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*Status: Point in time view as at 06/04/2020.*

*Changes to legislation: The Local Government Pension Scheme Regulations 2013, Contributions is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## STATUTORY INSTRUMENTS

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# 2013 No. 2356

## The Local Government Pension Scheme Regulations 2013

### PART 1

#### Membership, contributions and benefits

##### Contributions

##### Contributions

9.—(1) Subject to Regulation 10 (temporary reduction in contributions), an active member must pay contributions to the Scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement of that membership).

(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate specified in the third column applicable to the band of pensionable pay specified in the second column into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment</i>
1	Up to £13,500	5.5%
2	£13,501 to £21,000	5.8%
3	£21,001 to £34,000	6.5%
4	£34,001 to £43,000	6.8%
5	£43,001 to £60,000	8.5%
6	£60,001 to £85,000	9.9%
7	£85,001 to £100,000	10.5%
8	£100,001 to £150,000	11.4%
9	£150,001 or more	12.5%

(3) Where there is a change in employment, or a material change which affects the member's pensionable pay in the course of a financial year, the Scheme employer may determine that a contribution rate from a different band should be applied and the Scheme employer shall inform the member of the contribution rate applicable and the date from which it is to be applied.

(4) On the first day of the pay period in which 1st April 2015 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the second column of the table

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in paragraph (2) are increased by applying the appropriate increase, rounding the result down to the nearest £100 and adding £1 to the first figure in each band apart from band 1.

(5) In paragraph (4) “the appropriate increase” means the amount (where it is greater than zero) by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2014 to which the Pensions (Increase) Act 1971 <sup>M1</sup> applied.

(6) For the purposes of identifying which is the applicable contribution rate under this regulation and regulation 10, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave; or
- (g) absence due to a trade dispute.

#### Marginal Citations

**M1** 1971 c. 56.

### Temporary reduction in contributions

**10.**—(1) A person may elect to pay reduced contributions in an employment for a period by giving written notice to the member's Scheme employer that the member wishes to do so.

(2) Where a notice is given under paragraph (1), from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay in relation to that employment is 50% of that which would otherwise be payable under regulation 9 (contributions).

(3) An active member may cancel the election under paragraph (1) at any time by giving written notice to the member's Scheme employer to this effect.

(4) Where a notice is given under paragraph (3), from the next payment period following the giving of the notice, the contribution rate payable on the member's pensionable pay in relation to that employment is as provided by regulation 9.

(5) An active member's election under paragraph (1) is cancelled from the beginning of the first pay period after—

- (a) the member's automatic re-enrolment date; [<sup>F1</sup>or]
- (b) going on to no pay as a result of [<sup>F2</sup>sickness, injury, or child-related leave] provided that the member is still on no pay at the beginning of that pay period,

and the contribution rate payable on the member's pensionable pay in relation to that employment is as provided by regulation 9 from that date.

(6) An active member may make a further election under paragraph (1) at any time when the member is liable to make contributions as is provided by regulation 9.

(7) The Scheme employer of any member who elects to pay reduced contributions under paragraph (1) shall give the member information about the effect on that member's likely benefits consequent to that election.

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#### Textual Amendments

- F1** Word in [reg. 10\(5\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/493\)](#), [regs. 1\(2\)](#), [5](#)
- F2** Words in [reg. 10\(5\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(b\)](#) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), [regs. 1\(2\)](#), [5](#)

### Contributions during absence from work

**11.—(1)** An active member must pay contributions under regulations 9 (contributions) or 10 (temporary reduction in contributions) during an absence from work on child-related leave in accordance with regulation 12 (contributions during child-related leave).

(2) An active member must pay contributions under regulations 9 or 10 during an absence on reserve forces service leave in accordance with regulation 13 (contributions during reserve forces service leave).

(3) An active member must pay contributions under regulations 9 or 10 during an absence from work because of illness or injury in accordance with regulation 14 (contributions during absence for illness etc).

(4) A person remains an active member during any absence from work—

- (a) of the description mentioned in paragraphs (1) to (3)
- (b) due to a trade dispute, or
- (c) with permission from the member's Scheme employer.

F3 ...

