

SCHEDULE 1

Regulation 43

SCHEDULE TO BE INSERTED AFTER SCHEDULE 7 TO THE PRINCIPAL REGULATIONS

“SCHEDULE 7A

Regulation C9A

ADDITIONAL VOLUNTARY CONTRIBUTIONS

1.—(1) An election to pay contributions under regulation C9A shall be made by notice given in writing to the pensionable employee’s employing authority, and shall specify—

- (a) the amount of the additional contributions which are to be paid, expressed either as a percentage of his remuneration in his local government employment or as a sum payable at the times mentioned in sub-paragraph (2); and
- (b) the proportion (if any) of the contributions which he wishes to be used to provide benefits payable in the event of death.

(2) The additional contributions shall be payable on the pensionable employee’s usual pay day, and for that purpose shall be deductible by the employing authority, or be otherwise recoverable by the appropriate administering authority, under regulation C11.

2. With respect to any election under paragraph 1—

- (a) the appropriate administering authority may require, before any contributions are first made pursuant to the notice given under paragraph 1(1), that (until discontinued) the amount of the additional contributions payable in any tax year shall be not less than the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987(1);
- (b) the amount of additional contributions payable in any tax year shall, when aggregated with the amount of any other contributions payable under these Regulations or under a free-standing additional voluntary contribution scheme, not exceed the amount allowed to be deducted under section 592(7) of the Income and Corporation Taxes Act 1988 as specified in or under subsection (8) of that section;
- (c) subject to paragraphs (a) and (b), the pensionable employee may at any time elect by notice given in writing to his employing authority to vary his additional contributions (both as to the amount and as to the proportion of those he is to continue to pay which are to be used to provide benefits payable on death) or to discontinue those contributions; and
- (d) no additional contributions shall be payable with respect to periods during which the person contributing is not a pensionable employee under these Regulations, or (subject to paragraph 6) with respect to any period after he ceases to be employed by the employing authority to which notice was given under paragraph 1(1).

3.—(1) Where a notice under paragraph 1(1) or 2(c) specifies that all or part of the additional contributions are to be used to provide benefits payable in the event of death, the appropriate administering authority shall make arrangements for the provision of those benefits under a pension policy with respect to which the authority are to make payments to the insurance company with which the policy is entered into of the same amounts as the contributions to be so used within one month of the day on which they are payable by the pensionable employee under paragraph 1(2).

(2) The policy shall be subject to the conditions mentioned in paragraph 2, and make provision for the arrangements mentioned in paragraph 6 in the event of a change of employment by the pensionable employee.

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4.—(1) The administering authority shall invest any additional contributions which are not to be used to provide benefits payable in the event of death with a relevant body.

(2) Subject to sub-paragraph (3) and paragraphs 6, 7 and 8, upon the pensionable employee ceasing to be employed by the employing authority to which notice was given under paragraph 1(1) or ceasing to be a pensionable employee by virtue of a notification under regulation B4A, the appropriate administering authority shall, as soon as reasonably practicable after his benefits under Part E become, or would become, payable, apply the accumulated value of the additional contributions invested, as mentioned in sub-paragraph (1), to the provision of additional pension benefits under a pension policy.

(3) If the pensionable employee dies before such a policy is entered into, the accumulated value shall be payable to his executors.

(4) The additional contributions invested in accordance with sub-paragraph (1) shall not be used to provide benefits in lump sum form except where the aggregate of the pension benefits provided under Part E and the additional pension benefits provided by the pension policy mentioned in sub-paragraph (2) do not exceed the annual rate or amount referred to in regulation E21 and the pension benefits provided under Part E are being compounded in accordance with that regulation.

5.—(1) As soon as an employing authority receives a notice under paragraph 1(1) or 2(c) they shall forward it to the appropriate administering authority.

(2) The appropriate administering authority shall give effect to a notice under paragraph 1(1) or 2(c) as soon as reasonably practicable, and in any event—

- (a) in the case of a notice under paragraph 1(1), so that the pensionable employee may begin to pay his additional contributions under paragraph 1(2) within 6 months of his giving that notice; and
- (b) in the case of a notice under paragraph 2(c), so that the pensionable employee may pay his contributions at the varied amount or proportions, or cease to pay his contributions (as the case may be), within 3 months of his giving that notice.

