
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART C

MEMBERS' CONTRIBUTIONS

Preliminary definitions

Meaning of “appropriate pension fund”

C1.—(1) In these regulations “appropriate pension fund” means—

- (a) subject to paragraph (b), in relation to an employee of an administering authority, the fund maintained by that authority;
- (b) in relation to the persons mentioned in Part I of Schedule C1, the fund maintained by the London Pensions Fund Authority;
- (c) in relation to the persons mentioned in Part II of Schedule C1, the funds mentioned in relation to them in that Part;
- (d) in relation to an employee of a company under the control of a body described in Part 1 of Schedule B1, the fund which, in accordance with this regulation, is the appropriate pension fund in relation to an employee of that body;
- (e) in relation to an admission agreement employee, the fund maintained by the administering authority who are a party to the admission agreement by virtue of which he is eligible to be a member;
- (f) in relation to a person whose case does not fall within paragraphs (a) to (e), the fund maintained by the administering authority within whose area lies the greater part of the area of his employing authority.

(2) Where paragraph (1)(d) of this regulation or paragraph 6(1)(a) of Schedule C1 applies to any employees of a LGPS employer, the Secretary of State may, after consultation with the bodies appearing to him to be concerned, by direction substitute as the appropriate pension fund in relation to those employees (or any of them) the fund maintained by some other administering authority (“the substituted fund”).

(3) A direction under paragraph (2) may—

- (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.

(4) Where an administering authority have under regulation L3(1) established a further fund—

- (a) references in paragraphs (1) to (3) and in Schedule C1 to “the fund” are to be construed as references to the fund maintained by that authority under regulation L1, and

- (b) in relation to a person to whom these regulations apply by virtue of an admission agreement with a body identified in the notice required by regulation L3(2), the appropriate pension fund is the further fund.

(5) Except in regulation C24, references in these regulations to the making of contributions in respect of any person are, unless the context otherwise requires, references to the making of contributions to the fund which is the appropriate pension fund in relation to that person.

Meaning of “remuneration”

C2.—(1) Subject to paragraphs (2) and (3) and Schedule C5 (limitations on contributions and benefits), in these regulations “remuneration”, in relation to an employee, means the total of—

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his employment, and
- (b) the money value of any benefits provided for him by reason of his employment,

and any other payment or benefit specified in his contract of employment as being a pensionable emolument.

(2) “Remuneration” does not include—

- (a) payments for non-contractual overtime;
- (b) any travelling or subsistence allowance or any other allowance paid to an employee in respect of expenses incurred in relation to the employment;
- (c) any payment made to an employee in consideration of loss of holidays;
- (d) any payment accepted by an employee in lieu of notice to terminate his contract of employment;
- (e) any payment made to an employee as an inducement not to terminate his employment before the payment is made;
- (f) subject to paragraph 7 of Schedule C2, the money value to the employee of the provision of a motor vehicle or any payment accepted by him in lieu of such provision; or
- (g) in the case of an employee or former employee of the Commission for the New Towns, any payment made to him, under any scheme relating to the termination of the employment of employees by the Commission, in respect of the completion before a specified date of specified functions.

(3) Schedule C2 shall have effect for the purpose of making further provision as to the meaning of “remuneration”(including provision for the amount of notional remuneration to be agreed collectively).

Meaning of “normal retirement age” and “NRD”

C3.—(1) In these regulations in relation to any member, “normal retirement date” or “NRD”, means

- (a) in the case of a member who by his 60th birthday has a total period of membership of at least 25 years, that birthday;
- (b) in the case of a member who first has such a total period of membership by a date after his 60th birthday but before his 65th birthday, the day after that date; and
- (c) in the case of a member who does not fall within paragraph (a) or (b), his 65th birthday;

and “normal retirement age” means his age at the commencement of his NRD.

(2) Where for any purpose of the regulations it is necessary to determine a person's NRD or normal retirement age before he attains that age, it shall be assumed that his local government employment and membership of the Scheme will be continuous.

Standard contributions

Member's standard contributions

C4.—(1) Subject to regulations C5 to C7 and C27, a member shall, at such intervals as the appropriate administering authority may determine, make contributions in respect of every employment in relation to which he is a member—

- (a) in the case of a manual worker, at the rate of five per cent. of his remuneration in the employment, and
- (b) in the case of an officer, at the rate of six per cent. of that remuneration.

(2) In this regulation—

“officer” means an employee whose duties are wholly or mainly administrative, professional, technical or clerical; and

“manual worker” means an employee who is not an officer.

Effect of absences on contributions

Leave of absence from duty

C5.—(1) A member who is on leave of absence from duty in an employment with reduced or no remuneration (otherwise than by reason of illness or injury) shall not make any contribution under regulation C4 in respect of the employment for the period of his absence.

