

SCHEDULES

SCHEDULE 4

Regulations 8(2), 22(1), 25, 53(2), 55(5),
57(2), 61(5) and 99(2)

REVENUE RESTRICTIONS

Preliminary

1.—(1) In these Regulations –

“Class A member” is a member who –

- (a) became a member on or after 1st June 1989 and is not to be treated as a Class B member or Class C member by virtue of a Revenue agreement; or
- (b) was a Class B member or a Class C member immediately before that date and is deemed to have become a Class A member by virtue of making a Class A election;

“Class A election” means an election duly made by a Class B member or a Class C member by notice in writing to the Committee, before the date on which he ceases to be an active member for any reason (including death), that he wishes to be treated as a Class A member for the Scheme, as from 1st June 1989;

“Class B member” is a member who –

- (a) became a member on or after 17th March 1987 and before 1st June 1989, or is to be treated as a Class B member by virtue of a Revenue agreement;
- (b) has continued to be a member since before 1st June 1989 and has not had a continuity break or satisfies one of the continuity conditions in relation to any period when he was not a member;
- (c) is not to be treated as a Class C member by virtue of a Revenue agreement;
- (d) has continued to be a member since before 1st June 1989 and has either not had a continuity break or satisfies one of the continuity conditions in relation to any period when he was not a member; and
- (e) is not deemed to have become a Class A member by virtue of making a Class A election;

“Class C member” is a member who –

- (a) became a member before 17th March 1987 and has not had a continuity break or is to be treated as a Class C member by virtue of a Revenue agreement;
- (b) has continued to be a member since before 17th March 1987 or satisfies one of the continuity conditions in relation to any period when he was not a member;
- (c) has continued to be a member since before that date or satisfies one of the continuity conditions in relation to any period when he was not a member; and
- (d) is not deemed to have become a Class A member by virtue of a Class A election;

“continuity break” is a change of employment from a Scheme employer (including an admission body) to a non-associated or transferee admission body (as defined in regulation 4(16)(c) and (g)) but does not include a change in the case of a person who was a member of the Scheme on 2nd April 2001;

“continuity conditions”, in relation to a Class B member or a Class C member, are –

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- (a) that his active membership ceased on his secondment or posting to another employer, at the time of the secondment or posting he had a definite expectation that he would become an active member again when it ended, and he again became an active member at the end of his secondment or posting;
- (b) that his active membership ceased by reason of his unpaid absence and he began paying contributions again under regulation 11 within one month of returning to work;
- (c) that the member's active membership ceased wholly or partly because of her pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work as a maternity rights returner;
- (d) that the member's active membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and within one month he rejoined the Scheme as an active member and began paying contributions again under that regulation;

“existing rights member” means a member to whom regulation 5(2) of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(1) applies;

“relevant benefits” has the meaning given in section 612(1) of the Taxes Act 1988.

- (2) A person has retained rights if he is entitled to or has received relevant benefits accrued under –
 - (a) an approved scheme, or a scheme in respect of which approval is sought;
 - (b) a relevant statutory scheme (as defined in section 611A of the Taxes Act);
 - (c) a fund to which section 608 of that Act applies (funds approved before 6th April 1980);
 - (d) a retirement benefits scheme (as defined in section 611 of that Act) accepted by the Commissioners of Inland Revenue as a scheme which corresponds as mentioned in section 596(2)(b) of that Act;
 - (e) a contract or trust scheme approved under section 620 of that Act or a personal pension scheme approved under section 631 of that Act; or
 - (f) transfer payments from pension schemes which are established outside the United Kingdom held in a type of arrangement mentioned in sub-paragraph (a), (b) or (e).
- (3) But retained rights which are death benefits must be disregarded if –
 - (a) the member's pay in the first year of his employment during which he is a member does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which that first year begins; or
 - (b) they do not exceed £2,500.
- (4) Retained rights may be disregarded if, after 31st August 1991, the member started to purchase benefit or was given extra benefits under Part III, and
 - (a) where the member became a member on or after 14th March 1989, his remuneration in the first year of his employment during which he is a member does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which the first year begins; or
 - (b) where the member became a member before 14th March 1989, his remuneration in the first year in which he starts to accrue benefits under Part III does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which the first year begins.
- (5) For sub-paragraph (2) benefits accrued under the Scheme must be disregarded unless they accrued in respect of a period of membership as respects which the person is treated as a deferred member or a pensioner member by virtue of regulation 34(5).

