which the person ceased to be employed in his local government employment and ending with the date on which the transfer value is paid (but no interest is to be included in the transfer value if that period is less than 6 months).

2.—(1) The sums mentioned in paragraph 1 shall be calculated as follows—

- (a) the accrued pension shall be multiplied by the pension factor,
- (b) the accrued retiring allowance shall be multiplied by the retiring allowance factor,
- (c) the accrued modification shall be multiplied by the modification factor, and
- (d) the guaranteed minimum pension shall be multiplied by the guaranteed minimum pension factor,

such factors being the factors in the appropriate Table specified in sub-paragraph (3) in relation to the person's age at the date when he ceased to be employed in local government employment.

(2) The sum in respect of accrued widow's pension shall be calculated by multiplying the accrued widow's pension by 4 in the case of a transfer value payable under regulation J2 or J3(1), and by 2.4 in the case of a transfer value payable under regulation J14 or Q2(2).

(3) For the purposes of sub-paragraph (1) the appropriate Table shall be—

- (a) in the case of a transfer value payable under regulation J2 or J3(1) the relevant Table in Part II, and
- (b) in the case of a transfer value payable under regulation J14 or Q2(2) the relevant Table in Part III.

(4) The guaranteed minimum pension shall be the guaranteed minimum calculated in accordance with section 35 of the Pensions Act.

3. In this Schedule—

“accrued pension” means the annual retirement pension (however named) to which, having regard to regulations E1(3) and E32(2) and apart from any reduction falling to be made in that pension in connection with a retirement pension under section 30 of the Insurance Act or section 28 of the Social Security Act 1975 or graduated retirement benefit under section 36 of the Insurance Act, the person would have become entitled if, on the date when he ceased to be employed in his local government employment—

- (a) he had attained the age of 65 years; and
- (b) (i) where the person ceased to be employed in that employment before 31st March 1972, he had complied with any requirement as to a minimum period of qualifying service and, notwithstanding anything in any enactment—
  - (A) if in that employment he was a contributory employee within the meaning of the Act of 1937, for the purpose of calculating the amount of that pension his service had been calculated in accordance with regulation 4(1) to (1B) of the Benefits Regulations; and
  - (B) his entitlement to that pension had been calculated by reference to completed years and completed days;
- (ii) where the person ceased to be employed in that employment on or after 31st March 1972, he had been entitled to reckon an aggregate of not less than 5 years' reckonable service and qualifying service; and
- (c) he had completed any additional contributory payments;

“accrued retiring allowance” means the lump sum retiring allowance (however named) to which the person would have become entitled if, on the date when he ceased to be employed in his local government employment—

- (a) he had attained the age of 65 years; and
- (b) (i) where the person ceased to be employed in that employment before 31st March 1972, he had complied with any requirement as to a minimum period of qualifying service and, notwithstanding anything in any enactment—

- (A) if in that employment he was a contributory employee within the meaning of the Act of 1937, for the purpose of calculating the amount of that allowance his service had been calculated in accordance with regulation 4(1) to (1B) of the Benefits Regulations; and
  - (B) his entitlement to that allowance had been calculated by reference to completed years and completed days;
- (ii) where the person ceased to be employed in that employment on or after 31st March 1972, he had been entitled to reckon an aggregate of not less than 5 years' reckonable service and qualifying service; and
- (c) he had completed any additional contributory payments; and
  - (d) if the person is a man, he had been married and he and his wife had not been judicially separated; "accrued widow's pension" means the annual widow's pension (however named) which, after any initial period during which it might not have been payable, would have been payable in respect of the person if, on the date when he ceased to be employed in his local government employment—
- (a) he had been married and he and his wife had not been judicially separated; and
  - (b) by virtue of his having attained the age of 65 years, he had been in receipt of a pension equivalent to his accrued pension; and
  - (c) he had died;
- "accrued modification" means the amount by which the accrued pension would be reduced in connection with retirement pension under section 30 of the Insurance Act or section 28 of the Social Security Act 1975 or graduated retirement benefit under section 36 of the Insurance Act.

