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STATUTORY INSTRUMENTS

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**2014 No. 512**

**PUBLIC SERVICE PENSIONS,  
ENGLAND AND WALES  
EDUCATION, ENGLAND AND WALES**

**The Teachers' Pension Scheme Regulations 2014**

*Made - - - - 5th March 2014*  
*Laid before Parliament 7th March 2014*  
*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1)(1), (2)(d)(2), (3) and (4), 2(3), 3(1), (2), (3)(a) and (c) and (4), 4(1) and (3)(4), 5(1), (2) and (4)(5), 7(1) and (4)(6), 8(1)(a) and (2)(a), 14, 18(1), (2), (4)(b) and (5) to (9)(7) and paragraph (c) of the definition of “employer” in section 37, and paragraph 4 of Schedule 1, paragraph 4(a) of Schedule 2, Schedule 3, paragraph 18 of Schedule 5, paragraph 6 of Schedule 6, and paragraphs 1(2)(ii), 2(2)(ii) and 5 of Schedule 7 to the Public Service Pensions Act 2013(8).

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

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- (1) See section 1(4) of the Act for the meaning of “scheme regulations”.  
(2) See paragraph 4 of Schedule 1 to the Act for the meaning of “teachers”.  
(3) See section 2(2) of the Act for the meaning of “responsible authority”.  
(4) See section 4(2) of the Act for the meaning of “scheme manager”. See section 4(6) of the Act for the meaning of a connected statutory pension scheme.  
(5) See section 5(8) of the Act for the meaning of “pension board”.  
(6) See section 8(4) of the Act for the meaning of “career average revalued earnings scheme”.  
(7) See section 18(2) of, and paragraph 18 of Schedule 5 to, the Act for the meaning of the existing scheme.  
(8) [2013 c.25](#).

## PART 1

### Preliminary

#### Citation, extent and commencement

1. (1) These Regulations—
  - (a) may be cited as the Teachers’ Pension Scheme Regulations 2014; and
  - (b) extend to England and Wales.
- (2) These Regulations come into force as follows—
  - (a) this Part and Part 2 come into force on 1st April 2014;
  - (b) the remaining provisions come into force on 1st April 2015.

#### Establishment of Teachers’ Pension Scheme 2014

2. (1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of teachers in England and Wales.
- (2) For the purpose of these Regulations, a person in an eligible employment is a teacher.
- (3) This scheme is to be known as the Teachers’ Pension Scheme 2014.

#### Interpretation

3. In these Regulations—
  - “the Act” means the Public Service Pensions Act 2013;
  - “EA 2002” means the Education Act 2002(9);
  - “FA 2004” means the Finance Act 2004(10);
  - “PA 1995” means the Pensions Act 1995(11);
  - “PA 2008” means the Pensions Act 2008(12);
  - “PIA 1971” means the Pensions (Increase) Act 1971(13);
  - “PSA 1993” means the Pension Schemes Act 1993(14);
  - “WRPA 1999” means the Welfare Reform and Pensions Act 1999(15);
  - “accepted member” has the meaning given in Part 1 of Schedule 1;
  - “accrual rate” means the fraction of pensionable earnings that accrue as earned pension for a financial year;
  - “accrued additional pension”—
    - (a) for the purpose of a full retirement pension, has the meaning given in regulation 46;
    - (b) for the purpose of a phased retirement pension, has the meaning given in regulation 47;
  - “accrued club transfer earned pension”—
    - (a) for the purpose of a full retirement pension, has the meaning given in regulation 46;

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(9) 2002 c.32.  
(10) 2004 c.12.  
(11) 1995 c.26.  
(12) 2008 c.30.  
(13) 1971 c.56.  
(14) 1993 c.48.  
(15) 1999 c.30.

- (b) for the purpose of a phased retirement pension, has the meaning given in regulation 47; “accrued earned pension”—
- (a) for the purpose of a full retirement pension, has the meaning given in regulation 46;
- (b) for the purpose of a phased retirement pension, has the meaning given in regulation 47; “accrued pension” means—
- (a) accrued earned pension;
- (b) accrued club transfer earned pension (if any); and
- (c) accrued additional pension (if any);
- “accrued rights” does not include a right to benefits attributable (directly or indirectly) to a pension credit;
- “active member”, in relation to this scheme, means a person who is in pensionable service under this scheme;
- “active member’s account” has the meaning given in regulation 50;
- “actuarial”, in relation to a calculation or value, means determined by, or in accordance with tables or guidance prepared by, the scheme actuary;
- “actuarial adjustment” has the meaning given in Chapter 7 of Part 4;
- “additional paternity leave” has the meaning given in regulation 2(1) of the Additional Paternity Leave Regulations 2010(16);
- “additional pension” means—
- (a) additional (self only) pension; or
- (b) additional (surviving adult) pension;
- “additional pension account” has the meaning given in Chapter 5 of Part 4;
- “additional pension contributions” has the meaning given in Part 1 of Schedule 2;
- “additional pension election” has the meaning given in Part 1 of Schedule 2;
- “additional (self only) pension” means an additional pension payable to a pensioner member;
- “additional (surviving adult) pension” means an additional pension payable to the member’s surviving adult after the member has died;
- “adoption leave” has the meaning given in regulation 2(1) of the Paternity and Adoption Leave Regulations 2002(17);
- “age retirement pension” means a pension payable under Chapter 2 of Part 5;
- “amount of credited pension” has the meaning given in regulation 80(3);
- “annual amount of pensionable earnings”, in relation to any year, means the amount of pensionable earnings payable in that year;
- “annual rate of pensionable earnings” means—
- (a) for a member who is in pensionable service in relation to one full-time employment only, the annual rate of pensionable earnings for that employment;
- (b) for a member who is in pensionable service in relation to one part-time employment only, the annual rate of pensionable earnings that would be payable if that employment were a full-time employment;

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(16) S.I. 2010/1055.

(17) S.I. 2002/2788.

- (c) for a member who is in pensionable service in relation to one irregular employment only, the annual rate of pensionable earnings that would be payable if that employment were a full-time employment; and
- (d) for a member who is in pensionable service in relation to more than one employment, the member's full-time equivalent annual rate of pensionable earnings calculated under Chapter 5 of Part 3;

“appropriate factor”, in relation to a person, means a factor determined by the scheme actuary;

“balance of contributions” means the amount of contributions repayable under regulation 189;

“buy-out contributions” has the meaning given in Part 1 of Schedule 2;

“cash transfer sum” has the meaning given in section 101AB of PSA 1993(18);

“child pension” means a pension payable under regulation 149;

“club scheme” means a registered occupational pension scheme (other than a connected scheme) that has agreed to make and receive transfer value payments under the club transfer arrangements;

“club transfer” means a transfer to or from this scheme under the club transfer arrangements;

“club transfer arrangements” means arrangements approved by the scheme manager as providing reciprocal arrangements between this scheme and other registered occupational pension schemes for making and receiving transfer value payments;

“club transfer earned pension” means pension attributable to the receipt of a club transfer value;

“club transfer value”, in relation to earned pension accrued under this scheme or under another club scheme, has the meaning given in Part 10 (transfers);

“conversion amount” has the meaning given in regulation 75;

“connected scheme” has the meaning given in regulation 4;

“continuity of service”, in relation to a transition member, has the meaning given in Part 1 of Schedule 3;

“contributions equivalent premium” means a premium under section 55(2) of PSA 1993;

“contracting scheme employer” has the meaning given in Part 1 of Schedule 1;

“death grant” means a death grant under Part 6;

“deferred member”, in relation to this scheme, means a person (other than an active member or pensioner member of this scheme) who has accrued rights under this scheme;

“deferred member's account” has the meaning given in Chapter 6 of Part 4;

“dual capacity member” has the meaning given in regulation 21;

“early retirement pension” means a pension payable under regulation 104;

“earned pension” means pension calculated by reference to a member's pensionable earnings;

“eligible child” has the meaning given in regulation 137;

“eligible employment” has the meaning given in Part 3;

“employed” means employed under a contract of employment;

“employer”, for a person employed by the governing body of a school maintained by a local authority, means—

- (a) the local authority; or

(b) for the purpose of an additional pension election, the local authority and the governing body;

“employment” means employment under a contract of employment;

“entitlement day”, in relation to a benefit payable under a Chapter in Part 5, has the meaning given in that Chapter;

“existing club transfer arrangements” means arrangements approved by the scheme manager of the existing scheme as providing reciprocal arrangements between the existing scheme and other existing club schemes for making and receiving transfer value payments;

“existing Fair Deal arrangements” has the meaning given in Part 1 of Schedule 3;

“an existing club scheme” means a registered occupational pension scheme which belonged to the transfer club on the scheme closing date;

“an existing scheme” means an existing scheme as defined in section 18(2) of the Act;

“the existing scheme” means the scheme constituted by regulations made under section 9 of the Superannuation Act 1972(19) (whether made before or after the coming into force of these Regulations);

“Fair Deal transfer” has the meaning given in Part 1 of Schedule 1;

“Fair Deal transfer date” has the meaning given in Part 1 of Schedule 1;

“faster accrual contributions” has the meaning given in Part 1 of Schedule 2;

“faster accrual earned pension”, in relation to a financial year, means the amount of earned pension calculated by applying the faster accrual rate to the member’s pensionable earnings for that year;

“faster accrual election” has the meaning given in Part 1 of Schedule 2;

“financial year” means the 12 months ending with 31st March in any year;

“full retirement additional pension” has the meaning given in regulation 70;

“full retirement earned pension” has the meaning given in regulation 69;

“full retirement pension” means—

(a) a full retirement earned pension; and

(b) a full retirement additional pension (if any);

“full-time”, in relation to employment, has the meaning given in regulation 16(a);

“function provider” has the meaning given in Part 1 of Schedule 1;

“GMP age” means 65 in the case of a man or 60 in the case of a woman;

“guaranteed minimum” means a guaranteed minimum under section 14 of PSA 1993;

“guaranteed minimum pension” has the meaning given in section 8(2) of PSA 1993;

“ill-health pension” means a pension payable under regulation 110;

“ill-health retirement benefits” means—

(a) an ill-health pension; and

(b) a lump sum payable under regulation 168 in place of part of that pension;

“incapacitated” has the meaning given in Chapter 6 of Part 5 (ill-health retirement);

“index adjustment” means—

(a) in relation to the opening balance of earned pension for any financial year (other than the opening balance of club transfer earned pension), means the percentage increase or

decrease in prices specified in the Treasury order for the previous financial year, plus 1.6%; and

- (b) in relation to the opening balance of club transfer earned pension for any financial year, means the adjustment that would apply to the opening balance of that amount of earned pension under the sending scheme for the previous financial year;

“initial payment” has the meaning given in regulation 164 or 165;

“last active financial year” has the meaning given in regulation 46;

“last day of pensionable service”, in relation to a member, means the day on which a member leaves all pensionable service;

“leaver index adjustment” has the meaning given in Chapter 1 of Part 4;

“leaver PIA index adjustment” has the meaning given in Chapter 1 of Part 4;

“local authority” means—

- (a) a county council,
- (b) a metropolitan district council,
- (c) a non-metropolitan district council for an area for which there is no county council,
- (d) a county borough council (in Wales),
- (e) a London borough council,
- (f) the Common Council of the City of London,
- (g) the Council of the Isles of Scilly;

“maternity leave” means ordinary maternity leave or additional maternity leave within the meaning of the Maternity and Parental Leave etc. Regulations 1999<sup>(20)</sup>;

“member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member;

“members’ contributions” means contributions payable under regulation 185(1) on pensionable earnings;

“members’ contributions rate” has the meaning given in regulation 185;

“non-pensionable family leave” means a period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave during which the employee—

- (a) does not receive any statutory pay; and
- (b) is not paid a salary or is paid less than half the salary;

“non-pensionable sick leave” means a period of sick leave taken by an employee with the consent of the employer, during which the employee—

- (a) does not receive any statutory pay; and
- (b) is not paid a salary or is paid less than half the employee’s salary;

“normal minimum pension age” has the same meaning as in section 279(1) of FA 2004;

“normal pension age”—

- (a) in relation to this scheme, is determined in accordance with section 10 of the Act; and
- (b) in relation to the existing scheme, has the meaning given in that scheme;

“occupational pension scheme” has the meaning given in section 1 of PSA 1993;

“opening balance”, in relation to earned pension or transferred pension, has the meaning given in regulation 54;

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(20) S.I. 1999/3312, to which there are amendments not relevant to these Regulations.

- “opening balance”, in relation to additional pension, has the meaning given in regulation 59;
- “parental leave” means leave within the meaning of Part 3 of the Maternity and Parental Leave etc. Regulations 1999;
- “Participation Agreement” has the meaning given in Part 1 of Schedule 1;
- “part-time”, in relation to employment, has the meaning given in regulation 16(b);
- “paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(21);
- “pay order” means an order under section 122 of EA 2002, for the time being in force and includes any document referred to in such an order;
- “pay period”, in relation to the payment of a member’s pensionable earnings, means the period in respect of which the payment is made;
- “pension credit” has the meaning given in Chapter 1 of Part 7 (benefits for pension credit members);
- “pension credit member” has the meaning given in Chapter 1 of Part 7;
- “pension credit member’s account” has the meaning given in regulation 80;
- “pension credit retirement pension” has the meaning given in Chapter 1 of Part 7;
- “pension debit member” has the meaning given in Chapter 1 of Part 7;
- “pensionable earnings” has the meaning given in Chapter 4 of Part 3;
- “pensioner member”, in relation to this scheme, means a person who is entitled to payment of a retirement pension under this scheme;
- “pensioner member’s account” has the meaning given in regulation 76;
- “pension-sharing order” means any provision or order specified in section 28 of WRPA;
- “period of permanent service”, in relation to service in the armed forces, has the meaning given in regulation 26;
- “permitted maximum” means the amount determined in accordance with paragraph 2 of Schedule 29 to FA 2004;
- “personal pension scheme” means a personal pension scheme as defined in section 1 of PSA 1993 that is a registered pension scheme;
- “phased retirement application” has the meaning given in Chapter 3 of Part 5;
- “phased retirement additional pension” has the meaning given in regulation 72;
- “phased retirement earned pension” has the meaning given in regulation 71;
- “phased retirement pension” means—
- (a) a phased retirement earned pension; and
  - (b) a phased retirement additional pension (if any);
- “phased retirement proportion” means the proportion of accrued earned pension specified in a phased retirement application;
- “PIA index adjustment”, in relation to the opening balance of additional pension for any financial year, means the amount by which the annual rate of a pension of an amount equal to the opening balance would have been increased in that year under PIA 1971 if—
- (a) that pension were eligible to be so increased; and
  - (b) the beginning date for that pension were the first day of the previous financial year;

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(21) S.I. 2002/2788.

- “post-benefit service” has the meaning given in regulation 83(3);
- “premature retirement pension” means a pension payable under regulation 101;
- “prospective normal pension age”, in relation to a member’s prospective entitlement to benefits under this scheme, means the normal pension age that the scheme manager determines (by reference to Treasury directions made under section 11(2) of the Act) would apply in relation to those benefits;
- “protected member” has the meaning given in Part 1 of Schedule 3;
- “public service scheme” means a scheme under section 1 of the Act;
- “qualified”, in relation to retirement benefits payable under this scheme, has the meaning given in regulation 82;
- “registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 of FA 2004;
- “re-qualified”, in relation to retirement benefits payable under this scheme, has the meaning given in regulation 83;
- “retirement benefits” means—
- (a) a retirement pension; and
  - (b) any lump sum payable under regulation 168 in place of part of that pension;
- “retirement pension” means—
- (a) an age retirement pension;
  - (b) a phased retirement pension;
  - (c) a premature retirement pension;
  - (d) an early retirement pension;
  - (e) an ill-health pension;
  - (f) a total incapacity pension;
- “salary” means gross salary payable under a contract of employment;
- “this scheme” means the scheme established by these Regulations;
- “scheme actuary” means the person appointed by the scheme manager for the time being to provide a consulting service on actuarial matters;
- “scheme closing date” has the meaning given in Part 1 of Schedule 3;
- “scheme manager” has the meaning given in Part 2;
- “sending scheme” means a pension scheme which pays a transfer value or a club transfer value;
- “short-service serious ill-health grant” means a grant payable under Chapter 7 of Part 5;
- “standard accrual rate”, in relation to a member’s pensionable earnings, means 1/57th;
- “standard earned pension”, in relation to a financial year, means the amount of earned pension calculated by applying the standard accrual rate to the member’s pensionable earnings for that year;
- “standard increase”, in relation to pensionable earnings, has the meaning given in Chapter 4 of Part 3;
- “standard rate”, in relation to interest, means the Superannuation Contributions Adjusted for Past Experience discount rate set by the Treasury;
- “standard reduction” has the meaning given in Chapter 7 of Part 4;
- “statutory pay” means—



- (a) statutory adoption pay, statutory maternity pay or statutory paternity pay within the meaning of the Social Security Contributions and Benefits Act 1992(22), or
- (b) additional statutory paternity pay within the meaning given in regulation 2(1) of the Additional Statutory Paternity Pay (General) Regulations 2010(23);

“surviving adult” has the meaning given in regulation 134;

“surviving adult pension ” means a pension payable under regulation 142;

“surviving civil partner” means a person who, at the time of a member’s death, was in a civil partnership(24) with the member;

“surviving nominated beneficiary” has the meaning given in regulation 136;

“surviving nominated partner” has the meaning given in regulation 135;

“surviving spouse” means a person who, at the time of a member’s death, was married to the member;

“survivor’s pension” has the meaning given in Chapter 1 of Part 6;

“total incapacity benefits” means—

- (a) a total incapacity pension; and
- (b) a lump sum payable under regulation 168 in place of part of that pension;

“total incapacity pension” means a pension payable under regulation 116;

“transfer club” means the club of registered occupational pension schemes which make and receive transfer value payments under the club transfer arrangements;

“transfer payment” means a transfer value payment or a cash transfer sum made or received by this scheme in relation to a member;

“transfer value”, in relation to accrued rights other than rights to earned pension accrued under this scheme or under another club scheme, has the meaning given in Part 10 (transfers);

“transfer value payment” means—

- (a) the payment of a transfer value or club transfer value under Part 10 (transfers); or
- (b) the payment of a transfer value under Chapter 4 of Part 4 of PSA 1993;

“transferred pension” means pension attributable to the receipt of a transfer value;

“transition member” has the meaning given in Part 4 of Schedule 3;

“the Treasury order”, in relation to a given period, means the Treasury order made under section 9(2) of the Act that specifies a percentage increase or decrease in prices in relation to that period;

“TUPE transfer” means a transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006(25).

## Connected schemes

4. (1) In these Regulations, “connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme.

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(22) 1992 c.4.

(23) S.I. 2010/1056.

(24) See section 1 of the Civil Partnership Act 2004 (c.33) for the meaning of “civil partnership”.

(25) S.I. 2006/246, as amended by S.I. 2014/16.

(2) The scheme established by the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(26) is not a connected scheme.

#### **Leaving pensionable service**

5. (1) For the purpose of these Regulations, a person (P) leaves all pensionable service—
- (a) if P is in pensionable service in relation to one employment only, when P leaves pensionable service in relation to that employment; or
  - (b) if P is in pensionable service in relation to more than one employment, when P leaves pensionable service in relation to all those employments.
- (2) For the purpose of these Regulations, P leaves pensionable service in relation to an eligible employment when—
- (a) P begins a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave in relation to that employment;
  - (b) P opts out of this scheme in relation to that employment; or
  - (c) P leaves that employment.

#### **Leaving eligible employment**

6. (1) For the purpose of these Regulations, a person (P) leaves all eligible employment—
- (a) if P is in one eligible employment only, when P leaves that employment; or
  - (b) if P is in more than one eligible employment, when P leaves all those employments.
- (2) For the purpose of these Regulations—
- (a) P leaves an eligible employment when P ends a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave in relation to that employment and does not return to that employment; but
  - (b) P does not leave an eligible employment unless at least one complete day has passed since P's last day in that employment.

## **PART 2**

### **Governance**

#### **Scheme manager**

7. (1) The Secretary of State is the scheme manager for this scheme and any connected scheme.
- (2) The scheme manager is responsible for managing this scheme and any connected scheme.

#### **Establishment of pension board**

8. (1) A pension board (“the Teachers’ Pension Scheme Pension Board”) is established.
- (2) The Teachers’ Pension Scheme Pension Board is responsible for assisting the scheme manager in relation to securing compliance with—
- (a) these Regulations;

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(26) S.I. 1994/2924; as amended by S.I. 1997/3001, S.I. 2000/666, S.I. 2000/3028, S.I. 2001/3649, S.I. 2005/2198, S.I. 2006/736, S.I. 2006/2214, S.I. 2006/3122, S.I. 2008/541, S.I. 2010/990 and S.I. 2011/614.

- (b) any other legislation relating to the governance and administration of this scheme and any connected scheme; and
  - (c) requirements imposed by the Pensions Regulator in relation to this scheme and any connected scheme.
- (3) The scheme manager is to determine the process by which the Teachers' Pension Scheme Pension Board discharges its functions.

### **Membership of pension board**

9. (1) Subject to paragraph 2, the scheme manager may determine—
- (a) the membership of the Teachers' Pension Scheme Pension Board;
  - (b) the manner in the Teachers' Pension Scheme Pension Board members may be appointed and removed; and
  - (c) the terms of appointment of the Teachers' Pension Scheme Pension Board members.
- (2) The Teachers' Pension Scheme Pension Board is to include equal numbers representing the employers(27) and members.

### **Conflict of interest**

10. (1) The scheme manager must be satisfied that any person to be appointed as a member of the Teachers' Pension Scheme Pension Board does not have a conflict of interest(28).
- (2) The scheme manager must be satisfied from time to time that none of the members of the Teachers' Pension Scheme Pension Board has a conflict of interest.
- (3) A person who is to be appointed as a member of the Teachers' Pension Scheme Pension Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).
- (4) A person who is a member of the Teachers' Pension Scheme Pension Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (2).

### **Establishment of scheme advisory board**

11. (1) A scheme advisory board ("the Teachers' Pension Scheme Advisory Board") is established.
- (2) The Teachers' Pension Scheme Advisory Board is responsible for providing advice to the scheme manager, at the scheme manager's request, on the desirability of changes to this scheme.
- (3) The scheme manager is to determine the process by which the Teachers' Pension Scheme Advisory Board discharges its functions.

### **Membership of scheme advisory board**

12. The scheme manager may determine—
- (a) the membership of the Teachers' Pension Scheme Advisory Board;
  - (b) the manner in which the Teachers' Pension Scheme Advisory Board members may be appointed and removed; and

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(27) See section 37 of the Act for the meaning of "employer".

(28) See section 5(5) of the Act for the meaning of "conflict of interest".

- (c) the terms of appointment of the members of the Teachers' Pension Scheme Advisory Board.

### **Conflict of interest**

**13.** (1) The scheme manager must be satisfied that any person to be appointed as a member of the Teachers' Pension Scheme Advisory Board does not have a conflict of interest.

(2) The scheme manager must be satisfied from time to time that none of the members of the Teachers' Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is to be appointed as a member of the Teachers' Pension Scheme Advisory Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of the Teachers' Pension Scheme Advisory Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (2).

## **PART 3**

### **Scheme membership**

#### **CHAPTER 1**

##### **Interpretation**

### **Meaning of “an eligible employment”**

**14.** An eligible employment is an employment mentioned in Part 2, 3 or 4 of Schedule 1.

### **Meaning of “P’s automatic enrolment date” and “P’s automatic re-enrolment date”**

**15.** For the purpose of this Part—

- (a) “P’s automatic enrolment date” is the date on which section 3 of PA 2008 applies to a person (P) in relation to P’s eligible employment; and
- (b) “P’s automatic re-enrolment date” is a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010<sup>(29)</sup> in relation to P’s eligible employment.

### **Meaning of “full-time” and “part-time” employment**

**16.** For the purpose of these Regulations—

- (a) an employment is “full-time” if the contract of employment describes it as full-time (whether in those terms or otherwise); and
- (b) an employment is “part-time” if the contract of employment describes it as part-time (whether in those terms or otherwise).

### **Meaning of “irregular employment”**

**17.** (1) For the purpose of these Regulations, an employment is an irregular employment if the contract of employment requires the employee—

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(29) [S.I. 2010/772](#).

- (a) to be available for work for the period specified in the contract of employment, and
  - (b) to undertake and be remunerated for work during that period only when so required by the employer.
- (2) A person in pensionable service in relation to an irregular employment is in pensionable service for the period specified in the contract of employment.

### **Meaning of “opt-out notice” and “opt-in notice”**

18. For the purpose of these Regulations—
- (a) “opt-out notice”, in relation to service in an eligible employment, means a notice under regulation 28 or 31; and
  - (b) “opt-in notice”, in relation to service in an eligible employment, means a notice under regulation 29 or 32.

## CHAPTER 2

### Membership

#### **Eligibility for active membership**

19. (1) A person (P) is eligible to be an active member of this scheme if—
- (a) P is in an eligible employment; and
  - (b) P has reached 16 and has not reached 75.
- (2) P is not eligible to be an active member of this scheme if P is employed in an accepted school in which P has a financial interest.
- (3) In this regulation—
- “a financial interest” does not include the right to receive a salary; and
  - “accepted school” has the meaning given in paragraph 2 of Schedule 1.

#### **More than one employment**

20. A person may be an active member of this scheme in relation to more than one employment.

#### **Dual capacity membership**

21. (1) A person is a dual capacity member of this scheme if the person is a member in 2 or more of the following capacities—
- (a) an active member;
  - (b) a deferred member;
  - (c) a pensioner member.
- (2) In determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person’s rights in that capacity are to be disregarded.
- (3) In determining whether a person who is an active member or a pensioner member is also a deferred member, the fact that the person is an active member or a pensioner member and the person’s rights in that capacity are to be disregarded.

## **Payment of retirement benefits to dual capacity members**

**22.** Retirement benefits under this scheme are payable to a dual capacity member as if the member were 2 or more members and the amounts payable are determined accordingly<sup>(30)</sup>.

### CHAPTER 3

#### Pensionable service

#### SECTION 1

##### *General provisions*

### **Service not pensionable unless member is entitled to pay**

**23.** (1) A person (P) in an eligible employment is not in pensionable service in relation to that employment unless P is entitled to be paid—

- (a) P's salary in respect of that employment;
- (b) if P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave—
  - (i) at least half P's salary in respect of that employment; or
  - (ii) statutory pay; or
- (c) if P is on sick leave, at least half P's salary in respect of that employment.

(2) P is not in pensionable service in relation to an employment during a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave from that employment.

### **Service not pensionable unless members' contributions are paid**

**24.** (1) The scheme manager may decide that a period of service in respect of which members' contributions are not paid is not a period of pensionable service if—

- (a) the scheme manager has sent the member a demand under regulation 194 ("the demand") in respect of those contributions; and
- (b) within 3 years after the date of the demand, the member has not paid the whole of the amount and interest stated in the demand.

(2) The period of service is not a period of pensionable service if the scheme manager—

- (a) gives the member written notice to that effect; and
- (b) repays the member any amount paid in part satisfaction of the demand.

#### SECTION 2

##### *Service in Her Majesty's armed forces*

### **Pensionable service – armed forces service**

**25.** For the purpose of these Regulations, a person is in pensionable service during any period of permanent service in the armed forces in respect of which an election under regulation 26 has effect or is taken to have effect.

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<sup>(30)</sup> The result is that 2 or more pensions or lump sums may be payable in respect of the one member.

### **Election for armed forces service to be pensionable**

**26.** (1) This regulation applies in relation to an active member (P) who is called out, or recalled, for permanent service in Her Majesty's armed forces under a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(31).

(2) P may by written notice to the scheme manager elect to treat the period of permanent service as pensionable service.

(3) For the purpose of these Regulations, P leaves all pensionable service from the beginning of the period of permanent service if P does not make an election within 6 months after the period of permanent service ends.

(4) If P makes an election, the scheme manager must give P a written notice setting out the contributions payable in respect of the period of permanent service.