(2) Unless regulation C6 (maternity leave) applies to a member who is so absent, the member shall—

- (a) for a period of 30 days beginning on the first day of the leave of absence, or
- (b) if the period of absence is shorter, for the period of it,

make contributions of amounts equal to the contributions he would have been required to make under regulation C4 on the remuneration he would have received during that period but for the leave of absence.

(3) If the member gives notice in writing for the purpose to the employing authority not later than 30 days after—

- (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) relating to the period of 36 months, or the period of his absence, if shorter.

(4) Where the leave of absence was given to enable the employee to attend—

- (a) for jury service in pursuance of a summons under the Juries Act 1974(1), or
- (b) as a juror at an inquest under the Coroners Act 1988(2),

(1) 1974 c. 23.
(2) 1988 c. 13.

and such attendance 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).

(5) This regulation does not apply where the leave of absence is given to enable the employee to perform relevant service (within the meaning of regulation C8 (absence on reserve forces service)).

Maternity absence

C6.—(1) This regulation applies to a person who—

- (a) has a period of maternity absence; and
- (b) immediately before that period was a member or had applied under regulation B10 or B13 to become a member.

(2) A person to whom this regulation applies—

- (a) in relation to any period (“the relevant period”) which is, or is part of, a period of maternity absence for which she is entitled to receive remuneration, shall make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4, if her remuneration in the employment were equal to the remuneration which she is entitled to receive for the relevant period; and
- (b) in relation to any period (“the unpaid period”) which is, or is part of, a period of maternity absence and for which she is not entitled to receive remuneration, may elect to make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4 if for the unpaid period her remuneration in the employment were equal to the remuneration she was entitled to receive immediately before the beginning of the unpaid period.

(3) An election under paragraph (2)(b) shall be made by notice in writing to the employing authority given before the expiry of the period of 30 days beginning with the earlier of—

- (a) the day on which the member returns to duty; and
- (b) the day on which she ceases to be employed by that authority.

(4) Paragraph (2) does not affect the right of an employee to give notice under regulation B12 (leaving the Scheme) during a period of maternity absence.

(5) In this Part “period of maternity absence” means any period throughout which a woman—

- (a) is absent from duty by reason of pregnancy or confinement; and
- (b) may exercise the right under her contract of employment to return to work.

(6) For the purposes of this regulation references to “the relevant period” and “the unpaid period” do not include any period before the day on which the application under regulation B10 or B13 to become a member first has effect.

Absence owing to trade dispute

C7.—(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) was a member immediately before—
 - (i) that period, or
 - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods;

and in this regulation a period for which a person to whom this regulation applies was so absent is referred to as a “relevant absence”.

(2) Subject to paragraph (4) and regulation C27, if a person to whom this regulation applies gives notice in writing that he wishes this paragraph to apply (or, in case within paragraph (7), his personal representatives do so) an amount equal to 16 per cent. 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,

is payable in respect of the relevant contribution period to the authority to whom notice was given; and in this regulation “relevant contribution period” means a period which—

- (i) is coextensive with one of the intervals at which a person to whom this regulation applies was required under regulation C4 to make standard contributions, and
- (ii) includes all or part of a relevant absence.

(3) An authority shall pay to the appropriate pension fund any sum they receive by way of full or part payment of the amount mentioned in paragraph (2).

(4) Notice under paragraph (2) shall be given in writing to the authority who are or, as the case may be, were last the employing authority in relation to the person to whom the notice relates, before the expiry—

- (a) of the period of three months beginning with the day after the last day of the relevant contribution period,
- (b) where all or part of more than one relevant contribution period is included in a relevant absence which occurred in consequence of a single trade dispute, of the period of three months beginning with the last day of the last of the relevant contribution periods, in respect of which the notice is given, or
- (c) in the case of a notice within paragraph (7), of the period of twelve months beginning with the date of the deceased employee’s death, or
- (d) within such longer period as the authority may allow;

and, in any case where the notice relates to more than one relevant contribution period included in a relevant absence which occurred in consequence of a single trade dispute, the notice is of no effect unless it is given in respect of all the relevant contribution periods.

(5) A period of absence from duty without remuneration (otherwise than on leave of absence) does not count as a period of membership unless—

- (a) it was a relevant absence, and
- (b) the amount specified in paragraph (2) has been paid in respect of every relevant contribution period all or part of which was included in that relevant absence.

(6) Where the amount specified in paragraph (2) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may count as a period of membership, whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

(7) Where a person to whom this regulation applies dies before the end of the period of three months specified in paragraph (4)(a) without giving notice under paragraph (2), his personal representatives may give that notice.

(8) For the purposes of paragraph (1)—

- (a) where—

- (i) a person's contract of employment is terminated in consequence of a trade dispute, and
 - (ii) not later than the day after the end of the trade dispute, he again becomes an employee of the same LGPS employer and a member,
- notwithstanding the termination, he is to be treated as having been absent from duty;
- (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.