## PART II

TABLE I - MEN

<i>Age</i>	<i>Pension factor</i>	<i>Retiring allowance factor</i>	<i>Modification factor</i>	<i>Guaranteed minimum pension factor</i>
Under 20	5.00	.60	.25	1.47
20	5.05	.60	.25	1.50
21	5.10	.61	.25	1.53
22	5.15	.61	.30	1.56
23	5.20	.61	.30	1.59
24	5.25	.62	.30	1.62
25	5.30	.62	.35	1.65
26	5.35	.63	.40	1.68
27	5.40	.63	.40	1.71
28	5.45	.63	.45	1.74
29	5.50	.64	.50	1.78
30	5.55	.64	.50	1.81
31	5.60	.65	.55	1.85
32	5.65	.66	.60	1.88
33	5.70	.66	.65	1.92
34	5.75	.67	.70	1.95
35	5.80	.67	.80	1.99
36	5.85	.68	.90	2.02
37	5.90	.68	1.00	2.06
38	5.95	.68	1.10	2.10
39	6.00	.69	1.20	2.14
40	6.05	.69	1.30	2.18
41	6.10	.70	1.40	2.22
42	6.15	.70	1.50	2.26
43	6.20	.71	1.60	2.30
44	6.25	.72	1.70	2.34
45	6.30	.72	1.80	2.39
46	6.40	.73	1.90	2.44
47	6.50	.74	2.00	2.48
48	6.60	.74	2.20	2.53
49	6.70	.75	2.40	2.58
50	6.80	.75	2.60	2.62
51	6.90	.76	2.90	2.67
52	7.10	.76	3.20	2.72
53	7.30	.77	3.50	2.78
54	7.50	.78	3.80	2.84
55	7.70	.79	4.20	2.90
56	8.00	.80	4.60	2.97
57	8.30	.81	5.00	3.04
58	8.60	.82	5.40	3.12
59	9.00	.84	5.80	3.20
60	9.50	.86	6.30	3.28
61	9.50	.88	6.80	3.36
62	9.50	.91	7.40	3.44
63	9.50	.94	8.10	3.53
64	9.50	.98	9.00	3.64
65	9.50	1.00	9.50	—

TABLE 2 - WOMEN

<i>Age</i>	<i>Pension factor</i>	<i>Retiring allowance factor</i>	<i>Modification factor</i>	<i>Guaranteed minimum pension factor</i>
Under 20	7.00	.60	.50	2.20
20	7.05	.60	.50	2.24
21	7.10	.61	.55	2.28
22	7.15	.61	.60	2.32
23	7.20	.61	.65	2.36
24	7.25	.62	.70	2.40
25	7.35	.62	.75	2.45
26	7.40	.63	.80	2.50
27	7.45	.63	.85	2.55
28	7.50	.63	.90	2.60
29	7.55	.64	.95	2.66
30	7.65	.64	1.05	2.71
31	7.70	.65	1.15	2.77
32	7.80	.66	1.25	2.82
33	7.90	.66	1.35	2.88
34	7.95	.67	1.45	2.93
35	8.05	.67	1.55	2.99
36	8.15	.68	1.65	3.05
37	8.25	.68	1.75	3.11
38	8.35	.681	.85	3.17
39	8.45	.69	1.95	3.24
40	8.55	.69	2.10	3.31
41	8.65	.70	2.25	3.38
42	8.75	.70	2.45	3.45
43	8.85	.71	2.65	3.52
44	8.95	.72	2.90	3.59
45	9.05	.73	3.15	3.66
46	9.15	.74	3.40	3.74
47	9.25	.75	3.70	3.82
48	9.35	.76	4.00	3.90
49	9.45	.77	4.35	3.98
50	9.55	.78	4.75	4.06
51	9.65	.79	5.15	4.15
52	9.80	.80	5.60	4.24
53	9.95	.81	6.10	4.33
54	10.10	.82	6.65	4.43
55	10.30	.83	7.25	4.53
56	10.50	.84	7.95	4.63
57	10.75	.85	8.75	4.74
58	11.05	.87	9.65	4.85
59	11.40	.89	10.65	4.97
60	11.75	.91	11.75	—
61	11.75	.93	11.75	—
62	11.75	.95	11.75	—
63	11.75	.97	11.75	—
64	11.75	.99	11.75	—
65	11.75	1.00	11.75	—