#### Textual Amendments

- F3** Words in [reg. 11\(4\)](#) omitted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by virtue of [The Local Government Pension Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/493\)](#), [regs. 1\(2\)](#), [6](#)

### Contributions during child-related leave

**12.—(1)** An active member on child-related leave must pay contributions in accordance with regulations 9 or 10 on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that member is treated for the purposes of these Regulations as if that member had paid contributions for that unpaid period under paragraph (1).

### Contributions during reserve forces service leave

**13.—(1)** An active member on reserve forces service leave must pay contributions in accordance with regulations 9 or 10.

(2) The contributions under paragraph (1) are payable on the member's assumed pensionable pay calculated under regulation 21 (assumed pensionable pay).

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### Contributions during absence for illness etc

**14.—**(1) An active member away from employment by reason of illness or injury must pay contributions in accordance with regulations 9 or 10 on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period that member—

- (a) is treated for the purposes of these Regulations as if that member had paid contributions for that period under paragraph (1); and
- (b) if that member has an arrangement under regulation 16 (additional pension contributions) which was entered into prior to the commencement of the period of absence, that member is treated for the purposes of these Regulations as if that member had paid contributions under regulation 16.

### Employer contributions during absences

**15.—**(1) A Scheme employer must pay contributions on the assumed pensionable pay of an active member on child-related leave.

(2) A Scheme employer must pay contributions in accordance with regulation 67(4) where an active member is absent from employment by reason of illness or injury.

(3) When an active member goes on reserve forces service leave—

- (a) the Scheme employer must give the following information in writing to the member—
  - (i) the assumed pensionable pay on which the member is liable to pay contributions in accordance with regulation 9 (contributions) or 10 (temporary reduction in contributions),
  - <sup>F4</sup>(ii) details of the amount of any additional pension contributions to be paid by the member under regulation 16 (additional pension contributions) or regulation 17 (additional voluntary contributions) during reserve forces service leave,]
  - (iii) the rate of the employer's contribution, being the primary rate of the Scheme employer's contribution as adjusted by the secondary rate of that employer's contribution, as specified for the time being in the Scheme employer's current rates and adjustment certificate, and
  - (iv) details of the member's appropriate administering authority;
- (b) employer contributions at the rate of the employer's contribution specified in the Scheme employer's rates and adjustment certificate are payable to the member's appropriate administering authority on the member's assumed pensionable pay <sup>F5</sup>....

(4) Where an active member—

- (a) on reserve forces service leave;
- (b) on child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave [<sup>F6</sup>, shared parental leave or parental bereavement leave]<sup>F7</sup>... during which the member receives no pay;
- (c) absent from work due to illness or injury where regulation 14(1) (contributions during absence for illness etc) applies; or
- (d) absent from work with permission from the member's Scheme employer,

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has an arrangement under regulation 16 (additional pension contributions) the employer contributions under regulation 16(2)(e) or (4)(d) (shared cost additional pension contributions) remain payable if that regulation applies.

(5) Subject to paragraph (6), if an active member who is absent from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve force service leave, elects to enter into an arrangement to pay additional contributions under regulation 16 (additional pension contributions), the member's Scheme employer must pay contributions under regulation 16(2)(e) or (4)(d) (shared cost additional pension contributions) to meet two-thirds of the cost of the arrangement.

(6) The amount that a Scheme employer can be required to pay under paragraph (5) may not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving assumed pensionable pay for the period of absence from work up to a maximum period of 36 months.

(7) In paragraphs (4)(d) and (5) the expression “absent from work with permission” does not include an absence due to a trade dispute.

#### Textual Amendments

- F4** Reg. 15(3)(a)(ii) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **6(a)**
- F5** Words in reg. 15(3)(b) omitted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by virtue of [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **6(b)**
- F6** Words in reg. 15(4)(b) substituted (6.4.2020) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2020 \(S.I. 2020/354\)](#), regs. 1, **31(2)**
- F7** Words in reg. 15(4)(b) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **31(2)(a)** (with art. 35(1))

#### Additional pension contributions

**16.—(1)** Subject to paragraph (15), an active member who is paying contributions under regulation 9 (contributions) may enter into arrangements to pay additional pension contributions (“APCs”) by regular contributions in accordance with paragraph (2), and a member who is paying contributions under regulation 10 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulation 11(4)(b) or (c) (contributions during absence from work)<sup>[F8,]</sup> unless the appropriate administering authority determines in any particular case that it would not be practical to allow APCs to be paid by regular contributions.