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(6) In this Schedule “final remuneration” means, subject as provided in sub-paragraphs (7) to (10), the greater of –

- (a) the highest total remuneration for any period of twelve complete and consecutive months (ending on the last day of the month) falling wholly within the five years preceding the relevant date; and
- (b) the yearly average of the total emoluments from the employer which are assessable to income tax under Case I or II of Schedule E and upon which income tax liability has been determined in any three or more consecutive years ending at the end of any month not earlier than 10 years before the relevant date.

(7) Where final remuneration is calculated by reference to any period other than the last complete year ending on the relevant date, the member’s total remuneration or total emoluments may be increased for any year in proportion to any increase in the retail prices index from the last day of that period up to the relevant date, but for a Class C member this shall not apply to the calculation of the maximum retirement grant benefit unless the member’s aggregate retirement benefit is similarly increased beyond the maximum amount which could have been paid but for this provision and the similar provision in the definition of total remuneration and then only to the same extent.

(8) In respect of a Class B member, final remuneration for the purpose of the calculation of the retirement grant shall not exceed £100,000 or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act⁽²⁾.

(9) In respect of any member whose remuneration in any tax year after 5th April 1987 used for the purpose of calculating retirement benefits has exceeded £100,000 (or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act) final remuneration shall not exceed the amount ascertained in accordance with sub-paragraph (6)(b) and sub-paragraph (6)(a) shall not apply unless the member chooses to adopt £100,000 (or such other sum as may for the time being be specified in an order made by the Treasury under section 590(3) of the Taxes Act).

(10) Remuneration and total emoluments shall not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Taxes Act.

(11) In this Schedule –

- (a) “relevant date” means the last day on which the member is an active member;
- (b) “service” means service in local government employment;
- (c) “total remuneration” in relation to any member means the aggregate of –
 - (i) actual amounts received for the twelve complete and consecutive months ending on or immediately prior to the date for which total remuneration is to be calculated (in this definition called the “calculation date”) which correspond to the fixed annual rates of salary for the time being in respect of that member’s service; and
 - (ii) that member’s average annual remuneration from the employer or otherwise in respect of service by the way of commissions, fluctuating emoluments or other benefits assessed to income tax under Schedule E (but not within sub-paragraph(i)) for the 36 complete and consecutive months ending on or immediately prior to the calculation date, but remuneration within the scope of this sub-paragraph for a year prior to that ending with the calculation date may be increased in proportion to any increase in the retail price index from the last day of that year up to the calculation date.

(2) 1988 c. 1; the provisions of Schedule 6 to the Finance Act 1989 (c. 26) which amend section 590(3) of the Taxes Act do not have effect as regards a person who became a member of the Scheme before 1st June 1989

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Class A members

2.—(1) This paragraph sets out limits on benefits in respect of local government employment payable to or in respect of a Class A member under these Regulations.

(2) The aggregate pension payable must not exceed one sixtieth of the member's final remuneration multiplied by his years of service.

(3) Subject to sub-paragraph (2), the aggregate pension payable on retirement must not exceed the lesser of—

(a) one thirtieth of the member's final remuneration multiplied by the member's years of service or 20 years if less; and

(b) two-thirds of the member's final remuneration less the value of any retained rights.

(4) But for a pension payable under regulation 29 (ill-health) the limit is the maximum retirement grant payable under sub-paragraph (6) or (7) assuming he had continued as an active member until his normal retirement date.

(5) The aggregate pension payable to a member who has elected under regulation 7 to leave the Scheme but remains in local government employment is the greater of—

(a) one sixtieth of the member's final remuneration multiplied by his years of service prior to leaving the Scheme or 40 years if less; and

(b) the maximum pension that could have been payable at his normal retirement date under sub-paragraph (2) or (3) multiplied by the fraction of which—

(i) the numerator is the member's years of service prior to leaving the Scheme or 40 years if less, and

(ii) the denominator is his total period of membership assuming he had remained an active member until his normal retirement date or 40 years if less.

This amount may be increased by 5 per cent. for each complete year, or in line with any increase in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.

