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STATUTORY INSTRUMENTS

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**1995 No. 1019**

**The Local Government Pension Scheme Regulations 1995**

**PART D**

**RETIREMENT BENEFITS**

*Preliminary definitions*

**“Pensionable remuneration”**

**D1.**—(1) 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 count as a period of membership in relation to that employment.

(2) For the purposes of this regulation, the relevant period is—

- (a) the year ending with the day on which the person ceases to be a member; or
- (b) such other period as in accordance with Schedule D1 is to be regarded as the relevant period.

(3) Paragraph (1) has effect subject to the further provisions concerning pensionable remuneration in that Schedule and in Schedule C5 (limitations on contributions and benefits), and the provisions of paragraph 6 of Schedule M2 (modifications of regulations in respect of certain former contributory employees).

**“Standard retirement pension” and “standard retirement grant”**

**D2.**—(1) Subject to paragraphs (2) and (3), in these regulations, in relation to any person—

- (a) “standard retirement pension” means a pension payable at an annual rate equal to one eightieth of his pensionable remuneration, multiplied by the length in years of his total period of membership; and
- (b) “standard retirement grant” means a lump sum of an amount equal to three eightieths of his pensionable remuneration, multiplied by the length in years of his total period of membership.

(2) In the case of a person who—

- (a) is entitled under regulation B16, B17 or C9 or paragraph 2(a) or 5 of Schedule C6 to count an additional period as a period of membership, and
- (b) had at the appropriate time (within the meaning of regulation C10(7)) attained the age of 45 years,

then—

- (i) the standard retirement pension is increased by one two hundred and fortieth of his pensionable remuneration, multiplied by the length in years of that additional period of membership, and

(ii) that additional period of membership is excluded from his total period of membership for the purposes of calculating the standard retirement grant.

(3) Paragraphs (1) and (2) are subject to regulations D7(2), D13, D17(5), D19(1), paragraph 3 of Schedule B6 and Schedule C5 (limitations on contributions and benefits); and paragraph (1)(b) is subject to the provisions of Schedule D2 (Part I of which relates to the preservation of rights under the 1974 regulations to increases in retirement grants and Part II of which relates to the reduction in retirement grants on account of contingent spouses' pensions).

**“Statutory pension entitlement”**

**D3.** For the purposes of these regulations, a person has a “statutory pension entitlement” if—

- (a) his total period of membership is not less than two years, or
- (b) 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 in relation to him.

**References to members leaving employment to include optants-out**

**D4.** In this Part any reference to a member ceasing to hold a local government employment (except the reference in regulation D7) includes a reference to a person who was a member in such an employment but ceased to be so by virtue of a notification under regulation B12(2) (leaving the Scheme) ceasing to hold that employment, and other references in these regulations shall be construed accordingly.

*Entitlement to immediate payment of benefits on retirement*

**Retirement on or after NRD**

**D5.** Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement, and
- (b) has attained normal retirement age,

he is entitled—

- (i) to a standard retirement pension, and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment.

**Early entitlement to retirement benefits: redundancy etc.**

**D6.—(1)** Subject to the following provisions of this Part, if a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement,
- (b) has attained the age of 50, and
- (c) satisfies one of the conditions mentioned in paragraph (2),

he is entitled—

- (i) to a standard retirement pension and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment, unless paragraph (3) applies.

- (2) The conditions mentioned in paragraph (1)(c) are—
- (a) that the employing authority certify that he has ceased to hold the local government employment—
    - (i) by reason of redundancy, or
    - (ii) in the interests of the efficient exercise of their functions, or
  - (b) that he was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.
- (3) Where—
- (a) the member's entitlement is by virtue of his satisfying the condition mentioned in paragraph (2)(a),
  - (b) regulation 9 of the Local Government (Compensation for Redundancy) Regulations 1994(1) applies to him, and
  - (c) notification of compensation has been given to him under regulation 15 of those regulations,

he may by notice in writing to his employing authority waive his right under paragraph (1) to immediate payment of the standard retirement pension and standard retirement grant.

