

## SCHEDULE D1

### FURTHER PROVISIONS ABOUT PENSIONABLE REMUNERATION

#### *Optional alternative relevant periods*

- 2.—(1) Where the circumstances mentioned in any of paragraphs 3 to 5 apply, then if—
- (a) the member or former member so elects, or
  - (b) in the event of his death, the appropriate administering authority so determine,
- for the purposes of regulation D1 the relevant period is the period mentioned in that paragraph.
- (2) An election under sub-paragraph (1) shall be made by a notice in writing given by the member or former member to the appropriate administering authority not later than one month after he is notified under regulation J4 of his entitlement to a benefit.
- (3) Where a person dies while still in local government employment or without having made an election under sub-paragraph (1), the appropriate administering authority may give a determination in respect of any matter as to which an election under sub-paragraph (1) may have been made by him.
3. Subject to paragraphs 4 and 5, where a person is not entitled to count the whole of the period which would otherwise be the relevant period under regulation D1(2)(a) as a period of membership because he has been absent from duty (otherwise than by reason of illness or injury), the relevant period is the last 365 days which he is entitled to count as a period of membership.
- 4.—(1) Where a reduction in a member's remuneration is certified as material under this paragraph, then the relevant period is—
- (a) such one of the last 5 of the 13 years ending with the day on which he ceases to be a member, or
  - (b) such consecutive 3 of those 13 years,
- as he may elect (or, in a case within paragraph 2(3), as may be determined by the employing authority).
- (2) Where by virtue of this paragraph the relevant period is a period of three consecutive years, the member's pensionable remuneration is the aggregate of his remuneration during that period divided by three.
- (3) Subject to sub-paragraph (7), where a member suffers a material reduction in remuneration he is entitled to be issued with a certificate to that effect by the employing authority.
- (4) A member suffers a reduction in remuneration if—
- (a) the remuneration of an employment which he continues to hold is reduced,
  - (b) he is transferred to another employment under the same LGPS employer at a reduced remuneration, or
  - (c) by reason or in consequence—
    - (i) of an order made under section 17 of the Local Government Act 1992(1), or
    - (ii) of any provision made by or under the Local Government (Wales) Act 1994(2)within the relevant period he is transferred to another employment under, or his employment is transferred to, a different LGPS employer at a reduced remuneration; and in paragraph (c) "the relevant period" means—

---

(1) 1992 c. 19.

(2) 1994 c. 19.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(I) in the case of a transfer involving a LGPS employer whose area is in England, the period beginning with the day on which the order mentioned in paragraph (c)(i) is made and ending with the expiry of the period of eighteen months beginning with the day on which the changes in structure or area provided for by that order have effect, and

(II) in the case of a transfer involving a LGPS employer whose area is in Wales, the period beginning with 1st January 1996 and ending with 31st March 1997.

(5) Subject to sub-paragraph (6), a reduction in remuneration is only material if it is such that the member's pensionable remuneration would be likely to be less if the relevant period were the period applicable under regulation D1(2)(a) than if it were the period applicable under sub-paragraph (1).

(6) A reduction in remuneration is not material if—

(a) it did not result from circumstances beyond the member's control, or

(b) it was temporary, or

(c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.

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

(8) A certificate issued under this paragraph is to specify the date of the material reduction and the authority are to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying sub-paragraph (1).

5. Where the member's pensionable remuneration would be higher if either of the two years immediately preceding the period applicable under regulation D1(2)(a) were the relevant period instead of that period, the relevant period is whichever of those years yields the highest amount.