
STATUTORY RULES OF NORTHERN IRELAND

1992 No. 547

**Local Government (Superannuation)
Regulations (Northern Ireland) 1992**

**PART E
BENEFITS**

Guaranteed minimum pension for certain pensionable employees and their widows or widowers

E1.—(1) This regulation applies if the employment of a pensionable employee in any local government employment is contracted-out employment.

(2) Where this regulation applies it overrides anything in these regulations that is inconsistent with it, except regulations E13 (reduction of retirement pension in the case of certain re-employed pensioners), E18 (power to compound certain small pensions) and M1 (forfeiture of rights).

(3) Where this regulation applies and the pensionable employee has a guaranteed minimum under Article 37 of the Pensions Order in relation to benefits under these regulations—

- (a) unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum;
- (b) if he attains state pensionable age while in local government employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum;
- (c) if the pensionable employee is a man and dies at any time leaving a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in Article 38(6) of the Pensions Order, entitled to a pension at a weekly rate equal to half that guaranteed minimum; and
- (d) if the pensionable employee is a woman and dies at any time leaving a widower, unless he is entitled to a widower's pension at a higher rate he is, during any such period as is prescribed under Article 38(7A) of the Pensions Order⁽¹⁾, entitled to a pension at a weekly rate equal to half of that part of the pensionable employee's guaranteed minimum which is attributable to earnings factors for the tax year beginning 6th April 1988 and subsequent tax years.

(4) The guaranteed minimum pensions referred to in paragraph (3) shall, insofar as they are attributable to earnings factors in the tax years from (and including) 1988-89, be increased in accordance with the requirements of Article 39A of the Pensions Order⁽²⁾ and to the extent of any orders made thereunder.

(1) Article 38(7A) was inserted by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Article 11(3)

(2) Article 39A was inserted by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Article 11(7)

(5) Where the commencement of the guaranteed minimum pension to which an officer is entitled under the scheme is postponed for any period or the whole or part of that pension is suspended during any period his guaranteed minimum shall be increased to the extent, if any, specified in Article 37(6) of the Pensions Order, as amended from time to time.

Entitlement to retirement pension and retiring allowance

E2.—(1) Subject to paragraphs (3) to (9), when a person ceases to hold a local government employment he becomes entitled in relation to that employment to an annual retirement pension and a lump sum retiring allowance if—

- (a) he has attained the age of 60 years and the total of his reckonable service and any qualifying service is not less than 25 years; or
- (b) the total of his reckonable service and any qualifying service is not less than 2 years and—
 - (i) he is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body; or
 - (ii) he has attained the age of 65 years; or
 - (iii) he has attained the age of 50 years and one of the conditions in paragraph (3) is satisfied; or
- (c) neither sub-paragraph (a) nor sub-paragraph (b) applies and—
 - (i) the total of his reckonable service and any qualifying service is not less than 2 years; or
 - (ii) he is treated by virtue of regulation J13(3), as having ceased to hold the employment on becoming subject in it to an approved non-local government scheme; or
- (d) he has attained the age of 60 years and has completed 10 years' service, provided that he was a pensionable employee before 1st April 1972; or
- (e) none of the preceding sub-paragraphs applies and he—
 - (i) has attained state pensionable age; or
 - (ii) would attain state pensionable age before the following 6th April.

(2) When a person ceases to hold a local government employment he becomes entitled in relation to that employment to an annual retirement pension if—

- (a) he is not so entitled under paragraph (1)(a) to (c), or he is entitled under paragraph (1)(c) but makes an election under regulation C15(4) and receives a return of contributions (in which case he shall be treated as having ceased to hold the employment on the day before the date of receipt); and
- (b) the whole or some part of his reckonable service was service in a non-participating employment or was reckonable service which relates to employment with a non-local government employer in a non-participating employment; and
- (c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 55(1) of the Insurance Act or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation — Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(3) as modified by regulation 10(2) (a) or (b) of the Transitional Provisions Regulations; and
- (d) at some time during the settlement period (within the meaning of regulation 2 of the Transitional Provisions Regulations) he became, and has remained, assured of equivalent pension benefits.

- (3) The conditions mentioned in paragraph (1)(b)(iii) are—
- (a) that the employing authority certify that the person has ceased to hold the local government employment by reason of redundancy or in the interests of the efficient exercise of their functions; or
 - (b) that the person was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.
- (4) Benefits to which a person has become entitled by virtue of paragraph (1)(a) or (b) are payable immediately.
- (5) Subject to paragraphs (8) to (10), preserved benefits become payable from the date on which the person attains pensionable age, or if earlier—
- (a) from any date on which he becomes incapable by reason of permanent ill-health or infirmity of mind or body of discharging efficiently the duties of the employment he ceased to hold; or
 - (b) from any date after he has attained the age of 50 years from which the employing authority, with the agreement of the Committee, determine on compassionate grounds that the benefits are to become payable; or
 - (c) in the case of a woman, from the first date on which she both—
 - (i) has attained the age of 60 years; and
 - (ii) is no longer in any local government employment,unless he is a man who has attained the age of 60 years and has, on or after but not more than 3 months after the date of his attaining that age or of his ceasing to be employed, whichever is the later, by notice in writing to the employing authority elected to receive payment from that date.
- (6) Subject to paragraph (10), benefits to which a man has become entitled by virtue of paragraph (1)(e) are payable—
- (a) if he ceased the employment before he attained the age of 65 years and has made an election by notice in writing given to the employing authority not later than 3 months after ceasing to hold the employment, immediately on ceasing the employment;
 - (b) if he ceased the employment before he attained the age of 65 years and has not made an election under sub-paragraph (a), from the date on which he attains the age of 65 years;
 - (c) if he ceased the employment on or after attaining the age of 65 years, immediately on ceasing the employment.
- (7) Benefits to which a woman has become entitled by virtue of paragraph (1)(e) are payable from the first date on which she has both attained the age of 60 years and is no longer in any local government employment.
- (8) A person who is entitled to preserved benefits ceases to be entitled to them—
- (a) if the whole of the aggregate amount of his contributions to the fund, within the meaning of regulation C15, has been returned to him (whether with or without interest) under that regulation or under regulation 16 of the 1981 regulations and, after receiving the return of contributions, he has no further right to reckon any reckonable service to which a transfer value accepted under regulation J8 relates; or
 - (b) if rights in respect of the reckonable service he was entitled to reckon in relation to the employment he ceased to hold have been transferred to a non-local government scheme by virtue of the payment of a transfer value; or
 - (c) if he re-enters local government employment, unless he elects to remain entitled to the preserved benefits; or

(d) if the body who employed him in that employment which he ceased to hold certify under regulation E21 that on ceasing to hold it he suffered a material reduction in remuneration.

(9) An election for the purposes of paragraph (8)(c) must be made by giving notice in writing to the Committee, within 3 months after re-entering local government employment or, such longer period as the Committee may in a particular case allow.

(10) A person may not make an election under paragraphs (5) or (6)(a) if the retirement pension to which he has become entitled—

- (a) is a pension in relation to which he has a guaranteed minimum under Article 37 of the Pensions Order; and
- (b) would, but for regulation E1(3)(a), be reduced under regulation E3(11) to less than his guaranteed minimum pension.