## PART III

TABLE I - MEN

<i>Age</i>	<i>Pension factor</i>	<i>Retiring allowance factor</i>	<i>Modification factor</i>	<i>Guaranteed minimum pension factor</i>
Under 20	3.90	.60	.20	1.47
20	3.95	.60	.20	1.50
21	4.00	.61	.20	1.53
22	4.05	.61	.25	1.56
23	4.10	.61	.25	1.59
24	4.10	.62	.25	1.62
25	4.15	.62	.30	1.65
26	4.20	.63	.30	1.68
27	4.25	.63	.35	1.71
28	4.30	.63	.35	1.74
29	4.30	.64	.40	1.78
30	4.35	.64	.40	1.81
31	4.40	.65	.45	1.85
32	4.45	.66	.50	1.88
33	4.45	.66	.50	1.92
34	4.50	.67	.55	1.95
35	4.55	.67	.65	1.99
36	4.60	.68	.70	2.02
37	4.65	.68	.80	2.06
38	4.65	.68	.90	2.10
39	4.70	.69	.95	2.14
40	4.75	.69	1.05	2.18
41	4.80	.70	1.10	2.22
42	4.85	.70	1.20	2.26
43	4.85	.71	1.30	2.30
44	4.90	.72	1.35	2.34
45	4.95	.72	1.45	2.39
46	5.00	.73	1.50	2.44
47	5.10	.74	1.60	2.48
48	5.20	.74	1.75	2.53
49	5.25	.75	1.90	2.58
50	5.35	.75	2.10	2.62
51	5.45	.76	2.30	2.67
52	5.60	.76	2.55	2.72
53	5.75	.77	2.80	2.78
54	5.90	.78	3.05	2.84
55	6.05	.79	3.35	2.90
56	6.25	.80	3.65	2.97
57	6.50	.81	4.00	3.04
58	6.75	.82	4.30	3.12
59	7.05	.84	4.65	3.20
60	7.45	.86	5.05	3.28
61	7.45	.88	5.45	3.36
62	7.45	.91	5.85	3.44
63	7.45	.94	6.35	3.53
64	7.45	.98	7.05	3.64
65	7.45	1.00	7.45	—

TABLE 2 - WOMEN

<i>Age</i>	<i>Pension factor</i>	<i>Retiring allowance factor</i>	<i>Modification factor</i>	<i>Guaranteed minimum pension factor</i>
Under 20	5.20	.60	.40	2.20
20	5.20	.60	.40	2.24
21	5.25	.61	.40	2.28
22	5.30	.61	.45	2.32
23	5.35	.61	.50	2.36
24	5.40	.62	.50	2.40
25	5.45	.62	.55	2.45
26	5.50	.63	.60	2.50
27	5.55	.63	.65	2.55
28	5.60	.63	.65	2.60
29	5.65	.64	.70	2.66
30	5.70	.64	.80	2.71
31	5.75	.65	.85	2.77
32	5.80	.66	.95	2.82
33	5.85	.66	1.00	2.88
34	5.90	.67	1.10	2.93
35	6.00	.67	1.15	2.99
36	6.10	.68	1.25	3.05
37	6.15	.68	1.30	3.11
38	6.25	.68	1.35	3.17
39	6.30	.69	1.45	3.24
40	6.40	.69	1.55	3.31
41	6.45	.70	1.65	3.38
42	6.55	.70	1.80	3.45
43	6.60	.71	1.95	3.52
44	6.70	.72	2.15	3.59
45	6.80	.73	2.35	3.66
46	6.85	.74	2.55	3.74
47	6.95	.75	2.75	3.82
48	7.00	.76	3.00	3.90
49	7.10	.77	3.25	3.98
50	7.15	.78	3.55	4.06
51	7.25	.79	3.85	4.15
52	7.35	.80	4.15	4.24
53	7.45	.81	4.55	4.33
54	7.60	.82	4.95	4.43
55	7.75	.83	5.40	4.53
56	7.90	.84	5.90	4.63
57	8.10	.85	6.50	4.74
58	8.30	.87	7.20	4.85
59	8.60	.89	8.00	4.97
60	8.85	.91	8.85	—
61	8.85	.93	8.85	—
62	8.85	.95	8.85	—
63	8.85	.97	8.85	—
64	8.85	.99	8.85	—
65	8.85	1.00	8.85	—

## PART IV

1. The transfer value payable under regulation Q2(1) in respect of a person is to be calculated in accordance with the following formula if the service he is entitled to reckon in his new local government employment which he was also entitled to reckon in his previous local government employment exceeds 182 days—

$$T = \frac{(F \times S \times R)}{100} - A, \text{ where—}$$

T is the amount of the transfer value;

F is the amount shown in column (2) of the following Table applicable to his age as set out in column (1) when he ceased to be employed in his previous local government employment,

TABLE

(1) <i>(Age on ceasing to be employed in previous local government employment)</i>	(2) <i>(Amount)</i>  £
Under 30	11
30 to 39 (inclusive)	12
40 to 49 (inclusive)	13
50 and over	14;

S is the length of the reckonable service in complete years ignoring any residual period of 182 days or less and taking any residual period which exceeds 182 days as a complete year;

R is the annual rate of his remuneration of his previous local government employment at the date on which he ceased to be employed in that employment; and

A is the amount of any additional contributory payments remaining outstanding when he ceased to be employed in his previous local government employment.

2. In any case not falling within paragraph 1 the transfer value payable under regulation Q2(1) in respect of a person is to be calculated in accordance with the following formula—

$$T = 2 \times C, \text{ where—}$$

T is the amount of the transfer value; and

C is the amount of the employer's contributions in relation to the reckonable service, but the amount of the transfer value shall be zero if the person becomes employed in his new local government employment on or after 1st October 1981.