(5) The election has effect from the beginning of the period of permanent service if—

- (a) P pays the contributions by lump sum within 3 months after receiving the notice; or
- (b) P pays contributions by monthly payments in accordance with regulation 187 in respect of the whole period.

(6) If P only pays contributions in respect of part of the period of permanent service, the election has effect only in respect of that part of the period.

(7) In this regulation, a period of permanent service begins when P is called out or recalled and ends on whichever is the earlier of—

- (a) the day on which P's permanent service ends, or
- (b) the day on which P begins to accrue benefits under the Armed Forces Pension Scheme or any other occupational pension scheme in respect of P's permanent service.

(8) If P dies while in permanent service and P has not made an election—

- (a) P is taken to have made an election;
- (b) any contributions payable are to be deducted from any benefits payable under these Regulations; and
- (c) the election is taken to have effect from the beginning of the period of permanent service.

### **SECTION 3**

#### *Pensionable service on or after automatic enrolment date*

### **Pensionable service on or after automatic enrolment date**

**27.** (1) This Section applies in relation to a person (P) who—

- (a) is eligible to be an active member of this scheme; and
- (b) is in an eligible employment on or after P's automatic enrolment date for that employment.

(2) P is in pensionable service in relation to that employment if—

- (a) the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice under this Section does not have effect in relation to service in that employment;
- (b) the employment is mentioned in Part 3 or 4 of Schedule 1 and—
  - (i) P's employer has made arrangements for P to be an active member of this scheme in relation to service in that employment; and

- (ii) an opt-out notice under this Section does not have effect in relation to service in that employment; or
- (c) the employment is mentioned in Part 3 or 4 of Schedule 1 and—
  - (i) immediately before P's automatic enrolment date for that employment, an opt-in notice under Section 4 had effect in relation to service in that employment; and
  - (ii) an opt-out notice under this Section does not have effect in relation to service in that employment.

### **Opting out of this scheme after automatic enrolment date**

**28.** (1) A person (P) opts out of this scheme in relation to service in an eligible employment if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager ("opt-out notice").

(3) An opt-out notice has effect as follows—

- (a) if the scheme manager receives the opt-out notice within 3 months after P enters the employment, from the first day of the employment;
  - (b) if sub-paragraph (a) does not apply and the scheme manager receives the opt-out notice within 3 months after P's automatic enrolment date for the employment, from P's automatic enrolment date;
  - (c) if neither sub-paragraph (a) nor (b) applies and the scheme manager receives the opt-out notice within 3 months after P's automatic re-enrolment date, from P's automatic re-enrolment date;
  - (d) otherwise, from the first day of the month after the month in which the scheme manager receives the opt-out notice.
- (4) An opt-out notice ceases to have effect from the earliest of—
- (a) the date on which a subsequent opt-in notice has effect in relation to service in that employment,
  - (b) P's automatic re-enrolment date for that employment, and
  - (c) if P is subject to a Fair Deal transfer in relation to service in that employment, the Fair Deal transfer date.

### **Opting into this scheme after automatic enrolment date**

**29.** (1) A person (P) opts into this scheme in relation to service in an eligible employment if P opts to become an active member of this scheme in relation to service in that employment.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager ("opt-in notice").

(3) P may opt into this scheme in relation to service in an employment if—

- (a) the employment is mentioned in Part 2 of Schedule 1, and P has previously opted out of this scheme in relation to service in that employment; or
  - (b) the employment is mentioned in Part 3 or 4 of Schedule 1, and P's employer has consented to P opting into this scheme.
- (4) For an employment mentioned in Part 2 of Schedule 1, an opt-in notice has effect—
- (a) if the scheme manager receives the opt-in notice not later than 3 months after P enters the employment, from the first day of the employment; or



- (b) if sub-paragraph (a) does not apply, from the first day of the month after the month in which the scheme manager receives the opt-in notice.
- (5) For an employment mentioned in Part 3 or 4 of Schedule 1—
  - (a) if the scheme manager receives both the opt-in notice and P’s employer’s written consent to the exercise of the option not later than 3 months after P enters the employment, the opt-in notice has effect from the first day of the employment;
  - (b) if sub-paragraph (a) does not apply, the opt-in notice has effect from the later of—
    - (i) the first day of the month after the month in which the scheme manager receives the opt-in notice, and
    - (ii) the first day of the month after the month in which the scheme manager receives P’s employer’s written consent to the exercise of the option.
- (6) An opt-in notice ceases to have effect from the date on which a subsequent opt-out notice has effect.

#### SECTION 4

#### *Pensionable service before automatic enrolment date*

#### **Pensionable service before automatic enrolment date**

- 30.** (1) This Section applies in relation to a person (P) who—
- (a) is eligible to be an active member of this scheme; and
  - (b) is in an eligible employment before P’s automatic enrolment date for that employment.
- (2) P is in pensionable service in relation to that employment if—
- (a) the employment is mentioned in Part 2 of Schedule 1, and an opt-out notice under this Section does not have effect in relation to service in that employment; or
  - (b) the employment is mentioned in Part 3 or 4 of Schedule 1, and an opt-in notice under this Section has effect in relation to service in that employment.

#### **Opting out of this scheme before automatic enrolment date**

- 31.** (1) A person (P) opts out of this scheme in relation to service in an eligible employment if P opts not to be an active member of this scheme in relation to that service.
- (2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).
- (3) An opt-out notice has effect—
- (a) if the scheme manager receives the opt-out notice no later than 3 months after P enters the employment, from the first day of the employment; or
  - (b) otherwise, from the first day of the month after the month in which the scheme manager receives the opt-out notice.
- (4) An opt-out notice ceases to have effect from the earlier of—
- (a) the date on which a subsequent opt-in notice has effect;
  - (b) P’s automatic enrolment date for that employment; and
  - (c) if P is subject to a Fair Deal transfer in relation to service in that employment, the Fair Deal transfer date.

### **Opting into this scheme before automatic enrolment date**

32. (1) A person (P) opts into this scheme in relation to service in an eligible employment if P opts to become an active member of this scheme in relation to service in that employment.

(2) P may only exercise the option by written notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(3) P may opt into this scheme in relation to service in an employment if—

- (a) the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice has effect;
- (b) the employment is mentioned in Part 3 of Schedule 1; or
- (c) the employment is mentioned in Part 4 of Schedule 1 and P’s employer has consented to P opting into this scheme.

(4) For an employment mentioned in Part 2 or 3 of Schedule 1, an opt-in notice has effect—

- (a) if the scheme manager receives the opt-in notice not later than 3 months after P enters the employment – from the first day of the employment; or
- (b) if sub-paragraph (a) does not apply, from the first day of the month after the month in which the scheme manager receives the opt-in notice.

(5) For an employment mentioned in Part 4 of Schedule 1—

- (a) if the scheme manager receives the opt-in notice and P’s employer’s written consent to the exercise of the option not later than 3 months after P enters the employment – the opt-in notice has effect from the first day of the employment;
- (b) if sub-paragraph (a) does not apply, the opt-in notice has effect from the later of—
  - (i) the first day of the month after the month in which the scheme manager receives the opt-in notice; and
  - (ii) the first day of the month after the month in which the scheme manager receives P’s employer’s written consent to the exercise of the option.

(6) An opt-in notice ceases to have effect from the date on which a subsequent opt-out notice has effect.

## **CHAPTER 4**

### **Pensionable earnings**

#### **Interpretation**

33. In this Chapter—

“notional pensionable earnings” means the amount by which a member’s pensionable earnings are reduced during—

- (a) a period of sick leave (other than a period of non-pensionable sick leave); or
- (b) a period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave (other than a period of non-pensionable family leave);

“notional salary”, in relation to a period of permanent service in respect of which an election under regulation 26 has effect or is taken to have effect, means P’s pensionable earnings for the pay period immediately before the period of permanent service began, increased by—

- (a) the amount (if any) of any standard increase applied in relation to P’s eligible employment during P’s period of permanent service; and
- (b) the amount (if any) by which those pensionable earnings together with any standard increase would have been increased if they had been an official pension within the

meaning of section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on the day after the day on which the period of permanent service began;

“residential accommodation” means residential accommodation provided to a person (P) in connection with P’s employment;

“residential benefits in kind” means—

- (a) any residential accommodation provided to a person (P);
- (b) any heat, lighting or water provided free in respect of residential accommodation; and
- (c) any council tax paid on P’s behalf in respect of residential accommodation;

“salary sacrifice arrangement” means—

- (a) if a person (P) is a school teacher, an arrangement specified in a pay order under which P gives up the right to receive part of P’s salary in return for P’s employer agreeing to provide P with benefits in kind as specified in the pay order;
- (b) if P is not a school teacher, an arrangement of the type mentioned in sub-paragraph (a) in which P’s employer agrees to provide P with benefits in kind of an identical description to those specified in a pay order;

“school teacher” means a school teacher for the purpose of section 122 of EA 2002; and

“standard increase” means an increase in pensionable earnings that—

- (a) is applied generally to employees in P’s position under a pay order or by P’s employer; and
- (b) is unrelated to any change in P’s duties or hours of work or otherwise to the particular circumstances of P’s case.

### **Pensionable earnings for school teachers**

**34.** (1) This regulation applies to an active member (P) who is a school teacher.

(2) P’s pensionable earnings for any pay period are the sum of the following amounts paid in that pay period to P by P’s employer in respect of P’s pensionable service—

- (a) all salary and allowances paid for the performance of P’s contractual duties in accordance with a pay order;
- (b) the amount of any payment in respect of overtime;
- (c) any salary or statutory pay paid while P is on sick leave, maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave;
- (d) an amount equal to any part of P’s salary which P has given up the right to receive under a salary sacrifice arrangement.

(3) P’s pensionable earnings do not include any amounts mentioned in regulation 36.

### **Pensionable earnings for other members**

**35.** (1) This regulation applies to an active member (P) who is not a school teacher.

(2) P’s pensionable earnings for any pay period are the sum of the amounts set out in paragraph (3) paid in that pay period to P for P’s own use by P’s employer in respect of P’s pensionable service.

(3) The amounts are—

- (a) the amount of salary, wages, fees and other payments paid under a contract of employment;
- (b) the amounts mentioned in regulation 34(2)(b) to (d);

- (c) the amount of any payment made to P by way of bonus under a pay settlement that applies to all employees (or all employees of a particular class or description) at the institution where P is employed; and
  - (d) the amount of any payment made to P that is calculated by reference to any of the following—
    - (i) P's performance;
    - (ii) the performance of all employees at the institution where P is employed; or
    - (iii) the performance of that institution.
- (4) P's pensionable earnings do not include any amounts mentioned in regulation 36.

**Amounts not forming part of pensionable earnings**

- 36.** (1) This regulation applies to any active member (P).
- (2) P's pensionable earnings do not include any of the following amounts paid to P by P's employer—
- (a) any benefit in kind, or the money value of such a benefit, excluding—
    - (i) any residential benefits in kind; or
    - (ii) a benefit in kind under a salary sacrifice arrangement;
  - (b) any bonus other than a payment under regulation 35(3)(c);
  - (c) any allowance paid for travelling or other expenses;
  - (d) any amount paid for the performance of duties that are not carried out in the course of P's pensionable service;
  - (e) any payment in consideration for the loss of, or the agreement to give up the right to, paid leave under P's contract of employment;
  - (f) any payment in lieu of notice to terminate P's contract of employment;
  - (g) if P is employed in an employment mentioned in paragraph 20 of Schedule 1 (teacher in a European school), any amount not payable by, or money value of a benefit in kind not attributable to, the Secretary of State.

**Application for residential benefits in kind to form part of pensionable earnings**

- 37.** (1) This regulation applies to a person (P) who receives residential benefits in kind.
- (2) P's employer (E) may apply in writing to the scheme manager asking for the money value of those residential benefits in kind to form part of P's pensionable earnings.
- (3) The application must be made within 3 months after the later of—
- (a) the first day of P's employment; or
  - (b) the first day on which residential accommodation is provided to P.
- (4) The application must be accompanied by a statement certifying that E will—
- (a) review the value of the residential benefits in kind at the times mentioned in paragraph (5); and
  - (b) inform the scheme manager in writing of the results of each review.
- (5) E must review the money value of the residential benefits in kind as follows—
- (a) the first review must be carried out within 2 years after the later of—
    - (i) the first day of P's employment; or

- (ii) the first day on which residential accommodation is provided to P; and
- (b) each subsequent review must be carried out within 2 years after the previous review.

### **Money value of residential benefits in kind to form part of pensionable earnings**

**38.** (1) The scheme manager, if satisfied that it is reasonable for residential accommodation to be provided to a person (P) by P's employer (E) in connection with P's employment, may decide that the money value of residential benefits in kind forms part of P's pensionable earnings from—

- (a) the first day of P's employment; or
- (b) if later, the first day on which residential accommodation is provided to P.

(2) If the money value of the residential accommodation exceeds 1/6th of the aggregate of the amounts mentioned in regulation 34(2) or 35(3)(a) and (b), the excess does not form part of P's pensionable earnings.

(3) The scheme manager may revoke a decision that the money value of residential benefits in kind forms part of P's pensionable earnings if E does not—

- (a) carry out the reviews in accordance with regulation 37; or
- (b) inform the scheme manager of the results of those reviews within a reasonable time.

(4) If paragraph (3) applies, the scheme manager must—

- (a) calculate the amount attributable to the overpayment of contributions ("the amount"); and
- (b) repay the amount to E together with interest applied in accordance with paragraph (6).

(5) The amount is the difference between—

- (a) the sum of the amount of members' contributions, any faster accrual contributions and any buy-out contributions which E deducted from P's pensionable earnings<sup>(32)</sup> during the period in which the residential benefits in kind formed part of P's pensionable earnings; and
- (b) the sum of the amount of members' contributions, any faster accrual contributions and any buy-out contributions which E would have deducted from P's pensionable earnings during that period had the residential benefits in kind not formed part of P's pensionable earnings.

(6) Interest is applied to the amount at the rate of 3% each year, compounded with yearly rests—

- (a) from the first day of the financial year following the year in which the contributions were first deducted;
- (b) until the day on which the amount attributable to the overpayment of contributions is repaid.

### **Pensionable earnings for the purpose of accruing benefits**

**39.** For the purpose of calculating a member's (P's) amount of earned pension for a pay period—

- (a) if P's pensionable earnings are reduced during sick leave, adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave, P's pensionable earnings for that period include P's notional pensionable earnings; and
- (b) if an election under regulation 26 has effect or is taken to have effect for that period, are an amount equal to P's notional salary.

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(32) Contributions are deducted under Part 9.

## CHAPTER 5

### Annual rate of pensionable earnings for multiple employments

#### **Multiple regular full-time or part-time employments**

- 40.** (1) This regulation applies if—
- (a) a person (P) is in pensionable service in relation to more than one employment, and
  - (b) each employment is a regular full-time or part-time employment.
- (2) P's annual rate of pensionable earnings is found by—
- (a) calculating the D value for each employment; and
  - (b) adding all the D values.
- (3) The D value for an employment is

$$FT \times C$$

- (4) FT means the annual rate of pensionable earnings for that employment.
- (5) C means

$$\frac{\textit{the A value}}{B}$$

, where—

- (a) for a full-time employment, the A value is 1;
- (b) for a part-time employment, the A value is

$$\frac{PT}{FT}$$

;

- (c) PT means the amount payable for a full year of a part-time employment, not its full-time equivalent; and
- (d) B is the sum of all the A values.

#### **Multiple employments including at least one irregular employment**

- 41.** (1) This regulation applies if—
- (a) a person (P) is in pensionable service in relation to more than one employment; and
  - (b) at least one employment is an irregular employment.
- (2) P's full-time equivalent annual rate of pensionable earnings is—

$$\frac{\textit{P's total annual rate of pensionable earnings}}{\textit{Total number of P's employments}}$$

where "P's total annual rate of pensionable earnings" means the total of the annual rates of each of P's employments.

## PART 4

### Pension accounts

#### CHAPTER 1

##### Interpretation

##### **Interpretation**

**42.** In this Part—

“the leaving year” means the financial year in which the relevant last day falls;

“the relevant last day” means—

- (a) for a member who has made a phased retirement application, the day before the entitlement day for a phased retirement pension; and
- (b) otherwise, the last day of pensionable service.

##### **Pensionable service**

**43.** For the purpose of this Part, a person (P) who re-enters pensionable service after a gap in service not exceeding 5 years is taken to be in pensionable service during the gap.

##### **Meaning of “leaver index adjustment”**

**44.** (1) The leaver index adjustment for an amount of accrued earned pension other than an amount of club transfer accrued earned pension is an amount calculated as follows—

*Step 1*

Add 1.6 to the percentage increase or decrease in prices specified in the Treasury order in relation to the leaving year.

*Step 2*

Multiply the result at Step 1 by A/B

where—

A is the number of complete months in the period between the beginning of the leaving year and the end of the relevant last day; and

B is 12.

The resulting percentage is the leaver index percentage.

*Step 3*

Multiply the amount of accrued earned pension by the leaver index percentage.

The resulting amount is the leaver index adjustment.

(2) The leaver index adjustment for an amount of club transfer accrued earned pension is the adjustment that would apply under the sending scheme to an amount of accrued earned pension equal to the amount of club transfer accrued earned pension specified in the active member’s account at the end of the relevant last day.

(3) In this regulation, “complete month” includes an incomplete month that consists of at least 16 days.

### **Meaning of “leaver PIA index adjustment”**

**45.** (1) The leaver PIA index adjustment for an amount of accrued additional pension is calculated in accordance with paragraph (2).

(2) The leaver PIA index adjustment is the amount by which the annual rate of a pension of an amount equal to the amount of accrued additional pension would have been increased in the leaving year under PIA 1971 if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the day after the relevant last day.

## **CHAPTER 2**

### **Calculation of accrued pension**

#### **Calculation of amount of accrued pension for purposes of deferment or full retirement**

**46.** (1) For the purpose of a full retirement pension, the amount of accrued pension is calculated in accordance with this regulation.

(2) For the purpose of a deferred member’s account, the amount of accrued earned pension is calculated in accordance with paragraph (3).

(3) The amount of accrued earned pension is the sum of the following amounts specified in the active member’s account as at the end of the last day of pensionable service—

- (a) the opening balance of standard earned pension for the last active financial year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension (if any) for the last active financial year;
- (c) the opening balance of faster accrual earned pension (if any) for the last active financial year and the index adjustment for that opening balance;
- (d) the amount of faster accrual earned pension (if any) for the last active financial year;
- (e) the opening balance of club transfer earned pension (if any) for the last active financial year and the index adjustment for that opening balance;
- (f) the amount of club transfer earned pension (if any) for the last active financial year;
- (g) the opening balance of transferred pension (if any) for the last active financial year and the index adjustment for that opening balance; and
- (h) the amount of transferred pension (if any) for the last active financial year.

(4) The amount of accrued additional pension is—

- (a) the sum of the following amounts specified in the additional pension account as at the end of the last day of pensionable service—
  - (i) the opening balance of additional pension for the last active financial year; and
  - (ii) the PIA index adjustment (if any) for that opening balance; or
- (b) an amount determined by the scheme manager under Part 2 of Schedule 2.

(5) In these Regulations, “the last active financial year” means the financial year in which the last day of pensionable service falls.

#### **Calculation of amount of accrued pension for purpose of phased retirement**

**47.** (1) For the purpose of a phased retirement pension, the amount of accrued pension is calculated in accordance with this regulation.



(2) The amount of accrued earned pension is the phased retirement proportion of the sum of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the opening balance of standard earned pension for the leaving year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the leaving year;
- (c) the opening balance of faster accrual earned pension (if any) for the leaving year and the index adjustment for that opening balance;
- (d) the amount of faster accrual earned pension (if any) for the leaving year;
- (e) the opening balance of club transfer earned pension (if any) for the leaving year and the index adjustment for that opening balance;
- (f) the amount of club transfer earned pension (if any) for the leaving year;
- (g) the opening balance of transferred pension (if any) for the leaving year and the index adjustment for that opening balance; and
- (h) the amount of transferred pension (if any) for the leaving year.

(3) If a member claims payment of additional pension under regulation 94, the amount of accrued additional pension is—

- (a) the sum of the following amounts specified in the additional pension account as at the end of the relevant last day—
  - (i) the opening balance of additional pension for the leaving year; and
  - (ii) the PIA index adjustment (if any) for that opening balance; or
- (b) an amount determined by the scheme manager under Part 2 of Schedule 2.

### CHAPTER 3

#### Pension accounts: general

##### **Establishment of pension accounts: general**

**48.** (1) The scheme manager must establish and maintain one or more pension accounts for each member of this scheme in accordance with this Part.

(2) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

##### **Closure of pension accounts on transfer out or repayment of balance of contributions**

**49.** All pension accounts relating to a member (P) (other than a pension credit member's account) must be closed if—

- (a) a transfer payment is made in respect of P's accrued rights under this scheme; or
- (b) P is repaid the balance of contributions under regulation 189.

## CHAPTER 4

### Active member's account

#### **Establishment of active member's account**

**50.** (1) A pension account must be established for each active member ("the active member's account") from the first day of pensionable service under this scheme.

(2) If a person is an active member in relation to more than one employment, only one active member's account is to be established.

(3) The active member's account must remain open until the member leaves all pensionable service under this scheme.

#### **Receipt of transfer values**

**51.** (1) This regulation applies if a transfer value is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receipt of the transfer value payment, the active member's account must be credited with the amount of transferred pension the member is entitled to count under Part 10 (transfers).

#### **Receipt of club transfer values**

**52.** (1) This regulation applies if a club transfer value is received from another club scheme in relation to an active member of this scheme.

(2) On receipt of the transfer value payment, the active member's account must be credited with an amount of club transfer earned pension the member is entitled to under Part 10 (transfers).

#### **Account to specify amount of pension for a financial year**

**53.** (1) This regulation applies in relation to every financial year in which an active member's account is open.

(2) The active member's account must specify—

- (a) the amount of standard earned pension (if any) for the financial year;
- (b) the amount of faster accrual earned pension (if any) for the financial year;
- (c) the amount of club transfer earned pension (if any) for the financial year; and
- (d) the amount of transferred pension (if any) for the financial year.

(3) The amount is—

- (a) for standard earned pension, 1/57th of the member's pensionable earnings for that year;
- (b) for faster accrual earned pension, the fraction of the member's pensionable earnings for that year specified in a faster accrual election;
- (c) for club transfer earned pension, the sum of all club transfer values received in relation to the member in that year; and
- (d) for transferred pension, the amount which a member is entitled to count under Part 10 (transfers) for that year.

#### **Account to specify opening balance and index adjustment**

**54.** (1) This regulation applies in relation to every financial year in which an active member's account is open other than the financial year in which the account is established.

- (2) The active member's account must specify—
  - (a) the opening balance of standard earned pension for the financial year and the index adjustment for that opening balance;
  - (b) the opening balance of faster accrual earned pension (if any) for the financial year and the index adjustment for that opening balance; and
  - (c) the opening balance of transferred pension (if any) for the financial year and the index adjustment for that opening balance.
- (3) The opening balance in relation to a description of pension—
  - (a) for the financial year immediately following the financial year in which the active member's account is established, means the amount of that pension for the previous financial year as at the end of the previous financial year;
  - (b) for any subsequent financial year, means the sum of the following amounts—
    - (i) the opening balance of that pension for the previous financial year and the index adjustment for that opening balance; and
    - (ii) the amount of that pension for the previous financial year as at the end of the previous financial year.
- (4) In this regulation, "a description of pension" means—
  - (a) standard earned pension;
  - (b) faster accrual earned pension (if any);
  - (c) club transfer earned pension (if any); and
  - (d) transferred pension (if any).

### **Ill-health pension ceases to be payable**

**55.** If an ill-health pension ceases to be payable to a person (P) under regulation 114 or 118 and P re-enters pensionable service—

- (a) the pensioner member's account must be closed;
- (b) the active member's account must be re-established and credited with an amount equal to the annual rate of pension payable immediately before the ill-health pension ceased to be payable.

### **Phased retirement pension ceases to be payable**

**56.** If a phased retirement pension ceases to be payable under regulation 97 and P re-enters pensionable service—

- (a) the pensioner member's account must be closed; and
- (b) the active member's account must be adjusted by increasing the amount of accrued earned pension by the phased retirement proportion.

## **CHAPTER 5**

### **Additional pension account**

#### **Establishment of additional pension account**

**57.** (1) An additional pension account must be established for each active member (P) in respect of whom an additional pension election is made.

(2) If P is an active member in relation to more than one employment, only one additional pension account is to be established.

- (3) The additional pension account must remain open until—
- (a) an additional pension is paid in respect of P;
  - (b) a transfer payment is made in respect of P's rights to the accrued additional pension; or
  - (c) all additional pension contributions are refunded under Part 2 of Schedule 2.
- (4) Part 2 of Schedule 2 has effect in relation to the making of an additional pension election.

#### **Account to specify amount of additional pension**

**58.** (1) This regulation applies in relation to every financial year in which an additional pension election is made.

(2) The additional pension account must specify in relation to any additional pension election made in that financial year an amount equal to the annual rate of additional (self only) pension specified in the additional pension election.

#### **Account to specify opening balance and PIA index adjustment**

**59.** (1) This regulation applies in relation to every financial year in which an additional pension account is open other than the financial year in which the account is established.

(2) The account must specify the opening balance of additional pension for the financial year and the PIA index adjustment for that opening balance.

- (3) The opening balance of additional pension—
- (a) for the financial year immediately following the financial year in which the additional pension account is established, means the amount of additional pension specified in the account as at the end of the previous financial year; and
  - (b) for any subsequent financial year, means the sum of the following amounts—
    - (i) the opening balance of additional pension for the previous financial year;
    - (ii) the PIA index adjustment for that opening balance; and
    - (iii) the amount of additional pension for the previous financial year.

#### **Ill-health pension ceases to be payable**

- 60.** (1) This regulation applies if—
- (a) an additional pension is payable with an ill-health pension; and
  - (b) the ill-health pension ceases to be payable under regulation 114 or 118.

(2) The additional pension account must be re-established and credited with an amount equal to the annual rate of additional (self only) pension.

#### **Phased retirement pension ceases to be payable**

- 61.** (1) This regulation applies if—
- (a) an additional pension is payable with a phased retirement pension; and
  - (b) the phased retirement pension ceases to be payable under regulation 97.

(2) The additional pension account must be re-established and credited with an amount equal to the annual rate of additional (self only) pension.

## CHAPTER 6

### Deferred member's account

#### **Establishment of deferred member's account**

- 62.** When an active member leaves all pensionable service and becomes a deferred member—
- (a) the active member's account must be closed; and
  - (b) a pension account for the deferred member must be established ("deferred member's account").

#### **Account to specify amount of accrued earned pension and leaver index adjustment**

- 63.** The deferred member's account must specify—
- (a) the amount of accrued earned pension calculated under regulation 46(3); and
  - (b) the leaver index adjustment for that amount.

#### **Deferred member's account closed after break not exceeding 5 years**

- 64.** (1) If a deferred member re-enters pensionable service under this scheme after a gap in service not exceeding 5 years—
- (a) the deferred member's account must be closed; and
  - (b) the active member's account must be re-established.
- (2) The active member's account—
- (a) must specify the amount of accrued earned pension as at the beginning of the gap in service; and
  - (b) must be adjusted as if the member had continued as an active member during the gap in service but had received no pensionable earnings.

#### **Deferred member's account closed after service under another public service scheme**

- 65.** (1) This regulation applies if—
- (a) a deferred member (P) re-enters pensionable service under this scheme after a gap in service of more than 5 years;
  - (b) the gap in service included a period of service under another public service scheme; and
  - (c) the period in which P was not in any service was less than 5 years.
- (2) When P re-enters pensionable service under this scheme—
- (a) the deferred member's account must be closed; and
  - (b) the active member's account must be re-established.
- (3) For the financial year in which the active member's account is re-established, the opening balance for each description of pension must be equal to the amount of accrued pension specified in the deferred member's account in relation to that description of pension as at the end of the gap in service.