(6) For sub-paragraphs (2), (3), (4) and (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) The aggregate benefit payable by way of lump sum must not exceed three eightieths of the member's final remuneration, multiplied by his years of service.

(8) Subject to sub-paragraph (7), the aggregate benefit payable by way of a lump sum must not exceed the lesser of—

(a) three times the initial pension paid to the member under Part II and Part III excluding Chapter IV of Part III; and

(b) one and a half times the member's final remuneration.

(9) But for a lump sum payable under regulation 29 the limit is the maximum retirement grant payable under sub-paragraph (7) or (8) assuming he had continued as an active member until his normal retirement date.

(10) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final remuneration (disregarding the proviso in paragraph 1(9), paragraph 1(10) and paragraph 9(6)) less any lump sum death in service retained rights (other than a refund of the member's contributions and any interest on such contributions) or, if greater £5000.

(11) The total service taken into account under sub-paragraphs (2), (4), (7) and (9) must not exceed 40 years.

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(12) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member's own pension under regulation 36) payable or prospectively payable to that surviving spouse or eligible child shall not exceed –

(a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (4), ignoring any retained rights, if the member had retired under regulation 29 on the date of his death; and

(b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (2), (3), (4), (5) or (6), ignoring any retained rights.

(13) If pensions are payable to more than one of the member's surviving spouse and eligible children, the aggregate of all such pensions shall not exceed –

(a) on the death of an active member or a deferred member the amount payable under sub-paragraph (4); and

(b) on the death of a pensioner member, the amount payable under sub-paragraph (2), (3), (4), (5) or (6).

(14) The final remuneration of a Class A member must not exceed the Revenue permitted maximum.

(15) But if a Class A member is an existing rights member sub-paragraph (14) does not apply for calculating any benefit under the Scheme in so far as it is calculated by reference to a credited period which is counted as a period of membership under regulation 125(1).

Class B members and Class C members

3. Paragraphs 4 to 6 set out limits on benefits in respect of local government employment payable to or in respect of a Class B member or Class C member under these Regulations and paragraph 7 limits additional contributions in some circumstances.

4.—(1) Subject to sub-paragraph (2), the aggregate pensions payable on retirement at normal retirement date must not exceed the lesser of –

(a) for Class B members, one thirtieth of the member's final remuneration multiplied by his years of service, or 20 years if less;

(b) for Class C members with less than 10 years service, the member's final remuneration multiplied by the fraction specified below –

1 to 5 years	1/60th for each year
6 years	8/60ths
7 years	16/60ths
8 years	24/60ths
9 years	32/60ths

(c) two thirds of the member's final remuneration less the value of any retained rights.

(2) But if it results in a higher sum than the maximum under sub-paragraph (1), the maximum aggregate pension on retirement at his normal retirement date is one sixtieth of the member's final remuneration multiplied by his years of service or 40 years if less.

(3) But for a pension payable under regulation 29 the limit is the maximum pension payable under sub-paragraph (1) or (2), multiplied by the years of service the member would have had if he had continued as an active member until his normal retirement date.

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(4) For a pension payable under regulation 28 or 33, if it results in a higher sum, for the maximum under sub-paragraph (2) there is substituted an amount equal to the amount that would be the maximum under sub-paragraph (2) if the member had remained an active member until his normal retirement date, multiplied by the fraction of which –

- (a) the numerator is –
 - (i) his years of service, or
 - (ii) 40 years,whichever is less, and
- (b) the denominator is –
 - (i) his years of service, assuming he had remained an active member until his normal retirement date, or
 - (ii) 40 years,whichever is less.

This amount may be increased by 5 per cent. for each complete year, or in line with any increases in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.

(5) The aggregate pension payable on retirement after the member's normal retirement date must not exceed –

- (a) the amount payable under sub-paragraph (1) or (2) on the basis the actual retirement date was the member's normal retirement date;
- (b) the amount that could have been payable under sub-paragraph (1) or (2) on retirement at normal retirement date –
 - (i) with such an increase as an actuary appointed by the Committee considers appropriate in view of the period of delay in payment between his normal retirement date and the actual date the pension becomes payable, or
 - (ii) adjusted to reflect any increase in the general level of retail prices in Great Britain during that period;
- (c) one sixtieth of the member's final remuneration, multiplied by his increased period of membership,

whichever is the greatest.