3. In ascertaining for the purposes of this Part the length of reckonable service which a person is or was entitled to reckon, the reckonable service is to count at the length at which it would reckon in calculating the amount of a retirement pension under regulation E2(1)(b)(ii), except that—

- (a) any period of reckonable service which was reckonable under section 15 of the Act of 1937 (which related to teachers) is to be ignored;
- (b) it is to be assumed that he had completed the payment of any additional contributory payments; and
- (c) if additional contributions under regulation D10 of the 1974 Regulations (or any corresponding provision of an earlier enactment) or regulation C6 have been paid but not all those for which he was originally liable, the apportionment formula in paragraph 3 of Schedule 9 is to be applied.

4. Subject to paragraph 5, in ascertaining for the purposes of this Part the annual rate of a person's remuneration at the date on which he ceased to be employed in his previous local government employment—

- (a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;
- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;
- (d) if the annual rate of his remuneration is retrospectively altered as a result of a pay award promulgated by a national joint council or other negotiating body on or before the date

on which he ceased to be employed, the annual rate of his remuneration is to be based on the retrospective pay award;

- (e) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed;
- (f) if his previous local government employment was part-time, the annual rate of remuneration of a single comparable whole-time employment is to be used; and
- (g) if the annual rate of his remuneration exceeds £100 it is to be rounded down to the nearest £100.

5. If—

- (a) during the 13 years ending on the cessation of the person's previous local government employment his remuneration was reduced; and
- (b) his employing authority certified under regulation E24 that the reduction was in consequence of a material change in circumstances; and
- (c) his annual rate of remuneration immediately before the reduction, ascertained on similar principles to those in paragraph 4, was greater than the annual rate of remuneration on the date on which he ceased to be employed in his previous local government employment,

it is to be assumed for the purposes of this Part that he was earning at the higher rate at the date on which he ceased to be employed in his previous local government employment.

6. Where the person has made a payment to his new fund authority under regulation D1(2) or J9(3) of the 1974 Regulations or H8(3) of these Regulations, the transfer value payable under regulation Q2(1) is to be reduced by an amount equal to that payment.

7. Compound interest calculated in accordance with regulation J7 is to be paid on the transfer value payable under regulation Q2(1) for the period beginning with the date on which the person ceased to be employed in his previous local government employment and ending on the date on which the transfer value is paid (but no interest is to be paid if that period is less than 6 months).

## PART V

1. The additional transfer value payable under regulation J3(2) and the transfer value that may be accepted where regulation J8(5) applies is in each case  $(A \times B \times C) + D$ , where—

A is the period—

- (a) which the person would have been entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b), or
- (b) which would have been taken into account in calculating additional benefits in accordance with regulation F6(12), or
- (c) which he would have been entitled to reckon under the war service provisions of the public service scheme,

as the case may be;

B is the figure in column 2 or 3 of the Table below appropriate to the person's age on 1st April 1978 and sex;

C is either—

- (a) the annual rate of the person's pensionable remuneration at 1st April 1978, or
- (b) if on that date he was entitled to a pension, the amount of remuneration taken into account in calculating the pension, increased by the annual amount (if any) by which an annual pension at a rate equal to that amount of remuneration, and beginning on the same date as the person's pension, would by 1st April 1978 have been increased under the Pensions (Increase) Act 1971(a); and

D is compound interest on  $(A \times B \times C)$ , calculated, in the case of an additional transfer value payable under regulation J4(2), in accordance with regulation J7 in respect of the period beginning on 1st April 1978 and ending with the date on which the transfer or additional transfer value is paid.

2. For the purposes of paragraph 1, the annual rate of a person's pensionable remuneration shall be ascertained in accordance with the provisions of paragraphs 4 and 5 of Part IV of this Schedule.

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(a) 1971 c.56.