#### **Early entitlement to retirement benefits: ill-health**

**D7.**—(1) Subject to the following provisions of this Part, where a member who ceases to hold a local government employment—

- (a) has a statutory pension entitlement, and
- (b) is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body,

he is entitled—

- (i) to a standard retirement pension, and
- (ii) to a standard retirement grant,

which are payable immediately on his ceasing to hold that employment.

(2) Where the member's total period of membership is at least 5 years, he is to be treated for the purposes of this regulation as being entitled to count as a period of membership an additional period calculated in accordance with Schedule D3.

#### **Ill-health retirement grants**

**D8.**—(1) Where a member who ceases to hold a local government employment—

- (a) is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body,
- (b) regulation D7 does not apply to him because he does not have a statutory pension entitlement, but
- (c) his total period of membership is at least one year,

then, subject to paragraph (3), he is entitled to be paid a lump sum (“an ill-health retirement grant”).

- (2) The amount of the ill-health retirement grant is the lesser of—

- (a) one twelfth of the member's pensionable remuneration, multiplied by the length in years of his total period of membership, or
- (b) three eightieths of his pensionable remuneration, multiplied by the length in years of the total period of membership he would have been entitled to count if—
  - (i) he had continued as a member of the Scheme until the age of 65, and
  - (ii) any added period payments had been completed.
- (3) Paragraph (1) does not apply if—
  - (a) the member ceased to hold his employment in consequence of any such offence or misconduct as are mentioned in regulation C21(4),
  - (b) apart from this regulation, the member is entitled to any payment out of the appropriate pension fund, other than an injury allowance under regulation 7 of the Benefits regulations or a return of contributions, or
  - (c) the member has received—
    - (i) any return of contributions (other than one in respect of which a payment was made under regulation E20(3) of the 1974 regulations),
    - (ii) a grant under regulation E20 of the 1974 regulations, or
    - (iii) has been granted any gratuity under Part K of the 1986 regulations, section 18 of the Act of 1953, or any local Act;

and where the grant to which a member would be entitled under paragraph (1), calculated in accordance with paragraph (2), is no more than the net amount he would receive if a return of contributions were made to him (including an increase under regulation K17 where that regulation applies), he shall instead be entitled to such a return of contributions (so increased where appropriate).

(4) If a person to whom this regulation applies is granted a gratuity under Part K of the 1986 regulations or under a local Act before an ill-health retirement grant is paid to him, he shall cease to be entitled to an ill-health retirement grant.

(5) Without prejudice to any subsequent decision under regulation J3 (decisions as to benefits), the appropriate administering authority shall notify a person who falls within paragraph (1) (other than one to whom paragraph (3)(a) applies), in writing and as soon as is reasonably practicable, of the amount of the ill-health retirement grant to which, subject to paragraph (4), he would be entitled if he were and remained a person to whom this regulation applies.

### **Retirement at or after 60 but before NRD**

**D9.**—(1) Subject to the following provisions of this Part, if a member who ceases to hold a local government employment after attaining the age of 60 but before his NRD satisfies the relevant conditions, he is entitled—

- (a) to a standard retirement pension (reduced in accordance with regulation D13), and
- (b) to a standard retirement grant (so reduced),

which are payable immediately on his ceasing to hold that employment.

- (2) The conditions referred to in paragraph (1) are—
  - (a) that the member fulfils one of the following requirements, namely—
    - (i) he has a statutory pension entitlement; or
    - (ii) he is treated by virtue of regulation K23(2) as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme; and

(b) that he duly makes an election for his retirement benefits to be payable immediately on his ceasing local government employment.

(3) An election under this regulation shall be made by notice in writing to the employing authority given within the period of three months beginning with the day on which the member ceases to hold local government employment or, as the case may be, is treated as doing so.