#### **Deferred member's account remains open after a gap in service of more than 5 years**

- 66.** (1) This regulation applies if a deferred member (P) re-enters pensionable service under this scheme after a gap in service of more than 5 years.

- (2) When P re-enters pensionable service under this scheme (“the further service”)—
- (a) the deferred member’s account remains open; and
  - (b) an active member’s account must be established in respect of the further service.
- (3) In this regulation, “gap in service” does not include any period of service under another public service pensions scheme.

**Deferred member’s account established after ill-health pension ceases to be payable**

**67.** If an ill-health pension ceases to be payable to a person (P) under regulation 114 or 118 and P does not re-enter pensionable service—

- (a) a deferred member’s account must be established; and
- (b) that account must be credited with an amount equal to the annual rate of pension payable immediately before the ill-health pension ceased to be payable.

**Deferred member’s account established after phased retirement pension ceases to be payable**

**68.** If a phased retirement pension ceases to be payable to a person (P) under regulation 97 and P does not re-enter pensionable service—

- (a) a deferred member’s account must be established; and
- (b) the scheme manager must increase the amount of accrued earned pension by the phased retirement proportion.

CHAPTER 7

Pensioner members’ accounts

SECTION 1

*Interpretation*

**Meaning of “full retirement earned pension”**

- 69.** (1) The amount of full retirement earned pension is the sum of—
- (a) the amount of accrued earned pension calculated under regulation 46(3); and
  - (b) the leaver index adjustment for that amount.
- (2) In calculating the amount of full retirement earned pension, the leaver index adjustment is not applied to the amount of accrued earned pension if a transfer payment is made in respect of the member’s rights to that accrued pension before the end of the last active financial year.

**Meaning of “full retirement additional pension”**

- 70.** (1) The amount of full retirement additional pension is the sum of—
- (a) the amount of accrued additional pension calculated under regulation 46(4); and
  - (b) the leaver PIA index adjustment for that amount.
- (2) In calculating the amount of full retirement additional pension, the leaver PIA index adjustment is not applied to the amount of accrued additional pension if a transfer payment is made in respect of the member’s rights to that accrued pension before the end of the last active financial year.

**Meaning of “phased retirement earned pension”**

- 71.** The amount of phased retirement earned pension is the sum of—

- (a) the amount of accrued earned pension calculated under regulation 47(2); and
- (b) the leaver index adjustment for that amount.

**Meaning of “phased retirement additional pension”**

72. The amount of phased retirement additional pension is the sum of—

- (a) the amount of accrued additional pension calculated under regulation 47(3); and
- (b) the leaver PIA index adjustment for that amount.

**Meaning of “standard reduction”**

73. (1) The standard reduction is 3% and applies in relation to a maximum of 3 years between age 65 and a member’s normal pension age.

(2) The standard reduction is applied when calculating the annual rate of pension payable to a member (P) who—

- (a) was an active member immediately before the entitlement day for a phased retirement pension, premature retirement pension or early retirement pension; and
- (b) on the entitlement day for that pension—
  - (i) has reached normal minimum pension age; but
  - (ii) has not reached normal pension age.

(3) If a retirement pension becomes payable to P on or after the date on which P reaches 65, the standard reduction applies in relation to a proportion, determined by the scheme manager, of the time left until P reaches normal pension age.

**Meaning of “actuarial adjustment”**

74. In these Regulations, “actuarial adjustment” means the actuarial adjustment that is applied when calculating the annual rate of pension payable—

- (a) to a member who, on the entitlement day for a pension other than an age retirement pension or an ill-health pension, has not reached normal pension age; or
- (b) to an active member who becomes a pensioner member after reaching normal pension age.

**Meaning of “conversion amount”**

75. In these Regulations, “conversion amount”, in relation to any pension converted in part to a lump sum under regulation 168, means the amount of pension converted to a lump sum.

**SECTION 2**

*Establishment of pensioner members’ accounts*

**Pension accounts for active or deferred members who become pensioner members**

76. (1) When an active member becomes entitled to payment of a retirement pension other than a phased retirement pension in respect of any pensionable service—

- (a) the active member’s account and any additional pension account must be closed; and
- (b) a pension account for the pensioner member must be established (“the pensioner member’s account”).

- (2) When a deferred member becomes entitled to payment of a retirement pension other than a phased retirement pension in respect of any pensionable service—
- (a) the deferred member’s account and any additional pension account must be closed; and
  - (b) a pension account for the pensioner member must be established (“the pensioner member’s account”).
- (3) The pensioner member’s account must specify—
- (a) the amount of full retirement earned pension payable to the member, and for that amount—
    - (i) the standard reduction (if any);
    - (ii) the actuarial adjustment (if any); and
    - (iii) the conversion amount (if any); and
  - (b) the amount of full retirement additional pension payable to the member, and for that amount—
    - (i) the actuarial adjustment (if any); and
    - (ii) the conversion amount (if any).

#### **Pension accounts for phased retirement members**

77. (1) On the entitlement day for a phased retirement pension—
- (a) a pensioner member’s account must be established for the member;
  - (b) if the member is an active member, the active member’s account must be adjusted by reducing the amount of accrued earned pension specified in that account by the phased retirement proportion;
  - (c) if the member is a deferred member, the deferred member’s account must be adjusted by reducing the amount of accrued earned pension specified in that account by the phased retirement proportion;
  - (d) after the adjustment, Chapters 2 and 3 apply in relation to the member as if the amount of accrued earned pension specified in the active member’s account or deferred member’s account had always been reduced by the phased retirement proportion; and
  - (e) if the member has applied under regulation 94 to receive additional pension with the phased retirement earned pension, the additional pension account must be closed.
- (2) The pensioner member’s account must specify—
- (a) the amount of phased retirement earned pension payable to the member, and for that amount—
    - (i) the standard reduction (if any);
    - (ii) the actuarial adjustment (if any); and
    - (iii) the conversion amount (if any); and
  - (b) the amount of phased retirement additional pension payable to the member, and for that amount—
    - (i) the actuarial adjustment (if any); and
    - (ii) the conversion amount (if any).

#### **SECTION 3**



### *Closure of accounts*

#### **Ill-health pension ceases to be payable**

78. If an ill-health pension ceases to be payable under regulation 114 or 118, the pensioner member's account must be closed.

#### **Phased retirement pension ceases to be payable**

79. If a phased retirement pension ceases to be payable under regulation 97, the pensioner member's account must be closed.

## CHAPTER 8

### Pension credit member's pension account

#### **Pension credit member's pension account**

80. (1) A pension account must be established for each pension credit member ("the pension credit member's account").

(2) The pension credit member's account must specify the amount of credited pension and for that amount—

- (a) the actuarial adjustment (if any); and
- (b) the conversion amount (if any).

(3) In these Regulations, "amount of credited pension" means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 to WRPA 1999.

#### **Separate account for each capacity of membership**

81. (1) If a pension credit member is also an active member, deferred member or pensioner member, the pension credit member's account is in addition to the other account or accounts to be established under this Part in respect of the member in the other capacity.

(2) If a pension credit member has rights under this scheme which are attributable, directly or indirectly, to pension credit derived from the rights of more than one pension debit member of this scheme, a separate account is to be established under this regulation in respect of the pension credit attributable to the rights of each such pension debit member.

## **PART 5**

### Retirement benefits for teachers

#### CHAPTER 1

#### Interpretation

#### **Qualifying for retirement benefits**

82. (1) A person (P) is qualified for retirement benefits under this scheme if—

- (a) P has at least 2 years' qualifying service; or
- (b) a transfer payment otherwise than from another occupational pension scheme has been accepted in relation to P.

- (2) In these Regulations, a period of qualifying service is the total of the following—
- (a) any period of pensionable service under this scheme (other than a period of post-benefit service);
  - (b) for a transition member, any period of pensionable service under the existing scheme before the member’s transition date;
  - (c) if a transfer payment has been accepted from another occupational pension scheme in relation to P, a period equal to P’s period of pensionable service under that scheme.
- (3) Any pensionable service in respect of which a person’s rights under this scheme or the existing scheme are extinguished<sup>(33)</sup> is not qualifying service.

### **Re-qualifying for retirement benefits in respect of post-benefit service**

- 83.** (1) A person (P) is re-qualified for retirement benefits under these Regulations if—
- (a) P has at least 12 months’ post-benefit qualifying service; or
  - (b) a transfer payment otherwise than from another occupational pension scheme has been accepted in relation to P during P’s post-benefit service.
- (2) In these Regulations, a period of post-benefit qualifying service is the total of the following—
- (a) any period of post-benefit service under this scheme;
  - (b) for a transition member in respect of post-benefit service, any period of post-benefit service under the existing scheme before the member’s transition date;
  - (c) if after P enters a period of post-benefit service a transfer payment has been accepted in respect of rights accrued under another occupational pension scheme, a period equal to the person’s period of pensionable service under that scheme.
- (3) For the purpose of these Regulations, P enters a period of “post-benefit service” when—
- (a) P re-enters pensionable service—
    - (i) on or after reaching normal pension age; and
    - (ii) after a retirement pension (other than a phased retirement pension) or a short-service serious ill-health grant becomes payable; or
  - (b) P re-enters pensionable service—
    - (i) before reaching normal pension age; and
    - (ii) after a retirement pension (other than an ill-health pension or phased retirement pension) or a short-service serious ill-health grant becomes payable.
- (4) For the purpose of these Regulations, P does not enter a period of “post-benefit service” if P re-enters pensionable service—
- (a) before reaching normal pension age; and
  - (b) after an ill-health pension or phased retirement pension becomes payable.
- (5) Any period of service in respect of which P’s rights under this scheme or the existing scheme are extinguished is not included in a period of post-benefit service<sup>(34)</sup>.

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<sup>(33)</sup> Regulation 189(4) provides for extinguishment of rights following the repayment of the member’s contributions. Regulation 203(6) provides for extinguishment of rights following a transfer value payment.

<sup>(34)</sup> Regulation 189(4) provides for extinguishment of rights following the repayment of the member’s contributions. Regulation 203(6) provides for extinguishment of rights following a transfer value payment.

## **Payment of retirement benefits for post-benefit service**

**84.** For the purpose of calculating benefits in respect of a period of post-benefit service, a person (P) is taken to enter pensionable service for the first time when P enters the period of post-benefit service.

## **CHAPTER 2**

### **Age retirement**

#### **Meaning of “entitlement day” (age retirement pension)**

**85.** (1) The entitlement day for an age retirement pension is as follows.

(2) If a person (P) is qualified for retirement benefits, the entitlement day is the earliest of the following—

- (a) if P is in pensionable service on the day on which P reaches normal pension age—
  - (i) the day after P leaves all pensionable service; or
  - (ii) the day on which P reaches 75; and
- (b) if P is not in pensionable service on the day on which P reaches normal pension age, the day on which P reaches normal pension age.

(3) If P is re-qualified for retirement benefits, the entitlement day is the earliest of the following—

- (a) if P is in pensionable service on the date of application, the day after P leaves all pensionable service;
- (b) if P has left all pensionable service on the date of application, such day as P specifies in the application, which must be no earlier than 6 weeks after the date of application;
- (c) the date of P’s 75th birthday.

(4) In this regulation, “date of application” means the day on which P applies for the payment of an age retirement pension.

#### **Entitlement to age retirement pension**

**86.** (1) A member (P) is entitled to payment of an age retirement pension from the entitlement day if—

- (a) P has reached normal pension age;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P has left all pensionable service; and
- (d) P has applied under regulation 162 for the payment of an age retirement pension.

(2) An age retirement pension is payable for life.

#### **Annual rate of age retirement pension**

**87.** (1) This regulation applies if an active member or a deferred member (P) becomes entitled to payment of an age retirement pension.

(2) The annual rate of age retirement pension payable to P is found by—

- (a) taking the amount of full retirement earned pension specified in P’s pensioner member’s account;
- (b) applying the actuarial adjustment (if any) specified in that account in relation to that amount;

- (c) subtracting the conversion amount (if any) specified in that account in relation to that amount;
- (d) adding the amount of full retirement additional pension (if any) specified in that account; and
- (e) subtracting the conversion amount (if any) specified in that account in relation to that amount.

### **Arrears of pension payable to deferred member who becomes pensioner member after reaching normal pension age**

**88.** A deferred member (P) who becomes a pensioner member after reaching normal pension age is entitled to be paid the total of the following—

- (a) the amount found by multiplying the sum of the amount of full retirement earned pension and the amount of full retirement additional pension (if any) specified in P’s pensioner member’s account by the period (in years and fractions of a year) for which P was a deferred member after reaching normal pension age; and
- (b) interest payable on that amount in accordance with regulation 178.

## CHAPTER 3

### Phased retirement

#### **Interpretation of Chapter**

**89.** (1) In this Chapter—

“average annual rate”, in relation to pensionable earnings in a 6 month period, means the amount of pensionable earnings in that period multiplied by 2;

“increased annual rate”, in relation to pensionable earnings, has the meaning given in regulation 97(2);

“new employment” has the meaning given in regulation 91(2);

“new employment condition” has the meaning given in regulation 91;

“pensionable earnings”, for a person not in an eligible employment, means the amount which would be the person’s pensionable earnings if the employment were eligible employment;

“phased retirement application” means an application under regulation 162 for payment of a phased retirement pension;

“previous employment” has the meaning given in regulation 91(2);

“reduced annual rate”, in relation to pensionable earnings, means the annual rate of P’s pensionable earnings following the reduction referred to in regulation 90;

“reduced annual rate condition” has the meaning given in regulation 90.

(2) When calculating the reduced annual rate or increased annual rate of a person’s pensionable earnings, any standard increase<sup>(35)</sup> which takes effect on or after the entitlement day must be ignored.

#### **The reduced annual rate condition**

**90.** A person (P) meets the reduced annual rate condition if—

- (a) P is in one or more eligible employments;

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(35) See the meaning of “standard increase” in Chapter 4 of Part 3.

- (b) the terms of employment change and as a result there is a reduction in the annual rate of P's pensionable earnings; and
- (c) the reduced annual rate is not more than 80% of the average annual rate of P's pensionable earnings for the 6 months of pensionable service immediately before the reduction.

**The new employment condition**

- 91.** (1) A person (P) meets the new employment condition if—
- (a) P leaves all eligible employment;
  - (b) within 6 months after leaving all eligible employment, P enters a new employment; and
  - (c) on the day after the entitlement day referred to in regulation 92 the reduced annual rate of P's pensionable earnings in the new employment does not exceed 80% of the average annual rate of P's pensionable earnings for the last 6 months of the previous employment.
- (2) In this regulation—
- “a new employment” means—
- (a) one or more new eligible employments;
  - (b) one or more employments with an employer mentioned in any paragraph in Parts 2 to 4 of Schedule 1, each of which is not an eligible employment, where—
    - (i) P's normal duties in the employment include providing education or services ancillary to education (other than administrative services); and
    - (ii) if the employer is a function provider, P's duties relate to functions or services in respect of which the function provider is accepted under paragraph 3 of Schedule 1; or
  - (c) one or more new eligible employments and one or more employments mentioned in paragraph (b); and
- “previous employment” means one or more previous eligible employments.

**Meaning of “entitlement day” (phased retirement pension)**

- 92.** The entitlement day for a phased retirement pension is—
- (a) if a person (P) meets the reduced annual rate condition, the day on which the reduced annual rate takes effect; or
  - (b) if P meets the new employment condition, the day on which P enters a new employment.

**Entitlement to phased retirement pension**

- 93.** (1) A person (P) is entitled to payment of a phased retirement earned pension from the entitlement day if—
- (a) P has reached normal minimum pension age but has not reached 75;
  - (b) P is qualified or re-qualified for retirement benefits;
  - (c) P meets the reduced annual rate condition or the new employment condition;
  - (d) P has made a phased retirement application; and
  - (e) P has not applied under regulation 162 for payment of any other retirement pension.
- (2) P is entitled to payment of a phased retirement additional pension from the entitlement day if P has applied under regulation 94 to receive an additional pension with the phased retirement earned pension.

- (3) Subject to regulation 97, a phased retirement pension is payable for life.

### **Phased retirement applications**

**94.** (1) For the purpose of regulation 93, a person (P) must make a phased retirement application within 3 months after the entitlement day.

(2) The application must—

- (a) be accompanied by a certificate from P's current employer stating that P meets the reduced annual rate condition or the new employment condition; and
- (b) state whether P is applying to receive an additional pension with the phased retirement earned pension.

(3) A certificate is not required in relation to the new employment condition if the scheme manager is satisfied that P's current employer has not received the necessary information about P's previous employment from P's previous employer.

### **Phased retirement proportion**

**95.** (1) A phased retirement application must specify the proportion of accrued earned pension for which payment is claimed ("phased retirement proportion").

(2) The phased retirement proportion must not exceed 75%.

### **Annual rate of phased retirement pension**

**96.** The annual rate of phased retirement pension payable to a member (P) is found by—

- (a) taking the amount of phased retirement earned pension specified in P's pensioner member's account;
- (b) applying the standard reduction (if any) and the actuarial adjustment (if any) specified in that account in relation to that amount;
- (c) subtracting the conversion amount (if any) specified in that account in relation to that amount;
- (d) if P has applied to receive an additional pension with the phased retirement earned pension, adding the amount of phased retirement additional pension specified in that account;
- (e) applying the actuarial adjustment (if any) specified in that account in relation to that amount; and
- (f) subtracting the conversion amount (if any) specified in that account in relation to that amount.

### **Cessation of phased retirement pension**

**97.** A phased retirement pension ceases to be payable to a member (P) if—

- (a) in the 12 months after the entitlement day, the annual rate of P's pensionable earnings increases; and
- (b) as a result, the annual amount of P's pensionable earnings in that 12 month period is more than 80% of the average annual rate—
  - (i) if P met the reduced annual rate condition, in the 6 months of pensionable service immediately before the reduced annual rate took effect; or
  - (ii) if P met the new employment condition, in the last 6 months of the previous employment.

### **Subsequent phased retirement applications**

- 98.** (1) A person (P) may make a subsequent phased retirement application if—
- (a) a phased retirement pension ceases to be payable under regulation 97 but P once more meets the reduced annual rate condition or the new employment condition; or
  - (b) while P is receiving a phased retirement pension, the terms of P’s employment change or P enters a new employment and P once more meets the reduced annual rate condition or the new employment condition.
- (2) P may not make a subsequent phased retirement application if—
- (a) P has made 3 previous phased retirement applications; or
  - (b) P has not reached 60 and has made 2 previous phased retirement applications.
- (3) If P makes a subsequent phased retirement application after a phased retirement pension ceases to be payable—
- (a) the phased retirement proportion specified in that application must be the same as or greater than the phased retirement proportion specified in the original application;
  - (b) if P applied under regulation 94 to receive an additional pension as part of the original pension, P must apply under that regulation to receive an additional pension as part of the new phased retirement pension (“the new pension”); and
  - (c) if P received a lump sum under regulation 168 in place of part of the original pension (“original lump sum”)—
    - (i) P must apply under that regulation to receive a lump sum in place of part of the new pension (“new lump sum”);
    - (ii) the amount of the new lump sum must be the same as or greater than the amount of the original lump sum; and
    - (iii) the amount of lump sum payable is the amount of the new lump sum less the amount of the original lump sum.
- (4) Any subsequent phased retirement application must be made in accordance with regulation 94.
- (5) In this regulation—
- “original application” means P’s application under regulation 162 for payment of the original pension;
  - “original pension” means a phased retirement pension that ceases to be payable under regulation 97;
  - “previous phased retirement application” includes the original application.

## **CHAPTER 4**

### **Premature retirement**

#### **Interpretation of “pensionable service”**

**99.** For the purpose of this Chapter, a person in respect of whom an election under regulation 26 has effect is not treated as being in pensionable service.

#### **Meaning of “entitlement day” (premature retirement pension)**

**100.** The entitlement day for a premature retirement pension is the day after a person leaves all eligible employment.

### **Entitlement to premature retirement pension**

**101.** (1) A person (P) is entitled to payment of a premature retirement pension from the entitlement day if—

- (a) P has reached normal minimum pension age but has not reached normal pension age;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P's pensionable service in relation to an employment is terminated by reason of P's redundancy or in the interests of the efficient discharge of the functions of P's employer;
- (d) P's employer gives written notice to the scheme manager stating that—
  - (i) P's pensionable service was terminated by reason of P's redundancy or in the interests of the efficient discharge of the employer's functions; and
  - (ii) the employer agrees that a premature retirement pension should become payable to P;
- (e) P receives no compensation under Part 3 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997<sup>(36)</sup> as a result of P's pensionable service being terminated;
- (f) P has left all eligible employment;
- (g) P has applied under regulation 162 for payment of a premature retirement pension; and
- (h) P has not applied under that regulation for payment of any other retirement pension.

(2) P is not entitled to payment of a premature retirement pension in respect of any pensionable service after P reaches normal pension age.

(3) If the employer is not the local authority, the local authority must give the notice under subparagraph (1)(d) if—

- (a) P's pensionable service was in relation to an employment that falls within category A (as defined by regulation 3(7)(a) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997); and
- (b) the governing body of the school or institution mentioned in that provision asks the local authority to do so.

(4) A premature retirement pension is payable for life.

### **Annual rate of premature retirement pension**

**102.** The annual rate of premature retirement pension payable to a person (P) is found by—

- (a) taking the amount of full retirement earned pension specified in P's pensioner member's account;
- (b) applying the standard reduction (if any) and the actuarial adjustment (if any) specified in that account in relation to that amount;
- (c) subtracting the conversion amount (if any) specified in that account in relation to that amount;
- (d) adding the amount of full retirement additional pension (if any) specified in that account;
- (e) applying the actuarial adjustment (if any) specified in that account in relation to that amount; and
- (f) subtracting the conversion amount (if any) specified in that account in relation to that amount.

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(36) S.I. 1997/311, amended by S.I. 1999/608.



## CHAPTER 5

### Early retirement

#### Meaning of “entitlement day” (early retirement pension)

**103.** (1) The entitlement day for an early retirement pension is as follows.

(2) If a person (P) is not in eligible employment when P applies under regulation 162 for payment of the pension, the entitlement day is a day specified in P’s application which is at least 6 weeks after the day on which the application is made.

(3) If P is in eligible employment when P applies under regulation 162 for payment of the pension and P’s employer agrees that an early retirement pension should become payable to P, the entitlement day is the day after P leaves all eligible employment.

(4) If P is in eligible employment when P applies under regulation 162 for payment of the pension and P’s employer does not agree that an early retirement pension should become payable to P—

- (a) if P continues in eligible employment for at least 6 months after the date on which P asks P’s employer to agree, the entitlement day is the day after P leaves all eligible employment;
- (b) if P leaves all eligible employment before the end of 6 months after the date on which P asks P’s employer to agree, the entitlement day is a day specified in P’s application which is at least 6 weeks after the day on which the application is made.

(5) Despite sub-paragraphs (2) to (4), the entitlement day must not be before the day on which P—

- (a) reaches normal minimum pension age; or
- (b) leaves all eligible employment.

#### Entitlement to early retirement pension

**104.** (1) A person (P) is entitled to payment of an early retirement pension from the entitlement day if—

- (a) P has reached normal minimum pension age but has not reached normal pension age;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P has left all eligible employment;
- (d) P has applied under regulation 162 for the payment of an early retirement pension; and
- (e) P has not applied under that regulation for payment of any other retirement pension.

(2) P is not entitled to payment of an early retirement pension in respect of any pensionable service after P reaches normal pension age.

(3) An early retirement pension is payable for life.

#### Annual rate of early retirement pension

**105.** The annual rate of the early retirement pension payable to a person (P) is found by—

- (a) taking the amount of full retirement earned pension specified in P’s pensioner member’s account;
- (b) applying the standard reduction (if any) and the actuarial adjustment (if any) specified in that account in relation to that amount;
- (c) subtracting the conversion amount (if any) specified in that account in relation to that amount;
- (d) adding the amount of full retirement additional pension (if any) specified in that account;

- (e) applying the actuarial adjustment (if any) specified in that account in relation to that amount; and
- (f) subtracting the conversion amount (if any) specified in that account in relation to that amount.

## CHAPTER 6

### Ill-health retirement

#### SECTION 1

#### *General*

#### **Interpretation**

**106.** In this Chapter—

“ill-health application” means an application under regulation 162 for payment of—

- (a) an ill-health pension; and
- (b) if applicable, a total incapacity pension; and

“stepped down employment” has the meaning given in regulation 117.

#### **Incapacity definitions**

**107.** In this Chapter, a person (P)—

- (a) is incapacitated if, as a result of illness or injury, P is unfit to be in eligible employment despite appropriate medical treatment;
- (b) meets the incapacity condition if—
  - (i) P is incapacitated; and
  - (ii) P is likely to be incapacitated permanently; and
- (c) meets the total incapacity condition if—
  - (i) P is incapacitated; and
  - (ii) P’s ability to carry out any work is impaired by more than 90% and is likely to be impaired by more than 90% permanently.

#### **Ill-health applications**

**108.** (1) An ill-health application made by a person (P)—

- (a) must be accompanied by all the medical evidence necessary for the scheme manager to determine whether P is entitled to the payment of an ill-health pension and, if applicable, a total incapacity pension; and
- (b) must be signed by P’s employer unless—
  - (i) P left all eligible employment for a reason other than because P was incapacitated; or
  - (ii) P made the ill-health application more than 2 years after the last day of pensionable service.

(2) The medical evidence must include a medical report containing evidence that P meets—

- (a) the incapacity condition; and
- (b) if applicable, the total incapacity condition.

#### SECTION 2

### *Ill-health pension*

#### **Entitlement day for ill-health pension**

- 109.** The entitlement day for an ill-health pension is the latest of the following—
- (a) the day that falls 6 months before the date of a medical report following consideration of which the scheme manager is satisfied that a person (P) meets the incapacity condition or, if applicable, the total incapacity condition;
  - (b) the day specified in that medical report as the day on which P first met the incapacity condition or, if applicable, the total incapacity condition;
  - (c) the day after P leaves all eligible employment;
  - (d) the date of any previous medical report following consideration of which the scheme manager is not satisfied that P meets the incapacity condition or, if applicable, the total incapacity condition.

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

- 110.** (1) A member (P) is entitled to payment of an ill-health pension from the entitlement day if—
- (a) P is qualified or re-qualified for retirement benefits;
  - (b) P has not reached normal pension age;
  - (c) P has left all eligible employment;
  - (d) P has applied under regulation 162 for payment of an ill-health pension;
  - (e) P has not applied under that regulation for payment of any other retirement pension; and
  - (f) the scheme manager is satisfied after consideration of a medical report—
    - (i) if paragraph (2) applies, that P meets the incapacity condition and the total incapacity condition; or
    - (ii) if paragraph (3) applies, that P meets the incapacity condition.
- (2) This paragraph applies if—
- (a) P left all eligible employment for a reason other than because P was incapacitated; or
  - (b) P made the ill-health application more than 2 years after the last day of pensionable service.
- (3) This paragraph applies if—
- (a) P left all eligible employment because P was incapacitated; and
  - (b) P made the ill-health application—
    - (i) before leaving all eligible employment; or
    - (ii) within 2 years after the last day of pensionable service.
- (4) Except as provided in regulation 114, an ill-health pension is payable for life.