(11) A retirement pension to which a person has become entitled by virtue of paragraph (2) is payable from the first date on which he both—

- (a) has attained state pensionable age; and
- (b) is no longer in any local government employment.

Amount of retirement pension and retiring allowance

E3.—(1) Subject to paragraphs (2) and (9) to (13), and to regulation E26, the annual rate of a person's retirement pension is 1/80th of his pensionable remuneration multiplied by the length in years of his reckonable service.

(2) In the case of a person who—

- (a) is entitled under regulations D4, D5, D6(1) or D7 to reckon an additional period as reckonable service; and
- (b) had at the appropriate time (as defined in paragraph 1 of Schedule 3) attained the age of 45 years,

the rate specified in paragraph (1) is increased by 1/240th of his pensionable remuneration multiplied by the length in years of that additional period.

(3) Subject to paragraphs (4) to (11) and to regulation E26, the amount of a person's retiring allowance is 3/80ths of his pensionable remuneration multiplied by the length in years of his reckonable service; but where paragraph (2) applies his reckonable service does not for the purposes of this paragraph include the additional period.

(4) Subject to paragraph (7), where the person is a married man and a widow's pension may become payable under regulation E5 the amount calculated in accordance with paragraph (3) is reduced by 2/80ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972.

(5) Subject to paragraphs (7) and (8), where—

- (a) the person is a widower; or
- (b) he and his wife are judicially separated; or
- (c) his marriage has been dissolved,

and he satisfies the requirements contained in paragraph (6), the amount calculated in accordance with paragraph (3) is reduced by 2/80ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972, or, if earlier, the date of the death, separation or dissolution.

(6) A person to whom paragraph (5) refers is a person whose wife died or was divorced or judicially separated from him—

- (a) on or after the date on which he first became a pensionable employee within the meaning of these regulations or, as the case may be, an officer within the meaning of the former regulations; or
- (b) while he was subject to a superannuation scheme the service reckonable in which is reckonable by him for the purpose of these regulations and which provided a widow's pension as one of its benefits; or
- (c) during the period between his leaving employment in which he was subject to any such scheme as is mentioned in sub-paragraph (b) and his entry into employment in which he became a pensionable employee or an officer as aforesaid.

(7) In calculating any reduction under paragraphs (4) or (5), no account shall be taken of any reckonable service in respect of which payment under regulation C7 has or is to be treated as having been completed.

(8) No reduction is to be made under paragraph (5) where the person is a woman in relation to whom this regulation applies as provided in regulation E12 and who has not made any election under regulation E12(1)(b) or (2)(b).

(9) Where—

- (a) regulation E2(1)(b)(i) (permanent ill-health, etc.) applies;
- (b) the person has not given a notification under regulation B3, or, having given such a notification, has again by the date of cessation of employment become a pensionable employee by virtue of regulation B4; and
- (c) the total of the person's reckonable service and any qualifying service is not less than 5 years,

he is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 9.

(10) Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation E2(8)(a) does not apply, for the purposes of this regulation his reckonable service shall be taken to be the reckonable service which he is entitled to reckon after he receives the return of contributions, excluding reckonable service to which the return of contributions relates.

(11) Subject to paragraph (12), where benefits have been become payable—

- (a) to a man by virtue of an election under regulation E2(5) or (6)(a); or
- (b) to a woman by virtue of regulation E2(5)(c) or (7),

the amounts calculated in accordance with paragraphs (1) to (10) are reduced in accordance with Schedule 11.

(12) A person's retirement pension is not to be reduced under paragraph (11)—

- (a) to less than any minimum rate of equivalent pension benefits applicable under the Insurance Act; or
- (b) in the case of a woman, to less than the annual rate obtained by multiplying 1/80th of her pensionable remuneration by the length in years of the whole period of her service in contracted-out employment.

(13) The rate of a retirement pension payable by virtue of regulation E2(2) is the rate of equivalent pension benefits applicable to the person in respect of any period of reckonable service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

Ill-health retirement grant

E4.—(1) This paragraph applies to a person—

- (a) who has at any time since 8th December 1980 ceased to hold a local government employment;
- (b) who when he ceased to hold that employment—
 - (i) was entitled to reckon an aggregate of at least one but less than 2 years' reckonable service and qualifying service; and
 - (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body;
- (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation C15(7);
- (d) who is not apart from this regulation entitled to any payment out of the fund, other than an injury allowance under regulation 21 of the 1981 regulations or the corresponding provisions of the former regulations or a return of contributions, and has not—
 - (i) received any return of contributions other than one in respect of which a payment was made under regulation 28A(3) of the 1981 regulations; or
 - (ii) received a grant under regulation 28A of the 1981 regulations; and
- (e) who, if a return of contributions (increased under regulation J10 where that regulation applies) were made to him, would receive a net amount smaller than that of a grant calculated in accordance with paragraph (2).

(2) A person to whom paragraph (1) applies is entitled to be paid a grant (“an ill-health retirement grant”) of an amount equal to—

- (a) $\frac{1}{12}$ th of his pensionable remuneration multiplied by the length in years of his reckonable service; or
- (b) $\frac{3}{80}$ ths of his pensionable remuneration multiplied by the length in years of the total period he would have been entitled to reckon as reckonable service if—
 - (i) he had continued in local government employment until he had attained the age of 65 years; and
 - (ii) any added period payments had been completed,
 whichever is the lesser amount.

Entitlement to widow’s short-term and long-term pensions

E5.—(1) If, at the time of his death, a man—

- (a) was entitled to receive payments in respect of a retirement pension; or
- (b) would have been so entitled but for the operation of regulation E13 (reduction of certain retirement pensions); or
- (c) was in a local government employment and—
 - (i) the total of his reckonable service and any qualifying service was not less than 2 years; or
 - (ii) he would if he had then ceased to be employed otherwise than by reason of his death have become entitled to benefits by virtue of regulation E2(1)(e),

and he leaves a widow or widows she is, or as the case may be, they are jointly, entitled, subject to paragraphs (3) to (5), to a widow’s short-term pension for 3 months after his death and then to a widow’s long-term pension.

(2) If at the time of his death a man was entitled to preserved benefits and he leaves a widow or widows she is, or as the case may be, they are jointly, entitled, subject to paragraphs (3) to (5), to a widow's long-term pension.

(3) A widow is not entitled to any pension by virtue of paragraphs (1) or (2) if when her husband died or became entitled to a retirement pension she was judicially separated from him.

(4) A widow is not entitled to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if—

(a) she was not her husband's wife at some time while he was in local government employment after 31st March 1972 and before the date on which he became entitled to a retirement pension; or

(b) her husband became entitled to a retirement pension by virtue of regulation E2(2).

(5) Where, but for paragraph (4)(a), a widow would have been entitled—

(a) under paragraph (1) to a widow's short-term pension and to a widow's long-term pension; or

(b) under paragraph (2) to a widow's long-term pension,

she is entitled where sub-paragraph (a) applies to a short-term pension and a long-term pension and where sub-paragraph (b) applies to a long-term pension only, calculated in each case in accordance with regulation E6(4).