TABLE

<i>Age on last birthday before 1st April 1978</i>	<i>Men</i>	<i>Women</i>
40	0.1009	0.1328
41	0.1018	0.1344
42	0.1024	0.1357
43	0.1031	0.1372
44	0.1038	0.1389
45	0.1045	0.1405
46	0.1058	0.1422
47	0.1073	0.1437
48	0.1085	0.1454
49	0.1099	0.1470
50	0.1111	0.1487
51	0.1125	0.1502
52	0.1150	0.1525
53	0.1176	0.1548
54	0.1203	0.1571
55	0.1229	0.1599
56	0.1267	0.1628
57	0.1306	0.1663
58	0.1345	0.1707
59	0.1397	0.1759
60	0.1463	0.1810
61	0.1465	0.1818
62	0.1469	0.1825
63	0.1473	0.1833
64	0.1478	0.1840
65	0.1480	0.1844
66	0.1436	0.1800
67	0.1392	0.1756
68	0.1355	0.1713
69	0.1311	0.1669
70	0.1267	0.1625
71	0.1230	0.1575
72	0.1190	0.1519
73	0.1144	0.1463
74	0.1106	0.1406
75	0.1063	0.1350
76	0.1019	0.1294
77	0.0981	0.1238
78	0.0938	0.1181
79	0.0900	0.1131
80	0.0854	0.1088
81	0.0815	0.1044
82	0.0775	0.1006
83	0.0735	0.0969
84	0.0698	0.0931
85	0.0661	0.0894
86	0.0623	0.0856
87	0.0585	0.0825
88	0.0554	0.0794
89	0.0525	0.0769
90	0.0496	0.0744
91	0.0467	0.0719
92	0.0440	0.0694
93	0.0419	0.0669
94	0.0398	0.0644
95	0.0377	0.0625
96	0.0356	0.0600
97	0.0342	0.0581
98	0.0321	0.0556
99	0.0306	0.0531

**CALCULATION OF RECKONABLE SERVICE TO BE CREDITED UNDER  
REGULATION J9(1)(a)**

1. Subject to the provisions of this Schedule, the period which a person is entitled to reckon as reckonable service by virtue of regulation J9(1)(a) is a period equal to the period of reckonable service which would enable the fund authority to pay under regulation J2 a transfer value (calculated in accordance with Schedule 16)–

(a) of the amount which that authority accepted in respect of him under regulation J8, or

(b) where–

(i) the person became employed in his local government employment after 4th April 1983, and

(ii) a limited revaluation premium was paid under section 45 of the Pensions Act and has been repaid to the fund authority by the Secretary of State, of the total of the amount mentioned in sub-paragraph (a) and the amount of the premium.

2. For the purposes of paragraph 1 above–

(1) in the case of a person who was subject in his non-local government employment to a statutory scheme or to any other scheme which is for the time being specified by the Secretary of State as a scheme which is to be treated as a statutory scheme for the purposes of this Schedule–

(a) the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and to the rate of his pensionable pay, used in the calculation of the transfer value received,

(b) where in that calculation an amount of a person's pay has been disregarded in connection with a retirement pension under section 30 of the Insurance Act or section 28 of the Social Security Act 1975, the pensionable pay is to be increased by that amount, and

(c) any sum representing interest included in the transfer value accepted is to be ignored;

(2) in the case of a person who was subject in his non-local government employment to any other scheme–

(a) if he became employed in his local government employment before 8th May 1975–

(i) the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and the annual rate of his remuneration, on 1st April 1972, or, if later, on the date when he became employed in his local government employment (here referred to as the "relevant date"); and

(ii) the sum to be used as the amount of the transfer value shall be the sum notified to the fund authority by the scheme managers as the sum which the fund authority would have received in respect of the person had the transfer value been calculated and paid on the relevant date;

(b) if he became employed in his local government employment on or after 8th May 1975 the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and the annual rate of his remuneration, on the date when he became employed in his local government employment or, if the transfer value in respect of him is received by the fund authority more than one year after he became employed in his local government employment, on the date on which the transfer value is received;

(c) any sum representing interest which is included in the transfer value accepted is to be taken into account;

(3) the accrued pension in respect of the period last mentioned in paragraph 1 above shall be deemed–

(a) where the person is such a person as is mentioned in regulation J12(1), to be subject to that paragraph, and paragraph (2) of that regulation shall have effect for this purpose as if at the end there were added the following sub-paragraph:–

“(c) at the end of regulation F7(2) of the 1974 Regulations, there had been added the words “and a proportionate amount in respect of part of a year of such service”.”;

(b) where the person is such a person as is mentioned in regulation J12(3), to be subject to that paragraph;

(4)(a) where the pensionable pay mentioned in sub-paragraph (1) above relates to a period of part-time employment, the pensionable pay for that period shall be deemed to be the pensionable pay by reference to which the transfer value accepted would have been calculated had the person during that period been in a single comparable whole-time employment;

(b) where the remuneration mentioned in sub-paragraph (2) above relates to part-time employment, the annual rate of remuneration on the relevant date shall be deemed to be the annual rate of remuneration notified to the fund authority by his local government employer as the

remuneration which would have been paid in respect of a single comparable whole-time employment;

(5) in the case of a person whose non-local government employment was not contracted-out employment, the calculation of the period he is entitled to reckon as reckonable service shall be made by reference to the transfer value which would have been payable under regulation J2 if Schedule 16 contained no reference to guaranteed minimum pension.