**No double entitlement.**

**D10.**—(1) Where (apart from this regulation) any person would be entitled to a retirement pension or to a retirement grant under two or more regulations in respect of the same period of membership—

(a) he may elect by notice in writing, given to the employing authority before the expiry of the period of three months beginning with the day on which he becomes so entitled, under which provision he is to be paid those benefits; and

(b) if he makes no such election, the employing authority may notify him in writing of the provision.

(2) Paragraph (1) is without prejudice to regulations D17, D19 and D20 and section 13(6) of the Pension Schemes Act 1993(2).

*Entitlement to deferred benefits: (“preserved benefits”)*

**Entitlement to deferred retirement benefits (“preserved benefits”)**

**D11.**—(1) If a member who ceases to hold a local government employment—

(a) is not entitled under regulation D5, D6, D7 or D9 to retirement benefits which are payable immediately on his ceasing to hold that employment; and

(b) fulfils one of the following requirements, namely—

(i) he has a statutory pension entitlement; or

(ii) he is treated by virtue of regulation K23(2) as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme;

then, subject to regulation D13, he becomes entitled in relation to that employment to a standard retirement pension and a standard retirement grant payable from the appropriate date; and in these regulations benefits to which a person becomes entitled under this paragraph by virtue of fulfilling one of the requirements mentioned in paragraph (b) and which have not yet become payable are called “preserved benefits”.

(2) For the purposes of paragraph (1) “the appropriate date”, in relation to any person, is his 65th birthday or, if earlier, the earliest of the following—

(a) his NRD;

(b) 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 has ceased to hold;

(c) 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;

(d) in the case of a person who has attained the age of 60 years, has ceased to be employed in local government employment and has duly elected to receive payment from the relevant date, that date.

(3) An election under paragraph (2)(d) shall be made by notice in writing to the employing authority given within the period of three months beginning with the relevant date.

(4) In this regulation “relevant date”, in relation to any person, means—

- (a) the date on which he attains the age of 60, or
- (b) if later, the date of his ceasing to be employed in local government employment.

#### **Further provisions about preserved benefits**

**D12.**—(1) A person who is entitled to preserved benefits under regulation D11(1) ceases to be entitled to them—

- (a) if—
  - (i) the whole of the aggregate amount of his contributions to the appropriate pension fund has been returned to him (with or without interest) under regulation C21 of these regulations or regulation C12 of the 1986 regulations or regulation C8 of the 1974 regulations, and
  - (ii) after receiving the return of contributions, he has no further right to count any period of membership to which a transfer value accepted under regulation K13 of the regulations or regulation J8 of the 1986 regulations or regulation N7 of the 1974 regulations relates,
- (b) if rights in respect of the period of membership he was entitled to count in relation to the employment he ceased to hold have been transferred to a non-local government scheme, a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy by virtue of the payment of a transfer value,
- (c) if he re-enters local government employment (unless he elects to remain entitled to those benefits), or
- (d) if the body who employed him in the employment which he ceased to hold certify under paragraph 4 of Schedule D1 that on ceasing to hold it he suffered a material reduction in remuneration.

(2) An election by a person for the purposes of paragraph (1)(c) shall be made by giving notice in writing—

- (a) before the expiry of the period of three months beginning with the date on which he re-enters local government employment, or
- (b) such longer period as the administering authority or, where there is a change of fund, the administering authorities of both funds, may allow,

to the appropriate administering authority or, where there is such a change, to both of them.

#### *Adjustments to standard benefits*

#### **Reduction of pensions payable early by virtue of elections etc.**

**D13.**—(1) This regulation applies where benefits are payable to a person—

- (a) under regulation D9, or
- (b) under regulation D11 in a case where the appropriate date is determined under paragraph (2)(d) of that regulation,

and the member’s or former member’s pension advancement period is at least one year.

(2) Where this regulation applies, then, subject to regulation D17, the standard retirement pension and standard retirement grant, calculated in accordance with regulation D2 and Schedule D2, are reduced by the appropriate percentage for the member's pension advancement period.

(3) In paragraph (2) "the member's pension advancement period", in relation to a person, means the period remaining from the date from which the benefits became payable to his NRD.

