

SCHEDULE 2

Regulation 11

THE 85 YEAR RULE: TRANSITIONAL PROVISIONS AND SAVINGS

1. Subject to paragraph 7, where a member—
 - (a) makes a request to receive the immediate payment of retirement benefits under regulation 18(1) (flexible retirement) or 30(1) (choice of early payment of pension) of the Benefits Regulations; and
 - (b) satisfies the 85 year rule,

that part of his retirement pension and grant which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 18(2) or, as the case may be, regulation 30(4) of the Benefits Regulations.

2. For the purposes of paragraph 1, the relevant date for a member who was a member before 1st October 2006 is—

- (a) in the case of a member who will be aged 60 or more on 31st March 2016, the earlier of—
 - (i) 1st April 2016; and
 - (ii) the date on the day after the day on which the member leaves local government employment; or
- (b) in any other case, 1st April 2008.

3.—(1) For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of—

- (a) his age in whole years on the date his local government employment ends or the date he makes a request under regulation 18(1) of the Benefits Regulations if later;
- (b) his total membership in whole years;
- (c) in a case where he makes a request after his local government employment ends, the period beginning with the end of that employment and ending with the date he makes the request; and
- (d) in the case of a person who was a member immediately before 1st February 2003, any qualifying period counted by virtue of regulation 127 (rights as to service not matched by credited period) of the 2002 Regulations which was awarded before 1st April 2008,

is 85 years or more.

(2) But, in calculating his total membership, no account is to be taken of any increase in membership awarded under regulation 12 (power of employing authority to increase total membership) of the Benefits Regulations.

4.—(1) This paragraph applies to a member to whom regulation 4 (membership accrued before 1st April 2009: deferred members) or regulation 12 (re-employed and rejoining deferred members) of the Administration Regulations applies.

(2) Where such a member—

- (a) does not choose; or
- (b) does not so choose as respects all periods of his membership,

to be treated as if regulation 3 (membership accrued before 1st April 2009: active members) applied, or to have his membership aggregated under regulation 12 of the Administration Regulations, as the case may be, then in applying paragraph 2 as respects any later membership, his total membership excludes unaggregated periods.

5.—(1) This paragraph applies to a member who was a member before 1st October 2006 who—

Status: This is the original version (as it was originally made).

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase his total membership under regulation 57(1) (payments to increase total membership) of the 2002 Regulations; and
 - (b) was assumed to retire from a local government employment on a date before his 65th birthday (“the assumed date”) for the purposes of calculating his additional contributions under regulation 57(5) of the 2002 Regulations.
- (2) Where a member to whom this paragraph applies—
- (a) continues paying the additional contributions until the assumed date; and
 - (b) retires on or after the assumed date,

he shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of his total membership.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

6.—(1) Paragraphs 1 to 5 apply to a person who was a member before 1st October 2006 and who—

- (a) leaves local government employment and ceases to be a member of the 2002 Scheme or the Scheme (whether before or after that date); and
- (b) resumes such employment before the relevant date for the purposes of paragraph 1.

(2) And any period of membership after that resumption is aggregated with the period of membership accrued in his previous local government employment for the purposes of paragraph 1.

(3) But any increase in his total membership under regulation 12 of the Benefits Regulations is not counted for the purpose of paragraph 3(1)(b).

7.—(1) This paragraph applies to a member who retires, having reached the age of 60, on or after 1st April 2016 and before 1st April 2020, and whose retirement pension and grant would (but for the provisions of this paragraph) have been actuarially reduced by virtue of paragraphs 1 and 2.

(2) That part of his retirement pension and grant which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with guidance issued by the Government Actuary.