

SCHEDULE 1

Regulation 2

INTERPRETATION

“the Act of 1922” means the Local Government and other Officers' Superannuation Act 1922⁽¹⁾;

“the Act of 1937” means the Local Government Superannuation (Scotland) Act 1937⁽²⁾;

“the Act of 1953” means the Local Government Superannuation Act 1953⁽³⁾;

“the Acts of 1937 to 1953” means the Local Government Superannuation Acts 1937 to 1953⁽⁴⁾;

“the 1974 Regulations” means the Local Government Superannuation (Scotland) Regulations 1974⁽⁵⁾;

“the 1987 Regulations” means the Local Government Superannuation (Scotland) Regulations 1987⁽⁶⁾;

“active member” has the same meaning as in section 124(1) of the Pensions Act 1995;

“actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries;

“added years” means an additional period which a person has become entitled to count as membership by virtue of—

- (a) regulation D6(2) of the 1987 Regulations;
- (b) regulation D10 of the 1974 Regulations;
- (c) regulation 12 of the Benefits Regulations;
- (d) regulation 5 of the Local Government Superannuation (Scotland) (Reckoning of Service on Transfer) Regulations 1954;
- (e) regulation 15(2)(b) of the Local Government Superannuation (England and Scotland) Regulations 1948 to 1954; or
- (f) any similar provision of a local Act scheme;

“additional voluntary contributions provision” means a provision of an occupational pension scheme approved under section 591 of the Taxes Act which provides for the payment by employees of voluntary contributions;

“additional voluntary contributions scheme” means a scheme approved under section 591 of the Taxes Act, to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme;

“administering authority” means a body required to maintain a pension fund under these Regulations;

“admission agreement” has the meaning given in regulation 4(2);

“admission agreement employee” means such an employee as is mentioned in regulation 4(10);

“admission body” has the meaning given in regulation 4(8);

“appropriate administering authority” means the body maintaining the appropriate fund;

“appropriate fund”, in relation to a member, has the meaning given in regulation 73;

(1) 1922 c. 59.

(2) 1937 c. 69.

(3) 1953 c. 25.

(4) 1937 c. 68, 1939 c. 18 and 1953 c. 25.

(5) S.I. 1974/812, amended by S.I. 1975/638, 1978/425, 1378, 1794 and 1926, 1980/198, 342 and 1885, 1981/1892, 1982/385 and 1303, 1983/1421, 1984/254 and 1232 and 1986/214 and 1449.

(6) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220, 1597 and 3025, 1993/1593, 2013 and 3044, 1994/531, 1995/214, 750, 2865 and 3294, 1996/414 and 1241 and 1997/674, 1143, 1373, 1435 and 3048.

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“appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with regulations made under section 7 of the Pension Schemes Act 1993;

“appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under section 95(2)(c) of the Pension Schemes Act 1993;

“approved AVC body” means a building society or a person operating an approved scheme which provides benefits in respect of persons who have paid contributions in addition to those provided in relation to them under an occupational pension scheme;

“approved non-local government employment” means employment in which a person participates in an approved non-local government scheme;

“approved non-local government scheme” means a non-local government scheme which is—

- (a) approved under Part XIV of the Taxes Act; or
- (b) approved by the Commissioners of Inland Revenue for the purposes of these Regulations;

“approved scheme” has the meaning given in section 612 of the Taxes Act;

“AVCs” means contributions made under regulation 60;

“AVC insurance company” means—

- (a) a body authorised under section 3 or 4 of the Insurance Companies Act 1982(7) to carry on long term business;
- (b) an EC company which is lawfully carrying on long term business, or providing long term insurance, in the United Kingdom; or
- (c) a friendly society within the meaning of the Friendly Societies Act 1992(8) (including any society which is to be treated as a registered friendly society by virtue of section 96(2) of that Act),

and paragraphs (a) and (b) of this definition must be interpreted as if they were contained in the Insurance Companies Act 1982;

“AVC pension policy” means a contract entered into on behalf of a member by the appropriate administering authority with an AVC insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Part II and Chapters II and III of Part III of these Regulations;

“away on jury service”, in relation to a person, means being away from work with permission given so that he could serve on a jury before any court in Scotland.

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

“the Benefits Regulations” means the Local Government Superannuation (Scotland) (Benefits) Regulations 1954 and 1955(9);

“building society” has the meaning given in the Building Societies Act 1986(10);

“cancelling notice”, in relation to a person’s relevant reserve forces service, means—

- (a) the agreement (by a member who has not waived his right to receive a return of contributions under regulation 86) to receive them; or

(7) 1982 c. 50.