#### **No entitlement to ill-health pension**

- 111.** (1) A member (P) is not entitled to payment of an ill-health pension—
- (a) in respect of any pensionable service after P reaches normal pension age; or
  - (b) if paragraph (2) applies.
- (2) This paragraph applies if—
- (a) a direction under section 142 of EA 2002 given on a ground mentioned in subsection (4) (a), (b) or (c) of that section has effect in respect of P,

- (b) the Secretary of State is considering giving such a direction in respect of P,
  - (c) P is included, or is being considered for inclusion, in any of the lists mentioned in paragraph (4), or
  - (d) the General Teaching Council for Wales<sup>(37)</sup> or the Secretary of State has made, or the General Teaching Council for Wales or the Secretary of State makes, or is considering making, a prohibition order in relation to P on the grounds of unacceptable professional conduct or that P has been convicted of a relevant offence.
- (3) But paragraph (2) does not apply if the Secretary of State determines that the only reason for the direction or the direction being considered, for including, or considering including, P in any of the lists; or for making, or considering making, a prohibition order is unrelated to P's culpable behaviour.
- (4) The lists are—
- (a) the children's barred list (established under section 2(1)(a) of SVGA 2006);
  - (b) a list maintained under the law of Scotland or Northern Ireland which the Secretary of State specifies by order under section 3(2)(b) of SVGA 2006 as corresponding to the children's barred list;
  - (c) the adults' barred list (established under section 2(1)(b) of SVGA 2006);
  - (d) a list maintained under the law of Scotland or Northern Ireland which the Secretary of State specifies by order under section 3(3)(b) of SVGA 2006 as corresponding to the adults' barred list.
- (5) In this regulation—
- “prohibition order”, “relevant offence” and “unacceptable professional conduct” have the same meanings as in Schedule 2 to the Teaching and Higher Education Act 1998<sup>(38)</sup>; and
- “SVGA 2006” means the Safeguarding Vulnerable Groups Act 2006<sup>(39)</sup>.

### **When ill-health pension does not become payable**

- 112.** (1) If an ill-health pension does not become payable before the death of a member (D), a death grant is payable in respect of the member.
- (2) For the purpose of paragraph (1)—
- (a) an ill-health pension does not become payable before D's death unless the initial payment of the pension is made before D's death; and
  - (b) an ill-health pension that becomes payable before D's death but ceases to be payable under regulation 114 or 118 is taken not to become payable before D's death.

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

- 113.** The annual rate of ill-health pension payable to a person (P) is found by—
- (a) taking the amount of full retirement earned pension specified in P's pensioner member's account;
  - (b) adding the amount of full retirement additional pension (if any) specified in that account; and

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<sup>(37)</sup> The General Teaching Council for Wales was established pursuant to section 8 of the Teaching and Higher Education Act 1998 c.30 and S.I. 1998/2940.

<sup>(38)</sup> 1998 c.30.

<sup>(39)</sup> 2006 c.47.

- (c) subtracting the conversion amount (if any) specified in that account in relation to the sum of those amounts.

### **When ill-health pension ceases to be payable**

**114.** An ill-health pension ceases to be payable to a person (P), unless P has reached normal pension age, on the earlier of the following dates—

- (a) the date on which P re-enters eligible employment;
- (b) the date on which P engages in any work as a teacher which is not an eligible employment.

### **SECTION 3**

#### *Total incapacity pension*

### **Meaning of “entitlement day” (total incapacity pension)**

**115.** The entitlement day for a total incapacity pension payable with an ill-health pension is the same as the entitlement day for the ill-health pension.

### **Entitlement to total incapacity pension**

**116.** (1) A total incapacity pension is payable to a person (P) from the entitlement day if—

- (a) P is entitled to an ill-health pension because the scheme manager is satisfied that P meets the incapacity condition;  
P has applied under regulation 162 for payment of an ill-health pension and a total incapacity pension; and
- (b) the scheme manager is satisfied after consideration of a medical report that P meets the total incapacity condition.

(2) For a person in stepped down employment, the scheme manager must be satisfied that P’s total incapacity is wholly or partly related to the ill-health which led to the change in the terms of employment.

(3) A total incapacity pension is not payable to P if—

- (a) P left an eligible employment for a reason other than because P was incapacitated; or
- (b) P made the ill-health application—
  - (i) after leaving all eligible employment; and
  - (ii) more than 2 years after the last day of pensionable service.

(4) Except as provided in regulation 118, the total incapacity pension is payable for life.

### **Annual rate of total incapacity pension**

**117.** (1) The annual rate of total incapacity pension payable to a person (P) is—

$$\frac{PS}{2} \times \frac{AR}{57}$$

where—

*AR* means P’s annual rate of pensionable earnings—

- (i) as at the last day of pensionable service; or

- (ii) if P applies for a total incapacity pension while P is in stepped down employment, as at the day before P's annual rate of pensionable earnings was first reduced under paragraph (2); *PS* means P's prospective service (in years and fractions of a year); "P's prospective service" means the period beginning with the day after the entitlement day and ending on the day on which P would have reached prospective normal pension age.
- (2) P is in stepped down employment if—
  - (a) P is in an eligible employment;
  - (b) the terms of that employment are changed wholly or partly because of P's ill-health; and
  - (c) as a result of the changed terms of employment, P's annual rate of pensionable earnings is reduced.
- (3) For the purpose of paragraph (b) of the definition of *AR*, P's annual rate of pensionable earnings is increased by the amount (if any) by which it would have been increased if it had been an official pension within the meaning of section 5(1) of PIA 1971—
  - (a) beginning, and first qualifying for increases under that Act, on the day after the day on which P's annual rate of pensionable earnings is reduced; and
  - (b) ending on the day on which the scheme manager receives P's application for the total incapacity pension.

### **Cessation of total incapacity pension**

**118.** (1) A total incapacity pension ceases to be payable to a person (P) on the date on which P's ability to carry out any work ceases to be impaired by more than 90%, unless P has reached normal pension age before that date.

(2) For the purpose of paragraph (1), P's ability to carry out any work ceases to be impaired by more than 90% on the earliest of the following dates—

- (a) the date of a medical report requested by the scheme manager under regulation 175 which shows that P no longer meets the incapacity condition or, if applicable, the total incapacity condition;
- (b) the date on which P re-enters eligible employment;
- (c) the date on which P engages in any work as a teacher which is not an eligible employment;
- (d) the date on which P engages in any other form of work unless—
  - (i) P provides the scheme manager with a certificate from a registered medical practitioner stating that, in the opinion of the practitioner, P continues to meet the total incapacity condition despite engaging in such work, and
  - (ii) the scheme manager is satisfied that P continues to meet that condition despite engaging in such work.

## **CHAPTER 7**

### **Short-service serious ill-health grant**

#### **Application for payment of grant**

**119.** (1) An application made by a person (P) under regulation 162 for payment of a short-service serious ill-health grant—

- (a) must be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to the payment; and
- (b) must be signed by P's employer.

- (2) The medical evidence must include a medical report containing evidence that P—
  - (a) meets the incapacity condition; and
  - (b) has a life expectancy of less than a year.

**Meaning of “entitlement day” (short-service serious ill-health grant)**

**120.** The entitlement day for a short-service serious ill-health grant is the day after a person (P) leaves all eligible employment because P is incapacitated.

**Entitlement to short-service serious ill-health grant**

**121.** (1) A person (P) is entitled to payment of a short-service serious ill-health grant on the entitlement day if—

- (a) P was in pensionable service (other than post-benefit service) for at least 12 months;
- (b) P has left all eligible employment because P is incapacitated;
- (c) P is not qualified for retirement benefits;
- (d) P has not reached 75;
- (e) within 6 months of leaving all pensionable service P has applied under regulation 162 for payment of the grant; and
- (f) the scheme manager is satisfied after consideration of a medical report that—
  - (i) P meets the incapacity condition; and
  - (ii) P has a life expectancy of less than a year.

(2) This regulation does not apply if P is in a period of post-benefit service immediately before the entitlement day.

**Amount of grant**

**122.** (1) The amount of a short-service serious ill-health grant is the greater of—

- (a) 1/6th of the member’s annual rate of pensionable earnings as at the last day of pensionable service; and
- (b) the total of the amounts specified in paragraph (2).

(2) The amounts are—

- (a) all members’ contributions, additional pension contributions, buy-out contributions and faster accrual contributions paid up to the date of receipt of the application under regulation 119, except any paid in respect of a period of pensionable service for which a short-service serious ill-health grant has been paid; and
- (b) interest on those contributions from the first day of the financial year following that in which they were paid to the date of payment at 3% per year, compounded with yearly rests.

CHAPTER 8

Short-service annuity for post-benefit service

**Meaning of “entitlement day” (short-service annuity)**

**123.** The entitlement day for a short-service annuity is the date specified in an application under regulation 162 for payment of the annuity, which must be no earlier than 6 weeks after the day on which the application is made.

### **Entitlement to short-service annuity**

**124.** (1) A person (P) is entitled to payment from the entitlement day of a short-service annuity in respect of post-benefit service if—

- (a) P enters a period of post-benefit service;
  - (b) P is not re-qualified for retirement benefits in respect of that service;
  - (c) P leaves all eligible employment; and
  - (d) P has applied under regulation 162 for payment of the annuity.
- (2) A short-service annuity is payable for life.

### **Annual rate of short-service annuity**

**125.** The annual rate of a short-service annuity is the actuarial equivalent of the sum of—

- (a) all of the members' contributions, faster accrual contributions (if any) and additional pension contributions (if any) in respect of a period of post-benefit service paid up to the date of receipt of the application under regulation 162; and
- (b) interest to the date of payment at 3% per year, compounded with yearly rests on those contributions from the first day of the financial year following that in which they were paid.

## **PART 6**

### **Survivor's benefits**

#### **CHAPTER 1**

#### **General interpretation**

### **General**

**126.** In this Part—

“member” means a member other than a pension credit member;

“survivor's benefits” means one or more of the following—

- (a) a death grant;
- (b) a survivor's pension;

“survivor's pension” means a surviving adult pension, additional (surviving adult) pension or child pension.

### **Meaning of “dies in service”**

**127.** (1) A member (D) dies in service for the purpose of survivor's benefits if—

- (a) D dies while in pensionable service under this scheme;
  - (b) D dies while on non-pensionable family leave immediately following a period of pensionable service under this scheme;
  - (c) as at the date of D's death, an election under regulation 26 has effect or is taken to have effect; or
  - (d) paragraph (2) applies.
- (2) This paragraph applies if—



- (a) D dies within 12 months after leaving pensionable service in all eligible employment because P was incapacitated; and
- (b) a retirement pension other than a phased retirement pension does not become payable in relation to that service before D's death.

#### **Meaning of “dies out of service”**

**128.** A member (D) dies out of service for the purpose of survivor's benefits if—

- (a) D does not die in service; or
- (b) D does not die as a pensioner member.

#### **Meaning of “dies as a pensioner member”**

**129.** In this Part, a member (D) dies as a pensioner member if a retirement pension becomes payable before D's death.

#### **When a retirement pension does not become payable**

**130.** For the purpose of these Regulations—

- (a) an ill-health pension does not become payable before the death of a member (D) unless the initial payment of the pension is made before D's death;
- (b) an ill-health pension that does become payable before D's death but ceases to be payable under regulation 114 or 118 is taken not to become payable before D's death; and
- (c) a phased retirement pension that does become payable before D's death but ceases to be payable under regulation 97 does not become payable before D's death.

#### **Payment of survivor benefits for post-benefit service**

**131.** For the purpose of calculating survivor benefits in respect of a member's period of post-benefit service, the member (D) is taken to have entered pensionable service for the first time when D entered the period of post-benefit service.

#### **Death of a dual capacity member**

**132.** The annual rate of a survivor's pension applies to the surviving adult or eligible child of a dual capacity member in relation to each of the member's capacities.

## CHAPTER 2

### Specific interpretation

#### **Meaning of “death grant beneficiary”**

**133.** (1) For the purpose of a death grant, a person (P) is a member's “death grant beneficiary” if—

- (a) P is an individual;
  - (b) the member has nominated P to receive a death grant or a share of a death grant on the member's death; and
  - (c) at the date of the member's death, the nomination has effect.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The nomination ceases to have effect if—

- (a) the member revokes the nomination by giving written notice to the scheme manager,
  - (b) the member subsequently nominates a different person in place of P, or
  - (c) P dies.
- (4) If a member nominates more than one death grant beneficiary, the notice must state—
- (a) the share of the death grant to be paid to each beneficiary; and
  - (b) whether, if a beneficiary dies before the member, the beneficiary's share must be paid—
    - (i) to the surviving beneficiaries in accordance with paragraph (5), or
    - (ii) to the member's personal representatives as part of the member's estate.
- (5) If a beneficiary's share is to be paid to the surviving beneficiaries it is to be paid to them in shares such that the proportion which each surviving beneficiary's share bears to each of the other surviving beneficiaries' shares is the same as it was in the nomination.

#### **Meaning of “surviving adult”**

**134.** (1) For the purpose of a death grant, the “surviving adult” of a member who has died means the member's—

- (a) surviving spouse;
- (b) surviving civil partner; or
- (c) surviving nominated partner.

(2) For the purpose of a survivor's pension, the “surviving adult” of a member who has died means the member's—

- (a) surviving spouse;
- (b) surviving civil partner;
- (c) surviving nominated partner; or
- (d) surviving nominated beneficiary.

#### **Meaning of “surviving nominated partner”**

**135.** (1) For the purpose of a survivor's pension, a member's partner (P) is a “surviving nominated partner” if—

- (a) the member has nominated P to receive a pension on the member's death; and
- (b) at the date of the member's death—
  - (i) the nomination has effect; and
  - (ii) the condition in paragraph (3) was satisfied for a continuous period of at least 2 years ending on that date.

(2) A member may nominate P by giving written notice to the scheme manager.

(3) The notice must—

- (a) be signed by both the member and P; and
- (b) state that the conditions in paragraph (4) are satisfied.

(4) The conditions are that—

- (a) the member is able to marry or form a civil partnership with P;
- (b) the member and P are living with each other as if they were a married couple or civil partners;

- (c) neither the member nor P is living with a third person as if they were a married couple or civil partners; and
  - (d) the member and P are financially interdependent or P is financially dependent on the member.
- (5) A nomination ceases to have effect if—
- (a) the member or P revokes the nomination by giving written notice to the scheme manager;
  - (b) the member makes a subsequent nomination under this regulation;
  - (c) any condition in paragraph (4) ceases to be satisfied; or
  - (d) P dies.

### **Meaning of “surviving nominated beneficiary”**

**136.** (1) For the purpose of a survivor’s pension, a person (P) is a member’s “surviving nominated beneficiary” if—

- (a) the member has nominated P to receive a pension on the member’s death; and
  - (b) at the date of the member’s death—
    - (i) the nomination has effect; and
    - (ii) the conditions in paragraph (4) are satisfied.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The notice must—
- (a) be signed by both the member and P; and
  - (b) state that the conditions in paragraph (4) are satisfied.
- (4) The conditions are that—
- (a) a retirement pension (other than phased retirement pension) has not become payable to the member;
  - (b) P is an individual;
  - (c) neither the member nor P is married or in a civil partnership;
  - (d) P is not living with another person as if they were a married couple or civil partners;
  - (e) P is not an eligible child of the member;
  - (f) if P is the member’s parent, brother or sister—
    - (i) P has never married nor formed a civil partnership; or
    - (ii) P is widowed or a surviving civil partner;
  - (g) if P is the member’s step-parent, P is widowed or a surviving civil partner; and
  - (h) P is wholly or mainly financially dependent on the member.
- (5) A nomination ceases to have effect if—
- (a) the member or P gives written notice of revocation to the scheme manager;
  - (b) any condition in paragraph (4) ceases to be satisfied;
  - (c) the member makes a subsequent nomination under this regulation; or
  - (d) P dies.

### **Meaning of “eligible child”**

**137.** (1) In these Regulations, a person is an “eligible child” of a member who dies (D) if—

- (a) the person—
    - (i) is D’s child and was born before D died or within 12 months after D’s death,
    - (ii) was adopted by D, or
    - (iii) was accepted by D as a member of D’s family and was wholly or mainly financially dependent on D at the date of D’s death;
  - (b) the person has never married or formed a civil partnership; and
  - (c) the person meets Condition 1, 2 or 3.
- (2) Condition 1 is that the person is under 17.
- (3) Condition 2 is that the person—
- (a) is 17 or over and under 23;
  - (b) is receiving full-time education; and
  - (c) since reaching 17, has received full-time education without a break.
- (4) Condition 3 is that the person—
- (a) is incapable of earning a livelihood by reason of physical or mental impairment;
  - (b) because of that impairment, was dependent on D at the date of the D’s death; and
  - (c) is not wholly maintained out of money provided by Parliament or raised by council tax by a local authority (including a non-metropolitan district council for an area for which there is a county council).
- (5) For the purpose of Condition 2—
- (a) a person is receiving full-time education if the person attends a full-time vocational training course which runs for a period of at least 2 years;
  - (b) a person does not cease to receive full-time education if the person takes a single break of up to a year (or such longer period as the scheme manager may determine in the circumstances of the particular case); and
  - (c) a person who ceases to receive full-time education is taken to receive it up to and including the week which includes whichever of the following days occurs first after the end of the term in which the person ceases to receive it—
    - (i) the first Monday in January,
    - (ii) the first Monday after Easter Monday,
    - (iii) the first Monday in September.

## CHAPTER 3

### Death grant

#### SECTION 1

#### *General*

#### **Payment of death grant**

- 138.** On the death of a member (D), a death grant is payable as follows—
- (a) to D’s death grant beneficiary;
  - (b) if there is more than one death grant beneficiary, to those beneficiaries in the shares determined in accordance with regulation 133(4) and (5); or
  - (c) if there is no death grant beneficiary—

- (i) to D's surviving adult; or
- (ii) if there is no surviving adult, to D's personal representatives as part of D's estate.

## SECTION 2

### *Death in service*

#### **Death in service grant**

**139.** (1) A death grant is payable under this regulation if a member (D) dies in service ("death in service grant").

(2) A death in service grant is not payable if—

- (a) D dies while in pensionable service that is not post-benefit service and a retirement pension other than a phased retirement pension becomes payable before D's death; or
- (b) D dies while in a period of post-benefit service and a retirement pension in respect of that period becomes payable before D's death.

(3) If D dies while in pensionable service that is not post-benefit service, the amount of the death in service grant is found by—

- (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
- (b) deducting the following amounts previously paid to D in respect of pensionable service under this scheme—
  - (i) any part of a lump sum under regulation 168 not attributable to additional pension;
  - (ii) any short-service serious ill-health grant.

(4) If D dies while in a period of post-benefit service, the amount of the death in service grant is found by—

- (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
- (b) deducting the following amounts previously payable to D under this scheme in respect of both the period of post-benefit service and any previous period of pensionable service—
  - (i) any part of a lump sum under regulation 168 not attributable to additional pension;
  - (ii) any short-service serious ill-health grant.

## SECTION 3

### *Death out of service*

#### **Death out of service grant**

**140.** (1) A death grant is payable under this regulation if a member (D) dies out of service ("death out of service grant").

(2) A death out of service grant is not payable if—

- (a) D dies following a period of pensionable service that is not post-benefit service and a retirement pension other than a phased retirement pension becomes payable before D's death; or
- (b) D dies following a period of post-benefit service and a retirement pension other than a phased retirement pension in respect of that period becomes payable before D's death

(3) The amount of the death out of service grant for D—

- (a) if a surviving adult pension becomes payable on D's death, is found by—

- (i) taking the amount of D's accrued earned pension as at the date of D's death;
- (ii) multiplying that amount by 2.25; and
- (iii) deducting the amounts specified in paragraph (4);
- (b) if a surviving adult pension does not become payable on D's death, but D was qualified for retirement benefits, is the greater of—
  - (i) the amount calculated under paragraph (3)(a); or
  - (ii) the total of the amounts specified in paragraph (6).
- (4) The amounts to be deducted under paragraph 3(a) are—
  - (a) if D dies following a period of pensionable service that is not post-benefit service—
    - (i) any part of a lump sum under regulation 168 not attributable to additional pension; and
    - (ii) any short-service serious ill-health grant;
  - (b) if D dies following a period of post-benefit service, any part of a lump sum under regulation 168 in relation to the post-benefit service which is not attributable to additional pension.
- (5) If at the date of D's death D was not qualified for retirement benefits or a short-service serious ill-health grant had not become payable, the amount of the death out of service grant is the total of the amounts specified in paragraph (6).
- (6) The amounts are—
  - (a) all members' contributions, additional pension contributions, buy-out contributions and faster accrual contributions paid up to the date of D's death, excluding—
    - (i) any contributions paid in respect of a pension benefit which has become payable before the application for repayment; and
    - (ii) any contributions paid in respect of any period of pensionable service for which a short-service serious ill-health grant has been paid;
  - (b) interest on those contributions from the first day of the financial year following that in which they were paid to the date of payment at 3% per year, compounded with yearly rests.

#### **Supplementary death grant payable on death of pensioner member**

- 141.** (1) A death grant is payable under this regulation ("supplementary death grant") if—
- (a) a member (D) dies as a pensioner member; and
  - (b) AR is greater than AP.
- (2) The amount of the death grant is  $AR - AP$ , where—
- AR is 5 x D's annual rate of retirement pension payable as at the date of D's death; and
  - AP is the total amount of pension which was payable to D up until D's death.

### CHAPTER 4

#### Surviving adult pensions

#### **Surviving adult pensions**

- 142.** (1) This regulation applies on the death of a person (D) if D is qualified or re-qualified for retirement benefits.

(2) A surviving adult pension becomes payable to D's surviving adult from the day after the date of D's death.

(3) Subject to Part 8, a surviving adult pension is payable for life in accordance with Chapter 2 of that Part.

(4) The annual rate of the pension is to be calculated in accordance with regulations 143 and 144.

**Annual rate of surviving adult pension: short-term**

**143.** (1) The short-term rate of surviving adult pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable for the first 3 months after D's death.

(2) The short-term rate is calculated as follows—

- (a) if D dies in service, it is D's annual rate of pensionable earnings as at the date of D's death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave);
- (b) if D dies as a pensioner member, it is D's annual rate of retirement pension as at the date of D's death; or
- (c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 144 ("long-term rate"), it is the same as the long-term rate.

(3) In this regulation, "annual rate of retirement pension" means annual rate of phased retirement earned pension or annual rate of full retirement earned pension.

**Annual rate of surviving adult pension: long-term**

**144.** (1) The long-term rate of surviving adult pension applies—

- (a) if a member (D) dies out of service; or
- (b) otherwise, when the short-term rate ceases to be payable.

(2) The long-term rate of surviving adult pension is 37.5% of D's full retirement earned pension as at the date of D's death.

(3) If a pension-sharing order has taken effect, the long-term rate must be reduced by the same proportion by which D's annual rate of retirement pension as at the date of D's death was reduced or would have been reduced by that pension-sharing order.

**Enhancement of surviving adult pension**

**145.** (1) This regulation applies if a member (D) has not reached prospective normal pension age and—

- (a) dies in service; or
- (b) dies as a pensioner member after an ill-health pension and a total incapacity pension become payable to D.

(2) If this regulation applies, the long-term rate of surviving adult pension is 37.5% of the sum of the following amounts—

- (a) the amount of D's accrued earned pension as at the date of D's death; and
- (b) the amount found by multiplying half D's prospective service (in years and fractions of a year) by 1/57th of D's annual rate of pensionable earnings as at the date of D's death.

(3) In this regulation, “D’s prospective service” means the period (in years and fractions of a year) beginning with the day after the date of D’s death and ending on the day on which D would have reached prospective normal pension age.

## CHAPTER 5

### Additional (surviving adult) pensions

#### **Additional pensions for surviving adults**

**146.** (1) This regulation applies on the death of a member (D) if—

- (a) D is qualified or re-qualified for retirement benefits;
- (b) the scheme manager accepted an election for an additional (self only) pension and an additional (surviving adult) pension in respect of D;
- (c) an additional pension account was established in respect of D; and
- (d) that account specified an amount of additional pension immediately before D’s death.

(2) From the day after D’s death, an additional (surviving adult) pension becomes payable to D’s surviving adult.

(3) An additional (surviving adult) pension is payable for life.

#### **Annual rate of additional (surviving adult) pension: short-term**

**147.** (1) The short-term rate of additional (surviving adult) pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable for the first 3 months after D’s death.

(2) The short-term rate is calculated as follows—

- (a) if D dies in service, it is the annual rate of additional (self only) pension payable as at D’s death;
- (b) if D dies as a pensioner member—
  - (i) where a phased retirement pension became payable before D’s death, it is the annual rate of additional (self only) pension which would have been payable as at D’s death if D had applied under regulation 94 to receive additional pension with the phased retirement earned pension; and
  - (ii) where a retirement pension other than a phased retirement pension became payable before D’s death, it is the annual rate of additional (self only) pension payable as at D’s death; or
- (c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 144 (“long-term rate”), it is the same as the long-term rate.

(3) Part 2 of Schedule 2 makes further provision in relation to payment of additional pension in respect of a member who dies in service.

#### **Annual rate of additional (surviving adult) pension: long-term**

**148.** (1) The long-term rate of additional (surviving adult) pension applies—

- (a) if a member (D) dies out of service; or
- (b) otherwise, when the short-term rate ceases to be payable.



(2) The long-term rate of additional (surviving adult) pension is half the annual rate of additional (self only) pension payable as at the date of D's death.

(3) If a pension-sharing order has taken effect, the long-term rate must be reduced by the same proportion by which D's annual rate of retirement pension as at the date of D's death was reduced or would have been reduced by that pension-sharing order.

## CHAPTER 6

### Child pensions

#### **Entitlement to child pension**

**149.** (1) This regulation applies on the death of a person (D) if D is qualified or re-qualified for retirement benefits.

(2) A child pension becomes payable to an eligible child of D from the day after the date of D's death.

(3) If a child is an eligible child of more than 2 members who die—

- (a) the child is only entitled to payment of a child pension in respect of 2 of those members; and
- (b) the 2 highest child pensions are payable.

(4) A child pension is not payable while an eligible child—

- (a) is on a break from receiving full-time education; or
- (b) attends a full-time vocational training course in respect of which the eligible child is paid at a rate which equals or exceeds the annual rate at which an official pension within the meaning of section 5(1) of PIA 1971 would be payable if the pension had begun, and first qualified for increases under that Act, on 1st April 2014 and had then been payable at an annual rate of £3,045.

(5) A child pension ceases to be payable when the person to whom it was payable ceases to be an eligible child.

(6) If D dies in service or dies as a pensioner member, paragraphs (4) and (5) do not apply while the short-term rate of child pension is payable.

(7) The annual rate of a child pension is to be calculated in accordance with regulations 150 and 151.

(8) Chapter 2 of Part 8 provides for payment of pensions.

#### **Annual rate of child pension: short-term**

**150.** (1) The short-term rate of child pension—

- (a) applies if a member (D) dies in service or dies as a pensioner member; and
- (b) is payable as follows—
  - (i) if a surviving adult pension does not become payable on D's death, for the first 6 months after D's death;
  - (ii) if a surviving adult pension becomes payable on D's death and continues to be payable for the first 3 months after D's death, for those 3 months; or
  - (iii) if a surviving adult pension becomes payable on D's death but ceases to be payable before the end of the first 3 months after D's death, for those 3 months plus the number of months or part months for which the surviving adult pension was not payable under sub-paragraph (ii).

(2) The short-term rate of child pension is

$$\frac{AR}{EC}$$

where—

(a) if D dies in service—

*AR* is D's annual rate of pensionable earnings as at the date of D's death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave); and

*EC* is—

- (aa) 2, if a child pension is payable to no more than 2 eligible children; or
- (bb) the number of eligible children, if a child pension is payable to more than 2 eligible children;

(b) if D dies as a pensioner member—

*AR* is D's annual rate of retirement pension payable as at the date of D's death (disregarding any reduction by virtue of a pension-sharing order);

*EC* is—

- (aa) 2, if a child pension is payable to no more than 2 eligible children; or
- (bb) the number of eligible children, if a child pension is payable to more than 2 eligible children; and

“annual rate of retirement pension” means annual rate of phased retirement earned pension or annual rate of full retirement earned pension.

(3) If the rate calculated under paragraph (2) is smaller than the annual rate calculated in accordance with regulation 151 (“long-term rate”), the short-term rate is the same as the long-term rate.

#### **Annual rate of child pension: long-term**

**151.** (1) The long-term rate of child pension applies—

- (a) if a member (D) dies out of service; or
- (b) otherwise, when the short-term rate ceases to be payable.

