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STATUTORY INSTRUMENTS

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**2014 No. 1964**

**The Public Service (Civil Servants and  
Others) Pensions Regulations 2014**

**PART 6**

Retirement benefits

**CHAPTER 1**

General

**Application of Part**

**58.** This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

**Qualifying service**

**59.—(1)** In these Regulations, “qualifying service” means the total of—

- (a) any continuous period of pensionable service under this scheme;
- (b) if a transfer payment has been received by this scheme in respect of a member’s accrued rights under another occupational pension scheme, the member’s pensionable service under that scheme; and
- (c) for a transition member with continuity of service, the member’s pensionable service under the PCSPS before the closing date for that member.

(2) None of the following counts as qualifying service—

- (a) any pensionable service under this scheme in respect of which a person’s rights under this scheme are extinguished<sup>(1)</sup>;
- (b) any pensionable service under the PCSPS in respect of which a person’s rights under that scheme are extinguished;
- (c) any unauthorised absence from scheme employment.

**CHAPTER 2**

Full retirement benefits

**Entitlement to full retirement pension**

**60.—(1)** A member of this scheme (P) is entitled to the immediate payment for life of a full retirement earned pension if—

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(1) Regulation 139 provides for extinguishment of rights following the refund of all members’ contributions and payments for extra pension made by the member. Regulation 147 provides for extinguishment of rights following the making of a transfer value payment.

- (a) P has reached normal minimum pension age;
  - (b) P has ceased to be in pensionable service under this scheme; and
  - (c) P has claimed payment of a full retirement pension.
- (2) But if P has not reached normal pension age under this scheme, P is not so entitled unless—
- (a) P has at least 2 years' qualifying service;
  - (b) a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P; or
  - (c) the employment of the member was transferred without the member's consent to a new employer and on that transfer the member ceased to be eligible to be an active member of this scheme.
- (3) On becoming entitled to the immediate payment for life of a full retirement earned pension, P is entitled to the immediate payment for life of a full retirement added pension of any description as follows—
- (a) for an active member who becomes a pensioner member, if the full retirement account specifies an amount of full retirement added pension of that description;
  - (b) for a deferred member who becomes a pensioner member, if the deferred member's account specifies a provisional amount of the relevant deferred added pension.
- (4) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in a form required by the scheme manager.
- (5) A claim for a full retirement pension to be paid before P reaches normal pension age under this scheme must state if any of the following applies—
- (a) P has opted to buy out the early payment reduction;
  - (b) P has exercised an effective pension age option;
  - (c) P has exercised an enhanced effective pension age option.
- (6) In this regulation, "relevant deferred added pension" means—
- (a) for a full retirement added (self only) pension, a deferred added (self only) pension;
  - (b) for a full retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

#### **Annual rate of full retirement pension (active members)**

**61.**—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of a full retirement pension payable to the member is calculated by—

- (a) taking the amount of that description of full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

**Annual rate of full retirement pension (deferred members)**

**62.**—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

(4) In this regulation, “the relevant description of deferred pension” means—

- (a) for a full retirement standard earned pension, deferred standard earned pension;
- (b) for a full retirement earned pension attributable to an effective pension age option or an enhanced effective pension age option, deferred earned pension attributable to that option;
- (c) for a full retirement club transfer earned pension, deferred club transfer earned pension;
- (d) for a full retirement added (self only) pension, deferred added (self only) pension; and
- (e) for a full retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

**Full retirement pension ceases to be payable**

**63.**—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

(2) If paragraph (1) applies in relation to a member—

- (a) the scheme manager must—
  - (i) cease to pay the pension; and
  - (ii) recover any payment of pension or lump sum made;
- (b) the full retirement account must be closed; and
- (c) the active member’s account must be re-established under Part 5 (pension accounts) and treated as if it had never been closed.

## CHAPTER 3

### Partial retirement benefits

#### **Exercise of partial retirement option**

**64.**—(1) This regulation applies if—

- (a) a person (P) is an active member of this scheme in relation to a continuous period of pensionable service;
- (b) P has reached normal minimum pension age;
- (c) the terms on which P is employed have changed and as a result of that change the annual rate of P’s permanent pensionable earnings is reduced to 80% of their amount before the change or less; and
- (d) P would be entitled to the immediate payment of a full retirement pension in relation to that period of service if P left pensionable service and claimed payment of the pension.