(8) 1992 c. 40.

(9) S.I. 1954/1059 and 1955/1226.

(10) 1986 c. 53.

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- (b) a notice in writing given by him to the appropriate administering authority not later than 12 months after the end of the period of service to which the notice relates (or within such longer period as they may allow) that the service should not be treated as reserve forces service;

“Class A member”, “Class B member” and “Class C member” have the meanings given in paragraph 1(1) of Schedule 4 and “Class B membership” and “Class C membership” must be construed accordingly;

“club scheme” means an occupational pension scheme which—

- (a) provides benefits calculated by reference to final pay;
- (b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is approved by the Commissioners of Inland Revenue under Chapter I of Part XIV of the Taxes Act;
- (c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and
- (d) complies with reciprocal arrangements for the payment and receipt of transfer values with the schemes made under section 7 of the Superannuation Act 1972;

“commencement date” means 1st April 1998;

“the Communities' scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities;

“Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme;

“continuity conditions” has the meaning given in paragraph 1(1) of Schedule 4;

“contracted-out employment” has the same meaning as in the Pension Schemes Act 1993 and “contracted-out”, in relation to a scheme, must be construed in accordance with that Act;

“contractual hours”—

- (a) in relation to an employee (other than an employee with non-cyclical fluctuating hours), means the number of hours specified in his contract of employment as his contractual hours for the purposes of the Scheme; and
- (b) in relation to an employee with non-cyclical fluctuating hours, means the number of hours calculated as his contractual hours for the purposes of the Scheme in accordance with the provisions of his contract of employment;

“contractual weeks”, in relation to an employee, means the number of weeks in every period of 12 months for which, assuming he is not away on unpaid leave, pay is payable to him;

“contract of employment” includes terms of office;

“contributory employee” means a person who was entitled to participate in the benefits of a pension fund maintained under Part I of the Act of 1937;

“deferred member” has the same meaning as in section 124(1) of the Pensions Act 1995, except as provided in regulation 31(3) and (5);

“earnings factors” means the earnings factors referred to in section 14 of the Pension Schemes Act 1993;

“eligible child” has the meaning given in regulation 43;

“employee” includes a permanent, temporary or casual employee;

“employing authority” means a body employing an employee who is eligible to be a member;

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“employment” includes office;

“enactment” includes an instrument made under an Act;

“equivalent pension benefits” has the meaning given by section 57(1) of the National Insurance Act 1965⁽¹¹⁾ and “EPB pension” must be construed accordingly;

“fees” includes other payments in the nature of fees;

“final pay” must be construed in accordance with regulation 20;

“final pay period” must be construed in accordance with regulations 20 and 21;

“former local authority” means a body, other than a Scheme employer, who were a local authority within the meaning of the Act of 1937 as originally enacted;

“the former Regulations” are—

- (a) those of the enactments and instruments referred to in paragraph 5(1) of Schedule 7 to the Superannuation Act 1972 and applying to Scotland that were in force immediately before 1st April 1974;
- (b) the Local Government Superannuation (Miscellaneous Provisions) Regulations 1973⁽¹²⁾; and
- (c) the Local Government Superannuation (Miscellaneous Provisions) (No.2) Regulations 1973⁽¹³⁾;

“FSAVC scheme” means a scheme approved by virtue of section 591(2)(h) of the Taxes Act;

“guaranteed minimum” means the guaranteed minimum as defined in sections 14 and 17 of the Pension Schemes Act 1993 (minimum pensions for earners, widows and widowers) so far as it is attributable to earnings factors for the tax year 1988-89 or for subsequent tax years, increased in accordance with the requirements of section 109 of that Act (annual increase of guaranteed minimum pensions));

“ill-health pension” and “ill-health grant” must be construed in accordance with regulation 26;

“the Insurance Acts” means the National Insurance Acts 1965 to 1973⁽¹⁴⁾;

“local Act contributor” means a person who was entitled to participate in the benefits of a pension fund maintained under a local Act scheme;

“local Act member” means a member of a local Act scheme;

“local Act scheme” has the meaning given in section 8 of the Superannuation Act 1972, except that where it refers to any time before 25th March 1972 it has the same meaning as in the Act of 1937;

“local authority” has the same meaning as in the Local Government (Scotland) Act 1973⁽¹⁵⁾;

“local government area” must be construed in accordance with section 1 of the Local Government etc. (Scotland) Act 1994⁽¹⁶⁾;

“local government employment” means—

- (a) in relation to any time before 1st April 1974, employment by virtue of which the person employed was, or is deemed to have been, a contributory employee or a local Act contributor; and

(11) 1965 c. 51.