(2) The long-term rate of child pension is—

$$\frac{R \times \text{accrued earned pension}}{EC}$$

(3) *R* is—

- (a) 37.5%, if a surviving adult pension is payable;
- (b) 50%, if a surviving adult pension is not payable or has ceased to be payable;

(4) “accrued earned pension” is D's accrued earned pension as at the date of D's death; and

(5) *EC* is—

- (a) 2, if a child pension is payable to no more than 2 eligible children; or
- (b) the number of eligible children, if a child pension is payable to more than 2 eligible children.

### Enhancement of child pension

152. (1) This regulation applies if a member (D)—
- (a) dies in service; or
  - (b) dies as a pensioner member after an ill-health pension and a total incapacity pension become payable to D.
- (2) If this regulation applies, the long-term rate of child pension is—

$$\frac{R \times S}{EC}$$

where—

*R* is—

- (i) 37.5%, if a surviving adult pension is payable;
- (ii) 50%, if a surviving adult pension is not payable or has ceased to be payable;

*S* is the sum of the following amounts—

- (i) the amount of D's accrued earned pension as at the date of D's death; and
- (ii) the amount found by multiplying half D's prospective service (in years and fractions of a year) by 1/57th of D's annual rate of pensionable earnings as at the date of D's death;

*EC* is—

- (i) 2, if a child pension is payable to no more than 2 eligible children; or
- (ii) the number of eligible children, if a child pension is payable to more than 2 eligible children; and

“D's prospective service” means the period (in years and fractions of a year) beginning with the day after the date of D's death and ending on the day on which D would have reached prospective normal pension age.

## PART 7

### Benefits for pension credit members

#### CHAPTER 1

##### General

### Interpretation

153. In these Regulations—

“pension credit” means a credit under section 29(1)(b) of the WRPA 1999 as against the scheme manager as the person responsible for this scheme;

“pension credit member” means a person entitled to a pension credit;

“pension credit retirement pension” means a pension payable under regulation 155(1);

“pension debit member” means, in relation to a pension credit member, the person whose rights under these Regulations become subject to a debit under section 29(1)(a) of WRPA 1999 when the pension credit member becomes entitled to a pension credit.

## CHAPTER 2

### Pension credit retirement pension

#### Entitlement day for pension credit retirement pension

- 154.** (1) The entitlement day for a pension credit retirement pension is—
- (a) the day on which a person (P) reaches normal pension age; or
  - (b) if P has reached normal minimum pension age but has not reached normal pension age, a day specified in P's application under regulation 162 for payment of the pension which is at least 6 weeks after the day on which the application is made.
- (2) The entitlement day must not be before the day on which a pension-sharing order takes effect.

#### Entitlement to pension credit retirement pension

- 155.** (1) A pension credit member (P) is entitled to payment of a pension credit retirement pension from the entitlement day if P has applied under regulation 162 for payment of the pension.
- (2) If P is entitled to 2 or more pension credits—
- (a) benefits are payable to P under this scheme as if P were 2 or more members, each being entitled to one of the pension credits; and
  - (b) the amounts payable are determined accordingly.
- (3) A pension credit retirement pension is payable for life.

#### Annual rate of pension credit retirement pension

- 156.** The annual rate of a pension credit retirement pension is found by—
- (a) taking the amount of credited pension specified in the pension credit member's account;
  - (b) applying the actuarial adjustment (if any) specified in the account in relation to that amount; and
  - (c) subtracting the conversion amount (if any) specified in that account in relation to that amount.

## CHAPTER 3

### Death grant

#### Meaning of death grant beneficiary

- 157.** (1) A person (P) is a "death grant beneficiary" of a pension credit member if—
- (a) the member has nominated P to receive a death grant or a share of a death grant on the member's death; and
  - (b) at the date of the member's death, the nomination has effect.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The nomination ceases to have effect if—
- (a) the member revokes the nomination by giving written notice to the scheme manager,
  - (b) the member subsequently nominates a different person in place of P, or
  - (c) P dies.
- (4) If a member nominates more than one death grant beneficiary, the notice must state—

- (a) the share of the death grant to be paid to each beneficiary; and
- (b) whether, if a beneficiary dies before the member, the beneficiary's share must be paid—
  - (i) to the surviving beneficiaries in accordance with paragraph (5), or
  - (ii) to the member's personal representatives as part of the member's estate.

(5) If a beneficiary's share is to be paid to the surviving beneficiaries it is to be paid to them in shares such that the proportion which each surviving beneficiary's share bears to each of the other surviving beneficiaries' shares is the same as it was in the nomination.

- (6) A death grant beneficiary must be an individual.

#### **Death grant: death of pension credit member before pension becomes payable**

**158.** (1) A death grant is payable under this regulation on the death of a pension credit member (D) who dies before a pension credit retirement pension becomes payable to D under regulation 155.

- (2) The amount of the death grant is found by—
  - (a) taking the amount of credited pension which would have become payable to D at the date of D's death if D had reached normal pension age; and
  - (b) multiplying that amount by 2.25.

#### **Death grant: death of pension credit member after benefits payable**

**159.** (1) A death grant is payable under this regulation on the death of a pension credit member (D) if—

- (a) a pension credit retirement pension became payable before D's death, and
- (b) AR is greater than AP.
- (2) The amount of the death grant is AR-AP.
- (3) In this regulation—
  - “AR” is 5 times the annual rate of the pension credit retirement pension payable as at the date of D's death;
  - “AP” is the total amount of that pension payable up until D's death.

#### **Payment of death grant**

- 160.** On the death of a pension credit member, the death grant must be paid—
- (a) to the death grant beneficiary;
  - (b) if there is more than one death grant beneficiary, to those beneficiaries in the shares determined in accordance with regulation 157(4) and (5); or
  - (c) if there is no death grant beneficiary—
    - (i) to the member's surviving spouse or surviving civil partner; or,
    - (ii) if there is no such person, to the member's personal representatives as part of the member's estate.

## PART 8

### Payment of benefits

#### CHAPTER 1

##### Application for payment of benefits

##### **Benefits payable by the scheme manager**

**161.** (1) Benefits under these Regulations are payable by the scheme manager.

(2) Benefits are not payable to or in respect of a member unless the provisions of this Chapter are complied with.

##### **Application for payment of benefits**

**162.** (1) A person (P) must apply in writing to the scheme manager for payment of benefits.

(2) An application may include a request that a pension be paid monthly or quarterly.

(3) P must satisfy any written request from the scheme manager to provide any information specified in the request.

(4) The information must be information—

- (a) in P's possession; or
- (b) which P can reasonably be expected to obtain.

#### CHAPTER 2

##### Payment of pensions

##### **Interpretation**

**163.** In this Chapter—

“cessation date” means the last day on which the pension is payable;

“initial payment date”—

- (a) for monthly payment of pension, means the first payment date which follows the payable date or, if the payable date falls on the payment date, the payable date;
- (b) for quarterly payment of pension, means the third payment date which follows the payable date or, if the payable date falls on the payment date, the second payment date which follows the payable date;

“payable date” means the date on which the pension becomes payable;

“payment date”—

- (a) for a survivor's pension, is the 28th day of the month; and
- (b) for a retirement pension, is the day before the day of the month on which the person to whom the pension is payable was born, and—
  - (i) where the person was born on the 1st day, it is the last day of the month;
  - (ii) where the person was born on the 30th day, for any month in which there is no 29th day it is the 28th day of the month; and
  - (iii) where the person was born on the 31st day, for any month in which there is no 30th day it is the last day of the month; and

“pension” includes an annuity.

### Monthly payment of pension

164. (1) A pension is to be paid in accordance with this regulation unless P's application for payment of benefits included a request that the pension be paid quarterly.

(2) The initial payment of the pension is to be made on the initial payment date.

(3) The amount of the initial payment is—

$$\frac{DI}{DM} \times \frac{AR}{12}$$

where—

*AR* is the annual rate of the pension;

*DI* is the number of days in the period beginning on the payable date and ending on the initial payment date and is 1 where the payable date falls on the initial payment date, and

*DM* is the number of days in the period beginning on the day which falls one month before the day after the initial payment date and ending on the initial payment date.

(4) The amount to be paid on the payment date in each subsequent month until the cessation date is—

$$\frac{AR}{12}$$

where *AR* is the annual rate of the pension.

(5) If the cessation date does not fall on a payment date, the final payment is to be made on, or as soon as possible after, the cessation date.

(6) The amount of the final payment is—

$$\frac{DF}{DM} \times \frac{AR}{12}$$

where—

*AR* is the annual rate of the pension;

*DF* is the number of days in the period beginning on the day immediately following the last payment date before the cessation date and ending on the cessation date, and

*DM* is the number of days in the period beginning on the day immediately following the last payment date before the cessation date and ending on what would have been the next payment date if the pension had not ceased to be payable.

### Quarterly payment of pension

165. (1) A pension is to be paid to a person (P) in accordance with this regulation if P's application for payment of benefits included a request that the pension be paid quarterly.

(2) The initial payment is to be made on the initial payment date.

(3) The amount of the initial payment is—

$$\frac{DI}{DQ} \times \frac{AR}{4}$$

where—

*AR* is the annual rate of the pension;

$DI$  is the number of days in the period beginning on the payable date and ending on the initial payment date, and

$DQ$  is the number of days in the period beginning on the day which falls 3 months before the day after the initial payment date and ending on the initial payment date.

(4) The amount to be paid on the payment date in every third month after the month in which the initial payment date falls is—

$$\frac{AR}{4}$$

where  $AR$  is the annual rate of the pension.

(5) If the cessation date does not fall on a payment date under paragraph (4), the final payment is to be made on, or as soon as possible after, the cessation date.

(6) The amount of the final payment is—

$$\frac{DF}{DQ} \times \frac{AR}{4}$$

where—

$AR$  is the annual rate of the pension;

$DF$  is the number of days in the period beginning on the day immediately following the last payment date under paragraph (4) and ending on the cessation date; and

$DQ$  is the number of days in the period beginning on the day immediately following the last payment date under paragraph (4) and ending on what would have been the next such payment date if the pension had not ceased to be payable.

### **Apportionment Act 1870 not to apply**

**166.** The Apportionment Act 1870(40) being inconsistent with regulations 164 (monthly payment of pension) and 165 (quarterly payment of pension) does not apply to benefits under these Regulations.

## CHAPTER 3

### Payment of lump sums

#### **Member declaration**

**167.** (1) The scheme manager may not pay a member a lump sum under this Chapter unless the member declares in writing that, on payment of the lump sum, paragraph 3A of Schedule 29 to FA 2004(41) would not apply.

(2) The declaration must be—

- (a) signed by the member;
- (b) in a form specified by the scheme manager; and
- (c) provided by a date determined by the scheme manager.

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(40) 1870 c.35.

(41) Paragraph 3A of Schedule 29 was inserted by section 159 of the Finance Act 2006 (c.25).



### **Conversion of part of pension**

**168.** (1) The following members may apply to the scheme manager to receive a lump sum in place of part of a pension—

- (a) a member who is entitled to payment of a retirement pension;
- (b) a pension credit member who is entitled to payment of a pension credit retirement pension.

(2) Paragraph (1)(b) only applies if—

- (a) the member's pension credit is derived from rights attributable to the pensionable service of a pension debit member; and
- (b) a retirement pension does not become payable to the pension debit member before the day on which a pension-sharing order takes effect in respect of that pensionable service.

(3) An application under this regulation must—

- (a) be in writing;
- (b) be made when the member applies under regulation 162 for payment of the pension; and
- (c) specify—
  - (i) the amount of the lump sum which the member wishes to receive; or
  - (ii) the conversion amount.

### **Amount of lump sum payable under regulation 168**

**169.** The amount of a lump sum payable to a person (P) under regulation 168 must—

- (a) be a multiple of £12; and
- (b) not exceed P's permitted maximum.

### **Conversion amount**

**170.** (1) Paragraph (2) applies for the purpose of calculating the annual rate of pension payable to a member (P) who receives a lump sum under regulation 168.

(2) The conversion amount is—

$$\frac{1}{12} \times \text{amount of that lump sum.}$$

(3) If a retirement pension converted under regulation 168 ceases to be payable under regulation 97 or 114, the conversion amount for any retirement pension that subsequently becomes payable to P is an amount determined by the scheme manager after consulting the scheme actuary.

### **Commutation of whole pension (serious ill-health)**

**171.** (1) This regulation applies to a member (P) who, on the entitlement day for a pension, has a life expectancy of less than a year.

(2) P may apply to the scheme manager to receive a lump sum instead of the pension.

(3) The application must—

- (a) be in writing,
- (b) be made when P applies under regulation 162 for payment of the pension, and
- (c) be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to payment of the lump sum.

- (4) If P is eligible to apply under regulation 168 to receive a lump sum under that regulation—
  - (a) the largest permissible lump sum is to be paid under that regulation; and
  - (b) the conversion amount under that regulation is to be deducted when calculating the annual rate under regulation 172(2)(a).
- (5) In this regulation, “pension” means—
  - (a) an age retirement pension and any phased retirement pension payable with it;
  - (b) an ill-health pension and a total incapacity pension or phased retirement pension payable with it; or
  - (c) a pension credit retirement pension.

#### **Amount of lump sum payable under regulation 171 instead of retirement pension**

**172.** (1) This regulation applies to a member (P) who applies under regulation 171 to receive a lump sum instead of a retirement pension.

- (2) The amount of the lump sum payable to P is the total of—
  - (a) for an age retirement pension, ill-health pension or total incapacity pension, a sum equal to 5 x the annual rate of the retirement pension, and
  - (b) for a phased retirement pension that is already in payment, a sum equal to (A-B) x the annual rate of the phased retirement pension where—
    - A is 5, and
    - B is the period (in years and fractions of a year) from the date on which the phased retirement pension was first paid until the date of the application<sup>(42)</sup>.

#### **Amount of lump sum payable under regulation 171 instead of a pension credit retirement pension**

**173.** (1) This regulation applies to a member (P) who applies under regulation 171 to receive a lump sum instead of a pension credit retirement pension.

- (2) The amount of the lump sum payable to P is an amount equal to 5 times the annual rate of the pension credit retirement pension.

#### **Commutation: small pensions**

**174.** (1) If paragraph (2) applies, the scheme manager may, on the application of a member (P), commute a retirement pension by paying a lump sum to P.

- (2) This paragraph applies if—
  - (a) the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(43)</sup>;
  - (b) the application under paragraph (1) is made when P applies under regulation 162 for payment of the retirement pension;
  - (c) in the 3 years ending with the date of the application, a transfer payment has not been made in respect of P;
  - (d) in the 5 years ending with the date of the application, a transfer payment has not been accepted in respect of rights accrued by P under another occupational pension scheme; and

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<sup>(42)</sup> Note: if this period is 5 years or more, no lump sum is payable in respect of the phased retirement pension.

<sup>(43)</sup> S.I. 2009/1171.

- (e) a transfer payment otherwise than from another occupational pension scheme has not been accepted in relation to P.
- (3) If a lump sum is paid under paragraph (1), benefits are not payable under Part 6 on P's death.
- (4) The scheme manager may, on the application of a pension credit member (P), commute a pension credit retirement pension by paying a lump sum to P if—
  - (a) the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009; and
  - (b) the application is made when P applies under regulation 162 for payment of the pension.
- (5) The scheme manager may, on the application of a beneficiary to whom a pension is payable under Part 6, commute that pension by paying a lump sum to the beneficiary if—
  - (a) the application is made when the beneficiary applies under regulation 162 for payment of the pension; and
  - (b) the lump sum does not exceed 1% of the standard lifetime allowance on the day that the lump sum would otherwise be paid.
- (6) A lump sum payable under this regulation is to be determined by the scheme manager after taking advice from the scheme actuary.

## CHAPTER 4

### Continuing entitlement to benefit

#### **Evidence of continuing entitlement to benefit**

- 175.** (1) Where a benefit is being paid to a person (P), the scheme manager may at any time require that evidence be provided, by such date as the scheme manager may specify, to establish—
- (a) the identity of P; and
  - (b) P's continuing entitlement to the benefit.
- (2) If the evidence is not provided by the date specified, the scheme manager may withhold the whole or any part of the benefit.
- (3) If a benefit ceases to be payable because P ceases to meet the incapacity condition or ceases to meet the total incapacity condition, the power in paragraph (1) may be exercised so as to require P to provide evidence that there has been no such cessation.

#### **Cessation of benefits where no entitlement**

- 176.** (1) This regulation applies if after paying a benefit the scheme manager determines that there was no entitlement or there is no longer an entitlement to the benefit.
- (2) The scheme manager may—
- (a) cease to pay the benefit;
  - (b) withhold the whole or any part of the benefit; or
  - (c) recover any payment made if there was no entitlement to the benefit.

## CHAPTER 5

### Miscellaneous

#### **Recovery of overpayment of benefits**

**177.** (1) This regulation applies in respect of a financial year for which a decrease in prices is specified in the Treasury order.

(2) The scheme manager may recover any overpayment of benefits that occurs as a result of the application of the leaver index adjustment for that year.

#### **Interest on late payment of benefits**

**178.** (1) This regulation applies to a benefit except—

- (a) a phased retirement pension or a lump sum payable under regulation 168 in place of part of that pension; or
- (b) a total incapacity pension payable between the date on which the person to whom it is paid first engages in any other form of work as mentioned in regulation 118(2)(c) and the date on which the scheme manager is satisfied that the person continues to meet the total incapacity condition despite engaging in such work.

(2) Except as provided in paragraphs (8) and (9), where a benefit to which this regulation applies is not paid within one month after the due date, the scheme manager must pay interest on the amount unpaid at the Bank of England base rate compounded with 3-monthly rests from the due date to the date of payment.

(3) Where the benefit is a death grant, the due date is the day after the date on which the scheme manager became satisfied that payment may be made.

(4) Where the benefit is a lump sum under regulation 168, 171 or 174 or a grant other than a death grant, the due date is the day on which the benefit is payable.

(5) Where the benefit is a pension or annuity, the due date is—

- (a) in the case of a payment under regulation 164(2) or 165(2), the initial payment date (as defined in regulation 163);
- (b) in the case of a payment under regulation 164(5) or 165(5), the cessation date (as defined in regulation 163);
- (c) in any other case, the date on which payment is to be made under regulation 164(4) or 165(4).

(6) In determining the due date in accordance with paragraphs (4) and (5), no account is to be taken of the requirement to make an application for the benefit under regulation 162.

(7) In this regulation “Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998<sup>(44)</sup> is in force, any equivalent rate determined by the Treasury under that section.

(8) Where a payment to the scheme manager is received after the benefit to which it relates becomes payable, the scheme manager may determine that this regulation does not apply to the benefit until the payment is received.

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(44) 1998 c.11.

(9) If paragraph (10) applies, the scheme manager may determine that this regulation does not apply to any benefit, either in respect of the whole period or any part of the period referred to in paragraph (10)(a).

(10) This paragraph applies if—

- (a) a benefit is payable between the date specified under regulation 175(1) and the date on which the evidence required under that regulation is received by the scheme manager;
- (b) that evidence was not provided by the date specified but was provided later; and
- (c) it does not appear to the scheme manager that the delay in providing the evidence was due to circumstances outside the control of the person to whom the benefit is payable.

### **Payment of benefits in certain cases**

**179.** (1) Where a person (P) to whom a benefit is payable has not reached 18 or is incapable by reason of infirmity of mind or body of managing P's affairs, the scheme manager may—

- (a) pay the benefit to any person having the care of P, or
- (b) apply it as the scheme manager thinks fit for the benefit of P or P's dependants.

(2) Where on the death of a person (D) the total of any sums due to D and any sums payable to D's personal representatives under these Regulations does not exceed the amount specified in any order made under section 6 of the Administration of Estates (Small Payments) Act 1965<sup>(45)</sup> which applies to D's death, the scheme manager may, without requiring the production of probate or other proof of title, pay the amount due—

- (a) to D's personal representatives, or
- (b) to the person, or to or among any one or more of any persons, appearing to the scheme manager to be beneficially entitled to D's estate.

### **Benefits not assignable**

**180.** (1) Where a benefit is payable to a person or a person has a right to a future benefit, the benefit or the right to the benefit must not be assigned in favour of the person's surviving spouse, surviving civil partner or dependant, and an agreement to this effect is void.

(2) Section 91 of PA 1995 (inalienability of occupational pensions) prevents assignment in other circumstances.

### **Forfeiture of benefits**

**181.** (1) The scheme manager may, in relation to a benefit to which this regulation applies—

- (a) defer or suspend payment of the benefit for so long as the scheme manager determines; or
- (b) reduce the amount or rate of the benefit by so much and for so long as the scheme manager determines.

(2) This regulation applies in relation to—

- (a) a benefit payable to a person convicted of an offence mentioned in paragraph (3) if the offence is committed before the benefit became payable;
- (b) a retirement pension or pension credit retirement pension payable to a person convicted of an offence mentioned in paragraph (4) (or a lump sum payable to that person in place of part of a pension) if the offence is committed before the benefit became payable;

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<sup>(45)</sup> 1965 c.32; the amount currently specified in S.I. 1984/539 is £5,000.

- (c) a benefit payable to a person convicted of an offence mentioned in paragraph (5) if the person is the beneficiary of the deceased member.
- (3) The offence is—
  - (a) an offence of treason; or
  - (b) one offence or more under the Official Secrets Acts 1911 to 1989<sup>(46)</sup> for which the person has been sentenced on the same occasion to—
    - (i) one term of imprisonment of at least 10 years; or
    - (ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years.
- (4) The offence is an offence—
  - (a) committed in connection with service as a public servant; and
  - (b) certified by the Secretary of State as—
    - (i) gravely injurious to the interests of the State; or
    - (ii) liable to lead to serious loss of confidence in the public service.
- (5) The offence is one of the following offences committed in relation to the death of a member (D)—
  - (a) the murder of D;
  - (b) the manslaughter of D;
  - (c) any other offence of which the unlawful killing of D is an element.
- (6) The power in paragraph (1) may not be exercised in relation to the guaranteed minimum pension of a person unless—
  - (a) the person is convicted of an offence mentioned in paragraph (3), or
  - (b) in the case of a widow's, widower's or surviving civil partner's guaranteed minimum pension, the person by reference to whose employment the pension is payable is convicted of an offence mentioned in paragraph (3).

### **Reduction of benefits: annual allowance and lifetime allowance charge**

**182.** (1) This regulation applies to the situations set out in paragraphs (2) and (3), in relation to a benefit payable under these Regulations, and in paragraphs (4) and (5) “the charge” refers to either of the charges set out in paragraphs (2) and (3).

(2) The lifetime allowance charge under section 214 of FA 2004 arises because a benefit becomes payable to a person and the person and the scheme manager are jointly and severally liable to the charge.

(3) The annual allowance charge under section 227 of FA 2004 arises in respect of a person who serves a notice under section 238A of that Act<sup>(47)</sup>.

(4) The scheme manager must pay the charge.

(5) The amount of the benefit must be reduced to reflect the amount of the charge in such manner as the scheme manager is to determine, after taking advice from the scheme actuary.

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<sup>(46)</sup> 1911 c.28, 1920 c.75, 1939 c.121, 1989 c.6.

<sup>(47)</sup> Section 238A was inserted by the Finance Act 2011 (c.11), Schedule 17.

## General prohibition on unauthorised payments

183. Nothing in these Regulations requires or authorises the making of any payment which, if made, would be an unauthorised payment for the purpose of Part 4 of FA 2004 (see section 160(5) of that Act) unless the scheme manager determines otherwise (in the case of a particular payment).

## PART 9

### Contributions

#### CHAPTER 1

##### Interpretation of Part

### Pensionable earnings for a pay period

184. (1) In this Part, “pensionable earnings”, in relation to a pay period, has the following meaning.

(2) For any pay period falling within a period of sick leave in which the pensionable earnings of a member (P) are reduced, P’s pensionable earnings are the reduced amount of pensionable earnings paid to P.

(3) For a pay period falling within a period in which an election under regulation 26 has effect or is taken to have effect, P’s pensionable earnings are an amount equal to P’s notional salary.

(4) For a pay period falling within a period in which P is on maternity leave, adoption leave or paternity leave, P’s pensionable earnings include any statutory pay paid to P.

#### CHAPTER 2

##### Members’ contributions

### Members’ contributions

185. (1) In each pay period for each eligible employment, an active member (P) must pay contributions (“members’ contributions”) on P’s pensionable earnings at a rate determined under this regulation (“members’ contributions rate”).

(2) The members’ contributions rate for each eligible employment is the percentage of P’s annual rate of pensionable earnings, in accordance with the definition in regulation 3, in that employment determined by reference to the table.

**Table**

<i>Annual rate of pensionable earnings</i>	<i>Members’ contributions rate</i>
Up to £14,999	6.4%
£15,000 to £25,999	7.2%
£26,000 to £31,999	8.3%
£32,000 to £39,999	9.5%
£40,000 to £44,999	9.9%
£45,000 to £74,999	11.0%
£75,000 to £99,999	11.6%

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

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<i>Annual rate of pensionable earnings</i>	<i>Members' contributions rate</i>
£100,000 and above	12.4%.

### **Contributions under Schedule 2**

- 186.** Schedule 2 has effect for the purpose of enabling—
- (a) payment of additional pension contributions by lump sum; and
  - (b) monthly payments of—
    - (i) faster accrual contributions;
    - (ii) additional pension contributions; and
    - (iii) buy-out contributions.

### **Contributions payable during a period of permanent service in the armed forces**

- 187.** (1) This regulation applies if—
- (a) an election under regulation 26 has effect in respect of a period of permanent service; and
  - (b) the member (P) pays contributions by monthly payments.
- (2) Unless paragraph (3) applies, the amount of P's contributions in respect of any pay period that falls within the period of permanent service is the total of—
- (a) the amount of members' contributions payable in respect of P's notional salary; and
  - (b) any contributions under Schedule 2 payable monthly.
- (3) This paragraph applies if during the period of permanent service, P's permanent service pay, when aggregated with any payments under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(48) ("aggregated pay"), is less than the amount of P's notional salary for that period.
- (4) If paragraph (3) applies—
- (a) the amount of P's aggregated pay in a pay period is taken to be the amount of P's pensionable earnings for that period; and
  - (b) P's contributions in that period are payable at the members' contributions rate.

## **CHAPTER 3**

### **Repayment of members' contributions after short-service**

#### **Meaning of "entitlement day" (repayment of balance of contributions)**

**188.** The entitlement day for repayment of the balance of contributions is one month after the last day of pensionable service.

#### **Entitlement to repayment of balance of contributions**

- 189.** (1) A person (P) is entitled on the entitlement day to a repayment of the balance of contributions, calculated in accordance with regulation 191, if—
- (a) P has left all pensionable service and does not re-enter pensionable service before the entitlement day;
  - (b) P has applied under regulation 190 for the repayment; and



- (c) paragraph (2) does not apply.
- (2) This paragraph applies if—
  - (a) P is qualified for retirement benefits;
  - (b) a transfer payment has been made in respect of P's pensionable service; or
  - (c) P is in a period of post-benefit service immediately before the last day of pensionable service<sup>(49)</sup>.
- (3) For the purpose of this regulation, P is in pensionable service while P is absent on maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave if P is entitled to return from leave by virtue of Part 8 of the Employment Rights Act 1996<sup>(50)</sup>.
- (4) If a repayment of the balance of contributions is made, P's rights under this scheme are extinguished.
- (5) This regulation is subject to regulation 183 (general prohibition on unauthorised payments).

#### **Application for repayment of balance of contributions**

- 190.** (1) A person (P) must apply in writing to the scheme manager for a repayment of the balance of contributions.
- (2) P must satisfy a written request from the scheme manager to provide any information in the request.
- (3) The information must be information—
- (a) in P's possession; or
  - (b) which P can reasonably be expected to obtain.