(6) A pension to which a widow is entitled by virtue of this regulation—

(a) is not payable to her during any subsequent marriage or any period of cohabitation outside marriage; and

(b) is payable from the end of any such marriage or period only if the Committee in their discretion so decide.

Amounts of widow's short-term and long-term pensions

E6.—(1) Subject to paragraphs (3) to (5), the annual rate of a widow's short-term pension is—

(a) where regulation E5(1)(a) or (b) applies and any new employment for the purposes of regulation E13 (re-employed pensioners) was not a local government employment, the annual rate of her husband's retirement pension immediately before the date of his death, disregarding any reduction under regulation E13;

(b) where regulation E5(1)(c) applies and the local government employment was not a new employment for the purposes of regulation E13, a rate equal to his pensionable remuneration; and

(c) where regulation E5(1)(c) applies and the local government employment was such a new employment, a rate equal—

(i) if the retirement pension was not reduced under regulation E13, to the total of his pensionable remuneration in the new employment and the annual rate of the retirement pension; or

(ii) if the retirement pension was so reduced, to the total of his pensionable remuneration in the new employment and the annual rate, if any, at which the retirement pension was payable.

(2) Subject to paragraphs (3) to (5), the annual rate of a widow's long-term pension is—

(a) where paragraph (1)(a) applies, half the annual rate of her husband's retirement pension immediately before the date of his death;

(b) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(i), half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.);

- (c) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(ii), half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(e);
 - (d) where paragraph (1)(c) applies, the greater of—
 - (i) the total of half the annual rate of her husband’s retirement pension and half the annual rate of the retirement pension to which he would have been entitled in respect of the new employment if on the date of his death he had become entitled under regulation E2(1)(b)(i); and
 - (ii) half the annual rate of the retirement pension to which he would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) and notice had been given under regulation E14; and
 - (e) where regulation E5(2) applies, half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(ii).
- (3) For the purposes of paragraph (2)—
- (a) the retirement pension mentioned in paragraph (2)(a) is to be taken to be the pension that would have been payable but for—
 - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable);
 - (ii) any reduction under regulations E3(11) (early payments) or E13 or E28 (National Insurance); and
 - (iii) any surrender under regulation E17; and
 - (b) any retirement pension mentioned in paragraph (2)(b) or (d) is to be taken to be the pension that would have been payable but for any surrender under regulation E17, and if the pension would have been increased under regulation E3(2) or reduced under regulation E28 no account is to be taken of that increase or reduction.
- (4) Where regulation E5(5) (post-retirement marriages) applies—
- (a) the references in paragraphs (1)(a), (2)(a), (c), (d) and (e), and the second reference in paragraph (1)(c)(i), to the retirement pension are to be construed as references to, and
 - (b) for the purposes of paragraph (1)(c)(ii), any annual rate at which the retirement pension was payable is to be taken not to have exceeded the rate of,
- the part of the pension attributable to the whole period of his service in respect of which the pension was payable which was in contracted-out employment.
- (5) If greater than the annual rate calculated in accordance with paragraphs (1) to (4), the annual rate of a widow’s pension is the rate obtained by multiplying 1/160th of her husband’s pensionable remuneration by the length in years of the whole period of his service which was in contracted-out employment.

Widow’s special short-term pension

E7.—(1) If at the time of his death a man was in a local government employment and he leaves a widow but neither of the conditions in regulation E5(1)(c) is satisfied, then unless when he died she was—

- (a) judicially separated from him; or
- (b) cohabiting with another man as his wife,

she is entitled to a widow’s special short-term pension at an annual rate equal to his pensionable remuneration.

(2) Where the deceased leaves no eligible child or there is no eligible child in the widow's care, the pension is payable for 3 months after the death.

(3) While there is one eligible child in the widow's care, the pension is payable for 4½ months after the death.

(4) While there are two or more eligible children in the widow's care, the pension is payable for 6 months after the death.

Entitlement to children's short-term and long-term pensions

E8.—(1) If at the time of his death a man—

- (a) was entitled to receive payments in respect of a retirement pension; or
- (b) would have been so entitled but for the operation of regulation E13 (re-employed pensioners); or
- (c) was in a local government employment and the total of his reckonable service and any qualifying service was not less than 2 years,

and he leaves one or more eligible children, they are, subject to paragraphs (3) to (5), entitled to or to the benefit of a children's short-term pension for 3 months after the death and then a children's long-term pension.

(2) If at the time of his death a man was entitled to preserved benefits and he leaves one or more eligible children, they are, subject to paragraphs (4) and (5), entitled to or to the benefit of a children's long-term pension.

(3) No children's short-term pension is payable while a widow's short-term pension is payable under regulation E5(1).

(4) There is no entitlement to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if the deceased became entitled to a retirement pension by virtue of regulation E2(2).

(5) Payments in respect of a pension under this regulation shall not be made to or for the benefit of a female—

- (a) while she is married or during any period of cohabitation outside marriage; or
- (b) from the end of any marriage or period of cohabitation outside marriage unless the Committee in their discretion so decide.

Amounts of children's short-term and long-term pensions

E9.—(1) Subject to paragraph (2), the annual rate of a children's short-term pension is the rate at which a widow's short-term pension is or would have been payable by virtue of regulation E5(1).

(2) Where a widow's short-term pension is payable by virtue of regulation E5(5), the children's short-term pension rate specified in paragraph (1) is reduced by the rate of that pension.

(3) Subject to paragraphs (4) and (5), the annual amount of a children's long-term pension is—

- (a) where there is one eligible child and he is in the care of a widow of the deceased person, one quarter of the deceased person's retirement pension;
- (b) where there is one eligible child and he is not in the care of such a widow, one third of the retirement pension;
- (c) where there are two or more eligible children and—
 - (i) half or more of them are in the care of such a widow; or
 - (ii) fewer than half of them are in the care of such a widow but a widow's pension under regulation E5 is for the time being payable,

one half of the retirement pension; and

- (d) where there are two or more eligible children and fewer than half of them are in the care of such a widow and no such widow's pension is payable, two thirds of the retirement pension.

(4) For the purposes of paragraph (3), the retirement pension of a deceased person shall be taken to be—

- (a) if he died while in local government employment, the retirement pension to which he would have become entitled if he had then become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.);
- (b) if he was entitled at the time of his death to preserved benefits, the retirement pension to which he would have become entitled if he had then become entitled under regulation E2(1)(b)(ii) (retirement on or after pensionable age); and
- (c) if he was entitled at the time of his death to receive payments in respect of a retirement pension, the retirement pension that would have been payable but for—
- (i) any increase under regulation E3(2) (certain cases where additional service is reckonable);
 - (ii) any reduction under regulations E3(11) (early payments), E13(re-employed pensioners) or E28 (National Insurance); and
 - (iii) any surrender under regulation E17,

and for the purposes of sub-paragraphs (a) and (b) it is to be assumed that the pension to which the person would have become entitled would not have been subject to any such increase or reduction, and that there has been no such surrender, as is mentioned in sub-paragraph (c).