(3) The benefits under a pension policy entered into under paragraph 3(1) or 4(2) shall be money purchase benefits the value of which is reasonable having regard to the amount of the contributions paid.

(4) Before entering into such a policy, the administering authority shall consult the pensionable employee and shall give effect, so far as is practicable and subject to sub-paragraph (3), to his wishes with respect to the benefits to be provided under it.

6.—(1) If, after ceasing to be employed by the employing authority to which notice was given under paragraph 1(1)—

- (a) the pensionable employee within one month and one day of the cessation enters a new employment in which he is also a pensionable employee;
- (b) his appropriate administering authority in both the former and new employments are the same; and
- (c) he was making payments of additional contributions up to the date of cessation,

he may elect by notice given in writing to his new employing authority before or within one month of beginning the new employment that his election to pay contributions under regulation C9A shall continue to have effect.

(2) In the event of an election under sub-paragraph (1)—

- (a) as soon as the new employing authority receive the notice of election they shall forward it to the appropriate administering authority;

- (b) no payment of additional contributions shall be made with respect to the period (if any) between the two employments, but subject to that the pensionable employee shall, with effect from the pay day next after the day notice was given under sub-paragraph (1), make payments of additional contributions in his new employment under his notice under paragraph 1(1) as from time to time varied under paragraph 2(c);
- (c) the appropriate administering authority shall continue to invest all additional contributions paid by the pensionable employee not specified to be used to provide benefits payable in the event of death in the manner mentioned in paragraph 4(1) and apply any continuing additional contributions which are so specified towards the pension policy mentioned in paragraph 3(1);
- (d) paragraphs 4(2), 6 and 7 shall have effect in relation to a cessation of the new employment as if the new employment were the one in relation to which notice was given under paragraph 1(1).

7. Where a pensionable employee has ceased—

- (a) to be employed by the employing authority to which notice was given under paragraph 1(1); or
- (b) to be a pensionable employee without ceasing to be employed by the employing authority to which notice was given under paragraph 1(1);

he may elect to have the accumulated value of the invested additional contributions, mentioned in paragraph 4(1), used in one or more of the following ways:—

- (i) to subscribe to a superannuation scheme;
- (ii) to subscribe to a personal pension scheme;
- (iii) to subscribe to a self-employed pension arrangement;
- (iv) to purchase an appropriate policy from one or more insurance companies; or
- (v) to subscribe to a scheme approved by the Board of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988(2), to which an employer is not a contributor and which provides benefits additional to those provided by a superannuation scheme.

8. Where a pensionable employee has ceased—

- (a) to be employed by an employing authority; or
- (b) to be a pensionable employee without ceasing to be employed by an employing authority;

and has as a consequence become entitled to receive a refund of contributions under regulation C12 he may receive immediate payment of the accumulated value of the invested additional contributions, mentioned in paragraph 4(1).

9. Paragraph 2(d) shall not preclude a pensionable employee who has again become employed by a scheduled body (and has not elected under paragraph 6(1)), or a person who has made an election under regulation B4B(1), from making a new election by notice under paragraph 1(1).

10.—(1) Regulations C12 to C15 (return of contributions), P5 (management of superannuation funds) and P15(3) do not apply to contributions (or interest on late payments which relate to contributions) payable under regulation C9A.

(2) The making of contributions under regulation C9A, and any rights or liabilities arising under a pension policy entered into under paragraphs 3(1) or 4(2), shall be left out of account in calculating

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the amount of a transfer value payable under Parts J or Q; and Parts M (forfeiture etc) and N (decisions and appeals) do not apply in relation to benefits under such a policy.