(2) P may opt to continue in pensionable service but claim payment of the whole or part only of P’s accrued pensions for the continuous period of pensionable service before P’s pensionable earnings were reduced (“partial retirement option”).

(3) P may not exercise a partial retirement option more than once in relation to a description of accrued pension.

#### **Partial retirement option notice**

**65.**—(1) A partial retirement option may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager (“option notice”); and
- (b) in the 3 months after P’s pensionable earnings are reduced, on a date agreed by the member and the scheme manager.

(2) An option notice must specify—

- (a) whether P claims payment of—
  - (i) the whole of P’s accrued pensions; or
  - (ii) part only of P’s accrued pensions; and
- (b) if P claims payment of part only—
  - (i) the descriptions of accrued pension for which payment is claimed; and
  - (ii) the proportion of each description of accrued pension for which payment is claimed (“option proportion”), which must comply with regulation 66.

#### **Option proportion**

**66.**—(1) A partial retirement option which relates to a description of accrued added pension must relate to all of the descriptions of P’s accrued added pension.

(2) If P claims payment of accrued standard earned pension P must also claim payment of any of P’s accrued added pension.

(3) If P claims payment of P’s accrued added pension P must also claim payment of any accrued standard earned pension.

(4) If P claims payment of part only of P’s accrued pensions, the following are the option proportions of each description of accrued pension which can be claimed—

- (a) 100% of each of the descriptions of P’s accrued pensions for which payment is claimed;
  - (b) an option proportion lower than 100% for one description of accrued pension claimed and 100% for each of the other descriptions of P’s accrued pension claimed.
- (5) For the purposes of paragraph (4)(b), any accrued standard earned pension and accrued added pension claimed is treated together as if it were one description of accrued pension.

**Entitlement to partial retirement pension or full retirement pension**

67. An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of—

- (a) if P claims payment of part only of P’s accrued pensions, a partial retirement pension calculated in accordance with regulation 55; or
- (b) if P claims payment of the whole of P’s accrued pensions, a full retirement pension calculated in accordance with regulation 52.

**Annual rate of partial retirement pension**

68.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of part only of P’s accrued pensions.

(2) The annual rate of each description of partial retirement pension is calculated under regulation 61 by reference to the amount of each description of full retirement pension specified in the full retirement account.

(3) Regulation 61 applies as if—

- (a) the reference to a full retirement pension were a reference to a partial retirement pension; and
- (b) the reference to the full retirement account were a reference to the partial retirement account.

**Annual rate of full retirement pension**

69.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of the whole of P’s accrued pensions.

(2) The annual rate of each description of full retirement pension is calculated under regulation 61 by reference to the amount of that description of full retirement pension specified in the full retirement account.

(3) Regulation 61 applies as if the last day of pensionable service were the day before the day on which the member exercised the partial retirement option.

CHAPTER 4

Ill-health benefits

**Meaning of “permanent breakdown in health”**

70. For the purpose of these Regulations, a member’s breakdown in health is “permanent” if the scheme medical adviser is of the opinion that the breakdown will continue until the member reaches prospective normal pension age.

**Meaning of “incapacity for employment” and “total incapacity for employment”**

71. For the purpose of these Regulations—

- (a) a member’s breakdown in health involves “incapacity for employment” if the scheme medical adviser is of the opinion that, as a result of the breakdown, the member is incapable of doing the member’s own or a comparable job; and
- (b) a member’s breakdown in health involves “total incapacity for employment” if the scheme medical adviser is of the opinion that, as a result of the breakdown—
  - (i) the member is incapable of doing the member’s own or a comparable job; and
  - (ii) the member is incapable of gainful employment.

#### **Meaning of “lower tier payment threshold”**

72. An active member of this scheme meets the lower tier threshold for payment of an ill-health pension (“lower tier payment threshold”) if—

- (a) the member’s breakdown in health involves incapacity for employment; or
- (b) the member is partially retired, the member’s breakdown in health involves total incapacity for employment.

#### **Meaning of “upper tier payment threshold”**

73. An active member of this scheme meets the upper tier threshold for payment of an ill-health pension (“upper tier payment threshold”) if—

- (a) the member is not partially retired; and
- (b) the member’s breakdown in health involves total incapacity for employment.