## SCHEDULE 18

Regulation J14

### FUND APPORTIONMENT WHERE 100 OR MORE TRANSFER THEIR PENSION RIGHTS UNDER REGULATION J14

#### PART I

1. This Part of this Schedule applies where the fund is to be apportioned under regulation J14(5) and all of the transfers under the transfer scheme are to take place on the same day.

2. The appropriate administering authority shall obtain a report from the fund's actuary specifying the apportionment fraction to be applied in apportioning the fund together with details of the calculation.

3. The apportionment fraction is—

$$\frac{\left[ \frac{A}{B} \times (C + D) \right] - E}{C}, \text{ where—}$$

A is the value at the relevant date of the accrued actuarial liabilities of the fund which relate to the persons transferring their pension rights on that date to the approved non-local government scheme,

B is the value at the relevant date of all accrued actuarial liabilities of the fund,

C is the value at the relevant date of the transferable assets of the fund minus any sums then due from the fund,

D is the value at the relevant date of any adjustments to be made in consequence of a certificate under regulation P9(1)(b) to sums (other than sums then due to the fund) to be contributed to the fund under regulation P12(1), and

E is the value at the relevant date of the part (if any) of those adjustments that relate to the persons transferring their pension rights on that date to the approved non-local government scheme.

4. The relevant date is the date on which those transferring their pension rights become subject to the approved non-local government scheme.

5. The accrued actuarial liabilities of the fund are the actual and potential liabilities of the fund in connection with any service or employment before the relevant date and, for this purpose, it is to be assumed that the liabilities which relate to those transferring their pension rights remain liabilities of the fund notwithstanding regulation J14(6).

6. The transferable assets of the fund are the assets which belong to the fund at the relevant date.

7. The values of items D and E are to be agreed by the actuary and the scheme managers of the approved non-local government scheme or, if they are unable to agree, they are to be determined by an actuary appointed by the Secretary of State.

8. Subject to paragraph 7 above, valuations are to be made by the actuary.

9. Where more than one approved non-local government scheme is involved, separate apportionment fractions shall be specified in the actuary's report for the different schemes.

10. When the appropriate administering authority receive the actuary's report they shall provide the scheme managers of the approved non-local government scheme with a copy of it.

11. The value of the share of the fund to which the scheme managers of the approved non-local government scheme are entitled shall be calculated in accordance with the formula—

$$V = W \times (X - [Y + Z]), \text{ where—}$$

V is the value of the share of the fund to which the scheme managers are entitled,

W is the apportionment fraction specified in the actuary's report,

X is the value (determined by the fund's actuary) at the apportionment date of the transferable assets which still belong to the fund at that date and any other assets which belong to the fund at that date which represent in any form, or have accrued from, any transferable asset,

Y is the total of any sums due from the fund at the relevant date and still outstanding at the apportionment date, and

Z is the total of any sums due from the fund at the apportionment date (but not at the relevant date) in respect of any expenditure in connection with the transferable assets of the fund or assets representing, or accruing from, those assets.

12. The apportionment date is the date specified as such by the appropriate administering authority in a notice given to the scheme managers of the approved non-local government scheme.

13. Except with the agreement of the scheme managers of the approved non-local government scheme, the apportionment date shall not be later than six months after the date on which the appropriate administering authority receive the actuary's report.

14. Subject to paragraphs 15 to 17 below, immediately after the apportionment date the appropriate administering authority shall transfer to the scheme managers of the approved non-local government scheme assets of the fund of a value at the apportionment date equal to the value of the scheme managers' share of the fund and, unless the appropriate administering authority and the scheme managers otherwise agree, the composition of the assets to be transferred shall so far as possible reflect the composition of the transferable assets which still belong to the fund at the apportionment date and any other assets which belong to the fund at that date which represent in any form, or have accrued from, any transferable asset.

15. The appropriate administering authority and the scheme managers may agree to transfer assets in advance of the apportionment date.

16. The value of an advance under paragraph 15 shall not exceed such sum as the fund's actuary may specify as appropriate in the circumstances.

17. Where an advance is made under paragraph 15, the appropriate administering authority's liability under paragraphs 11 and 14 shall be reduced by an amount equal to—

$$\frac{L}{M} \times N, \text{ where—}$$

L is the value of the advance,

M is the value of the share of the fund to which the scheme managers would have been entitled under paragraph 11 if the apportionment date had been the date on which the advance was made, and

N is the value of the share of the fund to which the scheme managers would have been entitled under paragraph 11 if the advance had not been made.

18. The employing authority shall bear the costs of apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of those costs as the fund's actuary determines.

19. The appropriate administering authority shall keep their accounts in a form which enables the calculations required in apportioning the fund to be made, and they shall also provide the fund's actuary with any information he requires in connection with the apportionment.