11. In this Schedule—

“insurance company” means—

- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982⁽³⁾ to carry on long term business and acting through a branch or agency in the United Kingdom, or
- (b) a society registered as a friendly society under the Friendly Societies Act 1974⁽⁴⁾ or the Friendly Societies Act (Northern Ireland) 1970⁽⁵⁾;

“money purchase benefits” has the same meaning as in the Social Security Act 1986⁽⁶⁾;

“pension policy” means a contract entered into on behalf of the pensionable employee by the appropriate administering authority with an insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Part E;

“relevant body” means—

- (a) a person for the time being operating a scheme which is an approved scheme for the purposes of Chapter I of Part XIV of the Income and Corporation Taxes Act 1988, and which provides benefits in relation to people who have paid contributions to it which are in addition to those provided in relation to those people under an occupational pension scheme; or
- (b) a building society within the meaning of the Building Societies Act 1986⁽⁷⁾; and

“remuneration” has the same meaning as in Chapter I of Part XIV of the Income and Corporation Taxes Act 1988.”.

SCHEDULE 2

Regulation 44(1)

PART I TO BE SUBSTITUTED FOR PARTS I TO IV OF
SCHEDULE 16 TO THE PRINCIPAL REGULATIONS

“PART I

1. Subject to the provisions of paragraphs 2, 3, 5 and 6, a transfer value to be made in accordance with the provisions of regulation J2, J3(1), J14 or Q2 in respect of a person shall be—

(1) the capitalised value of his accrued rights under these Regulations at the material date, and any associated rights under the Pensions (Increase) Act 1971⁽⁸⁾ and the Pensions (Increase) Act 1974⁽⁹⁾, less a sum, if any, in respect of any state scheme premium which has been paid and not recovered in respect of a period of service included in the valuation of those rights; together with

(3) 1982 c. 50
(4) 1974 c. 46
(5) 1970 c. 31 (N.I.).
(6) 1986 c. 50
(7) 1986 c. 53
(8) 1971 c. 56
(9) 1974 c. 9

(2) where the transfer value is, without reasonable cause or excuse, not paid within 6 months of the material date and it is not to be paid to a statutory scheme (or 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) interest, if any, calculated on a daily basis over the period from the material date to the date on which the transfer value is paid, at the rate set out in regulation 4(4)(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1985⁽¹⁰⁾, or, if it is greater
- (b) the amount by which the transfer value falls short of what it would have been if the material date had been the date on which the transfer value was paid.

2. Where, prior to the last date on which the fund authority is required to pay a transfer value under these Regulations, the employing authority has directed under regulation M1 or any corresponding provision of earlier Regulations or a local Act scheme that all or any of the benefits payable under these Regulations shall be forfeited, any transfer value payable in respect of that person shall be reduced in proportion to the reduction in the total value of the benefits or shall be withheld as the case may be.

3. Where a person requests that a transfer value be paid—

- (a) (1) to a superannuation scheme which is not contracted-out within the meaning of section 32 of the Pensions Act⁽¹¹⁾, or
- (b) to a personal pension scheme which is not an appropriate personal pension scheme, or
- (c) to a self-employed pension arrangement;

(2) the trustees or managers of the superannuation scheme, personal pension scheme or self-employed pension arrangement are able or willing to have transferred to it only the liability for a member's accrued rights other than his and his surviving spouse's rights to guaranteed minimum pensions; and

(3) he does not require that portion of his transfer value that represents his guaranteed minimum pensions to be used in one of the ways specified in regulation J2(1),

then his transfer value shall be reduced by the amount of a state scheme premium sufficient to meet the liability in respect of that person's and his surviving spouse's guaranteed minimum pensions.

4.—(1) Subject to sub-paragraph (2), where a person has ceased to be a pensionable employee by virtue of a notification under regulation B4A, the person shall be entitled to a transfer value under regulation J2(1)(b) only in respect of the following:—

- (a) where the person is a man, that part of his accrued rights which bears the same proportion to his total accrued rights as his reckonable service after 5th April 1988 bears to his total reckonable service;
- (b) where the person is a woman, the aggregate of—
 - (i) that part of her accrued rights, other than a widower's pension, which bears the same proportion to the total of those accrued rights as her reckonable service after 5th April 1988 bears to her total reckonable service; and

⁽¹⁰⁾ S.I. 1985/1931, to which there are amendments not relevant to these Regulations.

⁽¹¹⁾ The Social Security Pensions Act 1975 (c. 60); section 32 was amended by the Social Security and Housing Benefits Act 1982 (c. 24), Schedule 4, paragraph 20, and by the Social Security Act 1986 (c. 50), Schedule 2, paragraph 5, Schedule 10, paragraph 16 and Schedule 11.