(9) In this regulation “trade dispute” has the meaning given by section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992(3).

Absence on reserve forces service

C8.—(1) Subject to the following provisions, this regulation applies where a person—

- (a) ceases to be employed in the employment in which he is a member; or
- (b) is granted leave of absence from duty in such an employment,

in order to perform relevant service; and, in relation to such a person, references to his former employment and employer are to that employment and his employer in that employment.

(2) Subject to paragraph (3), where this regulation applies—

- (a) if the person is entitled under any provision of these regulations to pay additional contributions, make payment by instalments or make any other payment (except by lump sum) to the appropriate pension fund, he shall be treated for the purposes of these regulations as if he has paid them throughout the period of his relevant service;
- (b) if (and only if) during any period of the person's relevant service the total of—
 - (i) his pay for performing relevant service (including marriage, family and similar allowances), and
 - (ii) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(4), equals or exceeds the remuneration he would have received if he had continued to be employed in his former employment, he shall pay to the appropriate pension fund all such contributions and payments as would have been payable under these regulations if he had so continued; and
- (c) subject to regulation C25, all contributions and payments so made shall be treated for the purposes of these regulations as if made under the provision under which they would have been made if he had so continued.

(3) Paragraph (2) does not apply to contributions payable under regulation C24 (additional voluntary contributions), but if—

- (a) before the commencement of his relevant service the person was paying such contributions which were not to be used to provide benefits payable in the event of death, and
- (b) he has not elected to discontinue making those contributions,

he may continue to make those contributions during the period of his relevant service.

(4) Where this regulation applies to a person then, subject to paragraph (6)—

(3) 1992 c. 52.

(4) 1951 c. 65.

- (a) the period of relevant service shall be counted as a period of membership in relation to his former employment;
- (b) if during that period he dies or attains his normal retirement age, he shall be deemed to have been serving in that employment at that time; and
- (c) if during that period he becomes incapable of discharging the duties of that employment by reason of permanent ill-health, injury or infirmity of mind or body, he shall be deemed to have been so serving at the time when he ceased to perform relevant service.

(5) Where—

- (a) a person to whom this regulation would otherwise apply is not a member when he ceases his employment or begins his leave of absence from it, but
- (b) before doing so he has duly made an application under regulation B10 or B13 to become a member,

then—

- (i) that application shall continue to have effect despite his so ceasing or his leave of absence so beginning and this regulation shall apply to him as if he were a member at that time, but
- (ii) the period before the date on which his application takes effect shall be excluded from his relevant service.

(6) This regulation does not apply to any person in respect of any period of relevant service—

- (a) after the date on which he elects to receive a return of contributions under regulation C21; or
- (b) if he elects that it is not to do so by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of relevant service to which the notice relates (or within such longer period as they may allow).

(7) Subject to paragraph (6), in this regulation “relevant service” means service (other than for the purposes of training only)—

- (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
- (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or
- (c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980(5);

and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking—

- (i) to accept a permanent commission or a commission for a fixed term; or
- (ii) to serve for the purposes of periodical training.

(8) In paragraph (7)—

- (a) “reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force;

“service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—

- (b) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied; or
- (c) in respect of that and other service.

Additional payments to improve benefits

Payments to increase membership: calculation of all benefits

C9.—(1) Subject to the following provisions, if a member elects at any time to make additional periodical payments under this regulation, then, in relation to the relevant employment, he may count as a period of membership (but not for the purposes of determining entitlement to any benefit)—

- (a) if he completes the additional payments, the period in respect of which payment was made; and
 - (b) if he begins making the additional payments but does not complete payment, an additional period calculated in accordance with regulation C19.
- (2) The additional payments—
- (a) are payable from the member’s next birthday after the date of the election at such intervals as the appropriate administering authority may determine; and
 - (b) cease to be payable on the day before—
 - (i) his NRD; or
 - (ii) if his NRD is not his birthday, the last birthday before his NRD.
- (3) An employee may not make an election under paragraph (1) if—
- (a) the appropriate administering authority have resolved that he should undergo a medical examination at this own expense and he has not done so to their satisfaction; or
 - (b) he was precluded by regulation D13(5)(b) of the 1974 regulations from making an election under that regulation.
- (4) An election under this regulation shall be made by notice in writing given to the appropriate administering authority.

Maximum length of additional periods to be purchased under regulation C9

C10.—(1) Subject to regulation C27, the maximum length of the period in respect of which payment may be made under regulation C9 in respect of a person is the length (expressed in years and fractions of a year) of the period (if any) by which his potential period of membership falls short of the relevant maximum number of years at the appropriate time.