(6) For sub-paragraphs (1) to (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) A member's increased period of membership is the sum of –

- (a) his total membership ending with his normal retirement date; and
- (b) his total membership after his normal retirement date,

but must not exceed 45 years.

(8) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member's own pension under regulation 36) payable or prospectively payable to that surviving spouse or eligible child shall not exceed –

- (a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (3), ignoring any retained rights, if the member had retired in circumstances entitling him to an ill-health pension and grant under regulation 29 on the date of his death; and

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- (b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (1), (2), (3), (4) or (5) ignoring any retained rights and increased in line with any subsequent increase in the retail prices index.
- (9) If pensions are payable to more than one of the member’s surviving spouse and eligible children, the aggregate of all such pensions shall not exceed –
 - (a) on the death of an active member or deferred member the amount payable under sub-paragraph (3); and
 - (b) on the death of a pensioner member, the amount payable under sub-paragraph (1), (2), (3), (4) or (5).

5.—(1) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant for a Class B member on retirement at or before his normal retirement date must not exceed the lesser of –

- (a) three times the initial pension paid to the member under Part II and Part III, excluding Chapter IV of Part III; and
- (b) one and a half times the member’s final remuneration less the value of any retained benefits in lump sum form.

(2) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant on retirement at his normal retirement date for a Class C member must not exceed the lesser of –

- (a) if the member has less than 20 years service, his final remuneration multiplied by the fraction set out in the table below –

<i>Years of service to normal retirement date</i>	<i>80ths of final remuneration</i>
1 to 8	3 for each year
9	30
10	36
11	42
12	48
13	54
14	63
15	72
16	81
17	90
18	99
19	108; and

- (b) one and a half times the member’s final remuneration less the value of any retained rights in lump sum form.

(3) If it results in a higher sum than the maximum under sub-paragraph (1) or (2), the maximum aggregate retirement grant is three eightieths of the member’s final remuneration multiplied by each year of service or 40 years if less.

(4) But for a retirement grant payable under regulation 29, the limit is the maximum retirement grant payable under sub-paragraph (1), (2) or (3) assuming he continued as an active member until his normal retirement date.

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(5) The aggregate benefit payable to a Class C member by way of retirement grant before his normal retirement date is the greater of –

- (a) three eightieths of the member's final remuneration multiplied by his years of service or 40 years if less; and
- (b) the maximum lump sum that could have been payable on retirement at his normal retirement date under sub-paragraph (2) multiplied by the fraction of which –
 - (i) the numerator is the member's actual period of local government employment prior to leaving the Scheme or 40 years if less, and
 - (ii) the denominator is his total period of membership assuming he had remained an active member until his normal retirement date or 40 years if less.

This amount may be increased in line with any increase in the retail prices index between the relevant date and the date on which the benefit becomes payable.

(6) The aggregate benefit payable to a Class B member or a Class C member by way of a retirement grant on retirement after his normal retirement date must not exceed the greatest of –

- (a) the amount payable under sub-paragraph (1), (2) or (3) on the basis that the actual retirement date was the member's normal retirement date;
- (b) the amount that could have been payable under sub-paragraph (1), (2) or (3) on retirement on his normal retirement date together with interest in respect of the period of the delay in payment between that date and the actual date of payment;
- (c) three eightieths of the member's final remuneration multiplied by his increased period of membership.

(7) A member's increased period of membership is the aggregate of –

- (a) his total membership ending with his normal retirement date; and
- (b) his total period of membership after his normal retirement date

but must not exceed 45 years.

(8) The benefits payable by way of a lump sum on the death of an active or deferred member must not exceed four times his final remuneration (disregarding the proviso in paragraph 1(9), paragraph 1(10) and paragraph 9(6)) less any lump sum death in service retained rights (other than a refund of the member's contributions and any interest on such contributions) or, if greater, £5,000.

6.—(1) The years of service taken into account under paragraph 4(1) and (2), and the total membership taken into account under paragraphs 4(7)(a) and 5(7)(a) must not exceed 40 years.

(2) Without prejudice to Schedule 3, a credited period which is counted as a period of membership under regulation 125(1) does not count in calculating years of service for sub-paragraph (1) or paragraph 4 or 5.