(2) Where APCs are to be paid by regular contributions, the arrangements mentioned in paragraph (1)—

- (a) must, when entered into, be for a complete year or number of years with a minimum period of one year;
- (b) must specify the amount of extra contribution to be paid each Scheme year;
- (c) must, where the member has more than one active member pension account, specify which account the APC is to be attached to;
- (d) must specify the amount of additional pension to be credited to the active member's pension account at the end of the Scheme year; and

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(e) may be funded in whole or in part by the member's Scheme employer.

(3) Subject to paragraph (15), an active member who is paying contributions under regulation 9 (contributions) may enter into arrangements to pay APCs by lump sum contribution in accordance with paragraph (4), and a member who is paying contributions under regulation 10 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulation 11(4)(b) or (c) (contributions during absence from work).

(4) Where APCs are to be paid by a lump sum contribution, the arrangements mentioned in paragraph (3)—

- (a) must specify the amount of extra contribution to be paid;
- (b) must, where the member has more than one active member pension account, specify which account the APC is to be attached to;
- (c) must specify the amount of additional pension to be credited to the active member's pension account at the end of the Scheme year; and
- (d) may be funded in whole or in part by the member's Scheme employer.

(5) The amount of additional annual pension that is to be credited to the active member's pension accounts pursuant to arrangements under this regulation must not exceed the additional pension limit.

(6) The additional pension limit is £6,500 from 1st April 2014 and that figure is increased on 1st April 2015, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2013 to which the Pensions (Increase) Act 1971 <sup>M2</sup> applied.

(7) The amount of the contributions to be paid in respect of arrangements under this regulation is to be determined in accordance with actuarial guidance issued by the Secretary of State based on—

- (a) the age of the member at the time the arrangements commence; and
- (b) the gender of the member.

(8) Actuarial guidance issued by the Secretary of State under paragraph (7) may be revised at any time and if so, from the 1st April following any such revision, any contributions payable are to be based on the revised actuarial guidance.

(9) An application by an active member to make arrangements under this regulation must—

- (a) be made in writing to the member's appropriate administering authority, and a copy sent to the member's Scheme employer if that member is not employed by the administering authority; and
- (b) where those arrangements are under paragraph (1), state the length of the period, in whole years ending before the member's normal pension age, over which the member wishes to pay additional contributions.

(10) An administering authority may require an active member to produce a report by a registered medical practitioner of the results of a medical examination, undertaken at the member's own expense, and may refuse an application to make arrangements under paragraphs (1) to (4) if that authority is not satisfied that the member is in reasonably good health.

(11) Arrangements made under paragraph (1) continue until any of the following occurs—

- (a) the period entered into has expired;
- (b) they are terminated by the member giving one month's written notice to the administering authority;
- (c) the member begins to pay reduced contributions under regulation 10 (temporary reduction in contributions) unless the arrangement was to cover a period of absence of the description in regulation 11(4)(b) or (c) (contributions during absence from work);

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- (d) the member ceases to be an active member [<sup>F9</sup>in the employment to which the APC is attached];
- (e) the member draws benefits under regulation 30(6) (flexible retirement) [<sup>F10</sup>in the employment to which the APC is attached];
- (f) the member leaves the employment; or
- (g) the member dies.

(12) If arrangements entered into under paragraph (1) terminate for any reason and new arrangements are entered into under that paragraph, the amount of contributions payable is determined under paragraph (7) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Secretary of State in force at that date.

(13) If additional contributions are paid in accordance with arrangements made under this regulation, and are not refunded under regulation 18 (rights to return of contributions), that member's active member's pension account must be credited with the amount specified in those arrangements as additional pension at the end of the Scheme year in which the contributions are paid, or at the date the arrangements terminate, if earlier.

(14) If a member who is paying APCs is granted Tier 1 or Tier 2 benefits in relation to the pension account to which the arrangements are attached before the end of the period the arrangements made under paragraph (1) were due to cease (“the APC period”), that member is to be treated as having paid the contributions required from the date the member is granted Tier 1 or Tier 2 benefits, up to the end of the APC period and the additional pension bought by those contributions is to be included in the active member's pension account for the year of leaving.