(5) If a child in respect of whom a children's long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate, then—

- (a) the annual rate of the pension is to be reduced by the amount of the excess; or
- (b) the child is to be disregarded for the purpose of calculating the pension,

whichever results in the smaller reduction in its annual rate.

(6) In paragraph (5) "the indexed training rate" means the annual rate at which an official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971(4) would for the time being be payable if it had begun on 1st April 1974 and had then been payable at an annual rate of £250.

(7) The Committee may—

- (a) apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit; and
- (b) pay the pension or any part of it to a person other than an eligible child, to be applied in accordance with any directions they may give for the benefit of any eligible child or eligible children.

Children's special short-term pension

E10.—(1) If at the time of his death a man was in a local government employment and—

- (a) the total of his reckonable service and any qualifying service is less than 2 years; and

(4) 1971 c. 35 (N.I.)

(b) he leaves one or more eligible children; and
(c) any such child is in the care of a guardian,
a children's special short-term pension at an annual rate equal to the deceased's pensionable remuneration is payable to the guardian.

(2) In this regulation "guardian" means a person who is not entitled in respect of the deceased to either—

- (a) a widow's special short-term pension by virtue of regulation E7; or
- (b) a widow's short-term pension and a widow's long-term pension by virtue of regulation E5(1)(c)(ii).

(3) Where the deceased left a widow who is entitled as mentioned in paragraph (2)(a) or (b)—

- (a) if there is no eligible child in the widow's care, the pension is payable to the guardian—
 - (i) for 1½ months after the death if there is one eligible child in the care of the guardian; and
 - (ii) for 3 months after the death if there are two or more eligible children in the care of the guardian; and
- (b) if there is an eligible child in the widow's care, the pension is payable to the guardian for 1½ months after the death.

(4) Where the deceased did not leave a widow who is entitled as mentioned in paragraph (2)(a) or (b), the pension is payable to the guardian—

- (a) for 2 months after the death if there is one eligible child in the care of the guardian; and
- (b) for 4 months after the death if there are two or more eligible children in the care of the guardian.

Death grant

E11.—(1) Subject to paragraphs (10) to (12), if at the time of his death a person—

- (a) was a pensionable employee; or
- (b) was entitled to receive payments in respect of a retirement pension in relation to which this paragraph applies; or
- (c) would have been so entitled but for the operation of regulation E15 (re-employed pensioners); or
- (d) was entitled to preserved benefits; or
- (e) was in a local government employment and was entitled to reckon at least 2 years' reckonable service, but was not a pensionable employee by virtue of a notification under regulation B3,

his personal representatives are entitled to receive a lump sum death grant.

(2) Paragraph (1) applies in relation to a retirement pension if—

- (a) the reckonable service taken into account in calculating the pension amounted to less than 10 years and he had been entitled for less than 5 years to receive payments in respect of the pension; or
- (b) the reckonable service taken into account in calculating the pension amounted to 10 years or more.

(3) In paragraphs (4) to (12)—

- A is the deceased's pensionable remuneration;
- B is 3/80ths of his pensionable remuneration;

C is the length in years of his reckonable service;

D is the length in years of the reckonable service that would have been taken into account in calculating a retirement pension if he had become entitled to one under regulation E2(1)(b)(i) (permanent ill-health etc.) on the day of his death;

E is the length in years of the reckonable service taken into account in calculating his retirement pension;

F is 2/80ths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 in respect of which a widow's pension is payable under regulation E5, other than service in respect of which a return of contributions has been made or payment under regulation C9 has been or is to be treated as having been completed;

G is the total of any payments made to him in respect of retirement pension and lump sum retiring allowance;

H is the length in years of the reckonable service he would have had on attaining pensionable age;

I is the total amount that would (or would but for regulation E13 or his death, or both), have been paid to him by way of retirement pension for the first 5 years after he became (or would but for regulation E13 have become) entitled to receive payments in respect of the pension; and

J is the total of any payments made to him in respect of retirement pension.

(4) Subject to paragraph (10), where paragraph (1)(a) applies the amount of the death grant is the greater of

A and (B × D),

(5) Subject to paragraphs (10) and (12), where paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) the amount of the death grant is the greater of

A and (B × F),

(6) Where—

(a) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension by virtue of regulation E2(1)(c); or

(b) paragraph (1)(b) or (c) and paragraph (2)(a) apply and—

(i) the deceased became entitled to the retirement pension by virtue of regulation E2(1)(c); and

(ii) the reckonable service that would have been taken into account in calculating a retirement pension if he had remained in his local government employment until pensionable age is 10 years or more,

the amount of the death grant is the greater of:

$$(B \times H) + (F - G) \text{ and } \frac{E}{11} \times (A - (J + G)).$$

(7) Subject to paragraph (11), where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (e), the amount of the death grant is I.

(8) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased—

(a) became entitled to the retirement pension by virtue of regulation E2(1)(c) and the reckonable service that would have been taken into account in calculating a retirement

pension if he had remained in his local government employment until pensionable age, is less than 10 years; or

(b) became entitled to the retirement pension by virtue of regulation E2(1)(e),

the amount of the death grant is:

$$\frac{E}{I1} \times (I - J).$$

(9) Subject to paragraph (10), where paragraph (1)(d) or (e) applies the amount of the death grant is $B \times E$.

(10) Where—

(a) paragraph (1)(a), (d) or (e) applies; or

(b) paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c),

and a widow's pension is payable under regulation E5, the amount of the death grant is reduced by F.

(11) Where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (e), the amount of the death grant is reduced—

(a) by J; or

(b) where the pension was reduced under regulation E13 or had been surrendered in part under regulation E17, by the amount which would have been paid in respect of the pension but for the reduction or surrender.

(12) Where paragraph (1)(b) or (c) and paragraph (2)(b) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c), the amount of the death grant is reduced—

(a) by G; or

(b) where the pension was reduced under regulation E13 or had been surrendered in part under regulation E17, by the amount which would have been paid in respect of the retirement pension but for the reduction or surrender.

(13) Subject to paragraph (14), for the purpose of calculating the amount of a death grant under the preceding provisions of this regulation no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years.

(14) Where a death grant is reduced under paragraph (10), any reckonable service to be left out of account under paragraph (13) is to be taken from the beginning of the period of reckonable service.

(15) Where a person qualifies for a death grant under more than one sub-paragraph of paragraph (1), he shall be treated as having qualified under the sub-paragraph which would, in accordance with the preceding paragraphs result in the highest amount of grant being paid.

Pensions of widowers, etc.

E12.—(1) Where a woman who is a pensionable employee—

(a) has no husband but has a potentially eligible child; or

(b) having a husband who is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, so elects,

regulations E3 (amount of retirement pension and retiring allowance) and E5 to E10 (widows' and children's pensions) apply in relation to her as if she were a man and, where sub-paragraph (b) applies, as if her husband were a woman.

(2) Where either of the conditions in paragraph (1)(a) and (b) has become satisfied, regulations E5 to E10 do not apply so as to confer any rights on a woman's husband by, or any potentially eligible child she acquires by virtue of or during, a subsequent marriage unless—

- (a) her husband by that marriage is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her; and
- (b) she elects that those regulations are so to apply.

(3) An election under paragraphs (1)(b) or (2)(b) is to be made by giving notice in writing to the Committee.