#### **Entitlement to ill-health pension**

74.—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to the immediate payment of an ill-health pension under this scheme, in accordance with the provisions of this Chapter, if the conditions in paragraph (2) are met.

- (2) The conditions are—
  - (a) the member or the member’s employer has claimed payment of an ill-health pension;
  - (b) the scheme medical adviser—
    - (i) is of the opinion that the member has suffered a permanent breakdown in health involving incapacity for employment or total incapacity for employment; and
    - (ii) gives the scheme manager and the employer a certificate stating that opinion (“ill-health retirement certificate”);
  - (c) the member has at least 2 years’ qualifying service; and
  - (d) the employer agrees that the member is entitled to retire on ill-health grounds.
- (3) If the member meets the lower tier payment threshold, a lower tier earned pension is payable in respect of the member’s continuous period of pensionable service.
- (4) If the member meets the upper tier payment threshold—
  - (a) a lower tier earned pension is payable in respect of the member’s continuous period of pensionable service; and
  - (b) an upper tier top up earned pension is payable in respect of the period that begins when the member becomes entitled to the immediate payment of an ill-health pension and ends when the member reaches prospective normal pension age.
- (5) A full retirement added pension of any description is payable with a lower tier earned pension if the full retirement account specifies an amount of full retirement added pension of that description.

### **Provisional award of ill-health pension**

**75.**—(1) This regulation applies if the scheme medical adviser is unable to form an opinion on the following matters—

- (a) whether a member (P) has suffered a permanent breakdown in health involving incapacity for employment or total incapacity for employment;
  - (b) whether P's breakdown in health involves—
    - (i) incapacity for employment; or
    - (ii) total incapacity for employment.
- (2) The scheme medical adviser may recommend that—
- (a) for a period specified in the recommendation (being a period of not more than 5 years), P is taken to have suffered a permanent breakdown in health involving whichever of the following is specified in the recommendation—
    - (i) incapacity for employment; or
    - (ii) total incapacity for employment; and
  - (b) P's case should be reviewed by the scheme medical adviser at the end of the period specified in the recommendation.
- (3) If the scheme manager agrees to the recommendation—
- (a) the scheme manager must determine if P meets the lower tier payment threshold or the upper tier payment threshold; and
  - (b) P is entitled to the immediate payment of—
    - (i) an ill-health pension in accordance with regulation 74; and
    - (ii) any full retirement added pension payable with it.
- (4) At the end of the period specified in the recommendation—
- (a) the scheme medical adviser must give the scheme manager an opinion on the matter to which the recommendation related; and
  - (b) regulation 74 applies to P accordingly, subject to paragraph (5).
- (5) If as a result of the opinion P ceases to be entitled to payment of a lower tier earned pension, an upper tier top up earned pension or a full retirement added pension, that pension continues to be payable for a period of 3 months beginning with the date of the opinion.

### **Annual rate of ill-health pension**

- 76.**—(1) The annual rate of ill-health pension is calculated as follows—
- (a) the annual rate of lower tier earned pension is calculated in the same way as the annual rate of full retirement earned pension<sup>(2)</sup> is calculated under regulation 61, but without subtracting the early payment reduction;
  - (b) the annual rate of upper tier top up earned pension is calculated in the same way as the annual rate of full retirement earned pension is calculated under regulation 61, but—
    - (i) the references to the member's full retirement earned pension are taken to be references to the enhancement fraction of the earnings-related part of that pension; and
    - (ii) the early payment reduction is not subtracted.

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(2) Regulation 35 provides for the calculation of an amount of accrued earned pension. This amount forms the basis for determining the amount of full retirement earned pension under regulation 52. The annual rate of full retirement earned pension in relation to active members is calculated under regulation 61.

(2) The annual rate of any full retirement added pension payable with a lower tier earned pension is calculated in the same way as it is calculated under regulation 61, but without subtracting the early payment reduction.