(15) If a member fails to pay all the additional contributions due under arrangements made under paragraph (1), and paragraph (14) does not apply to that member, the member's active member pension account must be credited with additional pension of an amount calculated in accordance with actuarial guidance issued by the Secretary of State.

(16) Where an arrangement is one to which regulation 15(5) (employer contributions during absences) applies, application by an active member to make the arrangements under this regulation must be made before the expiry of a period of 30 days beginning with the day on which the person returns to work [<sup>F11</sup>or such longer period as the Scheme employer may allow].

(17) Where an active member to whom regulation 11(4) applies (contributions during absence from work) has an arrangement under this regulation which was entered into prior to the commencement of the period of absence, the APCs under that arrangement—

- (a) must be paid by the member during any period of child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave [<sup>F12</sup>, shared parental leave or parental bereavement leave]<sup>F13</sup> ... during which the member receives no pensionable pay;
- (b) must be paid by the member during any period of reserve forces service leave where regulation 13(1) (contributions during reserve forces service leave) applies;
- (c) must be paid by the member during any period of absence for illness or injury where regulation 14(1) applies; and
- (d) must be paid by the member during any period of absence of the description in regulation 11(4)(b) or (c) (contributions during absence from work).

#### Textual Amendments

**F8** Reg. 16: comma inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **7(a)**

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- F9** Words in reg. 16(11)(d) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **7(b)**
- F10** Words in reg. 16(11)(e) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **7(b)**
- F11** Words in reg. 16(16) added (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **7(c)**
- F12** Words in reg. 16(17)(a) substituted (6.4.2020) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2020 \(S.I. 2020/354\)](#), regs. 1, **31(3)**
- F13** Words in reg. 16(17)(a) omitted (5.4.2015) by virtue of [The Shared Parental Leave and Statutory Shared Parental Pay \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/3255\)](#), arts. 1(3), **31(3)(a)** (with art. 35(1))

#### Marginal Citations

- M2** 1971 c. 56.

#### Additional voluntary contributions

17.—(1) An active member may enter into arrangements to pay additional voluntary contributions (“AVCs”) or to contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”) in respect of an employment.

(2) The arrangements mentioned in paragraph (1) must be a scheme established under an agreement between the appropriate administering authority and a body approved for the purposes under the Finance Act 2004<sup>M3</sup> (“the AVC provider”), registered in accordance with that Act and administered in accordance with the Pensions Act 2004<sup>M4</sup>.

(3) Where an active member wishes to make contributions to an arrangement under paragraph (1), the active member or the AVC provider authorised by the member to act on the member's behalf must specify in a written notice given both to the appropriate administering authority and the member's Scheme employer, if the member is not employed by the administering authority—

- (a) the percentage of pensionable pay or the amount that the member wishes to contribute from pensionable pay in respect of an employment in each pay period (but see paragraph (4)); and
- (b) whether any of the contributions are to be used to provide life assurance benefits payable upon death in service as an active member and, if so, the proportion or amount to be so used.

(4) Where a member is paying AVCs for life assurance and pensionable pay in a pay period, net of any deductions made by the Scheme employer, is less than the AVC due, the member may pay the contribution due by way of a payment direct to the AVC provider or to the Scheme employer for onward transmission to that body in order to ensure that the life assurance cover continues.

(5) A member may vary the amount specified in, or cease contributing to, an arrangement by service of a further written notice given to the member's Scheme employer and appropriate administering authority by the member or by the AVC provider authorised by the member to act on the member's behalf.

[<sup>F14</sup>(6) For the purposes of regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 the retirement date used for the purposes of Part 2 of Schedule 6 to those Regulations is, where no acceptable date has been specified for that purpose by the member, normal pension age or, if the member has already attained normal pension age, age 75.]