(2) In paragraph (1) “potential period of membership”, in relation to any person, means the period which (apart from the payment) he would be entitled to count as a period of membership in relation to his local government employment if he continued in it until he attained the age of 65.

(3) Subject to paragraph (4) and to Schedule C5 (limitations on contributions and benefits), “the relevant maximum number of years”, in relation to any person, means 40 years.

(4) In the case of a person (other than an excluded member) who at the appropriate time was entitled to, or had received, superannuation benefits in respect of any local government employment or under any non-local government scheme, the relevant maximum number of years specified in paragraph (3) in relation to him is to be reduced, in accordance with the certificate of an actuary, to the extent necessary to ensure that the aggregate of—

- (a) the relevant income benefits; and

(b) the pension equivalent of the relevant capital benefits,
will not exceed two-thirds of his pensionable remuneration.

(5) In paragraph (4)—

“excluded member” means a member whose pensionable remuneration in the first year of his employment during which he is a member does not exceed one quarter of the permitted maximum for the purposes of section 590C of the Income and Corporation Taxes Act 1988(6) (earnings cap) for the year or assessment in which that first year ends);

“pension equivalent” has the meaning given in regulation 5(5)(b) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993(7);

“the relevant income benefits”, in relation to a member, means the aggregate annual amount of—

- (i) the actuarial value, expressed as an annuity payable to him, of the pension benefits mentioned in paragraph (4);
- (ii) the part of his retirement pension attributable to his period of membership before his NRD; and
- (iii) the actuarial value, expressed as an annuity payable to him, of the part of his retirement grant attributable to such membership; and

“the relevant capital benefits”, in relation to a member, means the aggregate amount of—

- (i) his retirement grant; and
- (ii) any lump sum comprised in the pension benefits mentioned in paragraph (4).

(6) For the purposes of paragraphs (4) and (5)—

- (a) it is to be assumed that the person will, until his NRD, continue in the same local government employment and on the same terms and condition is (including, in particular, his scale of remuneration) as at the date of the election;
- (b) any period of membership on or after the date of the election is to be disregarded; and
- (c) regard is to be had to any advice from the Commissioners of Inland Revenue as to the calculation of the value of the earlier benefits.

(7) The appropriate time is—

- (a) except where paragraph (b) applies, the first day of the earliest period that the person is entitled to count as a period of membership in relation to his local government employment; or
- (b) if that period is—
 - (i) a period of service under an officer of a LGPS employer or former local authority; or
 - (ii) a period during which the person was subject to a non-local government scheme other than one which was or became a statutory scheme,

the first day of the earliest period of local government employment that the person is entitled to count as a period of membership in relation to his local government employment.

(6) 1988 c.1; section 590C was inserted by the Finance Act 1989 (c. 26), section 75, Schedule 6, paragraphs 1, 4, 18(2) and amended by the Finance Act 1993 (c. 34).

(7) S.I. 1993/3016.

Amounts of payments under regulation C9

C11.—(1) The amount to be paid by way of additional periodical payments by a member who has made an election under regulation C9(1) in respect of an additional period is the appropriate percentage of his remuneration for the time being, multiplied by the length of that period.

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

- (a) “the appropriate percentage”, in relation to a member, is the percentage in the relevant Table in Part I of Schedule C3 appropriate to his age on his next birthday after the date of the election and to his normal retirement age; and
- (b) the lengths of periods are to be expressed in complete years and any fraction of a year.

Purchase by part-time employees of additional periods under regulation C9

C12.—(1) Subject to the following provisions of this regulation, where a person makes an election under regulation C9 in relation to a part-time employment to make additional payments in respect of a period—

- (a) the period he may count as a period of membership under paragraph (1) of that regulation, is the appropriate fraction of the period he would be entitled to count in respect of that period if he were a whole-time employee (“the notional whole-time period”);
- (b) the maximum which applies in his case by virtue of regulation C10, is the appropriate fraction of the maximum which would apply in his case if he were a whole-time employee; and
- (c) the amount to be paid by him in accordance with regulation C11 shall be calculated in the same manner as if he were a whole-time employee purchasing the notional whole-time period, but taking his remuneration as his actual remuneration for the time being (and not the remuneration he would have been paid for a single comparable whole-time employment).

(2) In paragraph (1) “appropriate fraction”, in relation to an employee, means the fraction of which the numerator is the number of his contractual hours and the denominator is the number of contractual hours of a single comparable whole-time employment.

(3) Where—

- (a) any person has made an election under regulation C9 which has effect in relation to part-time employment; and
- (b) that employment ceases to be part-time and becomes whole-time employment;

then—

- (i) he may continue to pay contributions under the election in relation to the whole-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the part-time employment; and
- (ii) the additional period in respect of the contributions paid in relation to the whole-time employment shall be calculated on the same basis as if he had been in that whole-time employment when he made the election.