(4) In paragraph (2) "the appropriate percentage" means the percentage shown in the appropriate column in the following Table.

Table

Pension advancement period (years)	Percentage reduction		Retirement grant Both Sexes
	Retirement pension Male	Female	
0	0	0	0
1	8	7	2
2	15	13	5
3	22	18	7
4	28	23	9
5	33	27	11

(5) Where the member's pension advancement period is not an exact number of years, the necessary interpolations shall be made in the Table.

### **Surrender of part of retirement pension in favour of spouse or dependant**

**D14.**—(1) Subject to the following provisions of this regulation and to regulation D17, a person who—

- (a) has become entitled to receive payments in respect of a retirement pension, or
- (b) holds local government employment and has attained normal retirement 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 may become payable to him, and a person who has surrendered part of a retirement pension may surrender further parts of it.

(2) The part of the retirement pension surrendered on any occasion—

- (a) shall be an exact number of pounds, and
- (b) shall secure for the beneficiary a pension of at least £97.50 per annum.

(3) The surrendered part (together with any parts previously surrendered) shall not exceed—

- (a) 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, or
- (b) one third of the retirement pension, or
- (c) where Schedule D6 (former teachers) applies, one third of the retirement pension receivable after reduction under that regulation.

(4) Where a person who has made a surrender under this regulation dies, 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.

(5) For the purposes of this regulation “the relevant date” means—

- (a) the date of becoming entitled to receive payments in respect of the retirement pension; or
- (b) in the case of a person who dies while still in local government employment, immediately before the date on which he died.

(6) Where the person surrendering holds local government employment and has attained normal retirement age, references in paragraphs (2) and (3) 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.

(7) Schedule D4 shall have effect for the purpose of making further provision as respects the procedure for surrenders under this regulation.

#### **Adjustments to retirement pensions and grants for certain re-employed pensioners**

**D15.** Schedule D5 shall have effect for the purpose of making provision as to the retirement benefits in respect of certain pensioners who are re-employed by LGPS employers; and the provisions of this Part have effect subject to Part I of that Schedule (reduction of retirement pensions), Part II of that Schedule (combined benefits) and Part III of that Schedule (separate benefits).

#### **Reduction of retirement pensions of certain former teachers.**

**D16.** The provisions of Schedule D6 shall have effect as respects the reduction in pensions of certain former teachers.

*Overriding provisions (contracting-out and Finance Act requirements, etc.)*

#### **Guaranteed minimum pensions for members in contracted-out employment, etc.**

**D17.—**(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and
- (b) the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993<sup>(3)</sup> in relation to benefits under these regulations,

then paragraphs (2) to (4) apply as respects the member’s employment.

(2) The member who ceases to hold his local government employment is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum (unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate).

(3) If the member—

- (a) attains state pensionable age while in local government employment;
- (b) continues in the same employment for a further period of 5 years; and
- (c) does not then cease to hold it,

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(3) 1993 c. 48.



then he is entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum (unless he consents to a postponement of the entitlement).

(4) The guaranteed minimum referred to in paragraphs (2) and (3) shall, so far as it is attributable to earnings factors for the tax year 1988 89 or for subsequent tax years, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993.

(5) A person's retirement pension is not to be reduced under regulation D13 to less than the aggregate of—

- (a) any minimum rate of equivalent pension benefits applicable under the Insurance Acts, and
- (b) the annual rate obtained by multiplying one eightieth of the person's pensionable remuneration by the length in years of the whole period of the person's membership in contracted-out employment during the period beginning with the relevant date and ending with 30th April 1995.

(6) In paragraph (5) "the relevant date" means—

- (a) in the case of a man, 17th May 1990; and
- (b) in the case of a woman, 6th April 1978.

(7) Where a person's local government employment is or was contracted-out employment, a surrender under regulation D14 (together with any previous surrenders) shall not result—

- (a) in the annual rate of the retirement pension being less than one eightieth of the pensionable remuneration, multiplied by the length in years of the whole period of his membership in contracted-out employment after 5th April 1978, or
- (b) (disregarding the effect of the preceding paragraphs) in the weekly rate of the retirement pension being less than his guaranteed minimum, if any.