(12) S.I. 1973/313.

(13) S.I. 1973/1996.

(14) 1965 c. 51, 1966 c. 6, 1969 c. 44, 1971 c. 50, 1972 c. 57, 1973 c. 42.

(15) 1973 c. 65.

(16) 1994 c. 39.

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- (b) in relation to any time after 31st March 1974, means employment by virtue of which the person employed is or has been, or is or has been deemed to be a member or a pensionable employee (within the meaning of the 1987 Regulations) or a local Act contributor;
- “lower earnings limit” has the same meaning as in the Pension Schemes Act 1993;
- “maternity rights returner” means a woman who exercises a right to return to work after being away from work wholly or partly because of pregnancy or confinement;
- “member” has the same meaning as in section 124(1) of the Pensions Act 1995;
- “money purchase benefits” has the same meaning as in the Pension Schemes Act 1993⁽¹⁷⁾;
- “non-cyclical fluctuating hours” means hours which the employing authority are entitled to require the employee to work in a contractual week in any case where those hours vary in a way which is not cyclical;
- “non-local government scheme” means an occupational pension scheme or other arrangements for superannuation, not being—
- (a) a local Act scheme; or
- (b) an occupational pension scheme provided—
- (i) in the Acts of 1937 to 1953 and the regulations made under those Acts; or
- (ii) in the Local Government Superannuation (Scotland) Acts 1937 to 1953 and the regulations made under those Acts; or
- (iii) in regulations under section 7 of the Superannuation Act 1972;
- “normal retirement age” has the meaning given in regulation 24(5);
- “NRD” has the meaning given in regulation 24(3);
- “occupational pension scheme” means an occupational pension scheme within the meaning of section 1 of the Pension Schemes Act 1993 other than—
- (a) a retirement benefits scheme (as defined in section 611 of the Taxes Act) which is not of a description mentioned in section 596(1)(a), (b) or (c) of that Act;
- (b) an additional voluntary contributions scheme;
- (c) an appropriate policy;
- (d) a personal pension scheme; or
- (e) a self-employed pension arrangement;
- “official pension” has the meaning given in the Pensions (Increase) Act 1971⁽¹⁸⁾;
- “part-time employee” means an employee—
- (a) whose contract of employment provides that he is such an employee for the purposes of the Scheme; or
- (b) who is neither a whole-time employee nor a variable-time employee;
- “passenger transport executive” means the Executive for a designated area within section 9(1) of the Transport Act 1968⁽¹⁹⁾;
- “pay” must be construed in accordance with regulation 12;
- “payment in lieu of contributions” means a payment made in lieu of contributions under Part III of the National Insurance Act 1965;

⁽¹⁷⁾ 1993 c. 48.

⁽¹⁸⁾ 1971 c. 56.

⁽¹⁹⁾ 1968 c. 73; section 9(1) was substituted by the Transport Act 1985 (c. 67), section 57(1)(a) and amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 80(2).

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“payment period” has the meaning given in regulation 6(4);

“pensioner member” has the meaning given in section 124(1) of the Pensions Act 1995;

“personal pension scheme” means a personal pension scheme (within the meaning of section 1 of the Pensions Schemes Act 1993) which has been approved under Chapter IV of Part XIV of the Taxes Act or provisionally approved under section 655(5) of that Act;

“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;

“preserved benefits” means benefits to which a person—

- (a) becomes entitled under regulation 30;
- (b) was entitled immediately before 21st December 1987 by virtue of regulation E2(1)(c) of the 1974 Regulations;
- (c) was entitled immediately before the commencement date by virtue of regulation E2(1)(c) of the 1987 Regulations,

and which have not yet become payable;

“principal civil service pension scheme” has the meaning given in section 2(10) of the Superannuation Act 1972(20);

“prospective member” means a person who under his contract of employment or these Regulations—

- (a) may, if he wishes or his employer consents, become a member or will be able to do so if he continues in the same employment sufficiently long; or
- (b) will become a member unless he chooses not to do so;

“the Reference banks” means the seven largest institutions for the time being which—

- (a) are authorised by the Bank of England under the Banking Act 1987(21);
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7, of that Act); and
- (c) quote a base rate in sterling,

and for this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in section 736 of the Companies Act 1985(22)), as shown in the audited end-of-year accounts last published before that time;

“registration officer” means a person holding, or deemed to be holding, an appointment under section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(23);

“relevant reserve forces service” means service (other than service for the purposes of training only or service for a period in respect of which a cancelling notice has been served)—

- (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

(20) 1972 c. 11.