(4) Where—

- (a) any person has made an election under regulation C9 which has effect in relation to whole-time employment; and
- (b) that employment ceases to be whole-time and becomes part-time employment;

then—

- (i) he may continue to pay contributions under the election in relation to the part-time employment at the same percentage of his pensionable remuneration as the contributions he paid in relation to the whole-time employment; and
- (ii) the additional period in respect of the contributions paid in relation to the part-time employment shall be calculated on the same basis as if he had been in that part-time employment when he made the election.

(5) The previous provisions of this regulation do not apply to an election made by a person under regulation C6 of the 1986 regulations (or having effect as if so made) but, if he so elects by notice in writing to the appropriate administering authority, then—

- (a) payments made by him on and after the date when the election takes effect shall be made by reference to his actual remuneration for the time being; and
- (b) the period of membership which he is entitled to count by virtue of them shall be calculated on the same basis as if the previous provisions of this regulation had always applied in respect of his election.

(6) A person may not make an election under paragraph (5) after the beginning of the period of one year ending with his NRD.

Payments to avoid reduction of retirement grant and death grant

C13.—(1) Subject to the following provisions of this regulation, a member—

- (a) whose retirement grant would be subject to reduction under paragraph 2, 3(1) or 4(1) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse's pension); or
- (b) whose death grant would be subject to reduction under regulation E5 (surviving spouse deductions from certain death grants),

may, by notice in writing given to the appropriate administering authority, elect to make additional periodical payments under this regulation in order to avoid all or part of the reduction—

- (i) in his retirement grant; and
- (ii) in any death grant that may become payable under Part E.

(2) A notice under paragraph (1) shall specify whether the reduction is to be avoided in respect of the whole or only a specified part—

- (a) in the case of male member, of his membership before 1st April 1972 or before any earlier date on which—
 - (i) he became a widower; or
 - (ii) he was judicially separated from his wife; or
 - (iii) his marriage was dissolved;
- (b) in the case of a female member who has given notice under paragraph 1(1) of Schedule F1, of her membership which is or is treated for the purposes of paragraph 3(2) of Schedule D2 as being membership—
 - (i) before 1st April 1972;
 - (ii) after 31st March 1972 but before 6th April 1988; and
- (c) in the case of a female member who has made such an election as is mentioned in paragraph 2 of Schedule F1, of her membership before 1st April 1972.

(3) An election may not be made in respect of a period of membership of less than one year unless—

- (a) the whole of the person's period of membership—

- (i) in the case of a person described in paragraph (2)(a) or (c), before 1st April 1972; or
 - (ii) in the case of a person described in paragraph (2)(b), before 6th April 1988; or
 - (b) where he has previously made an election in respect of part of that membership, the remainder of it, amounts to less than one year.
- (4) An election under this regulation may be made by any person from time to time, but not—
- (a) if in the particular case the appropriate administering authority so resolve, without his having, at this own expense, undergone a medical examination to their satisfaction; nor
 - (b) after making an election under regulation C8(5)(b) of the 1986 regulations (or any corresponding previous provision) to make payment by instalments.
- (5) Where—
- (a) this regulation applies to a woman by virtue of her having made such an election as is mentioned in paragraph 2 or Schedule F1;
 - (b) she has made (or is treated as having made) an election under paragraph (1) or regulation C8 of the 1986 regulations (or any corresponding previous provision);
 - (c) this regulation subsequently applies to her by virtue of paragraph 3(1) of Schedule D2; and
 - (d) she makes a further election under paragraph (1),
- then—
- (i) any payments made under this regulation pursuant to the election referred to in paragraph (b) shall be deemed to have been made pursuant to the further election, and
 - (ii) any additional sums payable by her pursuant to the further election shall be determined accordingly by the fund's actuary.

Payments to increase widower's pension by counting membership before 6th April 1988

C14.—(1) Subject to the following provisions of this regulation, a member who—

- (a) is a married woman,
- (b) is entitled to count a period of membership before 6th April 1988, and
- (c) was not a member on 27th July 1989 or has not been a member continuously since that date,

may, by notice in writing given to the appropriate administering authority, elect to make additional periodical payments in order to count all or part of her period of membership before 6th April 1988 as membership for the purposes of calculating a widower's pension in accordance with regulation F8(2)(b)(iii).

(2) A notice under paragraph (1) shall specify whether it relates to the whole or only a specified part of the woman's period of membership which is membership—

- (a) before 1st April 1972, or
- (b) after 31st March 1972 but before 6th April 1988, or is treated as being such membership for the purposes of paragraph 3(2) of Schedule D2 (reduction in standard retirement grant on account of contingent spouse's pension).