(8) Where a person making a surrender under regulation D14—

- (a) is in local government employment,
- (b) has attained normal retirement age, and
- (c) has a statutory pension entitlement,

references in paragraph (7) 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.

(9) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—

- (a) regulation D15 and Part I of Schedule D5 (reduction of retirement pension in the case of certain re-employed pensioners);
- (b) regulation H4 (forfeiture of rights); and
- (c) regulation H5 (commutation of small pensions).

### **Revaluation of guaranteed minimum in certain cases**

**D18.**—(1) This regulation applies where—

- (a) a person has ceased to be a member; and
- (b) the guaranteed minimum in relation to his pension is appropriately secured (within the meaning of section 19 of the Pension Schemes Act 1993).

(2) The earnings factors of such a person shall be determined for the purposes of section 14(2) of that Act—

- (a) by reference to the last order under section 21 of the Social Security Pensions Act 1975<sup>(4)</sup> or section 148 of the Social Security Administration Act 1992<sup>(5)</sup> to come into force before the end of the tax year in which he ceased to be a member; and
  - (b) without reference to the last such order to come into force before the end of the final relevant year.
- (3) The weekly equivalent mentioned in section 14(2) of the Pension Schemes Act 1993 is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 55(5) of that Act (exclusion from liability to pay a limited revaluation premium).
- (4) In this regulation “final relevant year” has the meaning given in section 16(5) of that Act.

### Equivalent pension benefits

- D19.**—(1) If when a member ceased to hold a local government employment—
- (a) he was not entitled in relation to that employment to a retirement pension under regulation D5, D6, D7, D9 or D11, and he receives a return of contributions,
  - (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment,
  - (c) a period of his service in a non-participating employment came to an end by reason—
    - (i) of the repeal of section 56(1) of the National Insurance Act 1965<sup>(6)</sup>, or
    - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-participation-Assurance of Equivalent Pension Benefits) Regulations 1960<sup>(7)</sup> (as modified by regulation 9(2)(a) or (b) of the National Insurance (Non-participation-Transitional Provisions) Regulations 1974<sup>(8)</sup>); and
  - (d) at some time during the settlement period (within the meaning of regulation 2 of those Regulations of 1974) he became, and has remained, assured of equivalent pension benefits,
- then he is entitled in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership in service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.
- (2) A retirement pension to which a person has become entitled by virtue of paragraph (1) is payable from the first date on which he—
- (a) has attained state pensionable age, and
  - (b) is no longer in any local government employment.
- (3) For the purposes of these regulations a member to whom this regulation applies shall be treated as having ceased to hold the employment in respect of which he receives a return of contributions on the day before the date of receipt.

### National insurance

- D20.**—(1) Subject to paragraph (2), where a pension is payable to a member who attains state pensionable age in respect of a period of service in a non-participating employment, which counts

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(4) 1975 c. 60; section 21 was repealed by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3(1) and Schedule 1.

(5) 1992 c. 5.

(6) 1965 c. 51; section 56(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

(7) S.I. 1960/1103.

(8) S.I. 1974/2057.

for the purpose of calculating any benefits payable to the member (other than excepted service), no provision in these regulations—

- (a) for the surrender or assignment of a pension, or
- (b) for the reduction, termination or suspension of a pension,

shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable in respect of that period of service under the Insurance Acts.

(2) Paragraph (1) does not apply to any provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 57(1)(c) of the National Insurance Act 1965 (equivalent pension benefits).

(3) For the purposes of paragraph (1) “excepted service”, in relation to any person, means any earlier period of such service as there mentioned, being 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 have already been assured to him.

**Limitations on benefits etc.**

**D21.**—(1) The provisions of this Part are subject to Schedule C5 (limitations on contributions and benefits) and to the general provisions in Part H.