## PART II

20. This Part of this Schedule applies where the fund is to be apportioned under regulation J14(5) and the transfers under the transfer scheme are to take place on different days.

21. The provisions of Part I of this Schedule are to apply to the apportionment as if the transfers had occurred on a single date, but suitable adjustments are to be made to the sums payable to the scheme managers to reflect the fact that the transfers take place on different dates.

22. Any adjustments to be made under paragraph 21 shall be determined by the fund's actuary, subject to the agreement of the appropriate administering authority and the scheme managers or, if they are unable to agree, by an actuary appointed by the Secretary of State.

FUND APPORTIONMENT FOR CHANGES OF FUND WITHIN LOCAL  
GOVERNMENT

PART I

1. This Part of this Schedule applies where the fund is to be apportioned under regulation Q2(6) and all of the persons who are changing funds do so on the same day.

2. The previous fund authority shall obtain a report from an actuary specifying the apportionment fraction to be applied in apportioning the fund together with details of the calculation.

3. The apportionment fraction is-

$$\frac{\left[ \frac{A}{B} \times (C + D) \right] - E}{C}, \text{ where-}$$

A is the value at the relevant date of the accrued actuarial liabilities of the fund which relate to the persons changing funds on that date,

B is the value at the relevant date of all accrued actuarial liabilities of the fund,

C is the value at the relevant date of the transferable assets of the fund minus any sums then due from the fund,

D is the value at the relevant date of any adjustments to be made in consequence of a certificate under regulation P9(1)(b) to sums (other than sums then due to the fund) to be contributed to the fund under regulation P12(1), and

E is the value at the relevant date of the part (if any) of those adjustments which relates to the persons changing funds on that date.

4. The relevant date is the date on which the change of fund occurs.

5. The accrued actuarial liabilities of the fund are the actual and potential liabilities of the fund in connection with any service or employment before the relevant date and, for this purpose, it is to be assumed that the liabilities which relate to those changing funds remain liabilities of the fund.

6. The transferable assets of the fund are the assets which belong to the fund at the relevant date.

7. The values of items D and E are to be agreed between the fund's actuary and the actuary of the new fund authority or, if they are unable to agree, they are to be determined by an actuary appointed by the Secretary of State.

8. Subject to paragraph 7, valuations are to be made by the fund's actuary.

9. Where more than one new fund authority is involved, separate apportionment fractions shall be specified in the actuary's report for the different new fund authorities.

10. When the previous fund authority receive the actuary's report they shall provide the new fund authority with a copy of it.

11. The value of the share of the fund to which the new fund authority are entitled shall be calculated in accordance with the formula-

$$V = W \times (X - [Y + Z]), \text{ where-}$$

V is the value of the share of the fund to which the new fund authority are entitled,

W is the apportionment fraction specified in the actuary's report,

X is the value (determined by the fund's actuary) at the apportionment date of the transferable assets which still belong to the fund at that date and any other assets which belong to the fund at that date which represent in any form or have accrued from any transferable asset,

Y is the total of any sums due from the fund at the relevant date and still outstanding at the apportionment date, and

Z is the total of any sums due from the fund at the apportionment date (but not at the relevant date) in respect of any expenditure in connection with the transferable assets of the fund or assets representing, or accruing from, those assets.

12. The apportionment date is the date specified as such by the previous fund authority in a notice given to the new fund authority.

13. Except with the agreement of the new fund authority, the apportionment date shall not be later than six months after the date on which the previous fund authority receive the actuary's report.

14. Subject to paragraphs 15 to 17, immediately after the apportionment date the previous fund authority shall transfer to the new fund authority assets of the fund of a value at the apportionment date equal to the value of the new fund authority's share of the fund and, unless the previous fund authority and new fund authority otherwise agree, the composition of the assets to be transferred shall so far as possible reflect the composition of the transferable assets which still belong to the fund at the apportionment date and any other assets which belong to the fund at that date which represent in any form, or have accrued from, any transferable asset.

15. The previous fund authority and the new fund authority may agree to transfer assets in advance of the apportionment date.

16. The value of an advance under paragraph 15 shall not exceed such sum as the fund's actuary may specify as appropriate in the circumstances.

17. Where an advance is made under paragraph 15, the previous fund authority's liability under paragraphs 11 and 14 shall be reduced by an amount equal to—

$$\frac{L}{M} \times N, \text{ where—}$$

L is the value of the advance,

M is the value of the share of the fund to which the new fund authority would have been entitled under paragraph 11 if the apportionment date had been the date on which the advance was made, and

N is the value of the share of the fund to which the new fund authority would have been entitled under paragraph 11 if the advance had not been made.