(3) A notice under paragraph (1) may not be given in respect of a period of less than one year unless—

- (a) the whole of the woman's period of membership before 6th April 1988, or
- (b) where she has previously given a notice in respect of part of that membership, the remainder of it,

amounts to less than one year.

(4) Notice under paragraph (1) may be given by a member on more than one occasion but, unless the appropriate administering authority otherwise agree, it shall be given before the expiry of the period of 12 months beginning—

- (a) with the date of any marriage or re-marriage, or
- (b) if her husband becomes permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, with the date on which a medical certificate to that effect is received by the appropriate administering authority.

(5) For the purposes of paragraph (1)(c), the reference to a woman having been a member continuously includes a reference to a woman who, having ceased to be a member became or becomes a member again—

- (a) within one month of so ceasing, or
- (b) within one month of returning to work in accordance with section 39 or 41 of the Employment Protection (Consolidation) Act 1978⁽⁸⁾ (which confer the right to return to work following pregnancy or confinement).

Amounts of payments under regulations C13 and C14

C15.—(1) The amount to be paid by a member who has under regulation C13 or C14 elected to make additional periodical payments in respect of a period of membership specified in the notice of election is—

- (a) in the case of a male member, the appropriate percentage of his remuneration for the time being, multiplied by the length of that period;
- (b) in the case of a female member who made such an election as is mentioned in paragraph 2 of Schedule F1, the appropriate percentage of her remuneration for the time being, multiplied by four times the length of the period of membership before 1st April 1972 specified in her notice of election; and
- (c) in the case of a female member who has given notice under paragraph 1 of Schedule F1 or regulation C14, the aggregate of—
 - (i) the appropriate percentage of her remuneration for the time being, multiplied by three times the length of the period of membership specified in her notice of election which is membership before 1st April 1972; and
 - (ii) the appropriate percentage of her remuneration for the time being, multiplied by the length of the period of membership specified in her notice of election which is membership after 31st March 1972 but before 6th April 1988.

(2) For the purposes of this regulation “the appropriate percentage” is—

- (a) in the case of a male member, the percentage specified in the relevant Table in Part III of Schedule C3 appropriate to his age on his next birthday after the date of the election and, in the case of paragraph (1)(a), to his specified birthday; and
- (b) in the case of a female member, the percentage specified in the relevant Table in that Part of that Schedule appropriate to her age on her next birthday after the date of the election and, in the case of the paragraph (1)(b) or (c), to her specified birthday;

and in this paragraph “specified birthday” means the birthday specified in accordance with regulation C16(1).

(3) For the purposes of this regulation the lengths of periods are to be expressed in complete years and any fraction of a year.

⁽⁸⁾ 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 23, Schedule 2.

(4) References in paragraph (1)(c)(i) and (ii) to a period of membership which is a period before 1st April 1972 or, as the case may be, after 31st March 1972 but before 6th April 1988 include references to a period treated for the purposes of paragraph 3(2) of Schedule D2 as being such a period.

Further provisions as to making of payments under regulations C13 and C14

C16.—(1) A member shall specify in a notice of election to make additional periodical payments under regulation C13 or C14 the birthday (“the specified birthday”) up to which additional payments are to be paid, which may be—

- (a) his 65th birthday, or
- (b) any earlier birthday which is or is after his NRD.

(2) Such additional periodical payments are to be paid, at such intervals as the appropriate administering authority may determine, from the member’s next birthday after the date of the election.

No elections to make payments after 64

C17. A person may not make an election under regulation C9, C13 or C14 if he has attained the age of 64.

Incomplete payments and return of contributions

Notice to discontinue payments

C18. Payment in accordance with regulation C9(2) or C16(2) may be discontinued if the member notifies the appropriate administering authority and the employing authority in writing that he wishes it to be discontinued.

Uncompleted periodical payments

C19.—(1) This regulation applies where—

- (a) a member has made an election under regulation C9(1), C13 or C14 to make additional periodical payments,
- (b) he has commenced payment,
- (c) before the presumed termination date a relevant event occurs, and
- (d) in the case of payments under regulation C9(1), any payment made to him under regulation C21 does not include the amount already paid by him under regulation C9(2).

(2) In paragraph (1) “presumed termination date” means—

- (a) in the case of an election under regulation C9(1), the member’s NRD, and
- (b) in the case of an election under regulation C13 or C14, the birthday specified under regulation C16(1).

(3) For the purposes of this regulation the relevant events are—

- (a) the discontinuance of payment under regulation C18, and
- (b) where there has been no such discontinuance of payment—
 - (i) the member’s ceasing to hold his employment, and
 - (ii) the death of the member while in local government employment.

(4) Where the relevant event is—

- (a) the death of the member, 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 C9(2) or, as the case may be, C15 and C16.