(7) If a member draws benefits under regulation 30(1), (2), (4), (5), (7), (10) to (12) (retirement benefits) or regulation 35(1) (early payment of retirement pension on ill-health grounds: active



members) [<sup>F15</sup>or regulation 38(1) (early payment of retirement pension on ill-health grounds: deferred members)] or, if a member who draws benefits under regulation 30(6) (flexible retirement) makes an election to draw the realisable value in the AVC arrangement at the same time, that member must notify the appropriate administering authority that the realisable value under arrangements made under this regulation—

- (a) is to be taken in full or in part by the member as a lump sum, and where only part is taken as a lump sum, the member must specify the amount to be so taken; and
- (b) to the extent that the realisable value has not been taken as a lump sum, it is to be used—
  - (i) to purchase additional pension under the Scheme, the amount of which is to be determined by the administering authority in accordance with actuarial guidance issued by the Secretary of State, or
  - (ii) to the extent that it has not been used to purchase additional pension under the Scheme, to purchase an annuity from one or more insurance companies (within the meaning of section 275 of the Finance Act 2004 <sup>M5</sup>).

(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of a lump sum, that sum does not form part of the total amount referred to in regulation 33(2) (election for lump sum instead of a pension).

(9) A person with an arrangement under paragraph (1) who becomes a deferred member of the Scheme is entitled to a deferred AVC account with the AVC provider.

(10) A member must transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 96 (rights to payment out of pension fund).

(11) Where a member aggregates a deferred member's pension account or a deferred refund account with an active member's pension account, the realisable value in any deferred AVC account must be transferred to an arrangement under this regulation and the member may make an election to make further payments to the arrangement.

(12) If—

- (a) an active member who is paying contributions to an AVC or SCAVC for the purpose of life assurance dies, or
- (b) an active member who is paying contributions to an AVC or SCAVC other than for the purpose of life assurance dies, or
- (c) a deferred member dies and has a deferred AVC account attached to the deferred member's pension account, or
- (d) a pension credit member who has been awarded a share of a member's AVC account dies before drawing benefits, or
- (e) a member who has made an election under paragraph (7)(b)(ii) dies before the annuity has been purchased,

the appropriate administering authority shall, at its absolute discretion, decide that any life assurance sum due under sub-paragraph (a), and the realisable value of any arrangement under sub-paragraphs (b) to (e), should be paid to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(13) Where a member had attained the age of 75 at the date of death, any tax chargeable under section 206 of the Finance Act 2004 (special lump sum death benefits charge) is to be deducted from the payment due under paragraphs (12) or (14).

(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the administering authority did not know about the member's death within that period, beginning with the date on which the

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administering authority could reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall must be paid to the member's personal representatives.

(15) Regulations 72 (first instance decisions) and 91 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 19(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member.

#### Textual Amendments

- F14** Reg. 17(6) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **8(a)**
- F15** Words in reg. 17(7) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **8(b)**

#### Modifications etc. (not altering text)

- C1** Reg. 17 applied by S.I. 2014/525, reg. 15(2A) (as inserted (14.5.2018) by [The Local Government Pension Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/493\)](#), regs. 1(2), **29(c)**)

#### Marginal Citations

- M3** 2004 c. 12.
- M4** 2004 c. 35.
- M5** 2004 c. 12.

### Rights to return of contributions

**18.**—(1) If a person's qualifying service in the Scheme determined under regulation 3(7) (active membership) is for less than two years, that person is entitled, when that active membership ceases, to be repaid by the administering authority—

- (a) any contributions paid under or in accordance with regulations 9 or 10 in relation to that active membership;
- (b) any additional contributions paid by the person under regulation 16 in relation to that active membership;
- (c) the realisable value of any AVC or SCAVCs paid by the person, or SCAVCs paid by the Scheme employer under a salary sacrifice scheme, under regulation 17 in relation to that active membership (other than such contributions paid for life assurance cover or additional survivor benefits); and
- (d) any contributions included in a transfer payment received from a registered pension scheme or from a pension scheme or arrangement of a European Pensions Institution.

(2) Where a person is entitled to repayment under paragraph (1)(c), the realisable value of any SCAVC contributions paid by the Scheme employer are repayable to the Scheme employer (other than contributions specifically paid for additional life assurance cover, in respect of additional survivor benefits or paid by the employer under a salary sacrifice scheme).

(3) A person entitled to repayment under paragraph (1)(a), (b) or (d) is also entitled to interest on the sum due under those sub-paragraphs if repayment is not made before the expiry of one year beginning with the date active membership ceased.