18. The previous employing authority shall bear the costs of apportioning the fund or, if there is more than one previous employing authority involved, each shall bear such part of the costs as the fund's actuary determines.

19. The previous fund authority shall keep their accounts in a form which enables the calculations required in apportioning the fund to be made, and they shall also provide the fund's actuary with any information he requires in connection with the apportionment.

## PART II

20. This Part of this Schedule applies where the fund is to be apportioned under regulation Q2(6) and the persons who are changing funds do so on different days.

21. The provisions of Part I of this Schedule are to apply to the apportionment as if the changes of fund had occurred on a single date, but suitable adjustments are to be made to the sums payable to the new fund authority to reflect the fact that the changes of fund occur on different dates.

22. If any question arises in connection with paragraph 21, it shall be determined by the fund's actuary and the actuary of the new fund authority or, if they are unable to agree, by an actuary appointed by the Secretary of State.

SCHEDULE 20

Regulations B6(6), P3  
and P11

BODIES WHOSE EMPLOYEES ARE TO HAVE PENSIONS INCREASE PAID  
BY THE FUND OR FURTHER FUND

(1) <i>Body</i>	(2) <i>Date</i>
A public transport company established under the Transport Act 1985 <sup>(a)</sup>	Date of incorporation

SCHEDULE 21

Regulation S3

REVOCATIONS

(1) <i>Instruments revoked</i>	(2) <i>References</i>
The Local Government Superannuation (Scotland) Regulations 1974	S.I. 1974/812
The Local Government Superannuation (Scotland) Amendment Regulations 1975	S.I. 1975/638
The Local Government Superannuation (Scotland) Amendment Regulations 1978	S.I. 1978/425
The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1978	S.I. 1978/1378
The Local Government Superannuation (Scotland) Amendment (No. 3) Regulations 1978	S.I. 1978/1794
The Local Government Superannuation (Scotland) Amendment (No. 4) Regulations 1978	S.I. 1978/1926
The Local Government Superannuation (Scotland) Amendment Regulations 1980	S.I. 1980/198
The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1980	S.I. 1980/342
The Local Government Superannuation (Scotland) Amendment (No. 3) Regulations 1980	S.I. 1980/1885
The Local Government Superannuation (Scotland) Amendment Regulations 1981	S.I. 1981/1892
The Local Government Superannuation (Scotland) Amendment Regulations 1982	S.I. 1982/385
The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1982	S.I. 1982/1303
The Local Government Superannuation (Scotland) Amendment Regulations 1983	S.I. 1983/1421
The Local Government Superannuation (Scotland) Amendment Regulations 1984	S.I. 1984/254
The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1984	S.I. 1984/1232
The Local Government Superannuation (Scotland) Amendment Regulations 1986	S.I. 1986/214
The Local Government Superannuation (Funds) (Scotland) Regulations 1986	S.I. 1986/1449

<sup>(a)</sup> 1985 c.67.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate the provisions revoked by regulation S3 and Schedule 21, comprising the bulk of the Regulations applying to Scotland made, or having effect as if made, under section 7 of the Superannuation Act 1972.

The Appendix to this Explanatory Note has the corrections and minor amendments made in the consolidation.

Certain regulations in these Regulations have retrospective effect as authorised by section 12 of the Superannuation Act 1972.

Provision is made for opting out where rights in relation to ex-employees could be adversely affected (regulation S2).

## APPENDIX TO EXPLANATORY NOTE

*(Corrections and minor amendments)*

Column (1) – Provision of consolidated Regulations.

Column (2) – Corresponding regulation in Local Government Superannuation (Scotland) Regulations 1974.

Column (3) – Effect of correction or amendment.

(1)	(2)	(3)
A3 and Schedule 2	G2 and Schedule 15	(a) Removes the need for the Scottish Special Housing Association to resolve to admit new categories of staff to the superannuation scheme. (b) Allows the Association to invest in "traded options" and "financial futures" on the same basis as local authorities.
B6(3)	—	To clarify that an admission agreement may cover a class of employee as well as individuals.
E9	E9	Corrects the starting date from 16th May 1974 to 1st June 1972 for the indexation of the prescribed amount (£250) for the reduction of children's pensions when they are also in receipt of remuneration.
F1	R1	Expands the definition of non-effective pay to show the effect of the Finance (No. 2) Act 1945.
J4(5)	—	To ensure that an employee transferring from local government employment is made aware of his right of appeal to the Secretary of State with regard to the transfer value.
N1(3)	—	Highlights the scope of decisions taken by scheduled bodies.
Schedule 1	A3	Amends the definition of "eligible child" to take account of the Law Reform (Parent and Child) (Scotland) Act 1986 (c.9), and removes differences in treatment between people which depend on whether or not their parents are or have been married to each other.

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