#### **Calculation of balance of contributions**

- 191.** (1) The balance of contributions is  $(A-B)-C$ , where—
- A is the total of the amounts specified in paragraph (2);
  - B is the total of the deductions specified in paragraph (3); and
  - C is the amount of tax chargeable on  $(A-B)$  under section 205 of FA 2004.
- (2) The amounts are—
- (a) all members' contributions, additional pension contributions, buy-out contributions and faster accrual contributions paid up to the date of receipt of the application for repayment, except any paid in respect of a period of pensionable service for which a short-service serious ill-health grant has been paid; and
  - (b) interest on those contributions from the first day of the financial year following that in which they were paid to the date of payment at 3% per year, compounded with yearly rests.
- (3) The deductions are—
- (a) the amount of any previous repayment under regulation 189; and
  - (b) if the scheme manager has paid a contributions equivalent premium, the amount recoverable by the scheme manager under sections 61 to 63 of PSA 1993.

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<sup>(49)</sup> See regulation 124 for P's entitlement to a short-service annuity if P is not re-qualified for retirement benefits in respect of a period of post-benefit service.

<sup>(50)</sup> 1996 c.18; Part 8 was amended by the Employment Relations Act 1999 (c.26), Schedule 4, and the Employment Act 2002 (c.22), sections 1 and 3.

## CHAPTER 4

### Employers' contributions

#### **Employers' contributions**

**192.** The employer of a person (P) in pensionable service is to pay contributions at a percentage rate of 14.1% on P's pensionable earnings.

## CHAPTER 5

### Deduction and payment of contributions

#### **Deduction of contributions from pensionable earnings**

**193.** (1) This regulation applies to any person (P) who is in pensionable service.

(2) In each pay period, P's employer must deduct the following contributions from P's pensionable earnings—

- (a) P's members' contributions for that employment;
- (b) any faster accrual contributions relating to that employment;
- (c) any additional pension contributions payable monthly (if P has nominated the employer to deduct those contributions);
- (d) any buy-out contributions (if P has nominated the employer to deduct those contributions).

(3) If P's employer does not deduct contributions in the appropriate pay period, P's employer may deduct the contributions in a subsequent pay period (but this paragraph does not affect regulation 196(2) (payment by employers to scheme manager)).

(4) If P is in pensionable service in more than one employment—

- (a) any additional pension contributions or buy-out contributions must be deducted by the employer nominated by P; and
- (b) if in any pay period the contributions are more than the pensionable earnings paid to P by that employer, any remaining contributions must be deducted by the other employer (or, if there is more than one other employer, by whichever other employer is nominated by P).

#### **Deductions not made before an employment ends**

**194.** (1) This paragraph applies to a person (P) if—

- (a) P ceases to be in an eligible employment;
- (b) P's employer has not made a deduction required by regulation 193; and
- (c) despite regulation 196, a corresponding amount has not been paid to the scheme manager under that regulation.

(2) On receipt of a written demand from the scheme manager, P must pay the scheme manager any amount remaining due, together with interest at the standard rate from the due date to the date of payment.

(3) The scheme manager may waive the payment of the whole or any part of that interest.

(4) In this regulation, "due date" is the 8th day after the end of the pay period in which a deduction under regulation 193 should have been made.

### **Recovery of unpaid contributions from benefits**

**195.** (1) If the scheme manager makes a demand under regulation 194 but regulation 24 does not apply, without prejudice to any other means of recovery, the scheme manager may recover any sum payable by a person to the scheme manager under this Part by deducting it from the benefits payable to, or in respect of, that person under these Regulations.

(2) Nothing in this regulation affects section 91 of PA 1995 (inalienability of occupational pension).

### **Payment by employers to scheme manager**

**196.** (1) This regulation applies in relation to any person (P) who is in pensionable service.

(2) After the end of each pay period, P's employer is to pay to the scheme manager in respect of P's pensionable earnings for that pay period—

- (a) the contributions payable under regulation 192; and
- (b) the contributions required to be deducted from P's pensionable earnings under regulation 193 (whether or not such amounts were deducted).

(3) For the purpose of paragraph (2)—

- (a) pensionable earnings are payable in arrears, and
- (b) any contribution arrears payable by reason of a retrospective increase in pensionable earnings are taken to become payable in the pay period in which they were paid.

(4) A payment under paragraph (2) must be received by the scheme manager within 7 days after the end of each pay period and if the full amount of the payment is not so received—

- (a) interest is payable by the employer or the former employer on the amount outstanding at the standard rate from the 8th day after the end of the pay period to the date of payment, but the scheme manager may in any particular case waive the payment of the whole or any part of such interest, and
- (b) if the scheme manager makes a written demand, the employer or former employer must pay to the scheme manager such further sum, not exceeding £100, as the scheme manager may specify in the demand.

(5) The payment referred to in paragraph (4)(b) must be made within 14 days after the date of the demand.

## **PART 10**

### **Transfers**

#### **CHAPTER 1**

##### **Preliminary**

### **Application of Part**

**197.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of PSA 1993 (transfer values); and
- (b) is without prejudice to that Chapter or Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds).

## Interpretation of Part

### 198. In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 97 of PSA 1993;

“club transfer statement of entitlement,” in relation to a member’s accrued earned pension under this scheme, means a statement by the scheme manager of the club transfer value as at the guarantee date;

“club transfer value”, in relation to earned pension accrued under this scheme or under another club scheme, means an amount calculated—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“guarantee date” means—

- (a) for a transfer value, the date specified in the statement of entitlement as the date by reference to which the cash equivalent is calculated; and
- (b) for a club transfer value, the date specified in the club transfer statement of entitlement as the date by reference to which the club transfer value is calculated;

“guaranteed cash equivalent”, in relation to accrued rights to benefits under this scheme, means the cash equivalent of those accrued rights as at the guarantee date, as specified in a statement of entitlement;

“statement of entitlement”, in relation to a member’s accrued rights to benefits under this scheme, means a statement by the scheme manager of the cash equivalent of those rights as at the guarantee date;

“transfer value”, in relation to accrued rights other than rights to earned pension accrued under this scheme or under another club scheme, means—

- (a) for accrued rights to benefits under this scheme, an amount equal to the guaranteed cash equivalent of those accrued rights; and
- (b) for accrued rights under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and
  - (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme.

## CHAPTER 2

### Transfers on a cash equivalent basis

#### SECTION 1

#### *Application of Chapter*

#### **Application of Chapter**

**199.** This Chapter applies to the payment and receipt of transfer values.  
SECTION 2

## *Transfers out*

### **Application of this Section**

- 200.** (1) This Section applies to a person (P) who—
- (a) has left all pensionable service under this scheme;
  - (b) has become subject to—
    - (i) another registered pension scheme which is not a connected scheme, or
    - (ii) a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2) of that Act); (in either case, referred to in this Section as “the receiving scheme”), and
  - (c) has not reached 75.
- (2) This Section does not apply if—
- (a) P is not qualified for retirement benefits under this scheme and a repayment of the balance of contributions has been made to P; or
  - (b) P is qualified for retirement benefits under this scheme and a retirement pension (other than a phased retirement pension) or a short-service serious ill-health grant has become payable to P in respect of that pensionable service.

### **Application for a statement of entitlement**

- 201.** (1) A person (P) may apply for a statement of entitlement by written notice to the scheme manager.
- (2) The application must be made within 12 months after the day on which P becomes subject to the receiving scheme.

### **Application for payment of a transfer value**

- 202.** (1) A person who is provided with a statement of entitlement may apply for a transfer value to be paid to the receiving scheme.
- (2) The application must—
- (a) be made within 12 months after the day on which P becomes subject to the receiving scheme;
  - (b) be by notice to the scheme manager;
  - (c) specify the pension scheme or other pension arrangement to which the transfer value is to be paid; and
  - (d) meet any other conditions the scheme manager requires.

### **Payment of a transfer value**

- 203.** (1) On receipt of the application under regulation 202, the scheme manager may make a transfer value payment in respect of P.
- (2) A member of this scheme may only require the scheme manager to use a transfer value in a way specified in section 95(2) of PSA 1993.
- (3) The whole of the transfer value must be applied.
- (4) A transfer value payment in respect of a member’s accrued rights under this scheme may only be made to the receiving scheme.

(5) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be made under this regulation.

(6) If a transfer value payment is made in respect of a person's rights under this scheme, those rights are extinguished.

### SECTION 3

#### *Transfers in*

#### **Application for acceptance of a transfer value**

- 204.** (1) A person (P) may apply for payment of a transfer value to be accepted from—
- (a) another registered pension scheme, or
  - (b) a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2) of that Act) (in either case, referred to in this Section as “the sending scheme”).
- (2) The application must—
- (a) be made within 12 months after the day on which P enters pensionable service under this scheme;
  - (b) be by written notice to the scheme manager;
  - (c) specify the pension scheme from which the transfer value will be received; and
  - (d) meet any other conditions the scheme manager requires.

#### **Acceptance of a transfer value**

- 205.** (1) The scheme manager may not accept payment of a transfer value from the sending scheme if—
- (a) P has reached 75;
  - (b) retirement benefits have become payable to P under this scheme or under the sending scheme; or
  - (c) the sending scheme was a money purchase arrangement to which P's previous employer made no contribution.
- (2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be accepted under this regulation.

#### **Amount of transferred pension**

**206.** The amount of transferred pension a person is entitled to count under this Part is an amount determined by the scheme manager.

### CHAPTER 3

#### Club transfers

### SECTION 1

#### *Application of Chapter*

#### **Application of Chapter**

**207.** This Chapter applies in relation to the payment and receipt of club transfer values.

## SECTION 2

### *Transfers out*

#### **Application of this Section**

- 208.** (1) This Section applies to a person (P) who—
- (a) has left all pensionable service under this scheme;
  - (b) has become subject to another club scheme (“the receiving scheme”); and
  - (c) has not reached 75.
- (2) This Section does not apply if—
- (a) P is not qualified for retirement benefits under this scheme and a repayment of the balance of contributions has been made to P; or
  - (b) P is qualified for retirement benefits under this scheme and a retirement pension (other than a phased retirement pension) or a short-service serious ill-health grant has become payable to P in respect of that pensionable service.

#### **Application for a club transfer statement of entitlement**

- 209.** (1) A person (P) may apply for a club transfer statement of entitlement by written notice to the scheme manager.
- (2) The application must be made within 12 months after the day on which P becomes subject to the receiving scheme.

#### **Application for payment of a club transfer value**

- 210.** (1) A person (P) who is provided with a club transfer statement of entitlement may apply for a club transfer value to be paid to another public service pension scheme (“the receiving scheme”).
- (2) The application must—
- (a) be made within 12 months after the day on which P becomes subject to the receiving scheme;
  - (b) be by notice to the scheme manager;
  - (c) specify the pension scheme to which the club transfer value is to be paid; and
  - (d) meet any other conditions the scheme manager requires.

#### **Payment of a club transfer value**

- 211.** (1) On receipt of the application, the scheme manager may pay a club transfer value in respect of P.
- (2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be made under this regulation.
- (3) If a transfer value payment is made in respect of a person’s rights under this scheme, those rights are extinguished.

## SECTION 3

### *Transfers in*

#### **Application for acceptance of a club transfer value**

**212.** (1) A person (P) may apply for payment of a club transfer value to be accepted from another club scheme.

(2) The application must—

- (a) be made within 12 months after the day on which P enters pensionable service under this scheme;
- (b) be by written notice to the scheme manager;
- (c) specify the pension scheme from which the club transfer value is to be received; and
- (d) meet any other conditions the scheme manager requires.

#### **Acceptance of a club transfer value**

**213.** (1) On receipt of an application, the scheme manager may accept payment of a club transfer value from another club scheme (“the sending scheme”) if—

- (a) P has not reached 75;
- (b) retirement benefits have not become payable to P under this scheme or under the sending scheme; and
- (c) the sending scheme was a money purchase arrangement to which P’s previous employer made contributions.

(2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be accepted under this regulation.

#### **Amount of club transfer earned pension**

**214.** The amount of club transfer earned pension a person is entitled to count under this Part is an amount determined by the scheme manager.

## CHAPTER 4

### Making a bulk transfer payment

#### **Application of Chapter**

**215.** (1) This Chapter applies in relation to all persons who—

- (a) were in an eligible employment; and
- (b) as a result of an existing Participation Agreement, ceased to be in an eligible employment.

(2) This Chapter does not apply in relation to any person without that person’s agreement.

#### **Making a bulk transfer payment**

**216.** (1) The scheme manager may make a transfer payment to another occupational pension scheme in respect of each person to whom this Chapter applies as part of a bulk transfer payment.

(2) In this Chapter, “bulk transfer payment” means a single transfer payment in respect of all persons to whom this Chapter applies.



## CHAPTER 5

### Accepting a bulk transfer payment

#### Application of Chapter

- 217.** This Chapter applies in relation to all persons who—
- (a) were in an eligible employment;
  - (b) as a result of being subject to existing Fair Deal arrangements, ceased to be in an eligible employment; and
  - (c) as a result of a Fair Deal transfer become, individually, an accepted member of this scheme.

#### Accepting a bulk transfer payment

**218.** (1) The scheme manager must accept a transfer payment from another occupational pension scheme in respect of each person to whom this Chapter applies as part of a bulk transfer payment if it is offered.

(2) In this Chapter, “bulk transfer payment” means a single transfer payment in respect of all persons to whom this Chapter applies.

## PART 11

### Miscellaneous and supplemental

#### Employment records

**219.** (1) This regulation applies to any employer of a person (P) in pensionable service under this scheme.

- (2) P’s employer must record for the financial year—
- (a) the annual rate of P’s salary;
  - (b) the annual amount of P’s pensionable earnings;
  - (c) if P was in part-time employment for any part of the financial year, the amount which P’s pensionable earnings for that employment would have been if P was in full-time employment throughout the year;
  - (d) the contributions deducted under regulation 193;
  - (e) the period of pensionable service;
  - (f) the dates of any absence on sick leave, maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave and the amount of any salary or statutory pay paid to P during the financial year; and
  - (g) any information requested by the scheme manager.
- (3) P’s employer must, within the time set by the scheme manager—
- (a) make such reports and returns to the scheme manager as the scheme manager may require for the purpose of the scheme manager’s functions under these Regulations; and
  - (b) give the scheme manager any information or documents required by the scheme manager for the purpose of—
    - (i) the scheme manager’s functions under these Regulations; or

- (ii) records required to be kept by the scheme manager under regulations made under section 16 of the Act.

### **Information and documents**

**220.** (1) This regulation applies to—

- (a) a person (P) who is or was in pensionable service; and
- (b) P's personal representatives.

(2) P must, within the time set by the scheme manager, give the scheme manager any information or documents required by the scheme manager for the purpose of the scheme manager's functions under these Regulations.

### **Provision of benefit information statements to members**

**221.** (1) The scheme manager must provide an annual benefit information statement to each active member of this scheme.

(2) The statement must be provided in accordance with—

- (a) section 14 of the Act (information about benefits); and
- (b) Treasury directions made under that section.

### **Extension of time**

**222.** The scheme manager may extend, or treat as extended, the time within which anything is required or authorised to be done under these Regulations.

### **Guaranteed minimum pension**

**223.** (1) The weekly rate of any relevant pension payable to a person who has a guaranteed minimum (P) and who reaches GMP age must not be less than the person's guaranteed minimum under sections 14 to 16 of PSA 1993<sup>(51)</sup>.

(2) Where no relevant pension becomes payable to P within 5 years after P reaches GMP age, a guaranteed minimum pension, the weekly rate of which is P's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P.

(3) Paragraph (2) does not apply—

- (a) while P consents to the application of that paragraph being postponed;
- (b) from the date on which a relevant pension becomes payable; or
- (c) where paragraph (4) applies.

(4) This paragraph applies where—

- (a) P has a guaranteed minimum and exercises P's right to a cash equivalent;
- (b) the pension scheme into which P's rights to benefits under these Regulations are transferred does not accept a transfer of P's accrued rights to guaranteed minimum pensions; and
- (c) P's accrued rights to a guaranteed minimum pension are not transferred elsewhere.

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<sup>(51)</sup> Section 14 was amended by PA 1995, Schedules 5 and 7; section 15A was inserted by WRPA 1999, section 32; section 16 was amended by PA 1995, Schedule 5 and by WRPA 1999, Schedule 2.

(5) Where paragraph (4) applies, a guaranteed minimum pension, the weekly rate of which is the person's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P for life from the date on which P reaches GMP age.

(6) Where P dies leaving a widow, widower or civil partner the pension payable to the widow, widower or civil partner under Part 6 (survivor's benefits) must be paid, for any period required by or under section 17 of PSA 1993<sup>(52)</sup>, at a weekly rate which is not to be less than the widow's, widower's or civil partner's guaranteed minimum (as set out in that section).

(7) In this regulation—

“accrued rights to guaranteed minimum pensions” are to be construed in accordance with section 20 of PSA 1993;

“contracted-out employment” has the meanings given in sections 8(1) and (1A) of PSA 1993<sup>(53)</sup>;

“relevant pension” means a phased retirement pension or retirement pension which becomes payable in respect of contracted-out employment before 6th April 1997.

(8) In this regulation the question whether a person has a guaranteed minimum is to be determined in accordance with section 14 of PSA 1993.

(9) This regulation overrides any inconsistent provision elsewhere in these Regulations, save that it is subject to—

(a) regulation 171 (commutation of whole pension (serious ill-health));

(b) regulation 174 (commutation: small pensions);

(c) regulation 181 (forfeiture of benefits).

### **Transitional provisions**

**224.** Schedule 3 (transitional provisions) has effect.

5th March 2014

*David Laws*  
Minister of State  
Department for Education

We consent

5th March 2014

*Mark Lancaster*  
*David Evennett*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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<sup>(52)</sup> Section 17 was amended by the Child Support, Pensions and Social Security Act 2000 (c.19), Schedule 5; S.I. 2005/2050; the Pensions Act 2007 (c.22), section 14 and the Marriage (Same Sex Couples) Act 2013 (c.30), Schedule 4.

<sup>(53)</sup> Subsection (1A) was inserted by the Pensions Act 2007, Schedule 4.

## SCHEDULE 1

Regulations 3 and 14

## Eligible employment

## PART 1

## General

## CHAPTER 1

## Interpretation

**Interpretation****1.** In this Schedule—

“CA 2006” means the Companies Act 2006**(54)**;

“EA 1996” means the Education Act 1996**(55)**;

“IA 1986” means the Insolvency Act 1986**(56)**;

“NHS Act 2006” means the National Health Service Act 2006**(57)**;

“NHSWA 2006” means the National Health Service (Wales) Act 2006**(58)**;

“TPR 2010” means the Teachers’ Pensions Regulations 2010**(59)**;

“TSAVCR 1994” means the Teachers’ Superannuation (Additional Voluntary Contributions) Regulations 1994**(60)**;

“Academy” must be construed in accordance with section 579 of EA 1996;

“best value arrangement” means a contract or other arrangement made with a local authority for the provision of, or the making available of, services for the purposes of, or in connection with, the exercise of an education function of that local authority;

“COBIS” means the Council of British International Schools;

“education functions” must be construed in accordance with section 579 of EA 1996;

“European School” means an establishment satisfying article 2 of the European Communities (European Schools) Order 1972**(61)**;

“function provider” means a body corporate other than a local authority which—

- (a) is specified in a direction under section 497A(4) of EA 1996,
- (b) is nominated under section 497A(4A) of EA 1996 or section 15 of the Local Government Act 1999**(62)**, or
- (c) provides or makes available services under a best value arrangement;

“further education” has the meaning given in section 2(3) of EA 1996;

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**(54)** 2006 c.46.

**(55)** 1996 c.56.

**(56)** 1986 c.45.

**(57)** 2006 c.41.

**(58)** 2006 c.42.

**(59)** S.I. 2010/990; relevant amending instruments are S.I. 2011/614, S.I. 2012/673, S.I. 2012/979, S.I. 2012/2270, S.I. 2013/275 and S.I. 2014/424.

**(60)** S.I. 1994/2924; as amended by S.I. 1997/3001, S.I. 2000/666, S.I. 2000/3028, S.I. 2001/3649, S.I. 2005/2198, S.I. 2006/736, S.I. 2006/2214, S.I. 2006/3122, S.I. 2008/541, S.I. 2010/990 and S.I. 2011/614.

**(61)** S.I. 1972/1582.

**(62)** 1999 c.27.

“guarantee” means—

- (a) in paragraph 2, a bond, guarantee or indemnity in a form and amount, and provided by a person, approved by the scheme manager in respect of sums due, under these Regulations and TSAVCR 1994, from the proprietor and from any other person by whom teachers are employed at the establishment;
- (b) in paragraph 3, a bond, guarantee or indemnity in a form and amount, and provided by a person, approved by the scheme manager in respect of sums due from the function provider under these Regulations and TSAVCR 1994;

“higher education” has the meaning given in section 120(1) of the Education Reform Act 1988(63);

“non-profit-making body” means a body, the constitution of which—

- (a) requires any surplus income or gains to be invested,
- (b) prohibits the distribution of the assets of the body, in cash or kind, by way of dividend, bonus or otherwise by way of profit to any member of the body or to a third party (other than for charitable purposes), and
- (c) provides for any net assets on the dissolution of the body to be applied for charitable purposes or for the purposes for which the body existed before its dissolution;

“organiser” means a person who performs duties in connection with the provision of education or services ancillary to education other than administrative services;

“proprietor”, in relation to a school or other establishment, means the person or body of persons responsible for the management of the school or other establishment;

“special school” has the meaning given in section 337 of EA 1996; and

“supervisor” means a person employed in a capacity connected with education which to a substantial extent involves the control or supervision of teachers.

### **Meaning of “accepted school”**

- 2. (1) An establishment is an accepted school if—
  - (a) immediately before 1st April 2015 it was an accepted school under regulation 13 of TPR 2010; or
  - (b) the scheme manager accepts it for the purpose of this paragraph by giving its proprietor a written notice specifying the date on which it becomes an accepted school.
- (2) An establishment may be accepted only if—
  - (a) it is an establishment mentioned in sub-paragraph (3);
  - (b) its proprietor applies in writing to the scheme manager; and
  - (c) a guarantee is provided to the scheme manager.
- (3) The establishments are—
  - (a) an independent school (in England) registered under section 99 of the Education and Skills Act 2008(64) or (in Wales) registered under section 161 of EA 2002;
  - (b) an establishment providing further education constituted by an amalgamation of establishments—
    - (i) which provided further education before the amalgamation; and
    - (ii) of which at least one was an accepted school;

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(63) 1988 c.40.

(64) 2008 c.25

- (c) a school which is a member of COBIS and is located in a member State<sup>(65)</sup> other than the United Kingdom;
  - (d) the establishment which, when teachers were employed there for the purpose of the Ministry of Defence, was known as Welbeck, the Defence Sixth Form College.
- (4) The date on which an establishment becomes an accepted school is a date agreed by the scheme manager and the proprietor as follows—
- (a) for an establishment mentioned in sub-paragraph (3)(a), (c) or (d), the first day of a month after the month in which the establishment applies to be an accepted school; or
  - (b) for an establishment mentioned in sub-paragraph (3)(b), the date of the amalgamation.
- (5) An establishment accepted by the scheme manager ceases to be an accepted school from the date specified in a written notice given to its proprietor by the scheme manager.
- (6) A notice under sub-paragraph (5) may be given if—
- (a) the proprietor of the establishment makes a written application to the scheme manager;
  - (b) the proprietor fails to comply with any provision of these Regulations or of TSAVCR 1994;
  - (c) the establishment ceases to be an establishment mentioned in sub-paragraph (3);
  - (d) where a guarantee was previously provided to the scheme manager, either the guarantee lapses, or because of a change in circumstances, the scheme manager considers that the guarantee is insufficient;
  - (e) where the proprietor of the establishment is an individual or a number of individuals, that individual or one of those individuals is an undischarged bankrupt or is the subject of a bankruptcy restrictions order or an interim order under Schedule 4A to IA 1986<sup>(66)</sup>; or
  - (f) where the proprietor of the establishment is a company—
    - (i) a proposal for a voluntary arrangement has been made or approved in relation to the company under Part 1 of IA 1986;
    - (ii) an administration application has been made or a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for the company under Schedule B1 to IA 1986<sup>(67)</sup>;
    - (iii) a receiver, manager or administrative receiver has been appointed for the company under Part 3 of IA 1986;
    - (iv) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed in relation to the company under Part 4 or 5 of IA 1986; or
    - (v) notice has been received that the company may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.
- (7) The proprietor of an accepted school must immediately give written notice to the scheme manager if—
- (a) there is a change of proprietor; or
  - (b) any of the events mentioned in sub-paragraph (6)(e) or (f) occurs.

### Accepted function providers

**3.** (1) A function provider is accepted under this paragraph in respect of a function or service if the scheme manager gives it a written notice specifying—

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<sup>(65)</sup> See Part 2 of Schedule 1 of the European Communities Act 1972 (c.68) for the meaning of “member State”.

<sup>(66)</sup> Schedule 4A was inserted by the Enterprise Act 2002 (c.40), Schedule 20.

<sup>(67)</sup> Schedule B1 was inserted by the Enterprise Act 2002 (c.40), Schedule 16.

- (a) that function or service, and the local authority to which the function or service relates; and
  - (b) the date on which it becomes accepted in respect of that function or service, which must be a date agreed between the scheme manager and the function provider.
- (2) A function provider may be accepted only if—
- (a) it makes a written application to the scheme manager specifying the function or service in respect of which it wishes to be accepted; and
  - (b) a guarantee is provided to the scheme manager.
- (3) The functions or services in respect of which a function provider may be accepted are—
- (a) a function which it performs on behalf of a local authority in accordance with a direction under section 497A(4)(**68**) of EA 1996;
  - (b) an education function of a local authority which it is nominated to exercise under section 497A(4A)(**69**) of EA 1996 or section 15(6) of the Local Government Act 1999(**70**);
  - (c) a service which it provides or makes available under a best value arrangement for the purposes of, or in connection with, the exercise of an education function of a local authority.
- (4) A function provider who immediately before 1st April 2015 was accepted under regulation 14 of TPR 2010 in respect of a function or service is treated as accepted under this paragraph in respect of that function or service.
- (5) A function provider accepted under this paragraph ceases to be so accepted in respect of such functions and services, and from such date, as the scheme manager may specify in a written notice given to the function provider by the scheme manager.
- (6) A notice under sub-paragraph (5) may be given if—
- (a) the function provider makes a written application to the scheme manager;
  - (b) the function provider fails to comply with any provision of these Regulations or TSAVCR 1994;
  - (c) where a guarantee was previously provided to the scheme manager, either the guarantee lapses or because of a change in circumstances the scheme manager considers that the guarantee is insufficient;
  - (d) a proposal for a voluntary arrangement has been made or approved in relation to the function provider under Part 1 of IA 1986;
  - (e) an administration application has been made, a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for the function provider under Schedule B1 to IA 1986;
  - (f) a receiver, manager or administrative receiver has been appointed for the function provider under Part 3 of IA 1986;
  - (g) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed in relation to the function provider under Part 4 or 5 of IA 1986; or
  - (h) notice has been received that the function provider may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.
- (7) A function provider accepted under this paragraph must give written notice to the scheme manager immediately if any of the events mentioned in sub-paragraph (6)(d) to (h) occurs.

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(**68**) Section 497A was inserted by the School Standards and Framework Act 1998 (c.31), section 8.

(**69**) Subsection (4A) was inserted by the Education Act 2002 (c.32), section 60.

(**70**) 1999 c.27.

## CHAPTER 2

### Fair Deal transfers

#### Interpretation

##### 4. In this Chapter—

“contracting scheme employer” means an employer mentioned in paragraph 9(c) (governing body of a school maintained by a local authority), 10 (Academy) or 13 (special school not maintained by a local authority) who is a party to a Participation Agreement;

“Fair Deal transfer” means a TUPE transfer of employment described in a Participation Agreement;

“Fair Deal transfer date” means the date on which a Fair Deal transfer has effect;

“guarantee” means a bond, guarantee or indemnity in a form and amount, and provided by a person, approved by the scheme manager in respect of sums due from an accepted employer under these Regulations and TSAVCR 1994;

“Participation Agreement” means a contractual agreement between the scheme manager, a contracting scheme employer and an accepted employer relating to participation in this scheme; and

“transferred services” means services specified in the description of employment in the Participation Agreement.