(4) Interest due under paragraph (3) is calculated at one per cent above base rate on a day to day basis from the date active membership ceased and compounded with three-monthly rests.

(5) An administering authority shall refund contributions to a person entitled under paragraph (1) when the person requests payment, or on the expiry of a period of five years beginning with the date

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the person's active membership ceased if no request is made before then or, if the person attains age 75 before then, on the day before attaining age 75.

(6) If a person entitled to a repayment under paragraph (1) dies before the payment is made, the administering authority must pay the sum due to the person's estate.

(7) The administering authority may deduct any tax due under the Finance Act 2004 or certified amount due under section 61 of the Pension Schemes Act 1993 <sup>M6</sup> from any repayment under paragraph (1) and where any such deduction is made shall secure that the money withheld is used to discharge the tax liability or is included in the contributions equivalent premium liability due under section 55 of the Pensions Schemes Act 1993 <sup>M7</sup>.

(8) This regulation is subject to regulation 19 (exclusion of rights to return of contributions).

#### Marginal Citations

**M6** 1993 c. 48; section 61 was amended by the Pensions Act 1995, the Child Support, Pensions and Social Security Act 2000 and the Pensions Act 2004.

**M7** 1993 c. 48; there are amendments to section 55 which are not relevant to this instrument.

#### Exclusion of rights to return of contributions

**19.**—(1) A person is not entitled to a return of contributions under regulation 18 if that person—

- (a) becomes an active member again within one month and one day of ceasing active membership in an employment, or before the date a return of contributions has been issued by the appropriate administering authority, whichever is the later;
- (b) left the employment because of—
  - (i) an offence of a fraudulent character, or
  - (ii) grave misconduct,
 in connection with the employment;
- (c) benefits from a transfer payment to another registered pension scheme or to a qualifying recognised overseas pension scheme;
- (d) continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member; or
- (e) is an active member and dies in service.

(2) Where [<sup>F16</sup>paragraph (1)(b)] applies the Scheme employer may direct payment out of the appropriate fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, cohabiting partner or any of the member's dependents.

#### Textual Amendments

**F16** Words in [reg. 19\(2\)](#) substituted (with effect in accordance with [reg. 1\(2\)\(b\)](#) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), [regs. 1\(2\), 9](#)

#### Meaning of pensionable pay

**20.**—(1) Subject to regulation 21 (assumed pensionable pay), an employee's pensionable pay is the total of—

- (a) all the salary, wages, fees and other payments paid to the employee, and

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- (b) any benefit specified in the employee's contract of employment as being a pensionable emolument.
- (2) But an employee's pensionable pay does not include—
- (a) any sum which has not had income tax liability determined on it;
  - (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
  - (c) any payment in consideration of loss of holidays;
  - (d) any payment in lieu of notice to terminate a contract of employment;
  - (e) any payment as an inducement not to terminate employment before the payment is made;
  - (f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
  - (g) any payment in consideration of loss of future pensionable payments or benefits;
  - (h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;
  - (i) any payment made by the Scheme employer to a member on reserve forces service leave;
  - (j) returning officer, or acting returning officer fees other than fees paid in respect of—
    - (i) local government elections,
    - (ii) elections for the National Assembly for Wales,
    - (iii) Parliamentary elections, or
    - (iv) European Parliamentary elections.

**Modifications etc. (not altering text)**

**C2** Reg. 20(2)(f) restricted (1.4.2014) by [The Local Government Pension Scheme \(Transitional Provisions, Savings and Amendment\) Regulations 2014 \(S.I. 2014/525\)](#), regs. 1(3), **8(2)**

**Assumed pensionable pay**

**21.—**(1) During the period the circumstances specified in paragraph (2) apply in relation to an employment, the pensionable pay that an active member is, in relation to that employment, treated as receiving for the purposes of these Regulations (including this regulation), other than regulations 9 to 14 (contributions), is that member's assumed pensionable pay calculated in accordance with paragraph (4).