(4) In this regulation “potentially eligible child” means a child who might become an eligible child on the woman's death.

Reduction of retirement pension in the case of certain re-employed pensioners

E13.—(1) This regulation applies to a person who, since becoming entitled to a retirement pension in relation to a former employment, has entered a new employment with any scheduled body.

(2) In paragraph (3)—

A is the annual rate of remuneration of the former employment;

B is the amount (if any) by which, immediately before the first day of the new employment, A would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the former employment; and

C is the annual rate of remuneration of the new employment;

D is the reduced rate of the retirement pension; and

E is the amount (if any) by which D would, immediately before the first day of the new employment, have been increased under Article 69 of the Pensions Order if it had then been the rate of the retirement pension, assuming that that pension had by then qualified for increases under that Order,

and in paragraph (5), A, B and C have the same meanings as in paragraph (3) and—

F is the annual rate of remuneration of the concurrent employment on the last day of that employment; and

G is the amount (if any) by which, immediately before the first day of the new employment, F would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the concurrent employment.

(3) Subject to paragraphs (4), (5) and (11), while the person holds the new employment the annual rate of the retirement pension is reduced—

- (a) if C equals or exceeds $(A + B)$, to zero; and
- (b) in any other case, by the amount (if any) which is necessary to secure that $(C + D + E)$ does not exceed $(A + B)$.

(4) This paragraph applies where within the last 12 months of the former employment the person held another concurrent employment in which he is entitled to participate in the superannuation benefits provided by these regulations, has ceased to hold the concurrent employment without becoming entitled in relation to it to a retirement pension, and—

- (a) has—

- (i) ceased to hold the concurrent employment before ceasing to hold the former employment; and
- (ii) entered the new employment within 12 months after ceasing to hold the concurrent employment; or
- (b) has ceased to hold the concurrent employment after ceasing to hold the former employment.
- (5) Where paragraph (4) applies—
 - (a) if the person does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced; and
 - (b) in any other case, the annual rate of the retirement pension is reduced by the amount (if any) by which the aggregate of that rate and C exceeds $A + B + F + G$.
- (6) For the purposes of this regulation the annual rate of remuneration of the former employment is, subject to paragraph (7), to be ascertained in accordance with the Table.

Table

Source of entitlement to the retirement pension	Annual rate of remuneration	
Fixed rate emoluments	Fees	
These regulations, the 1981 regulations or the 1962 regulations(5)	Rate on last day of relevant period for the purposes of regulation E19	Average rate during period by reference to which pensionable remuneration fell to be calculated under regulation E19(10)

- (7) For the purposes of paragraph (6), where the person’s remuneration was at any material time reduced or discontinued by reason of his absence from duty, and either the absence was due to illness or injury or he made contributions or payments under regulation 14(4)of the 1981 regulations or the corresponding provisions of the former regulations or regulations C2 or C3, then—
 - (a) any reduction or discontinuance of fixed-rate emoluments is to be disregarded; and
 - (b) any fees are to be averaged over a period of the same length as the period mentioned in the Table but ending immediately before the reduction or discontinuance.
- (8) For the purposes of this regulation the annual rate of remuneration of the new employment is, subject to paragraph (9), to be ascertained in accordance with the Table.

Table

Nature of remuneration	Annual rate of remuneration
Fixed-rate emoluments	Rate on first day of employment
Fees	(1) Where fees were receivable in the former employment, the annual rate of those fees ascertained in accordance with paragraph (6). (2) Where no fees were receivable, a rate agreed by the person and the body employing

(5) As amended by S.R. & O. 1973 No. 242

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

Nature of remuneration	Annual rate of remuneration
Fixed-rate emoluments	Rate on first day of employment
	him or, in default of agreement, determined by the Department.

(9) For the purposes of paragraph (8), if fees were receivable in the former employment and are receivable in the new employment and H is greater than J, where—

H is the annual rate of remuneration of the former employment; and

J is the annual rate of remuneration of the new employment ascertained in accordance with the Table,

the annual rate of the fees receivable in the new employment, ascertained in accordance with the Table, is to be multiplied by

$$\frac{J}{H}$$

(10) If—

(a) the person’s contractual hours in a part-time new employment are altered; or

(b) he is transferred to another post under the same employing body at an altered remuneration or his post is regraded,

this regulation applies as if he had again entered a new employment.

(11) If this regulation applies in relation to two or more retirement pensions, each is reduced in proportion to its amount.

(12) It is the duty of a person who has become entitled to a retirement pension—

(a) to inform any scheduled body with whom he proposes to accept a new employment that he is so entitled; and

(b) on entering a new employment, forthwith to notify the Committee in writing that he has entered that employment.

(13) In this regulation, “retirement pension” includes an annual pension.

Combined benefits in the case of certain re-employed pensioners

E14.—(1) Subject to paragraph (2), where—

(a) a person has become entitled to a retirement pension other than one to which he became entitled under regulation E2(2) or one which is reduced under regulation E3(11) (“the first retirement pension”); and

(b) after becoming so entitled he entered further employment which was or became local government employment; and

(c) he has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (“the second retirement pension”),

he may, by notice in writing given to the Committee within 3 months after the date on which he became entitled to the second retirement pension, elect that this regulation is to apply to him.

(2) Subject to paragraphs (3) to (5), a person to whom this regulation applies is to be treated as having, on the date on which the second retirement pension became or becomes payable—

(a) become entitled to payment of an annual retirement pension (“the annual pension”) and a lump sum payment (“the lump sum”) each calculated by reference to both his reckonable

service in the further employment and the reckonable service taken into account in calculating the first retirement pension; and

(b) ceased to be entitled to the first retirement pension and the second retirement pension.

(3) If in conjunction with the first retirement pension the person was entitled to a retiring allowance—

(a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation E3(3) from the calculation of the retiring allowance;

(b) if he has not received the allowance before becoming entitled as mentioned in paragraph (2)(a) he ceases to be entitled to it;

(c) if he has received the retiring allowance and the lump sum would be the same as or less than the retiring allowance, the person—

(i) is not entitled to payment of the lump sum; and

(ii) is not entitled to the annual pension unless, within 3 months after giving notice under paragraph (1), he pays to the Committee the amount of any difference; and

(d) if he has received the retiring allowance and the lump sum is greater than the retiring allowance, the lump sum is reduced by the amount of the allowance.

(4) If—

(a) the first retirement pension was, and

(b) the second retirement pension would not have been,

subject to reduction under regulation 53 of the 1981 regulations or regulation E28, the annual pension is subject to reduction by the same amount as the first retirement pension.

(5) If part of the first retirement pension was surrendered under regulation E17—

(a) the annual pension is to be treated as having been surrendered to the same extent; and

(b) any resulting pension becoming payable on the person's death is to be paid by the Committee.

Separate benefits in the case of certain re-employed pensioners

E15.—(1) This regulation applies to a person who—

(a) has become entitled to a retirement pension (a “previous pension”); and

(b) after becoming so entitled entered further local government employment; and

(c) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an “additional pension”); and

(d) has not become entitled to the annual pension mentioned in regulation E14 (combined benefits).