(5) Where—

- (a) the relevant event is the member's ceasing to hold his employment,
- (b) condition (a) or (b) in regulation D6(2) is satisfied,
- (c) his employment ends not less than 12 months after the date of receipt of his notice of election, and
- (d) he gives notice in writing for the purpose of the appropriate administering authority not later than the expiry of the period of three months beginning on the day after the last day of his employment,

then, if he pays to the appropriate pension fund, within the period of one month beginning on the date on which he is notified by that authority of the amount calculated by the fund's actuary to represent the capital value of the additional periodical payments remaining to be paid, a sum equal to that amount, he shall be treated as having completed payment in accordance with regulation C9(2) or, as the case may be, C15 and C16.

(6) An administering authority may accept a notice given under paragraph (5)(d) notwithstanding that paragraph (5)(c) is not satisfied.

(7) Subject to paragraph (9), where—

- (a) the relevant event is discontinuance of payment under regulation C18, or
- (b) the relevant event is the member's ceasing to hold his employment and neither paragraph (4)(b) nor paragraph (5) applies,

the period of membership in respect of which the election was made is to be treated as having been the appropriate proportion of the period in respect of which it was originally made.

(8) In paragraph (7) "appropriate proportion" means the proportion which the length of the period during which additional payments have been paid bears to the length of the period during which they were to have been paid (each period being expressed in complete years and any fraction of a year).

(9) Where, apart from this paragraph, paragraph (7)(b) would apply and the member, having elected to make additional payments under C9(1), C13 or C14—

- (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,
 - (ii) received any payment under regulation C21 which includes the amount already paid by him under regulation C9, C13 or, as the case may be, C14, or
 - (iii) made a request for earlier payment under regulation C21(6).
- (b) has not made an election for the purposes of regulation D12(1)(c) (retention of right to preserved benefits), and
- (c) within three months after his again entering local government employment pays to his new employing authority an amount equal to any additional periodical payments that would have been payable if he had not ceased to hold the first employment,

then, the election under regulation C9(1), C13 or, as the case may be, C14 continues to have effect as if the relevant event had not occurred.

Effect of opting out of membership on certain additional payments

C20.—(1) Where a member—

- (a) is making additional periodical payments by virtue of having made an election under regulation C9(1), C13 or C14, and
- (b) gives notification in accordance with regulation B12 (leaving the Scheme),

then—

- (i) no further additional periodical payments shall be payable from the day on which he ceases to be a member; and
- (ii) the benefits to which he is entitled in relation to those payments shall be calculated in accordance with regulation C19(7) and (8) as if the payments had been discontinued under regulation C18.

(2) Paragraph (1) shall not preclude a person who has elected under regulation B12 making a further election under regulation C9(1), C13 or C14 after again becoming a member.

Return of member's contributions in certain cases

C21.—(1) If a member who is entitled to count a total period of membership of less than 2 years—

- (a) ceases to be employed by a LGPS employer and on so ceasing does not become entitled to a retirement pension (or only does so by virtue of regulation D19); or
- (b) ceases to be a member by virtue of a notification under regulation B12,

and does not, within one month and one day after so ceasing, become a member again in the employment of that or any other LGPS employer (except one by whom he is concurrently employed when he so ceases), then, subject to paragraphs (4) and (5), he is entitled to receive a payment under paragraph (2).

(2) A payment under this paragraph is a payment out of the appropriate pension fund of a sum equal to—

- (a) the aggregate amount of the person's contributions to the fund, and
- (b) if he ceased to be employed for any reason other than—
 - (i) his voluntary resignation, or
 - (ii) his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct,

compound interest on the amount mentioned in paragraph (a), calculated, to the date on which he ceased to be employed, at the appropriate rate for the period, increased where appropriate as mentioned in regulation K17.

(3) For the purposes of paragraph (2), “the appropriate rate” means nine per cent. per annum with yearly rests on 31st March.

(4) Paragraph (1) does not apply to a person who ceases to be employed in consequence of—

- (a) an offence of a fraudulent character, or
- (b) grave misconduct,

in connection with his employment, but the employing authority may direct the payment out of the appropriate pension fund—

- (i) to him, or
- (ii) where paragraph (a) applies, to him or to his spouse or any dependant of his,

of a sum equal to the whole or a part of the aggregate amount of his contributions to the fund.

- (5) No payment shall be made under this regulation to a person—
- (a) who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation D8, or under regulation E4 of the 1986 regulations or regulation E20 of the 1974 regulations, or
 - (b) in relation to whom a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the appropriate pension fund.
- (6) A payment to a person under paragraph (1) shall be made—
- (a) at the end of the period of 12 months following the termination of his employment, or
 - (b) in accordance with any written request received by the administering authority for earlier or later payment, (not being earlier than one month and two days after—
 - (i) the termination of the employment, or
 - (ii) in the case of a person referred to in paragraph (1)(b), the notification given under regulation B12).
- (7) The administering authority shall deduct from any payment under this regulation any tax to which they may become chargeable under section 598 of the Income and Corporation Taxes Act 1988⁽⁹⁾ (charge to tax on repayment of employee’s contributions) and returned contributions may be subject to reduction under paragraph 11 of Schedule C6.