(3) In this regulation—

“the earnings-related part”, in relation to the member’s full retirement earned pension, means the proportion of that pension not attributable to an amount of transferred pension;

“the enhancement fraction” is—

$$\frac{A}{B}$$

where—

*A* is the member’s assumed period of pensionable service (expressed in years); and

*B* is the shorter of—

- (a) the member’s period of service (expressed in years); and
- (b) the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account;

“the member’s assumed period of pensionable service” means the period (expressed in years) —

- (a) beginning with the day after the member’s period of service ceased; and
- (b) ending with—
  - (i) for a member employed for a fixed term, the day with which that term ends; or
  - (ii) for a member otherwise employed, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age); and

“period of service” means a continuous period of pensionable service under this scheme.

### **Periodical review of entitlement to upper tier top up earned pension**

**77.**—(1) This regulation applies in relation to a member of this scheme (P) who meets the upper tier payment threshold.

(2) The scheme medical adviser—

- (a) must periodically review whether, as a result of P’s breakdown in health, P remains incapable of gainful employment; and
- (b) after carrying out a review, must give an opinion on that matter to the scheme manager.

(3) A review must be carried out—

- (a) at any time the scheme manager directs; and
- (b) in any event—
  - (i) before the fifth anniversary of the day on which P became entitled to the pension; and
  - (ii) subsequently at intervals not exceeding 5 years.

(4) A review is not required after the member reaches normal pension age under this scheme.

(5) P ceases to be entitled to an upper tier top up earned pension—

- (a) at the end of the period of 3 months beginning with the date on which the scheme medical adviser, after carrying out a review, gives an opinion that P is no longer incapable of gainful employment; or
- (b) if earlier, the day on which P returns to service in a scheme employment.



### **Deferment of accrued earned pension attributable to a transfer payment**

- 78.**—(1) This regulation applies in relation to a member of this scheme—
- (a) who is entitled to an ill-health pension; and
  - (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued earned pension attributable in whole or in part to a transfer payment received by this scheme in relation to the member in the 24 months before that last day.
- (2) If the scheme manager so directs, the member becomes a deferred member of this scheme in respect of that amount of accrued earned pension and accordingly—
- (a) a deferred member’s account must be established under Part 5 (pension accounts);
  - (b) that amount of accrued earned pension must be specified in the deferred member’s account as the provisional amount of deferred earned pension; and
  - (c) that amount of accrued earned pension is not included in the calculation of the annual rate of full retirement earned pension.

### **Deferment of added pension attributable to recent payments**

- 79.**—(1) This regulation applies in relation to a member of this scheme—
- (a) who is entitled to payment of an ill-health pension; and
  - (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 1 within the 12 months before the relevant day.
- (2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—
- (a) a deferred member’s account must be established under Part 5 (pension accounts);
  - (b) that amount of accrued added pension must be specified in the deferred member’s account as the provisional amount of the relevant description of deferred added pension; and
  - (c) that amount of accrued added pension is not included in the calculation of the annual rate of full retirement added pension payable with the lower tier earned pension.
- (3) In paragraph (1), “the relevant day” means—
- (a) the day on which the member’s employer first asked the scheme medical adviser for the opinion mentioned in regulation 74(2)(b) by virtue of which the member is entitled to payment of the ill-health pension; or
  - (b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.

## **CHAPTER 5**

### **Payment options**

#### **Options under this Chapter**

- 80.** The options under this Chapter are—
- (a) the option under regulation 82 to buy out the early payment reduction;
  - (b) the option under regulation 83 to defer payment of a full retirement added pension;
  - (c) the option under regulation 84 (option to commute part of pension) to exchange part of a retirement pension for a lump sum;

- (d) the option under regulation 85 to exchange the whole of the member's accrued pensions for a lump sum.

### **Exercising an option under this Chapter**

**81.**—(1) A member may exercise an option under this Chapter by notice to the scheme manager in any form the scheme manager requires.

(2) In this Chapter, “option notice” means a notice by which a member exercises an option under this Chapter.

### **Option to buy out early payment reduction**

**82.**—(1) This regulation applies if—

- (a) a member of this scheme becomes entitled under Chapter 2 or 3 to the immediate payment of a full retirement pension or a partial retirement pension; and
- (b) the member has not reached—
  - (i) normal pension age under this scheme; or
  - (ii) if applicable, the member's effective pension age or enhanced effective pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of retirement pension.

(3) The cost must be met by way of a special payment to this scheme made by—

- (a) the member;
- (b) the member's employer (“the employer”); or
- (c) both the member and the employer.