(2) If regulation E2(1)(b)(i) (permanent ill-health) did not apply on the person's ceasing to hold an employment in relation to which he became entitled to a previous pension (a “previous employment”), but does apply on his ceasing to hold a further employment, sub-paragraph (1) of paragraph 2 of Schedule 9 applies with the substitution for the words from “the period specified” to the end of the sub-paragraph of the words

$$6 \frac{243}{365} \text{ years}$$

“ 365 ”

(3) Subject to paragraph (4), if when a person dies paragraph (4) of regulation E11 (death grant) applies, it applies with the substitution for the words “is the greater of A and (B × D)” of the words

“is (B × D)”; and if paragraph (5) of regulation E11 applies, it applies with the substitution for the words “is the greater of A and (B × E)” of the words “is (B × E)”.

(4) If the person became entitled to a previous pension or to an additional pension by virtue of regulation E2(1)(c) or (e)—

- (a) if P equals or exceeds Q, there is no entitlement under regulation E11 to a death grant in relation to the further employment; and
- (b) if P is less than Q but (P + R) is greater than Q, R is reduced by the amount of the excess.

(5) In paragraph (4)—

- (a) P is the total of—
 - (i) every death grant payable in relation to any previous employment calculated in accordance with regulation E11;
 - (ii) payments made in respect of every previous pension;
 - (iii) every retiring allowance to which the person became entitled in conjunction with any previous pension;
 - (iv) any payments made in respect of the additional pension; and
 - (v) any retiring allowance to which the person became entitled in conjunction with the additional pension,

including in each case any increase under Article 69 of the Pensions Order;

- (b) Q is the greater of—
 - (i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971, beginning on and payable from the day after the last day of the relevant previous employment; and
 - (ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated; and
- (c) R is the amount of the death grant calculated in accordance with regulation E11 in relation to the further employment.

(6) In this regulation, “retirement pension” includes an annual pension.

Adjustment of superannuation rights on death of certain re-employed pensioners

E16.—(1) This paragraph applies where—

- (a) a person was entitled to a retirement pension other than one which was reduced under regulation E3(11); and
- (b) after becoming so entitled he entered further local government employment; and
- (c) he dies in the further employment; and
- (d) if he had then ceased to be employed otherwise than by reason of his death he would have been entitled to give notice under regulation E14 (combined benefits).

(2) Where paragraph (1) applies—

- (a) any benefits payable in respect of the person (except any widow’s short-term pension or children’s short-term pension) are to be calculated; and
- (b) any surrender of part of a retirement pension has effect,

as if immediately before his death he had become entitled to benefits under regulations E14 or E15, whichever is the more favourable to the person entitled to receive the benefits payable.

Surrender of part of retirement pension

E17.—(1) This regulation has effect subject to Schedule 12.

(2) A person who—

- (a) has become entitled to receive payments in respect of a retirement pension; or
- (b) is a pensionable employee and has attained pensionable age,

may surrender as from the relevant date, in favour of his spouse or any dependent of his (“the beneficiary”), a part of the retirement pension which is or, as the case may be, may become payable to him.

(3) For the purposes of this regulation, the relevant date is the date of becoming entitled to receive payments in respect of the retirement pension; and if the person dies while a pensionable employee he is to be treated as having become so entitled immediately before he died.

(4) An annual pension at a rate which is (according to tables to be prepared from time to time by the Government Actuary) actuarially equivalent at the relevant date to the value of the surrendered part of the retirement pension becomes payable to the beneficiary on the person’s death.

(5) A person who has surrendered part of a retirement pension may surrender further parts of it.

Power to compound certain small pensions

E18.—(1) This paragraph applies where—

- (a) a pensionable employee has become entitled to a retirement pension and has attained state pensionable age; and
- (b) the aggregate of the annual rates of—
 - (i) that pension;
 - (ii) any other retirement pension to which he has become entitled; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any retirement pension to which he has become entitled,

does not exceed £195.

(2) Where paragraph (1) applies, the Committee may discharge their liability in respect of—

- (a) any retirement pension to which the pensionable employee has become entitled; and
- (b) if the pensionable employee is a man—
 - (i) any widow’s long-term pension which, in the event of his dying leaving a widow, would be payable to her in respect of his reckonable service; and
 - (ii) any children’s long-term pension which, in the event of his dying leaving an eligible child would be payable to or for the benefit of his eligible child in respect of his reckonable service,

by payment to the pensionable employee of a lump sum of such amount as represents the capital value of the pensions mentioned in sub-paragraphs (a) and (b), calculated in accordance with tables prepared by the Government Actuary.

(3) For the purposes of paragraphs (1) and (2), a pensionable employee shall not be treated as having become entitled to a retirement pension in relation to any employment—

- (a) in which he ceases to be employed in the circumstances mentioned in regulation E2(1)(c); or

(b) in relation to which he satisfies the requirements of regulation E2(1)(e), until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) This paragraph applies where—

- (a) a widow's long-term pension is payable to a widow; and
- (b) the aggregate of the annual rates of—
 - (i) that pension;
 - (ii) any other widow's long-term pension payable to her; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any widow's long-term pension payable to her,
 does not exceed £260.

(5) Where paragraph (4) applies, the Committee may discharge their liability in respect of any widow's long-term pension payable to the widow by payment to her of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

(6) This paragraph applies where—

- (a) a children's long-term pension is payable to or for the benefit of an eligible child; and
- (b) the aggregate of the annual rates of—
 - (i) that pension;
 - (ii) any other children's long-term pension payable to or for the benefit of that child; and
 - (iii) any increase payable under Article 69 of the Pensions Order in respect of any children's long-term pension so payable,
 does not exceed £260.

(7) Where paragraph (6) applies, the Committee may discharge their liability in respect of any children's long-term pension payable to or for the benefit of the eligible child by payment of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

Pensionable remuneration

E19.—(1) Subject to paragraphs (4) and (6) to (12) and regulations E20 (pay restraint to be disregarded in certain cases) and E21 (certificates as to reduction in remuneration), a person's pensionable remuneration in relation to a local government employment is his remuneration for so much of the relevant period as he is entitled to reckon as reckonable service in relation to that employment.

(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with—

- (a) the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years; or
- (b) if on the day mentioned in sub-paragraph (a) the person was not a pensionable employee by virtue of a notification under regulation B3, the day on which he ceased to be such under that notification.

(3) Subject to paragraphs (4) and (5), where—

(a) the person is not entitled to reckon the whole of the period specified in paragraph (2) as reckonable service because he has been absent from duty otherwise than by reason of illness or injury; and

(b) this paragraph applies to him by virtue of a notice or determination,

the relevant period comprises the last 365 days which he is entitled to reckon as reckonable service.

(4) Where a reduction in the person's remuneration has been certified as material under regulation E21 and this paragraph applies to him by virtue of a notice or determination, the relevant period is—

(a) if the reduction occurred during the 13 years ending with the day mentioned in paragraph (2), either—

(i) such one of the last 5 of those 13 years; or

(ii) such consecutive 3 of those 13 years,

as may be specified in the notice or determination; or

(b) if the reduction occurred during the last 5 of those 13 years, such consecutive 3 of those 5 years as may be specified in the notice or determination;

and where by virtue of this paragraph the relevant period is a period of 3 consecutive years, the person's pensionable remuneration is the aggregate of his remuneration during that period divided by 3.