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(ii) that part of her accrued rights, relating to a widower's pension, credited to her after 5th April 1988.

(2) This paragraph shall not apply to a person whose reckonable service before 6th April 1988 amounts to less than 2 years.

(3) Where—

- (a) a transfer value limited in accordance with sub-paragraph (1), has been paid in respect of a person; and
- (b) that person has subsequently ceased to be employed in local government employment before attaining the age of 65 years or, where regulation J2(7) applies, the age of 64 years;

a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of sub-paragraph (1), he would have been entitled on ceasing to be a pensionable employee, shall accrue to the person on the date on which he ceases to be employed and shall be valued accordingly.

(4) In relation to any person to whom sub-paragraph (3) above applies—

- (a) regulation J2(2)(c)(ii) shall have effect as if the words “or to be a pensionable employee” were deleted; and
- (b) the definition of “material date” in paragraph 5 shall have effect as if the words “or to be a pensionable employee” were deleted.

(5) For the purposes of this paragraph, where a person ceases to be employed in local government employment but that person enters again into local government employment, then, if there is between those two employments—

- (a) an interval not exceeding one month; or
- (b) an interval of any length if the second of the employments results from the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978(12) (right to return to work following pregnancy or confinement),

they shall be treated as a single employment.

5. In this Schedule—

“accrued rights” means the rights which have accrued in respect of a person under these Regulations at the material date, or which would have accrued in respect of him if the period of service necessary to satisfy the requirements of regulation E2(1)(c) had been the period which he had completed at that date;

“capitalised value” means the capitalised value at the material date as determined by the fund authority, in such manner as may be approved by the Government Actuary or by an actuary authorised by the Government Actuary to act on his behalf for that purpose, having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these Regulations;

“material date” means the date on which the person ceased to be employed in local government employment or to be a pensionable employee, as described in regulation J2(1) or, if it is later, the date of his application for payment of a transfer value which he has not subsequently withdrawn; and

“state scheme premium” means a state scheme premium or a transfer premium under Part III of the Pensions Act.

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6. Where one or more transfer values have been paid to a fund authority in respect of a person, any transfer value paid by that fund authority shall be at least equal to the aggregate of those transfer values and any contributions made by that person under Part C, except where it falls to be paid to a statutory scheme (or 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).

7. A transfer value paid under this Schedule shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled under Part II of Schedule 1A to the Pensions Act.”.

SCHEDULE 3

Regulation 45

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 17 TO THE PRINCIPAL REGULATIONS

“SCHEDULE 17

Regulation J9(1)(a)

CALCULATION OF RECKONABLE SERVICE TO BE CREDITED UNDERREGULATION J9(1)(a)

1. Where a transfer value has been paid to, and accepted by, the fund authority, there shall be credited to the person in respect of whom the payment was made a period of reckonable service calculated in accordance with paragraph 2.

2. For the purpose of paragraph 1—

(1) where the transfer value—

- (a) is paid by the trustees or managers of a statutory scheme, or any other scheme which is at the appropriate date specified by the Secretary of State as a scheme which is to be treated as a statutory scheme for the purpose of this Schedule,
- (b) represents all of the person’s accrued rights in that scheme, and
- (c) has been calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to schemes which are, or which fall to be treated as, statutory schemes under Schedule 16;

the period of reckonable service to be credited to the person shall be equal to the period of service which if used to calculate a transfer value to be paid to a superannuation scheme which is, or which falls to be treated as, a statutory scheme under Schedule 16 would produce an amount equal to the transfer value received by the fund authority, and in making the calculation regard shall be had to the person’s age, rate of pensionable remuneration, marital status and, in addition, to any other factor notified to the fund authority by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount; and

(2) in any other case the period of reckonable service credited to the person shall be calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to superannuation schemes (which do not fall to be treated as statutory schemes) under Schedule 16, due allowance being given for the expected increase in the pensionable remuneration of a local government employee between the appropriate date and the date on which the person in respect of whom the transfer value was paid would attain pensionable age.

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(3) In this Schedule “appropriate date” means the date on which the person in respect of whom the transfer value is paid became a pensionable employee, or if the transfer value is received more than 12 months after that date, the date on which it is received.”.