(4) The employer may make a special payment using a lump sum payable to the member under a compensation scheme.

(5) Any special payment by the employer must be made—

- (a) in accordance with the compensation scheme; or
- (b) with the consent of the Minister.

(6) If the employer makes a special payment under paragraph (5)(a)—

- (a) the lump sum payable to the member under the compensation scheme is reduced by the amount of the special payment; and
- (b) if the amount of the special payment is more than the whole of the lump sum payable to the member under the compensation scheme, any difference is not chargeable to the member.

(7) The cost of buying out the early payment reduction is an amount determined by the scheme manager after consulting the scheme actuary.

### **Option to defer payment of added pension**

**83.**—(1) This regulation applies if a member of this scheme—

- (a) becomes entitled to the immediate payment of a full retirement added pension of any description; and
- (b) has not reached normal pension age under this scheme.

(2) The member may opt under this regulation to defer payment of the full retirement added pension of that description.

(3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the full retirement added pension of that description and accordingly—

- (a) a deferred member’s account must be established under Part 5 (pension accounts); and
- (b) the amount of full retirement added pension of that description must be specified in the deferred member’s account as the provisional amount of deferred added pension of that description.

(4) The member is entitled to payment of the full retirement added pension of that description when the member gives notice to the scheme manager, in any form the scheme manager requires, that the member wishes to take that full retirement added pension.

(5) The annual rate of full retirement added pension is calculated in accordance with regulation 62.

### **Option to commute part of pension**

**84.**—(1) A member who becomes entitled to the immediate payment of a retirement pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member’s annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of FA 2004 (see section 241 of that Act<sup>(3)</sup>).

(5) If paragraph (6) applies, the member may opt to exchange only so much of the pension (after subtracting the allocation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 14 (earner’s guaranteed minimum) of PSA 1993<sup>(4)</sup> in relation to the whole or part of a pension as a result of the receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

### **Option to commute whole of member’s accrued pensions (serious ill-health)**

**85.**—(1) This regulation applies in relation to an active member or deferred member of this scheme whom the scheme medical adviser certifies has a life-expectancy of less than 12 months.

(2) The member may opt under this regulation to exchange the whole of the member’s accrued pensions for a lump sum.

(3) An option under this regulation (“this option”) may only be exercised before the first payment of the pension is made.

(4) The lump sum payable to the member is an amount equal to—

$$(A+B+C) \times 5$$

where—

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(3) Section 241 was amended by the Finance Act 2006 (c.25) Schedule 21 paragraphs 2 and 9, the Finance Act 2007 (c.11) Schedule 19 paragraphs 1 and 15 and the Finance Act 2011 (c.11) Schedule 16 paragraphs 62 and 74.

(4) Section 14 was amended by the Pensions Act 1995 (c. 26) Schedule 5 paragraph 27 and Schedule 7 Part 3, the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2) Schedule 1 paragraph 38 and the Proceeds of Crime Act 2002 (c. 29) Schedule 11 paragraphs 1 and 22.

*A* means the total annual amount of full retirement pension;

*B* means the total annual amount of partial retirement pension; and

*C* means the total annual amount of ill-health pension.

- (5) For the purpose of paragraph (4), “total annual amount” means—
- (a) in relation to a full retirement pension or partial retirement pension to which the member would be entitled apart from this option, the sum of—
    - (i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date the option is exercised, but without subtracting the early payment reduction (if any); and
    - (ii) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date; and
  - (b) in relation to an ill-health pension, the sum of—
    - (i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date when payment would first be due, but without subtracting the early payment reduction (if any); and
    - (ii) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date.
- (6) The lump sum must be paid to the member as soon as is reasonably practicable after this option is exercised.

## CHAPTER 6

### Allocation of part of pension

#### Allocation election

**86.**—(1) This regulation applies in relation to a full retirement earned pension or a partial retirement earned pension payable in respect of a member’s pensionable service under this scheme.

(2) The member may elect to allocate part of the retirement pension to a beneficiary (“allocation election”).

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

- (a) the member’s spouse or civil partner;
- (b) financially wholly or mainly dependent on the member; or
- (c) financially interdependent with the member.