(5) Where—

(a) the relevant period would otherwise be the period specified in paragraph (2); and

(b) either one or each of the 2 immediately preceding years would yield a higher amount of pensionable remuneration; and

(c) this paragraph applies to the person by virtue of a notice or determination,

the relevant period is the year which yields the highest amount.

(6) If, during the 13 years ending with the day mentioned in paragraph (2), the person's remuneration was reduced or suspended during absence from duty by reason of illness or injury, he is for the purposes of this regulation to be treated as having received the remuneration which he would have received but for the reduction or discontinuance.

(7) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or discontinued during absence from duty otherwise than by reason of illness or injury and he—

(a) made contributions under regulation C2 (leave of absence) or a payment under regulation C3 (absence due to trade dispute); or

(b) contributed under regulation 14(4) or (5) of the 1981 regulations or the corresponding provisions of the former regulations,

he is for the purposes of this regulation to be treated as having received for any period in respect of which he made such contributions or payment the remuneration which he would have received but for the reduction or discontinuance.

(8) For the purposes of this regulation, except its application—

(a) to regulations E6(1)(b) and (c), E7 and E10 (which concern, respectively, the amounts of widows' pensions and of their special short-term pensions and entitlement to and amounts of children's special short-term pensions); and

(b) in ascertaining the value of "A" for the purposes of regulation E11(4) or (5) (amount of death grant in certain cases),

the person is, in respect of any period of part-time local government employment, to be treated as having received the remuneration which would have been paid in respect of a single comparable whole-time employment.

(9) Where—

- (a) the person was at any time employed in a single local government employment (“the first employment”); and
- (b) he becomes entitled to a benefit in relation to one or two or more concurrent local government employments (“the second employment”); and
- (c) his remuneration in the first employment becomes material for the purpose of calculating that benefit,

that remuneration is for that purpose to be multiplied by

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

where

A is the annual rate of remuneration of the second employment at the date of cessation and B is the total of the annual rates of remuneration of all the concurrent employments at that date.

(10) Where the whole or a part of the person’s remuneration consisted of fees, his pensionable remuneration in respect of them is the annual average of the fees earned by him—

- (a) during the period of 3 years ending with the last day of the relevant period; or
- (b) during such more favourable period, of more than 3 but not more than 5 years, as his last employing authority may allow; or
- (c) if he was entitled to receive fees during part only of the period mentioned in subparagraph (a), during that part of the period.

(11) Where the person is entitled to reckon as reckonable service in relation to the employment which he ceases to hold only part of the period specified in paragraph (2), his pensionable remuneration is his remuneration during that part multiplied by

$$\frac{365}{A}$$

where

A is the number of days comprised in that part.

(12) Where—

- (a) any of the person’s remuneration during the relevant period was determined in accordance with an agreement under regulation G5 (notional remuneration); and
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) exceed one and a half times the lower earnings limit, but do not exceed the upper earnings limit, in force under section 4(1) of the Social Security Act (Northern Ireland) 1975(6) at the end of the period; and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

his pensionable remuneration is to be determined by reference to those earnings.

(13) References in this regulation to a notice are references to a notice in writing given by the person to the Committee not later than one month after he is notified under regulation N7 of his entitlement to a benefit.

(14) References in this regulation to a determination are references to a determination given by the Committee in respect of a person who has died while still in local government employment or without having given a notice.

Pay restraint not to affect pensionable remuneration in certain cases

E20.—(1) Paragraph (4) applies to a person if his pensionable remuneration would, apart from this regulation, be less than it would have been but for a relevant limitation.

(2) In this regulation, “relevant limitation” means a limitation of remuneration—

- (a) which was necessary in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975(7); and
- (b) the effect of which was that any relevant remuneration was less than would, apart from that section, have been payable under an agreement entered into before 1st August 1975.

(3) In paragraph (2), “relevant remuneration” means any remuneration which is material for any of the purposes of regulation E19 (pensionable remuneration).

(4) The pensionable remuneration of a person to whom this paragraph applies shall be taken to be what it would have been but for the relevant limitation.

(5) Paragraph (7) applies to a person who is affected by a staging agreement.

(6) A person is affected by a staging agreement if—

- (a) there has been an agreement or award—
 - (i) which gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time;
 - (ii) which, whether or not it entitled him to any interim increase, entitled him to the payment of remuneration from a specified date at an increased rate (“the final rate”) which was either specified in or to be determined by a method or in a manner specified in the agreement or award; and
 - (iii) under the terms of which the final rate, or an interim increase, or the first of two or more interim increases, became payable on or before 1st January 1980;
- (b) but for considerations of economy the final rate would have been made payable from a date (“the relevant date”) earlier than the date mentioned in sub-paragraph (a)(ii); and
- (c) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(7) Subject to paragraph (8), where this paragraph applies to a person the amount of any remuneration that is material for the purposes of regulation E19 shall for those purposes be taken to be what it would have been if the final rate had become payable from the relevant date.

(8) Paragraph (7) does not apply to the calculation of a person’s pensionable remuneration for the purposes of regulations E6(1)(b), E7 and E10.

(9) For the purposes of this regulation—

- (a) a material time is a time material for the purpose of calculating the person’s pensionable remuneration under regulation E19; and

(7) [1975 c. 57](#); section 1 was amended, and the period for which it had effect extended, by the Price Commission Act [1977 \(c. 33\)](#), section 17; references to limits set out in documents laid before Parliament in 1976 and 1977 were added by [The Limits on Remuneration Order 1976 \(S. I. 1976/1097\)](#), [The Limits on Remuneration Order 1977 \(S.I. 1977/1294\)](#)

- (b) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

Certificates as to reduction in remuneration

E21.—(1) Where a pensionable employee suffers a material reduction in remuneration, he is, subject to paragraph (5), entitled to be issued by the employing authority with a certificate to that effect.

(2) A person suffers a reduction in remuneration if—

- (a) the remuneration of an employment which he continues to hold is reduced; or
 (b) he is transferred to another employment under the same scheduled body at a reduced remuneration.

(3) Subject to paragraph (4), a reduction in remuneration is material if, and only if, it is such that the employee's pensionable remuneration would be likely to be less if the relevant period were the period specified in regulation E19(2) than if it were a period mentioned in regulation E19(4).

(4) A reduction in remuneration is not material if—

- (a) it did not result from circumstances beyond the employee's control; or
 (b) it was temporary; or
 (c) it consisted in the termination of, or a reduction in, a temporary increase in remuneration.

(5) The employing authority may issue a certificate without an application from the employee, but need not issue a certificate if he does not apply for one within 12 months after the date of the reduction.

(6) A certificate issued under this regulation is to specify the date of the material reduction and the authority are to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying regulation E19(4).

Calculation of part-time service

E22.—(1) For the purpose of calculating the amount of any benefit a period of part-time service in local government employment shall be treated as though it had been whole-time service for a proportionately reduced period.