Meaning of “aggregate amount of contributions” for purposes of regulation C21

C22.—(1) In regulation C21 references to the aggregate amount of a person’s contributions to a pension fund include references to the contributions and amounts specified in paragraph (2) in so far as they—

- (a) have not been returned to the person or, if returned, have subsequently been repaid by him,
 - (b) are attributable to a period of membership which might have counted under these regulations in relation to the employment he has ceased to hold, and
 - (c) are not attributable to any earlier period of membership in respect of which a benefit has been paid under Part D, E, F or G of these regulations or the corresponding provisions of the 1986 regulations or the 1974 regulations.
- (2) The contributions and amounts mentioned in paragraph (1) are—
- (a) any contributions or payments paid by him to any pension fund—
 - (i) under regulation C4, C5 or C6, or
 - (ii) under regulation C2, C3 or C3A of the 1986 regulations; and
 - (b) any amount paid by him—
 - (i) by way of additional contributory payments or added period payments, or
 - (ii) under regulation C7, C13 or C14, or
 - (iii) under regulation C4, C6A, C7, C7A, C8 or C8A of the 1986 regulations.

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

- C23.** A person’s right to a payment under regulation C21 is extinguished if—
- (a) after leaving local government employment with a right to such a payment he returns to such employment without having received the payment, and

⁽⁹⁾ 1988 c. 1; section 598 was amended by the Occupational Pensions Schemes (Rate of Tax) Order (S.I. 1988/504) and the Finance Act 1989 (c. 26), section 75, Schedule 6, Part I.

- (b) he has not given written notice to his previous fund authority—
 - (i) before the expiry of the period of three months beginning with the date on which he returns to such employment, or
 - (ii) within such longer period as his previous fund authority and, if different, his new fund authority may allow,
 that he wishes to receive an immediate payment.

AVCs

Additional voluntary contributions

C24.—(1) Subject to regulation C27, a member may at any time elect to pay contributions under this regulation in addition to those provided for by the previous regulations in this Part.

(2) Schedule C4 shall have effect—

- (a) in relation to such an election and in relation to contributions payable under this regulation; and
- (b) in relation to receipt of a transfer value in respect of an additional voluntary contributions provision or an additional voluntary contributions scheme (so far as permitted by regulation K13(2)(b)(i)).

(3) In these regulations—

“additional voluntary contributions provision” means a provision of an occupational pension scheme approved by the Commissioners of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988⁽¹⁰⁾ (which provides for the payment by employees of voluntary contributions);

“additional voluntary contributions scheme” means a scheme approved by the Commissioners of Inland Revenue under that section, to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme.

Deduction and recovery of contributions

Deduction and recovery of member’s contributions

C25.—(1) An employing authority may deduct from the remuneration payable by them to a person—

- (a) contributions or payments payable by him under regulations C4, C5 and C6,
- (b) any amount payable by him under regulation C7,
- (c) any instalments or additional periodical payments payable by him to the appropriate pension fund, and
- (d) contributions payable by him under regulation C24.

(2) The former employer of a person—

- (a) by whom sums are payable under regulation C8(2), or
- (b) in respect of whom any sums are paid under paragraph 6(4) of Schedule C4,

⁽¹⁰⁾ 1988 c. 1; section 591 was amended by the Finance Act 1988 (c. 39), section 146, Schedule 13, Part I, paragraphs 1, 6, and the Finance Act 1994 (c. 9), sections 107, 258, Schedule 26, Part V.

may deduct those sums from any payment the employer makes to that person under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽¹¹⁾, so far as those sums are payable in respect of the period in respect of which that payment is made.

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

- (a) as a simple contract debt in any court of competent jurisdiction (but, in the case of a sum payable under regulation C8 or paid under paragraph 6(4) of Schedule C4, only if it is not paid within 12 months of the person ceasing to perform relevant service as defined in that regulation), or
- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these regulations.

Statements as to remuneration not received from employing authority

C26.—(1) A member 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 shall—

- (a) relate to the periods 1st April to 30th September and 1st October to 31st March, and
- (b) 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 member shall provide them with a statutory declaration verifying the correctness of any statement specified in the request.

Limitations on payments

Limitation of payments

C27. Schedule C5 has effect for the limitation, in certain circumstances, of payments under this Part and benefits under other Parts of these regulations.

Provisions concerning continuing payments under old legislation

Provisions concerning outstanding payments due under previous regulations

C28. Schedule C6 shall have effect for the purpose of making provision concerning outstanding payments due under previous regulations.