(4) If the member wishes to allocate pension to more than one beneficiary, the member must make a separate allocation election in respect of each beneficiary.

(5) If paragraph (6) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 14 (earner’s guaranteed minimum) of PSA 1993 in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

### **Restriction on total amount of pension that may be allocated**

**87.**—(1) The sum of the following must not exceed an amount equal to the annual rate of retirement pension that would be payable to the member (P)—

- (a) the total amount of retirement pension allocated under this regulation (“total allocation amount”); and
- (b) the annual rate of surviving adult’s pension that would be payable on P’s death.

(2) In determining whether the restriction in paragraph (1) is met, it is assumed that—

- (a) P will have become a pensioner member before P’s death;
- (b) P will exercise the commutation option so as to exchange for a lump sum the maximum amount possible of the whole of P’s accrued pensions;
- (c) P’s spouse or civil partner status will not change before P dies;
- (d) all of P’s beneficiaries will survive P; and
- (e) any beneficiary who would have been P’s dependant for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions – supplementary) to FA 2004(5) will be such a dependant when P dies.

(3) If at the time an allocation election is made it would result in the restriction in paragraph (1) not being met, the scheme manager may treat the election (or each of the elections) as allocating a smaller amount that would result in the election (or the elections taken together) complying.

### **Making an allocation election**

**88.**—(1) If requested by a member (P), the scheme manager must advise P of the last day on which P may make an allocation election.

(2) An allocation election may only be made—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the election closing date.

(3) An allocation election must—

- (a) specify the amount of retirement pension to be allocated;
- (b) name the beneficiary;
- (c) be accompanied by a declaration in a form required by the scheme manager stating that—
  - (i) P is in good health; and
  - (ii) the beneficiary is a person who meets the conditions set out in regulation 86(3); and
- (d) be accompanied by a certificate from the scheme medical adviser giving the opinion that P is in good health.

(4) Before the election closing date, the member may, by notice to the scheme manager in a form required by the scheme manager—

- (a) revoke the election; or
- (b) amend the election by altering the amount of retirement pension to be allocated.

(5) Unless paragraph (6) or (7) applies, the election takes effect on the election closing date.

(6) An allocation election has no effect unless the scheme manager is satisfied that when P made the election the matters stated in the declaration were true.

(7) An allocation election has no effect if P or the beneficiary dies before the election closing date.

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(5) Paragraph 15(3) was amended by [S.I. 2005/3229](#).

- (8) In this regulation, “election closing date” means the earlier of—
- (a) the date advised by the scheme manager under paragraph (1); or
  - (b) the day before the pension becomes payable.

### **Effect of allocation election**

- 89.**—(1) If an allocation election takes effect—
- (a) the member’s pension is reduced accordingly (and this reduction applies even if the beneficiary predeceases the member); and
  - (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life (“allocated pension”) of an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to—
    - (i) the amount of retirement pension allocated under the election, and
    - (ii) the beneficiary’s age and gender.
- (2) The scheme manager may withhold payment from the beneficiary if—
- (a) the member dies before the end of the period of 2 years beginning with the date on which the election takes effect; and
  - (b) the scheme manager is satisfied that the member made a false declaration about the member’s state of health when making the election.
- (3) An allocation election in relation to a retirement pension has no effect if it would result in an allocated pension being paid—
- (a) on the member becoming entitled to the retirement pension, to a person who is not—
    - (i) the member’s spouse or civil partner;
    - (ii) financially wholly or mainly dependent on P; or
    - (iii) financially interdependent with P;
  - (b) on the death of the member, to a person who is not—
    - (i) the member’s surviving adult; or
    - (ii) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions – supplementary) to FA 2004.

### **Adjustment of allocated benefit (members who have reached the age of 75)**

- 90.**—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—
- (a) the member who made the allocation dies after reaching the age of 75; and
  - (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants’ scheme pension under section 167 (the pension death benefit rules) of FA 2004(6).
- (2) In this regulation, “allocated pension” has the meaning given in regulation 89(1)(b).

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(6) Section 167 was amended by the Finance Act 2007 (c. 11) Schedule 20 paragraph 22 and the Finance Act 2011 (c. 11) Schedule 16 paragraph 11. See also Part 2 of Schedule 28 to that Act for the meaning of expressions used in section 167.