(2) For the purposes of calculating the amount of any benefit, service during any period which became reckonable as reckonable service by virtue of paragraph 1(5)(a) or a declaration under paragraph 1(5)(b) of Part III of Schedule 2 (whole-time employment in which contractual weeks are fewer than 45) shall be multiplied by

$$\frac{52}{C}$$

where

C is the number of contractual weeks.

Counting of non-contributing service

E23.—(1) Subject to paragraph (3), any period which—

- (a) is reckonable as reckonable service by virtue of its having been reckonable under the 1981 regulations as non-contributing service; and
 (b) does not fall to be treated as having been reckonable as contributing service,

shall for the purposes of these regulations be counted at half its full length.

(2) For the purposes of paragraph (1), the full length of a period of part-time non-contributing service is its length as reduced under regulation E22.

(3) This regulation does not apply for the purpose of—

- (a) determining whether a person is entitled to, or to payment of, a benefit; or
- (b) ascertaining, where notice was given under regulation 22 of the 1962 regulations, the maximum length of any additional period to which Schedule 3 applies.

Disregard of certain reckonable service in determining entitlement to benefits

E24. For the purpose of determining entitlement to any benefit, no account shall be taken of—

- (a) any added years;
- (b) any additional period reckonable as reckonable service by virtue of regulations D4 to D7 or D13; or
- (c) except in relation to regulation E2(2), any period reckonable by virtue of regulation J9(1)
 - (a) (transfer values).

Counting of certain reckonable service and non-contributing service in determining entitlement to benefits

E25. For the purpose of determining whether a person is entitled to, or to payment of, a benefit, any reckonable service and non-contributing service which was reckonable for the purpose of determining entitlement to benefits under the former regulations shall be counted at the same length as it would have been counted for the latter purpose.

Disregard of certain reckonable service in calculating amount of benefits

E26.—(1) For the purpose of calculating the amount of any benefit under regulation E3—

- (a) subject to paragraphs (2) and (3), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years; and
- (b) where an amount is recovered or retained under regulation M3 reckonable service shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation M3(2)(b) by that amount.

(2) For the purposes of paragraph (1)(a), a period which a person is entitled to reckon as reckonable service by virtue of regulations E3(9) (permanent ill-health) or F6(1)(a) shall be treated as reckonable service before attaining the age of 60 years.

(3) Where a retiring allowance falls to be reduced under regulation E3(4) or (5) (potential widow's pensions), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person's reckonable service.

(4) Where $A + B$ exceeds 45 years, for the purpose of calculating any benefit A is reduced by a period equal to the excess.

(5) In paragraph (4)—

A is the total length of the periods reckonable as reckonable service in relation to the relevant employment, excluding any service which is to be left out of account by virtue of paragraph (1)(a); and

B is the length of any earlier period which was taken into account in the calculation of a retirement pension or an annual pension under the former regulations.

Counting of certain reckonable service in calculating amount of benefits

E27. For the purpose of calculating the amount of any benefit—

- (a) any period which is reckonable as reckonable service by virtue of its having been reckonable under the former regulations as contributing service shall, subject to regulations E22 and E23 (part-time and non-contributing service), be counted at the same length as it would have been counted for the purpose of calculating any benefit under the former regulations; and
- (b) any reckonable service in excess of a number of complete years shall be counted as

A

365

of a year, where

A is the number of completed days comprised in the excess.

National Insurance

E28.—(1) Where, but for the revocation of the 1981 regulations, the amount of a benefit would have fallen to be reduced under regulations 53 and 54 and paragraphs 1 to 6 of Schedule 13 of those regulations, the amount shall be reduced as if those provisions had not been revoked.

(2) No provision in these regulations—

- (a) for the surrender or assignment of a pension; or
- (b) for the reduction, termination or suspension of a pension, where the provision is invoked for any cause other than one prescribed by regulations made or deemed to have been made under section 56(1)(c) of the Insurance Act (which section describes equivalent pension benefits),

shall apply so as to reduce a pension payable in respect of any period of service to an employee who attains state pensionable age below the minimum rate of equivalent pension benefits applicable in respect of that period under the provisions of Part III of the Insurance Act.

(3) For the purposes of paragraph (2) “service” means service in a non-participating employment which is reckonable for the purpose of calculating any benefits payable to the employee, except any earlier period of such service in respect of which—

- (a) a payment in lieu of contributions has been made; or
- (b) equivalent pension benefits satisfying the requirements of the Insurance Act had already been assured to him.

Benefits not assignable

E29. Every benefit—

- (a) is payable to, or in trust for, the person who is entitled to it under these regulations; and
- (b) is not assignable and is not chargeable with that person’s debts or other liabilities.

Interest on late payment of certain benefits

E30.—(1) Where all or part of—

- (a) a retiring allowance;
- (b) an ill-health retirement grant payable under regulation E4; or
- (c) a death grant,

is not paid within one month after the due date, the Committee shall pay to the person to whom the allowance or grant is payable interest, calculated at the standard rate on a day to day basis from the due date to the date of payment, and compounded with 3 monthly rests, on the amount remaining unpaid.

- (2) For the purposes of this regulation the due date is—
- (a) in the case of a retiring allowance which becomes payable by virtue of a notice in writing under regulation E2(5) or (6)(a) given on or after the date on which the allowance by virtue of that notice became payable, the date one month after that notice was given;
 - (b) in the case of a part of a retiring allowance which becomes payable by virtue of payments or contributions (other than an increase in contributions made following a decision under regulations N1 or N8) made after the date on which the remainder of the allowance became payable, the date one month after that increase in contributions was paid;
 - (c) in the case of a retiring allowance or part of a retiring allowance which becomes payable by virtue of contributions made following a decision under regulations N1 or N8, the date on which that allowance or part of an allowance would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided;
 - (d) in all other cases in which a retiring allowance or part of a retiring allowance becomes payable, the date on which that allowance or part of an allowance becomes payable;
 - (e) in the case of an ill-health retirement grant which becomes payable, the day after the person who is entitled to the ill-health retirement grant ceased to hold his employment;
 - (f) in the case of a death grant, the date on which—
 - (i) probate or letters of administration are produced to the Committee; or
 - (ii) the Committee becomes satisfied that the grant may be paid as provided in regulation R4.

Increase in certain benefits already payable

E31.—(1) This regulation applies where a person has become entitled, under regulation D13, to reckon an additional period as whole-time reckonable service by virtue of a lump sum payment having been made in accordance with the regulation C7(19).

- (2) Where this regulation applies—
- (a) the additional period shall be treated as having been reckonable at the time when the person ceased to be a pensionable employee; and
 - (b) the person shall be entitled to receive, within one month after making the lump sum payment, a sum equal to the additional amount he would have received if any benefits already paid to him had been calculated by reference to the increased reckonable service.

Entitlement to benefits where a person has given a notification in accordance with regulation B3

E32. Where regulations E2, E3, E5 to E10, E12, E17 and E18 do not apply to a person because he has ceased to be a pensionable employee by virtue of a notification in accordance with regulation B3, he shall nevertheless on ceasing to hold his employment under an employing authority and subject to the provisions of the aforementioned regulations be entitled to benefits in relation to his service as if he was a pensionable employee.