#### Meaning of “accepted member”

5. (1) A person (P) is an accepted member of this scheme if sub-paragraphs (2), (3) and (4) apply.

(2) Immediately before the Fair Deal transfer date P was employed—

- (a) under a contract of employment and subject to existing Fair Deal arrangements; or
- (b) by a contracting scheme employer to undertake eligible employment.

(3) Immediately before and on the Fair Deal transfer date P is employed to undertake the same employment described in a Participation Agreement.

(4) After the Fair Deal transfer date P is employed to undertake employment described in that Participation Agreement.

(5) P ceases to be an accepted member from the date P ceases to satisfy sub-paragraph (1).

#### Meaning of “accepted employer”

6. An accepted employer in respect of transferred services is an employer other than an employer mentioned in section 1 of the Local Government Act 1999(71) who—

- (a) is a party to a contract for services with a contracting scheme employer under which at least one employee, on and after the fair deal transfer date, is an accepted member;
- (b) is a party to a Participation Agreement; and
- (c) is not the subject of a written notice of cessation as an accepted employer under paragraph 8(1).

#### Obligations of an accepted employer

7. An accepted employer must—

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(71) 1999 c.27.



- (a) provide the scheme manager with a guarantee if requested by the scheme manager;
- (b) give written notice to the scheme manager immediately if any of the events in paragraph 8(2)(c) to (g) occurs.

### **Ceasing to be an accepted employer**

**8.** (1) An employer (E) ceases to be an accepted employer on the date specified in a written notice given by the scheme employer under this paragraph.

(2) A notice may be given if—

- (a) E fails to comply with any provision of these Regulations or TSAVCR 1994;
- (b) the scheme manager considers that a guarantee provided under this Chapter is insufficient because—
  - (i) the guarantee lapses, or
  - (ii) there is a change in circumstances;
- (c) a proposal for a voluntary arrangement has been made or approved in relation to E under Part 1 of IA 1986;
- (d) an administration application has been made, a notice of intention to appoint an administrator has been filed with the court or an administrator has been appointed for E under Schedule B1 to IA 1986<sup>(72)</sup>;
- (e) a receiver, manager or administrative receiver has been appointed for E under Part 3 of IA 1986;
- (f) a winding-up petition has been presented, a winding-up order has been made or a resolution for voluntary winding-up has been passed in relation to E under Part 4 or 5 of IA 1986; or
- (g) notice has been received that E may be struck off the register of companies or an application to strike it off has been made under Part 31 of CA 2006.

(3) The Secretary of State may by further written notice to E determine that E resumes accepted employer status with effect from a future date stated in the notice.

## **PART 2**

### **Service pensionable without election**

**9.** Teacher employed by—

- (a) a local authority in connection with its education functions;
- (b) a local authority in a school which the authority maintains;
- (c) the governing body of a school maintained by a local authority; or
- (d) an institution providing further or higher education (or both) maintained by a local authority.

**10.** Teacher employed—

- (a) in an Academy, city technology college or a city college for the technology of the arts by the proprietor of such an establishment;
- (b) in a 16 to 19 Academy by the proprietor of the Academy;
- (c) by a Multi-Academy Trust; or

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<sup>(72)</sup> Schedule B1 was inserted by the Enterprise Act 2002 (c.40), Schedule 16.

(d) by the sponsor of a proposed Academy, and in this paragraph “sponsor of a proposed Academy” means any person who approaches the Secretary of State expressing an interest in establishing and maintaining an Academy with a view to creating a charitable company limited by guarantee and which company it is proposed will then enter into an Academy agreement as defined in section 1 of the Academies Act 2010<sup>(73)</sup>.

**11.** Teacher employed by the proprietor of, or anyone else concerned in the management of, an accepted school (other than a teacher employed at an accepted school which is a member of COBIS and is located in a member State other than the United Kingdom).

**12.** Teacher employed by a function provider in connection with the performance of a function or service in respect of which the function provider is accepted in accordance with paragraph 3 (accepted function providers).

**13.** Teacher employed by the proprietor of, or anyone else concerned in the management of, a special school that is not maintained by a local authority.

**14.** Teacher employed by the governing body (as defined in section 90 of the Further and Higher Education Act 1992<sup>(74)</sup>) of an institution—

- (a) which is within the further or the higher education sector (as defined in section 91 of that Act); and
- (b) to which grants are made by the Secretary of State or the Welsh Ministers, a body to which grants are made by the Secretary of State or the Welsh Ministers, other than—
  - (i) a university or a college of a university,
  - (ii) the Royal College of Art, and
  - (iii) the establishment which, when teachers were employed there for the purposes of the Ministry of Defence, was known as Welbeck, the Defence Sixth Form College.

**15.** Teacher employed by a university established on or after 6th May 1992 which, immediately before it became such fell within paragraph 14(a) or (b).

**16.** Teacher employed by the proprietor of—

- (a) a community home as defined in section 53 of the Children Act 1989<sup>(75)</sup>;
- (b) a voluntary home as defined in section 60<sup>(76)</sup> of that Act; or
- (c) a home provided in pursuance of arrangements under section 82(5) of that Act.

**17.** Teacher employed by a local authority or by a voluntary organisation in an establishment which provides facilities under arrangements approved under section 66 of the Powers of Criminal Courts (Sentencing) Act 2000<sup>(77)</sup>.

**18.** Teacher employed by the Secretary of State or the Welsh Ministers in a special hospital provided by the Secretary of State or the Welsh Ministers under section 4 of NHS Act 2006 or section 4 of NHSWA 2006.

**19.** Teacher employed for the purpose of instructing, training or superintending the occupation of persons suffering from mental impairment, severe mental impairment, psychopathic disorder or mental illness—

- (a) by the Secretary of State or the Welsh Ministers in a hospital provided by the Secretary of State or the Welsh Ministers under NHS Act 2006 or NHSWA 2006;

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<sup>(73)</sup> 2010 c.32.

<sup>(74)</sup> 1992 c.13.

<sup>(75)</sup> 1989 c.41.

<sup>(76)</sup> Section 60 was amended by the Care Standards Act 2000 (c.14), Schedule 4.

<sup>(77)</sup> 2000 c.6.

- (b) by a voluntary organisation to which financial assistance is given by a local authority or facilities are made available under section 12 of NHSA 2006 or section 10 of NHSWA 2006; or
  - (c) by a local authority in the exercise of its functions under paragraph 2 of Schedule 20 to NHSA 2006 or paragraph 2 of Schedule 16 to NHSWA 2006.
- 20.** Teacher employed by the Secretary of State in a European School.
- 21.** Organiser employed as a youth and community worker by a local authority in the exercise of its functions under sections 15, 507A, 507B(78) or 508 of EA 1996.
- 22.** Teacher employed by the Field Studies Council.
- 23.** An accepted member employed by an accepted employer.

## PART 3

### Service pensionable on election

- 24.** Teacher employed by the proprietor of an institution for the further education and training of disabled persons.
- 25.** Teacher, supervisor or youth worker employed for the purposes of the Ministry of Defence in service with, or for purposes connected with, the armed forces of the Crown unless—
- (a) service in the employment is pensionable under the Public Service (Civil Servants and Others) Pensions Regulations 2014; or
  - (b) the teacher, supervisor or youth worker was engaged outside the United Kingdom and was not previously in eligible employment.
- 26.** Organiser employed by—
- (a) a diocesan board of education established under the Diocesan Boards of Education Measure 1991(79);
  - (b) a body affiliated to the National Open College Network;
  - (c) a Roman Catholic diocesan schools commission;
  - (d) the Inspiring Futures Foundation;
  - (e) the Royal National College for the Blind;
  - (f) the Stapleford Centre.

## PART 4

### Service pensionable on election with employer consent

- 27.** Teacher employed in, or in connection with, an establishment for providing social or physical training for which grants are made by the Secretary of State, Sport England, Sport Wales or UK Sport, whose principal duty is to attend the establishment and provide the training or supervise its provision.

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(78) Sections 507A and 507B were inserted by the Education and Inspections Act 2006 (c.40), section 6.

(79) 1991 No. 2.

**28.** Teacher employed by a person to whom grants are made by either the Secretary of State or a local authority in exercise of education functions in respect of expenditure incurred for the purpose for which the teacher is employed.

**29.** Organiser employed by—

- (a) Sport England;
- (b) Sport Wales;
- (c) UK Sport; or
- (d) any other person, other than a local authority, to whom grants—
  - (i) are made by any of those bodies or by a local authority in exercise of education functions; or
  - (ii) are or have been made by the Secretary of State or the Welsh Ministers, in respect of expenditure incurred for the purpose for which the organiser is employed.

**30.** Organiser employed as a youth and community worker by a body to which grants are made by a local authority in the exercise of its functions under sections 15 or 508 of EA 1996.

**31.** Organiser employed by—

- (a) Action for Blind People;
- (b) the Association of Christian Teachers;
- (c) the Association of Business Schools;
- (d) the Assessment and Qualification Alliance;
- (e) the City and Guilds of London Institute;
- (f) the Catholic Education Service;
- (g) EMFEC;
- (h) the Field Studies Council;
- (i) Macmillan Cancer Support;
- (j) the North East Religious Learning Resources Centre Limited;
- (k) SCOPE.

**32.** Teacher employed by a university who was employed by an institution mentioned in paragraph 9(d) or 14 immediately before the institution became part of the university.

**33.** Teacher or organiser employed by a body formerly falling within paragraph 28, 29 or 30 which is a non-profit-making body whose principal source of funding is fees paid by a local authority.

**34.** Teacher employed by the proprietor of, or anyone else concerned in the management of, an accepted school which is a member of COBIS and located in a member State other than the United Kingdom.

## SCHEDULE 2

Regulations 3, 46 and 186

### Scheme flexibilities

## PART 1

### General

#### Interpretation of Schedule

1. In this Schedule—

“additional pension contributions” means contributions for an additional pension;

“additional pension election” means an election under Chapter 1 of Part 2 of this Schedule;

“amount of accrued extra earned pension” means the amount of accrued earned pension attributable to a faster accrual election;

“amount of extra pension” has the meaning given in paragraph 2;

“buy-out contributions” means contributions to buy out the standard reduction;

“buy-out election” means an election under Chapter 1 of Part 4 of this Schedule;

“buy-out value” means an amount determined or re-determined by the scheme manager in accordance with Part 4 of this Schedule;

“contributions” means—

- (a) additional pension contributions;
- (b) faster accrual contributions; or
- (c) buy-out contributions;

“contributions payment period”, for contributions paid monthly, means the period which—

- (a) begins on the start date; and
- (b) ends on the date on which the final monthly payment is due;

“election” means—

- (a) an additional pension election;
- (b) a faster accrual election; or
- (c) a buy-out election;

“faster accrual contributions” means contributions for a faster accrual rate;

“faster accrual election” means an election under Chapter 1 of Part 3 of this Schedule;

“faster accrual rate”, in relation to P’s pensionable earnings, means 1/45th, 1/50th or 1/55th;

“monthly payments”, in respect of an election, means contributions paid monthly;

“overall amount” means the overall amount of extra pension as defined in paragraph 3;

“refund period”, in relation to additional pension contributions, means the period ending one year after the start date;

“start date”—

- (a) for contributions paid by lump sum, means the date on which the scheme manager receives the lump sum; and
- (b) for monthly payments, means the first day of the second month after the month in which the election is accepted.

### **Meaning of “amount of extra pension”**

2. The amount of extra pension for a person (P) at any given time is the sum of the following—
- (a) the amount of accrued extra earned pension (if any) at that time;
  - (b) the amount of accrued additional pension (if any) at that time;
  - (c) the buy-out value at that time, if P has elected to buy out the standard reduction.

### **Meaning of “overall amount of extra pension”**

3. (1) The overall amount of extra pension is—
- (a) £6,500 for any financial year ending before 1st April 2016; and
  - (b) for any financial year beginning on or after that date—
    - (i) an amount determined by the Treasury for that financial year; or
    - (ii) if the Treasury has not determined an amount for that financial year, the amount calculated under sub-paragraph (2).

(2) If the Treasury has not determined an amount under sub-paragraph (1)(b)(i) for any financial year, the overall amount for that financial year is the amount to which the annual rate of a pension of an amount equal to the overall amount for the previous financial year would have been increased under PIA 1971 if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the first day of the previous financial year.

### **Limit on elections**

4. (1) The scheme manager must not accept an additional pension election or a faster accrual election in relation to a member (P) at any time if—

- (a) the scheme manager has accepted a buy-out election from P; and
- (b) the buy-out value at that time exceeds the overall amount of extra pension at that time.

(2) The scheme manager must not accept an additional pension election or a faster accrual election that would result in the amount of extra pension exceeding the overall amount of extra pension.

### **Actuarial advice**

5. The scheme manager must take advice from the scheme actuary before determining any amount under this Part.

## **PART 2**

### **Additional pension election**

#### **CHAPTER 1**

#### **Making an additional pension election**

### **Election to pay contributions for additional pension**

6. (1) This paragraph applies in relation to a member of this scheme (P) who—
- (a) is in pensionable service under this scheme; and
  - (b) has not reached normal pension age under this scheme.

(2) P or, with P's consent, P's employer may elect to pay contributions for an additional pension in respect of P ("additional pension election").

(3) An additional pension election—

(a) must state whether the election is for—

(i) an additional (self only) pension; or

(ii) an additional (self only) pension and an additional (surviving adult) pension; and

(b) must specify the annual rate of additional (self only) pension to be paid with P's retirement pension.

#### **Annual rate of additional (self only) pension**

7. The annual rate of additional (self only) pension specified in an additional pension election must be a multiple of—

(a) £250; or

(b) any other amount determined by the scheme manager.

#### **Lump sum or monthly payments**

8. (1) An employer's contributions for additional pension must be made by lump sum.

(2) A member's additional pension contributions may be paid by lump sum or by monthly payments.

#### **Making an additional pension election**

9. (1) An additional pension election by a member (P) must be made by written notice to the scheme manager stating whether additional pension contributions are to be paid—

(a) as a lump sum, or

(b) by monthly payments.

(2) If monthly payments are to be made, the notice must state the number of monthly payments, which—

(a) must not be more than 240; and

(b) must end before P reaches normal pension age under this scheme;

(3) If P is in pensionable service in relation to more than one employment, the notice must specify which employer is to deduct the contributions.

(4) The notice must be accompanied by a declaration by P that P is in normal health.

(5) The scheme manager may ask P or P's employer to provide further information.

#### **Accepting an additional pension election**

10. (1) The scheme manager may accept an additional pension election by giving written notice to—

(a) the member (P); and

(b) P's employer.

(2) For the purpose of these Regulations, an additional pension election is accepted when P receives notice from the scheme manager.

## CHAPTER 2

### Amount of additional pension contributions

#### **Determination of contributions payable**

**11.** (1) The scheme manager must determine the amount to be paid as a lump sum or as a monthly payment.

(2) The amount of the lump sum or monthly payment must reflect the cost of paying an additional (self only) pension and any additional (surviving adult) pension.

(3) The scheme manager may determine different amounts of lump sum or monthly payment—

- (a) for different classes or descriptions of member; and
- (b) depending on whether the additional pension election is for—
  - (i) an additional (self only) pension; or
  - (ii) an additional (self only) pension and an additional (surviving adult) pension.

(4) The scheme manager—

- (a) may determine the amount of a monthly payment by reference to the length of the contributions payment period; and
- (b) may exercise the functions under this paragraph so as to re-determine the amount of a monthly payment during the contributions payment period.

(5) Unless the scheme manager re-determines the amount, monthly payments following a gap in service during which an ill-health pension was payable are the same as before the gap.

## CHAPTER 3

### Additional pension contributions paid by lump sum

#### **Lump sum contributions: payment of contributions and credit of additional pension**

**12.** (1) This paragraph applies to a member (P)—

- (a) in respect of whom an additional pension election is accepted; and
- (b) whose notice of election states that contributions are to be paid by lump sum.

(2) P's additional pension account is to be credited with an amount equal to the annual rate of additional (self only) pension stated in the notice of election ("the amount of additional pension") if the lump sum contribution is paid within one month after the additional pension election is accepted.

(3) P's additional pension account is not to be credited with the amount of additional pension unless the lump sum contribution is paid within that time.

#### **Refund of lump sum contribution**

**13.** (1) This paragraph applies if a member (P) has paid a lump sum contribution for additional pension.

(2) The lump sum contribution must be refunded if, before the end of the refund period—

- (a) P dies;
- (b) an ill-health pension becomes payable to P; or
- (c) P leaves all pensionable service and P is neither qualified nor re-qualified for retirement benefits in respect of that service.



## CHAPTER 4

### Additional pension contributions by monthly payments

#### **Application of Chapter**

- 14.** This Chapter applies to a member (P)—
- (a) in respect of whom an additional pension election is accepted; and
  - (b) whose notice of election states that contributions are to be paid by monthly payments.

#### **Payment of contributions**

- 15.** (1) P must—
- (a) make the first monthly payment on or before the start date; and
  - (b) continue to make the monthly payments until the date on which the final monthly payment is due.
- (2) The contributions payment period must end before P reaches normal pension age.
- (3) If the scheme manager re-determines the amount of the monthly payment during the contributions payment period, P must pay the re-determined amount from the beginning of the next financial year.
- (4) P is taken to revoke an additional pension election if—
- (a) a monthly payment is missed; and
  - (b) the payment is not made within 3 months after P receives a written demand from the scheme manager.

#### **Member leaves all pensionable service before end of contributions payment period**

- 16.** (1) This paragraph applies if—
- (a) P leaves all pensionable service before the end of the contributions payment period; and
  - (b) P does not pay the scheme manager a lump sum of an amount determined by the scheme manager within the period of 2 months beginning with the last day of pensionable service.
- (2) If this paragraph applies—
- (a) monthly payments for additional pension cease to be payable at the end of the period of one month beginning with the last day of pensionable service (“the one-month period”); and
  - (b) the amount of accrued additional pension as at the last day of pensionable service is an amount determined by the scheme manager.
- (3) For the purpose of this paragraph, P is not taken to have left all pensionable service if—
- (a) during the one-month period, P begins a period of non-pensionable sick leave; and
  - (b) during the period of non-pensionable sick leave, an ill-health pension becomes payable to P.

#### **Retirement pension (other than ill-health pension) becomes payable before end of contributions payment period**

- 17.** (1) This paragraph applies if any of the following retirement pensions becomes payable to P before the end of the contributions payment period—
- (a) an age retirement pension;
  - (b) a phased retirement pension (if P has elected to receive additional pension with it);

- (c) a premature retirement pension;
- (d) an early retirement pension.
- (2) If this paragraph applies—
  - (a) monthly payments for additional pension cease to be payable on the entitlement day for that pension; and
  - (b) the amount of accrued additional pension as at the relevant last day is an amount determined by the scheme manager.

## CHAPTER 5

### Revocation and refund

#### **Revoking an additional pension election**

- 18.** (1) P may revoke an additional pension election at any time before the end of the contributions payment period.
- (2) A revocation must be by written notice to the scheme manager.
  - (3) A revocation has effect from the date it is received by the scheme manager (“date of revocation”).
  - (4) P is taken to revoke an additional pension election if—
    - (a) P leaves all pensionable service before the end of the contributions payment period; and
    - (b) P is qualified or re-qualified for retirement benefits in respect of that service.
  - (5) On the date of revocation—
    - (a) monthly payments for additional pension under that election cease to be payable; and
    - (b) the amount of accrued additional pension as at that date is an amount determined by the scheme manager.

#### **Ill-health pension becomes payable before end of contributions payment period**

- 19.** (1) This regulation applies if an ill-health pension becomes payable to a member (P) before the end of the contributions payment period for an additional pension election.
- (2) If an ill-health pension becomes payable to P before the end of the refund period—
    - (a) any monthly payments that have been made under that additional pension election must be refunded to P; and
    - (b) the amount of accrued additional pension as at the last day of pensionable service must be adjusted by deducting the amount of accrued additional pension attributable to that election.
  - (3) If an ill-health pension becomes payable to P after the end of the refund period—
    - (a) the monthly payments under the additional pension election are treated as being paid until the earlier of—
      - (i) the end of the contributions payment period for that election; or
      - (ii) the day on which an ill-health pension ceases to be payable under regulation 114; and
    - (b) for the purpose of calculating the annual rate of ill-health pension, the amount of accrued additional pension is—
      - (i) if the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension calculated under regulation 46 or 47 as at the last day of pensionable service; or

- (ii) if that declaration was not made in good faith, an amount determined by the scheme manager having regard to the contributions paid or treated as being paid; and
- (4) If P re-enters pensionable service when an ill-health pension ceases to be payable under regulation 114, P may choose to resume the monthly payments.

**Death in service before end of contributions payment period**

- 20.** (1) This paragraph applies on the death of a member (D)—
- (a) whose additional pension election is for an additional (self only) pension and an additional (surviving adult) pension;
  - (b) who dies in service within the meaning of Part 6 before the end of the contributions payment period for that election.
- (2) If D dies before the end of the refund period—
- (a) the monthly payments must be refunded to D’s surviving adult; and
  - (b) the additional pension account must be closed.
- (3) If D dies after the end of the refund period—
- (a) the monthly payments cease to be payable as at the date of D’s death; and
  - (b) for the purpose of calculating a survivor’s pension, the amount of accrued additional pension is—
    - (i) if the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension calculated under regulation 46 or 47 as at the day of D’s death; or
    - (ii) if that declaration was not made in good faith, an amount determined by the scheme manager having regard to the contributions paid or treated as being paid.

**Member leaves all pensionable service before qualifying for retirement benefits**

- 21.** (1) This paragraph applies if a member (P) leaves all pensionable service under this scheme before P is qualified for retirement benefits in respect of that service.
- (2) On an application by P for a repayment of the balance of contributions—
- (a) any monthly payments made before the last day of pensionable service must be refunded to P; and
  - (b) the additional pension account must be closed.

**PART 3**

**Faster accrual election**

**CHAPTER 1**

**Making the election**

**Faster accrual election**

- 22.** (1) This paragraph applies to a person (P) who—
- (a) is in pensionable service under this scheme in relation to an employment; and
  - (b) has not reached normal pension age under this scheme.

(2) P may elect, in relation to an employment, to pay contributions to accrue earned pension at a faster accrual rate in any financial year (“faster accrual election”).

(3) A faster accrual election must state the faster accrual rate which is to apply to P’s pensionable earnings in that employment for that financial year.

(4) A faster accrual election must be made—

- (a) if P was not in pensionable service in relation to that employment in that financial year, within one month after P enters pensionable service in relation to that employment; or
- (b) otherwise, in the financial year before the financial year to which it relates.

(5) A faster accrual election has effect as follows—

- (a) if sub-paragraph (4)(a) applies, from one month after the election is received by the scheme manager; or
- (b) otherwise, from the start of the financial year to which it relates.

(6) A faster accrual election ceases to have effect at the end of the financial year to which it relates unless it is revoked before then.

#### **Making a faster accrual election**

23. (1) A faster accrual election must be made by written notice to the scheme manager.

(2) The notice of election must specify—

- (a) if the member (P) is in more than one eligible employment, the name of the employer who is to deduct the contributions;
- (b) P’s name;
- (c) P’s date of birth;
- (d) P’s annual amount of pensionable earnings for that employment in the financial year to which the faster accrual election relates.

(3) The scheme manager may request further information to be provided.

#### **Accepting a faster accrual election**

24. (1) The scheme manager may accept a faster accrual election by giving written notice to—

- (a) the member (P); and
- (b) P’s employer.

(2) For the purpose of these Regulations, a faster accrual election is accepted when P receives notice from the scheme manager.

## **CHAPTER 2**

### **Payment of contributions**

#### **Determination of contributions payable**

25. The scheme manager must determine the amount of the monthly payment to be paid in respect of a faster accrual election.

#### **Payment of contributions**

26. (1) A member (P)—

- (a) must make the first monthly payment within 2 months after the end of the month in which the faster accrual election is accepted; and
  - (b) must continue to make the monthly payments until the end of the contributions payment period.
- (2) The final monthly payment is due in the last month of the financial year to which the faster accrual election relates.
- (3) P is taken to revoke a faster accrual election if—
- (a) a monthly payment is missed; and
  - (b) the payment is not made within 3 months after P receives a written demand from the scheme manager.

### CHAPTER 3

#### Revocation and refund

##### **Revoking a faster accrual election**

- 27.** (1) A member (P) may revoke a faster accrual election at any time before the end of the contributions payment period.
- (2) A revocation must be by written notice to the scheme manager.
- (3) A revocation has effect from the date it is received by the scheme manager (“date of revocation”).
- (4) P is taken to revoke a faster accrual election if P leaves pensionable service in the employment to which the election relates before the end of the contributions payment period.
- (5) If P revokes or is taken to revoke a faster accrual election and P is not entitled to be repaid the balance of contributions under regulation 189—
- (a) P’s monthly payments cease to be payable on the date of revocation; and
  - (b) P’s active member’s account (or if P has left all pensionable service, P’s deferred member’s account or pensioner member’s account) must be credited with an amount determined by the scheme manager.
- (6) If P revokes or is taken to revoke a faster accrual election and P is entitled to be repaid the balance of contributions under regulation 189—
- (a) P’s monthly payments cease to be payable on the date of revocation; and
  - (b) P’s rights under this scheme are extinguished.

##### **Member leaves all pensionable service before qualifying for retirement benefits**

- 28.** (1) This paragraph applies if a member (P) leaves all pensionable service under this scheme before P is qualified for retirement benefits in respect of that service.
- (2) On an application by P for a repayment of the balance of contributions, any monthly payments made by P before the last day of pensionable service must be refunded to P.

## PART 4

### Election to buy out the standard reduction

#### CHAPTER 1

##### Making a buy-out election

###### **Eligible to make buy-out election**

**29.** (1) A member (P) who has a normal pension age over 65 may elect to pay contributions to buy out the standard reduction (“buy-out election”) for a period of up to 3 years.

(2) A buy-out election has effect from the day on which the scheme manager accepts the election.

(3) A buy-out election ceases to have effect when the earliest of the following occurs—

- (a) P reaches normal pension age;
- (b) a retirement pension other than a phased retirement pension becomes payable to P;
- (c) P revokes the election or is taken to revoke the election.

(4) A buy-out election may only be made within 6 months after P enters pensionable service under this scheme.

(5) When making a buy-out election, P must be—

- (a) in pensionable service; and
- (b) under normal pension age.

(6) P may by written notice to the scheme manager vary a buy-out election if P’s normal pension age changes before a retirement pension becomes payable to P.

###### **Making a buy-out election**

**30.** (1) A buy-out election made by a member (P) must state the number of years in respect of which the standard reduction is to be bought out.

(2) A buy-out election must be made by written notice to the scheme manager.

(3) The notice of election must specify—

- (a) if P is in more than one eligible employment, the name of the employer who is to deduct the contributions;
- (b) P’s name;
- (c) P’s date of birth;
- (d) P’s normal pension age;
- (e) the date on which P entered pensionable service;
- (f) P’s annual rate of pensionable earnings for that employment.

(4) The scheme manager may ask P to provide further information.

###### **Accepting a buy-out election**

**31.** (1) The scheme manager may accept a buy-out election by giving written notice to the person who made the election (P).

(2) The notice must state the buy-out value.

(3) A buy-out election is accepted when P receives notice that the scheme manager has accepted the election.

### **Determination of the buy-out value**

- 32.** (1) The buy-out value is an amount determined by the scheme manager.
- (2) If an additional pension election or a faster accrual election is subsequently made in respect of a person (P), the scheme manager may—
- (a) re-determine the buy-out value; and
  - (b) send a written notice to P stating the re-determined buy-out value.

## **CHAPTER 2**

### **Payment of buy-out contributions**

### **Determination of contributions payable**

- 33.** (1) The scheme manager must determine the amount of the monthly payments to be paid in respect of a buy-out election.
- (2) The scheme manager—
- (a) may determine the amount of the monthly payments by reference to the number of years stated in the buy-out election and the length of the contributions payment period; and
  - (b) may exercise the functions under this paragraph so as to re-determine the amount of the monthly payments during the contributions payment period.
- (3) Unless the scheme manager re-determines the amount, monthly payments following a gap in service not exceeding 5 years are the same as before the gap.