7.—(1) If adding the additional contributions payable by a Class B member or a Class C member under an agreement made by him before the commencement date (other than AVCs payable under Schedule C3 to the 2000 Regulations or any corresponding earlier provision) to those payable by him under regulations 11, 16 and 17 and any FSAVC scheme would cause the total of those contributions to exceed 15 per cent. of his remuneration, he may not pay that excess, but he may pay a lump sum representing it to the Scheme at a time permitted by the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990.

(2) That lump sum must be calculated in a way approved by the Government Actuary, who may issue guidance indicating how it is to be done.

Maximum additions under regulations 55 and 57

8.—(1) The maximum addition under regulation 55 or 57 is –

- (a) the period (if any) by which the person’s potential period of membership falls short of 40 years; or
- (b) his potential period of membership,

whichever is the shorter.

(2) His potential period of membership is the period he would be entitled to count as a period of membership in relation to his local government employment, assuming –

- (a) if he is not an active member on the date of the resolution, that he became such a member on that date; and
- (b) that he continued as an active member until his normal retirement date.

(3) If –

- (a) the resolution under regulation 55 relates to a person who on the date of the resolution has retained rights; or
- (b) on the date of the election under regulation 57 the member has retained rights,

the period of 40 years mentioned in sub-paragraph (1) must be reduced by the appropriate period.

(4) The appropriate period is such period as is certified by an actuary appointed by the Committee to be sufficient to secure –

- (a) that the aggregate of –
 - (i) the relevant income benefits, and
 - (ii) the pension equivalent of the relevant capital benefits,will not exceed two-thirds of his final remuneration; and
- (b) that his retirement grant or, in the case of a Class C member, the aggregate of the retirement grant attributable to his period of membership before his normal retirement date and any retained rights in lump sum form, will not exceed his final remuneration by more than 50 per cent.

(5) In this regulation –

“pension equivalent” has the meaning given in regulation 5(5)(b) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993(3);

“the relevant income benefits”, in relation to a member, means the aggregate annual amount of –

- (a) the actuarial value, expressed as an annuity payable to him, of the retained rights which are pension benefits; and
- (b) the part of his retirement pension attributable to his period of membership before his normal retirement date; and

“the relevant capital benefits”, in relation to a member, means the aggregate amount of –

- (a) his retirement grant; and
- (b) any lump sum comprised in the relevant benefits which are pension benefits.

(6) For the purposes of sub-paragraphs (4) and (5) –

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- (a) it is to be assumed that the person will, until his normal retirement date, continue in the same employment and on the same terms and conditions (including, in particular, his scale of pay) as at the date of the resolution or, as the case may be, the election (assuming, if he has not entered the employment of the authority at that date, that he had done so on that date on the scale of pay at which the employment was offered to him);
- (b) any period of membership on or after that date is to be disregarded; and
- (c) regard is to be had to any advice from the Commissioners of Inland Revenue as to the calculation of the value of the earlier benefits.

Controlling directors

9.—(1) This paragraph applies to any member who is a controlling director, as defined in paragraph 5(5) of Schedule 23 to the Taxes Act.

(2) Regulation 23(1)(a) does not apply to a controlling director.

(3) For determining whether a controlling director who is a Class A member has retained rights, “approved scheme” includes –

- (a) a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act; or
- (b) any personal pension scheme approved under Chapter IV of that Part,

so far as it provides benefits secured by contributions in respect of his service with his Scheme employer or an associated employer.

(4) An employer is associated with another if one is controlled by the other or both are controlled by a third party; and control must be construed in accordance with section 840 of the Taxes Act or, in the case of a close company (as defined in section 416 of that Act) in accordance with that section 416.

(5) Paragraph 1(3)(a) and 1(4) do not apply to controlling directors.

(6) Final remuneration shall be ascertained in accordance with paragraph 1(6)(b) and paragraph 1(6)(a) shall not apply.

Overriding provisions

10. Where by virtue of the Taxes Act or any later enactment schemes which were approved schemes before a certain date, have effect as if their rules restricted the total benefits payable under them, the rules of the Scheme have effect subject to those restrictions, notwithstanding any amendments of them by virtue of these or any earlier Regulations after the date of that Act or enactment, and in so far as those restrictions would permit those total benefits to be greater than is otherwise permitted under the Scheme, those restrictions shall prevail.