(21) 1987 c. 22.

(22) 1985 c. 6.

(23) 1965 c. 49; section 7 was amended by the Superannuation Act 1972, Schedule 6, paragraph 51 and S.I. 1974/812.

(c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980⁽²⁴⁾, and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking to accept a permanent commission or a commission for a fixed term or to serve for the purposes of periodical training;

“reserve forces pay”, in relation to any person, is the total of—

- (a) his pay for performing relevant reserve forces service (including marriage, family and similar allowances); and
- (b) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽²⁵⁾;

“reserve forces service leave”, in relation to a person, means being away from work—

- (a) after—
 - (i) he has left the employment in which he is an active member; or
 - (ii) he has been granted leave of absence from such an employment, in order to perform reserve forces service,
- (b) without having agreed to receive a return of contributions under regulation 86; and
- (c) without having elected that the absence is not to count as such by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of reserve forces service to which the notice relates (or within such longer period as they may allow);

“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;

“revenue agreement”, in relation to a member, means agreement in writing by the Commissioners of Inland Revenue given after an application to them by the member’s appropriate administering authority that he may be treated as a Class B member or a Class C member by virtue of his membership before 1st June 1989 or, as the case may be, 17th March 1987 of a scheme approved under Chapter I of Part XIV of the Taxes Act;

“revenue permitted maximum” means the permitted maximum, within the meaning of section 590C(2) of the Taxes Act;

“SCAVCs” means contributions under arrangements made under regulation 66;

“the Scheme” means the occupational pension scheme constituted by these Regulations, the Transitional Regulations and the 1987 Regulations (so far as they continue to operate);

“Scheme employer” means a body listed in Schedule 2 (but see regulation 4(10) and Chapter I of Part V);

“Scheme managers” means—

- (a) in relation to a statutory scheme, the Minister of the Crown or police or fire authority administering the scheme; and
- (b) in any other case, the person responsible for the management of a non-local government scheme;

“self-employed pension arrangement” has the same meaning as in the Pension Schemes Act 1993;

“service”—

(24) 1980 c. 9.

(25) 1951 c. 65.

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- (a) in Chapter VI of Part IV means service or employment with any employer; and
 - (b) elsewhere, means service with a Scheme employer,
- and service rendered by an employee of a Scheme employer whose services are placed at the disposal of a Minister of the Crown or a government department in pursuance of any enactment is to be treated as service with the Scheme employer;
- “service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—
- (a) 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
 - (b) in respect of that and other service;
- “standard contribution rate” must be construed in accordance with regulation 11;
- “State pensionable age” means pensionable age within the meaning of section 122 of the Social Security Contributions and Benefits Act 1992**(26)**;
- “superannuable membership” has the meaning given in regulation 9(2);
- “the Taxes Act” means the Income and Corporation Taxes Act 1988**(27)**;
- “tax year” means the 12 months beginning with 6th April in any year;
- “teachers scheme” is an occupational pension scheme made under section 9 of the Superannuation Act 1972 (superannuation of teachers);
- “total membership” must be construed in accordance with regulation 8(2);
- “trade dispute” has the meaning given in section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992**(28)**;
- “trade dispute absence” means absence from duty, otherwise than with leave, for a period of one or more days during and because of a trade dispute;
- “the Transitional Regulations” means the Local Government (Transitional Provisions) (Scotland) Regulations 1998**(29)**;
- “unaggregated period”, in relation to a period of membership, has the meaning given in regulation 32(6) and “aggregated” must be construed accordingly;
- “upper earnings limit” has the meaning given in the Pension Schemes Act 1993;
- “variable-time employee” means an employee whose contract of employment provides that he is such an employee for the purposes of the Scheme and—
- (a) whose pay is calculated by reference to his duties (rather than necessarily by reference to the number of hours he has worked); or
 - (b) whose duties have to be performed only on an occasional basis;
- “whole-time employee” means an employee whose contract of employment provides—
- (a) that he is such an employee for the purpose of the Scheme; or
 - (b) that his contractual hours are not less than the number of contractual hours for a person employed in that employment on a whole-time basis.

(26) 1992 c. 4.

(27) 1988 c. 1.

(28) 1992 c. 52.

(29) S.I. 1998/364.