### **Payment of buy-out contributions**

- 34.** (1) A member (P) must—
- (a) make the first monthly payment within 2 months after the end of the month in which a buy-out election is accepted; and
  - (b) continue to make the monthly payments until the end of the contributions payment period.
- (2) The final monthly payment is due in the month before the buy-out election has effect.
- (3) If the scheme manager re-determines the amount of the monthly payment during the contributions payment period, P must pay the re-determined amount from the beginning of the next financial year.
- (4) P is taken to revoke a buy-out election if—
- (a) a monthly payment is missed; and
  - (b) the payment is not made within 3 months after P receives a written demand from the scheme manager.

### **Monthly payments during gap in service**

- 35.** (1) A member (P) who has a gap in service during the contributions payment period may choose to resume monthly payments on re-entering pensionable service.
- (2) P is taken to revoke a buy-out election if P's gap in service exceeds 5 years.

## CHAPTER 3

### Revocation and refund

#### Revoking a buy-out election

**36.** (1) A member (P) may revoke a buy-out election at any time before the end of the contributions payment period.

(2) If P revokes a buy-out election or is taken to revoke a buy-out election—

- (a) P's monthly payments cease to be payable on the date of revocation; and
- (b) when a retirement pension becomes payable to P, the standard reduction applies to such proportion of the maximum three year period referred to in regulation 73 as is determined by the scheme manager.

(3) In determining the proportion, the scheme manager must take into account—

- (a) the number of monthly payments made; and
- (b) the number of years stated in the buy-out election.

(4) If P revokes the election or is taken to revoke a buy-out election, P may not make a subsequent buy-out election.

(5) A revocation must be by written notice to the scheme manager.

(6) A revocation has effect from the date it is received by the scheme manager ("date of revocation").

#### Member leaves all pensionable service before qualifying for retirement benefits

**37.** (1) This paragraph applies if a member (P) leaves all pensionable service under this scheme before P is qualified for retirement benefits in respect of that service.

(2) On an application by P for a repayment of the balance of contributions, any monthly payments made by P before the last day of pensionable service must be refunded to P.

## SCHEDULE 3

Regulation 224

### Transitional provisions

## PART 1

### Interpretation

#### Interpretation

**1.** In this Schedule—

"exception" means an exception to section 18(1) of the Act;

"existing Fair Deal arrangements" means the arrangements by which a person (P) is a member of an occupational pension scheme comparable to the existing scheme and into which P's employer pays contributions in respect of P, following a TUPE transfer from an employer mentioned in Parts 2, 3 or 4 of Schedule 1;



“existing scheme rules” means the provisions of the existing scheme, an existing club scheme or an existing public service scheme;

“full protection member”, in relation to the existing scheme, has the meaning given in Part 2;

“protected member”, in relation to the existing scheme, means a full protection member or tapered protection member of that scheme;

“protection period”—

(a) for a full protection member of the existing scheme, has the meaning given in Part 2;

(b) for a tapered protection member of the existing scheme, has the meaning given in Part 3;

“public service scheme” means a scheme under section 1 of the Act;

“scheme closing date”, in relation to the existing scheme, means 31st March 2015;

“tapered protection member”, in relation to the existing scheme, has the meaning given in Part 3;

“tapered protection closing date” has the meaning given in paragraph 4;

“transition date” means—

(a) for a tapered protection member of an existing scheme, the day after the tapered protection closing date;

(b) for a transition member by virtue of the application of paragraph 21 who is not a protected member of an existing scheme, the day after the scheme closing date; and

(c) for a transition member by virtue of the application of paragraph 22 who is not a protected member of the existing scheme, the day after the Fair Deal transfer date.

### **Active membership of the existing scheme**

2. For the purpose of Parts 2, 3 and 4 of this Schedule, a person (P) is an active member of the existing scheme on a given date if on that date—

(a) P is in pensionable service under the existing scheme;

(b) P is on a gap in service not exceeding 5 years; or

(c) P is in receipt of an ill-health pension in respect of the existing scheme.

### **Gap in service after scheme closing date**

3. (1) Sub-paragraph (2) applies—

(a) after the scheme closing date; and

(b) in relation to a member of the existing scheme.

(2) A member (P) is not on a gap in service while P is in pensionable service under an existing scheme.

### **Meaning of “tapered protection closing date”**

4. (1) The closing date<sup>(80)</sup> for a tapered protection member of the existing scheme (“tapered protection closing date”) is a date between 31st May 2015 and 31st January 2022 (inclusive) determined by the scheme manager by reference to a table published for that purpose.

(2) The tapered protection closing date must fall on the last day of a month.

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<sup>(80)</sup> See section 18(4) and (7) of the Act for the meaning of “closing date”.

### **Continuity of service**

5. (1) This paragraph applies in relation to a transition member (P) who was a member of the existing scheme or an existing public service scheme before becoming an active member of this scheme.

(2) For the purpose of this Schedule, P has continuity of service unless P has a gap in service exceeding 5 years which—

- (a) begins on or before the closing date; and
  - (b) ends on the day on which P becomes an active member of this scheme.
- (3) In this paragraph, “closing date” means—
- (a) if P is a tapered protection member of the existing scheme, P’s tapered protection closing date; or
  - (b) otherwise, the scheme closing date.

## **PART 2**

### **Exceptions for full protection members**

#### **Meaning of “full protection member”**

6. (1) A person (P) to whom paragraph 7, 8 or 9 applies is a full protection member of the existing scheme.

(2) P ceases to be a full protection member of the existing scheme when P ceases to be in pensionable service under the existing scheme.

#### **Active members of the existing scheme**

7. This paragraph applies if—
- (a) P was an active member of the existing scheme, as defined in Part 1, on the scheme closing date and on 31st March 2012;
  - (b) a pension, other than a phased retirement pension, has not become payable to P on or after 1<sup>st</sup> April 2012; and
  - (c) unless P dies, P would reach normal pension age under that scheme on or before 1st April 2022.

#### **Active members of an existing public service scheme**

8. This paragraph applies if—
- (a) P was an active member of an existing public service scheme on the scheme closing date and on 31st March 2012;
  - (b) P enters eligible employment not more than 5 years after leaving pensionable service under the existing public service scheme;
  - (c) a pension in respect of all of P’s service in the existing public service scheme has not become payable on or after 1<sup>st</sup> April 2012; and
  - (d) unless P dies, P would reach normal pension age under the existing scheme and the existing public service scheme on or before 1st April 2022.

### **Fair Deal members**

- 9.** (1) This paragraph applies if sub-paragraphs (2) and (3) apply.
- (2) This sub-paragraph applies if—
- (a) on or before the scheme closing date—
    - (i) P was an active member of the existing scheme;
    - (ii) P's employment was transferred to an employer not mentioned in Parts 2, 3 or 4 of Schedule 1;
    - (iii) as a result of that transfer, P ceased to be in pensionable service under the existing scheme; and
    - (iv) P's employment is subject to existing Fair Deal arrangements.
  - (b) after the scheme closing date—
    - (i) P is subject to a Fair Deal transfer; and
    - (ii) P is not a member of another pension scheme to which P's employer pays contributions in respect of P.
- (3) This sub-paragraph applies if—
- (a) on 31st March 2012 and on the scheme closing date, P was an active member of the existing scheme or a pension scheme access to which was given under existing Fair Deal arrangements; and
  - (b) unless P dies, P would reach normal pension age under the existing scheme before 2nd April 2022.

### **Exception for full protection member during protection period**

- 10.** (1) This paragraph applies to a person (P) if P is a full protection member of the existing scheme by virtue of the application of either paragraph 7 or 8.
- (2) The protection period for P is the period which—
- (a) begins on the day after the scheme closing date; and
  - (b) ends when P ceases to be a full protection member of that scheme.
- (3) During the protection period—
- (a) P's pensionable service is pensionable service under the existing scheme; and
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service.

### **Exception for Fair Deal full protection member during protection period**

- 11.** (1) This paragraph applies to a person (P) if P is a full protection member of the existing scheme by virtue of the application of paragraph 9.
- (2) The protection period for P is the period which—
- (a) begins on the Fair Deal transfer date; and
  - (b) ends when P ceases to be a full time protection member under the existing scheme.
- (3) During the protection period—
- (a) P's pensionable service is pensionable service under the existing scheme; and
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service.

### **Full protection member not eligible to join this scheme**

12. While a person (P) is a full protection member of the existing scheme, P is not eligible to be an active member of this scheme.

## **PART 3**

### **Exceptions for tapered protection members**

#### **Meaning of “tapered protection member”**

13. (1) A person (P) to whom paragraph 14, 15 or 16 applies is a tapered protection member of the existing scheme.

(2) P ceases to be a tapered protection member of the existing scheme on whichever of the following days occurs first—

- (a) P’s tapered protection closing date; or
- (b) the day on which P ceases to be in pensionable service under the existing scheme.

#### **Active members of the existing scheme**

14. This paragraph applies if—

- (a) P was an active member of the existing scheme, as defined in Part 1, on the scheme closing date and on 31st March 2012;
- (b) a pension, other than a phased retirement pension, has not become payable to P on or after 1st April 2012; and
- (c) unless P dies, P would reach normal pension age under that scheme between 2nd April 2022 and 1st September 2025 (inclusive).

#### **Active members of an existing public service scheme**

15. This paragraph applies if—

- (a) P was an active member of an existing public service scheme on the scheme closing date and on 31st March 2012;
- (b) P enters eligible employment not more than 5 years after leaving pensionable service under the existing public service scheme;
- (c) a pension in respect of all of P’s service in the existing public service scheme has not become payable on or after 1st April 2012; and
- (d) unless P dies, P would reach normal pension age under—
  - (i) the existing scheme between 2nd April 2022 and 1st September 2025 (inclusive); and
  - (ii) the existing public service scheme on or before 1st September 2025.

#### **Fair Deal members**

16. (1) This paragraph applies if sub-paragraphs (2) and (3) apply.

(2) This sub-paragraph applies if—

- (a) on or before the scheme closing date—
  - (i) P was an active member of the existing scheme;

- (ii) P's employment was transferred to an employer not mentioned in Parts 2, 3 or 4 of Schedule 1;
  - (iii) as a result of that transfer, P ceased to be in pensionable service under the existing scheme; and
  - (iv) P's employment is subject to existing Fair Deal arrangements.
- (b) after the scheme closing date—
- (i) P is subject to a Fair Deal transfer; and
  - (ii) P is not a member of another pension scheme to which P's employer pays contributions in respect of P.
- (3) This sub-paragraph applies if—
- (a) on 31<sup>st</sup> March 2012 and on the scheme closing date, P was an active member of the existing scheme or a pension scheme access to which was given under existing Fair Deal arrangements; and
  - (b) unless P dies, P would reach normal pension age under the existing scheme between 2<sup>nd</sup> April 2022 and 1<sup>st</sup> September 2025 (inclusive).

#### **Exception for tapered protection members during protection period**

**17.** (1) This paragraph applies to a person (P) if P is a tapered protection member of the existing scheme by virtue of the application of either paragraph 14 or 15.

- (2) The protection period for P is the period which—
- (a) begins on the day after the scheme closing date; and
  - (b) ends when P ceases to be a tapered protection member.
- (3) During the protection period—
- (a) P's pensionable service is pensionable service under the existing scheme;
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
  - (c) benefits are to be provided under the existing scheme to or in respect of P in relation to that pensionable service.

#### **Exception for Fair Deal tapered protection member during protection period**

**18.** (1) This paragraph applies to a person (P) if P is a tapered protection member of the existing scheme by virtue of the application of paragraph 16.

- (2) The protection period for P is the period which—
- (a) begins on the Fair Deal transfer date; and
  - (b) ends when P ceases to be a tapered protection member of the existing scheme.
- (3) During the protection period—
- (a) P's pensionable service is pensionable service under the existing scheme;
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
  - (c) benefits are to be provided under the existing scheme to or in respect of P in relation to that pensionable service.

### **Tapered protection member not eligible to join this scheme**

19. While a person (P) is a tapered protection member of the existing scheme, P is not eligible to be an active member of this scheme.

## **PART 4**

### **Transition members becoming active members of this scheme**

#### **Meaning of “transition member”**

20. A person (P) to whom either paragraph 21 or 22 applies is a transition member.

#### **Active members of the existing scheme**

21. This paragraph applies to a person (P) if—

- (a) P is a member of the existing scheme by virtue of his or her pensionable service under that scheme before the transition date;
- (b) P is a member of this scheme by virtue of his or her pensionable service under this scheme on or after the transition date; and
- (c) either—
  - (i) unless P dies, P would reach normal pension age under this scheme on or after 2<sup>nd</sup> September 2025, or
  - (ii) P enters post-benefit service between 31<sup>st</sup> March 2012 and the scheme closing date.

#### **Fair Deal members**

22. (1) This sub-paragraph applies if sub-paragraphs (2) and (3) apply.

(2) This sub-paragraph applies if—

- (a) on or before the scheme closing date—
  - (i) P was an active member of the existing scheme;
  - (ii) P’s employment was transferred to an employer not mentioned in Parts 2, 3 or 4 of Schedule 1;
  - (iii) as a result of that transfer, P ceased to be in pensionable service under the existing scheme; and
  - (iv) P’s employment is subject to existing Fair Deal arrangements.
- (b) after the scheme closing date—
  - (i) P is subject to a Fair Deal transfer; and
  - (ii) P is not a member of another pension scheme to which P’s employer pays contributions in respect of P.

(3) This sub-paragraph applies if—

- (a) on the scheme closing date, P was an active member of the existing scheme or a pension scheme access to which was given under existing Fair Deal arrangements; and
- (b) unless P dies, P would reach normal pension age under this scheme on or after 2<sup>nd</sup> September 2025.

### **Transition members with continuity of service**

**23.** A transition member (P) who has continuity of service becomes an active member of this scheme—

- (a) if P is in pensionable service on the transition date, on that date; or
- (b) on re-entering pensionable service after the transition date.

### **Transition members without continuity of service**

**24.** A transition member (P) who does not have continuity of service becomes an active member of this scheme when P re-enters pensionable service on or after the transition date.

## **PART 5**

### **Receipt of club transfer values**

#### **Application of Part**

**25.** (1) This Part applies to a member who applies under these Regulations for a club transfer value to be accepted from an existing club scheme (“the sending scheme”).

(2) This Part does not apply if—

- (a) the person (P) has reached 75;
- (b) retirement benefits have become payable to P under this scheme or under the sending scheme; or
- (c) the sending scheme was a money purchase arrangement to which P’s previous employer made no contribution.

#### **Member with full protection**

**26.** (1) This paragraph applies if a full protection member of the existing scheme applies to the scheme manager for a club transfer value to be accepted.

(2) On receipt of the application, the scheme manager must accept payment of the club transfer value if it is offered.

(3) The club transfer value must be paid into the existing scheme.

#### **Member with tapered protection or no protection**

**27.** (1) This paragraph applies if a tapered protection member or a transition member who is not a protected member applies to the scheme manager for a club transfer value to be accepted.

(2) On receipt of the application, the scheme manager must accept payment of the club transfer value if it is offered.

(3) Payment of the club transfer value—

- (a) must be accepted into the existing scheme if the payment relates to pensionable service before the transition date;
- (b) must be accepted into this scheme if the payment relates to pensionable service on or after the transition date.

## PART 6

### Bulk transfer payments for accepted members

#### Application of Part

- 28.** This Part applies in relation to all persons who—
- (a) were active members of the existing scheme in relation to an employment before that employment was transferred;
  - (b) as a result of that transfer became subject to existing Fair Deal arrangements and ceased to be active members of the existing scheme in relation to that employment;
  - (c) while subject to that transfer, were active members of an occupational pension scheme; and
  - (d) as a result of a Fair Deal transfer become accepted members of this scheme.

#### Accepting a bulk transfer payment

**29.** (1) This paragraph applies if another occupational pension scheme (“the sending scheme”) offers to make a bulk transfer payment in respect of all persons to whom this Part applies.

(2) The scheme manager for the existing scheme must accept a bulk transfer payment if it is offered.

(3) A transfer payment in respect of a person (P) may not be accepted as part of a bulk transfer payment if—

- (a) it relates to service on or after the Fair Deal transfer date; or
- (b) retirement benefits have become payable to P under the sending scheme.

(4) In this Part, “bulk transfer payment” means a single transfer payment in respect of all persons to whom this Part applies.

(5) The bulk transfer payment must be accepted into the existing scheme.

## PART 7

### Payment of benefits to transition members

#### CHAPTER 1

##### General

#### Reaching normal pension age

**30.** (1) If a transition member (P) who applies for payment of retirement benefits under both schemes has reached normal pension age under the existing scheme but has not reached normal pension age under this scheme, the benefits payable under this scheme are to be actuarially reduced.

(2) If P has reached normal pension age neither under the existing scheme nor under this scheme, the benefits payable under both schemes are to be actuarially reduced.

(3) If P has reached normal pension age—

- (a) under the existing scheme only, the benefits payable under that scheme are to be actuarially enhanced under the existing scheme rules (if applicable); or
- (b) under both schemes, the benefits payable under both schemes are to be actuarially enhanced (if applicable).



### **Application of existing scheme rules**

**31.** (1) The existing scheme rules apply in relation to the calculation of benefits payable in respect of pensionable service under the existing scheme, save that an application for payment of benefits must be made under regulation 162 of these Regulations and not under TPR 2010.

(2) The existing scheme rules apply in relation to the payment of additional pension with a retirement pension under the existing scheme, save that an application for payment of benefits must be made under regulation 162 of these Regulations and not under TPR 2010.

(3) The existing scheme rules apply in relation to an election made by a person (P) for contributions to be paid monthly under paragraph 2(1) (election to pay contributions for additional pension) of Schedule 4 to TPR 2010 if the election is made before—

- (a) the date P ceases to be in pensionable service under the existing scheme, if P is a full protection member; or
- (b) the transition date.

### **Determination of final salary**

**32.** (1) For the purpose of calculating benefits payable under the existing scheme to or in respect of a transition member with continuity of service, the member's final salary is determined by reference to Part 5 of TPR 2010.

(2) Where a salary restriction under regulation 39 of TPR 2010 applies in respect of the benefits payable to a transition member, no repayment of contributions is payable under regulation 26 of TPR 2010.

### **Annual rate of pension**

**33.** Save where provided otherwise in paragraph 46 (application for supplementary death grant), the annual rate of pension payable to a transition member is found by adding—

- (a) the annual rate of pension payable under the existing scheme; and
- (b) the annual rate of pension payable under this scheme.

## **CHAPTER 2**

### **Application for payment of benefits**

#### **Application for payment of age retirement pension**

**34.** (1) An application by a transition member (P) for payment of an age retirement pension under this scheme is also an application for payment of an age retirement pension in respect of P's pensionable service under the existing scheme.

(2) A transition member (P) who has not reached normal pension age under this scheme may apply under regulation 162 of these Regulations for payment of age retirement benefits in respect of P's pensionable service under the existing scheme without applying for payment of P's retirement benefits in respect of pensionable service under this scheme.

#### **Application for payment of phased retirement pension**

**35.** (1) A transition member (P) who makes a phased retirement application under this scheme may elect to receive phased retirement benefits—

- (a) in respect of pensionable service under the existing scheme only;
- (b) in respect of pensionable service under this scheme only; or

(c) in respect of pensionable service under both the existing scheme and this scheme .

(2) P's application for phased retirement benefits in respect of pensionable service under both the existing scheme and this scheme may specify a different phased retirement proportion for each scheme.

#### **Application for payment of premature retirement pension**

**36.** A transition member (P) who applies for payment of a premature retirement pension under this scheme will receive any benefits due to P in respect of P's pensionable service in the existing scheme as part of P's premature retirement pension payable under this scheme.

#### **Application for payment of early retirement pension**

**37.** A transition member (P) who applies for payment of an early retirement pension under this scheme will receive any benefits due to P in respect of P's pensionable service in the existing scheme as part of P's early retirement pension payable under this scheme.

#### **Application for payment of ill-health pension**

**38.** (1) A transition member (P) will receive any benefits payable under this scheme as part of P's ill-health pension payable under the existing scheme if—

- (a) P applies before P's transition date for payment of an ill-health pension, and
- (b) P's application is successfully determined after that date.

(2) P will receive under this scheme any benefits due to P in respect of P's pensionable service in the existing scheme if P makes a successful application for payment of an ill-health pension under this scheme.

#### **Entitlement to payment of total incapacity pension**

**39.** (1) Save as provided in sub-paragraph (2), a transition member (P) is not entitled to payment of total incapacity benefits under regulation 65 of TPR 2010.

- (2) P may receive payment of total incapacity benefits under the existing scheme regulations if—
- (a) before P's transition date, P makes an application under regulation 65 of TPR 2010 which is not determined by the transition date;
  - (b) P's application is successfully determined after the transition date; and
  - (c) P has not made a subsequent application under regulation 162 of these regulations for payment of total incapacity benefits.

#### **Entitlement to payment of a short-service serious ill-health grant**

**40.** (1) Save as provided in this paragraph, a transition member (P) is not entitled to payment of a short-service serious ill-health grant under regulation 79 of TPR 2010.

(2) P may receive payment of a short-service serious ill-health grant under the existing scheme regulations if—

- (a) before P's transition date, P makes an application under regulation 79 of TPR 2010 which is not determined by the transition date;
- (b) P's application is successfully determined after the transition date; and
- (c) P has not made a subsequent application under regulation 162 of these regulations for payment of a short-service serious ill-health grant.

(3) The amount of the payment of a short-service ill-health grant payable under sub-paragraph (2) is calculated under regulation 122 of these Regulations.

#### **Application for payment of a surviving adult pension**

**41.** (1) When the surviving adult of a transition member applies for payment of a surviving adult pension under this scheme, the surviving adult must also apply for payment of an adult pension under the existing scheme.

(2) The short-term rate of surviving adult pension—

- (a) is payable under this scheme; but
- (b) is not payable under regulation 95 of the existing scheme.

(3) The enhancement of a surviving adult pension—

- (a) is applied under regulation 145 of these Regulations; but
- (b) is not applied under Schedule 9 to the existing scheme.

#### **Application for payment of an additional (surviving adult) pension**

**42.** When the surviving adult of a transition member applies for payment of an additional (surviving adult) pension under this scheme, the surviving adult must also apply for payment of an additional pension under the existing scheme.

#### **Application for payment of a child pension**

**43.** (1) When the eligible child of a transition member applies for payment of a child pension under this scheme, the eligible child must also apply for payment of a child pension under the existing scheme.

(2) The short-term rate of child pension—

- (a) is payable under this scheme; but
- (b) is not payable under regulation 98 of the existing scheme.

(3) The enhancement of a child pension—

- (a) is applied under regulation 152 of these Regulations; but
- (b) is not applied under Schedule 9 to the existing scheme.

#### **Application for payment of a death in service grant**

**44.** (1) The beneficiary of a transition member (D) is not entitled to a death in service grant under regulation 83 or 84 of the existing scheme.

(2) The amount of the death in service grant paid under this scheme must be reduced by the amount of any retirement lump sum paid under regulation 60 of the existing scheme in respect of D's pensionable service under that scheme.

#### **Application for payment of a death out of service grant**

**45.** (1) When the beneficiary of a transition member applies for payment of a death out of service grant under this scheme, the beneficiary must also apply for payment of a death out of service grant under the existing scheme.

(2) The amount of the death out of service grant paid under this scheme must be reduced by the amount of any retirement lump sum paid under regulation 60 of the existing scheme in respect of D's pensionable service under that scheme.

### **Application for supplementary death grant**

46. (1) An application for a supplementary death grant by the beneficiary of a transition member is an application for a supplementary death grant under this scheme and under the existing scheme.

(2) Paragraph 33 (annual rate of pension) does not apply in respect of an application under this paragraph.

### **Application for payment of benefits for pension credit members**

47. (1) A transition member (P) who has not reached normal pension age under the existing scheme when P applies for payment of a pension credit retirement pension under this scheme will receive payment of any benefits payable to P in respect of pensionable service under the existing scheme.

(2) If P applies for payment of a pension credit retirement pension after having reached normal pension age under the existing scheme, P may apply for payment from this scheme of a pension credit retirement pension in respect of pensionable service under—

- (a) the existing scheme;
- (b) this scheme; or
- (c) the existing scheme and this scheme.

## **PART 8**

### **Provision in relation to the existing scheme**

#### **Election for employment not to be pensionable in relation to existing scheme continues to have effect**

48. A person (P) is taken to have opted out of this scheme in relation to an eligible employment if, on P's transition date, an election for that employment not to be pensionable has effect in relation to the existing scheme.

#### **Qualifying for retirement benefits under the existing scheme**

49. In determining whether a transition member is qualified for retirement benefits under the existing scheme, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the existing scheme; and
- (b) the member's qualifying service under this scheme.

#### **Repayment of balance of contributions**

50. An application by a transitional member (P) for the repayment of the balance of P's contributions under regulation 189 is also an application for any repayment of the balance of contributions due to P under regulations 22 to 24 of TPR 2010.

#### **Residential emoluments**

51. Where the money value of a transition member's (P)'s residential benefits in kind is treated as part of P's contributable salary by virtue of an application under regulation 16(4) of TPR 2010, this has effect as if the application were made under regulation 37 of these Regulations Transfer payments in respect of the existing scheme.

**52.** A transfer payment made in respect of a transition member by the scheme manager must be in relation to any benefits accrued in this scheme and any service accrued in the existing scheme.

**Nomination continues to have effect**

**53.** A nomination under regulation 82 (death grant), 90 (surviving nominated partner) or 91 (surviving nominated beneficiary) of the existing scheme has effect as if made under Part 6 of these Regulations.

**Election to pay contributions by a person serving in a reserve force**

**54.** (1) An election by a transition member (P) to pay contributions made under regulation 19 of TPR 2010 has effect as if made under regulation 26 of these Regulations.

(2) On becoming an active member of this scheme P does not begin to accrue service which counts for the purpose of benefits in respect of P's permanent service for the purpose of regulation 19(3) of TPR 2010.

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations establish a career average re-valued earnings scheme for the payment of pensions and other benefits to and in respect of teachers in England and Wales.

Part 2 contains governance provisions including delegation of the scheme manager's functions and establishment of the Teachers' Pension Scheme Pension Board and the Teachers' Pension Scheme Advisory Board.

Part 3 provides for scheme membership. It sets out the key concepts of eligible employment and pensionable earnings. It contains eligibility and auto-enrolment provisions.

Part 4 provides for the establishment of a member's pension accounts in relation to a continuous period of pensionable service under this scheme.

Chapter 2 explains how the amount of accrued pension is calculated.

Chapter 3 provides for the establishment of pension accounts.

Chapter 4 provides for the establishment of the active member's account. This Chapter provides for the proportion of pensionable earnings accrued as pension to be revalued each year until the member leaves pensionable service.

Chapter 5 provides for the establishment of additional pension accounts.

Chapter 6 provides for deferred members' accounts and explains how the provisional amount of deferred pension is calculated.

Chapter 7 provides for the establishment of pensioner members' accounts.

Chapter 8 provides for the establishment of pension credit members' accounts.

Part 5 provides for a member's entitlement to payment of retirement benefits. It sets out the key concept of qualifying service.

Part 6 provides for death grants and survivors' benefits.

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

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Part 7 provides for benefits for pension credit members.

Part 8 provides for the payment and calculation of pension benefits. It also provides for the recovery and suspension of benefits in certain cases.

Part 9 provides for the payment of contributions by members and employers and also the repayment of a member's contributions after short-service.

Part 10 provides for the payment and receipt of transfer values including club transfers.

Part 11 contains supplementary provisions on matters including employment records and the provision of information between the scheme and members.

Schedule 1 describes eligible employment.

Schedule 2 makes provision for pension flexibilities.

Schedule 3 makes transitional provision.

An impact assessment has not been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.