- (2) The circumstances are that the member—
- (a) is on leave due to sickness or injury and is on reduced contractual pay or no pay;
  - (b) is on child-related leave [<sup>F17</sup>other than any part of that leave period where the pensionable pay received is greater than the assumed pensionable pay that the member would otherwise have been treated as receiving for that part of the leave period]; or
  - (c) is absent on reserve forces service leave.
- (3) Paragraph (2)(c) does not apply in respect of any period of service which qualifies the member for benefits under any other occupational pension scheme in respect of that service.
- (4) [<sup>F18</sup>[<sup>F19</sup>Subject to paragraphs (4A), and (5A) to (5C)], the annual rate of assumed pensionable pay] for an employment for a Scheme year is—
- (a) where the member is paid monthly—

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- (i) the pensionable pay the member received relating to that employment in the three months preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of [F<sup>20</sup>regulations 39(1)(a) (calculation of ill health pension amounts), 40(3) (death grants: active members), 41(4)(b) (survivor benefits: partners of active members), 42(4)(b), 42(5)(b), 42(9)(b) and 42(10)(b) (survivor benefits: children of active members)], the pay period in which, respectively, the ill-health retirement or death occurred;
- (ii) less any lump sum received during that period;
- (iii) with the resulting sum being grossed up to an annual figure;
- (iv) to which any regular lump sum payment received in the 12 months preceding the date specified in paragraph (i) should be added;
- (b) where the member is paid otherwise than monthly—
  - (i) the pensionable pay the member received relating to that employment in the 12 weeks preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of [F<sup>21</sup>regulations 39(1)(a) (calculation of ill health pension amounts), 40(3) (death grants: active members), 41(4)(b) (survivor benefits: partners of active members), 42(4)(b), 42(5)(b), 42(9)(b) and 42(10)(b) (survivor benefits: children of active members)], the pay period in which, respectively, the ill-health retirement or death occurred;
  - (ii) less any lump sum received;
  - (iii) with the resulting sum being grossed up to an annual figure;
  - (iv) to which any regular lump sum payment received in the 12 months preceding the date specified in paragraph (i) should be added.

[F<sup>22</sup>(4A) If the pensionable pay the member received in the periods specified in paragraph (4)(a)(i) or (4)(b)(i) was reduced as a result of absence due to a trade dispute or absence with permission from the member’s Scheme employer, such reduction is to be ignored for the purposes of calculating the member’s assumed pensionable pay.]

(5) For the purposes of paragraph (4) a “regular lump sum” is a payment for which the member’s employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.

[F<sup>23</sup>(5A) Where the pensionable pay received by a member during any period specified in paragraph (4)(a)(i) or (4)(b)(i) was, in the opinion of the Scheme employer, materially lower than the level of pensionable pay that member normally received, for the purposes of this regulation the Scheme employer may substitute for the pensionable pay the member received, a higher level of pensionable pay to reflect the level of pensionable pay that the member would normally have received.

(5B) In determining what the level of pensionable pay a member normally receives for the purposes of paragraph (5A) a Scheme employer must have regard to the level of pensionable pay received by the member in the previous 12 months.

(5C) Where any pensionable pay that has been received by a member includes fees of the kind listed in regulation 20(2)(j)(i) to (iv) (returning officer fees), for the purposes of paragraph (4)(a)(i) or (4)(b)(i) the annual rate of pensionable pay in respect of the fees in that employment that the member received is the annual average of the pensionable pay relating to those fees during the three years preceding the date the absence, the ill-health retirement or death occurred, or during the membership in that employment if less than three years.]

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(6) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment on the first day of the second Scheme year which commenced after the first date on which the member is treated as receiving assumed pensionable pay.

#### Textual Amendments

- F17** Words in reg. 21(2)(b) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **10(a)**
- F18** Words in reg. 21(4) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **10(b)**
- F19** Words in [reg. 21\(4\)](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/493\)](#), regs. 1(2), **7(a)**
- F20** Words in reg. 21(4)(a)(i) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **10(c)**
- F21** Words in reg. 21(4)(b)(i) substituted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **10(c)**
- F22** Reg. 21(4A) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2015 \(S.I. 2015/755\)](#), regs. 1(2), **10(d)**
- F23** Reg. 21(5A)-(5C) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Local Government Pension Scheme \(Amendment\) Regulations 2018 \(S.I. 2018/493\)](#), regs. 1(2), **7(b)**

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