

## SCHEDULE M4

### TRANSITIONAL AND TRANSITORY PROVISIONS

#### PART II

#### SPECIFIC PROVISIONS

##### *Membership*

**6.**—(1) References in these regulations to a member shall have effect as respects any time before the commencement date as references to a pensionable employee (and related expressions shall have effect accordingly).

(2) Nothing in these regulations affects the date of the commencement of the membership of any person who is a member immediately before the commencement date.

(3) Where immediately before the commencement date any person—

- (a) is eligible to be and is a member of the Scheme, or
- (b) has the right to make an election to joining the Scheme,

by virtue of any provision of the 1986 regulations which is revoked by these regulations and is not re-enacted by them or is re-enacted with modifications, he shall notwithstanding the revocation or modification remain eligible to be a member, or as the case may be to make such an election, subject to the same terms and conditions as under the provision.

(4) Without prejudice to the previous provisions of this paragraph—

- (a) no person who is a member of the Scheme immediately before the commencement date shall be ineligible for membership of the Scheme by virtue of anything in regulation B3 (definitions of whole-time, part-time and variable-time employment);
- (b) notwithstanding the revocation of paragraph 4 of Part IV of Schedule 2 to the 1986 regulations, any person to whom that paragraph applied immediately before the commencement date shall continue to be treated as there mentioned.

##### *Existing reckonable service etc.*

**7.** Without prejudice to any other provision in these regulations, any period which immediately before the commencement date counted as a period of reckonable service for any purpose of the Scheme (including any period which counted by virtue of regulation E28 or E30 of the 1986 regulations)—

- (a) shall continue to be counted for that purpose as a period of membership of the same length as it then counted for that purpose,
- (b) if it counted as service in whole-time employment or part-time employment, shall count as membership in whole-time employment or, as the case may be, membership in part-time employment, and
- (c) if it counted as service before or after a particular date, shall count as membership before or, as the case may be, after that date.

##### *War service*

**8.** The revocation of Part F (war service) and regulation N4 (decisions by administering authorities as to such service) of the 1986 regulations shall not affect—

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

- (a) any right to which a person is or would apart from the revocation become entitled under or by virtue of that Part; or
- (b) any decision made under that regulation or under regulation N8 (appeals) of those regulations as respects such a decision;

but, in so far as they continue to have effect by virtue of this paragraph, references in those provisions to reckonable service shall be taken, where appropriate, to be references to periods of membership.

*Regulation E2(1)(d) of the 1986 regulations: continued entitlement for transitional period*

**9.** The revocation of regulation E2(1)(d) of the 1986 regulations (entitlement to pension on leaving at or near state pensionable age) and of the provisions of those regulations which relate to the payment of pensions or other benefits by virtue of that regulation or are incidental to it shall not affect the rights of—

- (a) any person who has become entitled before the commencement date to an annual retirement pension or a retiring allowance by virtue of that regulation (whether or not it has become payable before that date);
- (b) any person who attains state pensionable age before the expiry of the period of two years beginning with the commencement date; or
- (c) any person who (apart from the revocation) would have any rights in respect of any person falling within paragraph (a) or (b);

and accordingly, so far as is necessary to give effect to those rights and to make provision for any matters incidental to them, those provisions shall be treated as if they had continued in effect.

*Remuneration*

**10.—(1)** Nothing in these regulations shall affect the meaning of “remuneration” as respects the calculation of any benefit in respect of a person who has ceased to be a member of the Scheme before the commencement date.

(2) Where, apart from paragraph 7(b), a period of reckonable service in whole-time employment before the commencement date would count on and after that date as a period of membership in part-time employment, then for the purpose of calculating any benefit by reference to that period of service, paragraph 7 of Schedule D1 shall not apply (and accordingly the benefit shall be calculated, in so far as it relates to that period, by reference to pensionable remuneration which has not been increased by virtue of that paragraph).

*Continuation of options under regulation S2 of the 1986 regulations*

**11.** Nothing in these regulations shall affect the rights of any person who duly elected under regulation S2 of the 1986 regulations (application of those regulations to benefits in respect of former employments).

*Continuation of savings for gratuities and policy schemes affected by local government reorganisation etc.*

**12.—(1)** The revocation of regulation H3 of the 1986 regulations shall not affect its operation as respects the exercise of any discretionary power to which it applies as respects gratuities.

(2) Notwithstanding the revocation of regulations H7 and H8 of the 1986 regulations—

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

- (a) an authority who became responsible under J11(1) of the 1974 regulation for the continued payment of a gratuity or allowance and by virtue of regulation H7(a) of the 1986 regulations are so responsible immediately before the commencement date remain so responsible,
- (b) an authority who became liable under regulation J11A of the 1974 regulations to contribute towards such continued payment and by virtue of regulation H7(b) of the 1986 regulations are so responsible immediately before the commencement date remain so liable,
- (c) every agreement and every determination under regulation J11A of the 1974 regulations which had effect immediately before the commencement date by virtue of regulation H7(b) of the 1986 regulations continues to have effect,
- (d) any agreement or trust deed which immediately before the commencement date had effect by virtue of regulation H8 of the 1986 regulations as mentioned in regulation J12 of the 1974 regulations continues so to have effect, and
- (e) any policy of insurance held by a LGPS employer immediately before that date for the purposes mentioned in regulation J12 of the 1974 regulations shall continue to be held by them for those purposes.

#### *Resolutions*

**13.** Where by virtue of any provision of these regulations which is not derived from a corresponding provision of the 1986 regulations, a resolution under these regulations is to make any particular provision or to be made in accordance with any procedure, then any corresponding resolution made under those regulations and continuing to have effect after the commencement date—

- (a) shall be deemed to have complied with that procedure, and
- (b) may be varied so as to make that particular provision.

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

**14.** Notwithstanding the revocation of regulations E2(3) and E13 of the 1986 regulations (special provision concerning certain female nursing staff), in so far as either of those regulations is capable of continuing to have effect, it shall continue to do so.