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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 217**

**The Teachers' Pension Scheme (Scotland) Regulations 2014**

**PART 1**

Preliminary

**Citation, extent and commencement**

1.—(1) These Regulations may be cited as the Teachers' Pension Scheme (Scotland) Regulations 2014 and extend to Scotland.

(2) These Regulations come into force as follows—

- (a) this Part and Part 2 come into force on 1st December 2014;
- (b) the remaining provisions come into force on 1st April 2015.

**Establishment of Scottish Teachers' Pension Scheme 2014**

2.—(1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of teachers in Scotland.

(2) For the purpose of these Regulations, a person in an eligible employment is a teacher.

(3) This scheme is to be known as the Scottish Teachers' Pension Scheme 2014.

**Interpretation**

3. In these Regulations—

“the Act” means the Public Service Pensions Act 2013;

“FA 2004” means the Finance Act 2004(1);

“PA 1995” means the Pensions Act 1995(2);

“PA 2008” means the Pensions Act 2008(3);

“PIA 1971” means the Pensions (Increase) Act 1971(4);

“PSA 1993” means the Pension Schemes Act 1993(5);

“WRPA 1999” means the Welfare Reform and Pensions Act 1999(6);

“the 2005 Regulations” means the Teachers' Superannuation (Scotland) Regulations 2005(7);

“accrued additional pension”—

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(1) 2004 c.12.  
(2) 1995 c.26.  
(3) 2008 c.30.  
(4) 1971 c.56.  
(5) 1993 c.48.  
(6) 1999 c.30.  
(7) S.S.I. 2005/393.

- (a) for the purpose of a retirement pension other than a phased retirement pension, has the meaning given in regulation 44;
  - (b) for the purpose of a phased retirement pension, has the meaning given in regulation 45;
- “accrued club transfer earned pension”—
- (a) for the purpose of a full retirement pension, has the meaning given in regulation 44;
  - (b) for the purpose of an additional pension election, has the meaning given in regulation 45;
- “accrued earned pension”—
- (a) for the purpose of a retirement pension other than a phased retirement pension, has the meaning given in regulation 44;
  - (b) for the purpose of a phased retirement pension, has the meaning given in regulation 45;
- “accrued pension” means—
- (a) accrued earned pension;
  - (b) accrued club transfer earned pension (if any); and
  - (c) accrued additional pension (if any);
- “accrued rights” does not include a right to benefits attributable (directly or indirectly) to a pension credit;
- “active member” has the meaning given in section 124(1) of PA 1995;
- “active member’s account” has the meaning given in regulation 48;
- “actuarial”, in relation to a calculation or value, means determined by, or in accordance with tables or guidance prepared by, the scheme actuary;
- “actuarial adjustment” has the meaning given in Chapter 7 of Part 4;
- “additional paternity leave” has the meaning given in regulation 2(1) of the Additional Paternity Leave Regulations 2010<sup>(8)</sup>;
- “additional pension” means—
- (a) additional (self only) pension; or
  - (b) additional (surviving adult) pension;
- “additional pension account” has the meaning given in regulation 55;
- “additional pension contributions” has the meaning given in Schedule 2;
- “additional pension election” has the meaning given in Schedule 2;
- “additional (self only) pension” means an additional pension payable to a pensioner member;
- “additional (surviving adult) pension” means an additional pension payable to the member’s surviving adult after the member has died;
- “adoption leave” has the meaning given in regulation 2(1) of the Paternity and Adoption Leave Regulations 2002<sup>(9)</sup>;
- “age retirement pension” means a pension payable under Chapter 2 of Part 5;
- “amount of credited pension” has the meaning given in regulation 77(3);
- “annual amount of pensionable earnings”, in relation to any year, means the amount of pensionable earnings payable in that year;
- “annual rate of pensionable earnings” means—

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<sup>(8)</sup> S.I. 2010/1055.

<sup>(9)</sup> S.I. 2002/2788.

- (a) for a member who is in pensionable service in relation to one full-time employment only, the member's annual rate of pensionable earnings in that employment; and
- (b) for a member who is in pensionable service in relation to a part-time employment or more than one employment, the member's full-time equivalent annual rate of pensionable earnings;

"balance of contributions" means the amount of contributions repayable under regulation 183;

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

"child pension" means a pension payable under regulation 146;

"closing date", in relation to a transition member, has the meaning given in Schedule 3;

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

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

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

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

"club transfer value", in relation to earned pension accrued under this scheme or under another club scheme, has the meaning given in Part 10;

"commutation amount" has the meaning given in regulation 72;

"continuity of service", in relation to a transition member, has the meaning given in Schedule 3;

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

"death grant" means a death grant under Part 6;

"deferred member" has the meaning given in section 124(1) of PA 1995;

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

"dual capacity member" has the meaning given in regulation 20;

"early retirement pension" means a pension payable under regulation 101;

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

"eligible child" has the meaning given in regulation 134;

"eligible employment" has the meaning given in Part 3;

"employed" means employed under a contract of employment;

"employment" means employment under a contract of employment;

"entitlement day" has the meaning given in Part 5;

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

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

"the existing scheme" means the scheme set out in the 2005 Regulations;

"faster accrual contributions" has the meaning given in Schedule 2;

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

"faster accrual election" has the meaning given in Schedule 2;

- “financial year” means the 12 months ending with 31st March in any year;
- “full retirement additional pension” has the meaning given in regulation 67;
- “full retirement earned pension” has the meaning given in regulation 66;
- “full-time”, in relation to employment, has the meaning given in regulation 15(a);
- “GMP age” means 65 in the case of a man or 60 in the case of a woman;
- “guaranteed minimum” means a guaranteed minimum under section 14 of PSA 1993;
- “guaranteed minimum pension” has the meaning given in section 8(2) of PSA 1993;
- “ill-health pension” means a pension payable under regulation 107;
- “ill-health retirement benefits” means—
- (a) an ill-health pension; and
  - (b) a lump sum payable under regulation 162 in place of part of that pension;
- “incapacitated” has the meaning given in Chapter 6 of Part 5;
- “index adjustment” means—
- (a) in relation to the opening balance of earned pension for any financial year (other than the opening balance of club transfer earned pension), the percentage increase or decrease specified in a Treasury order under section 9(2) of the Act in relation to the previous financial year, plus 1.6%;
  - (b) in relation to the opening balance of club transfer earned pension for any financial year, the adjustment that would apply to the opening balance of that amount of earned pension under the sending scheme for the previous financial year;
- “last active financial year” means the financial year in which the last day of pensionable service falls;
- “last day of pensionable service”, in relation to a member, means the day on which a member leaves all pensionable service;
- “leaver index adjustment” has the meaning given in Part 4;
- “leaver PIA index adjustment” has the meaning given in Part 4;
- “maternity leave” means ordinary maternity leave or additional maternity leave within the meaning of the Maternity and Parental Leave etc. Regulations 1999<sup>(10)</sup>;
- “member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member;
- “non-pensionable family leave” means a period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave during which the employee—
- (a) does not receive any statutory pay; and
  - (b) is not paid a salary or is paid less than half the salary;
- “non-pensionable sick leave” means a period of sick leave taken by an employee with the consent of the employer, during which the employee—
- (a) does not receive any statutory pay; and
  - (b) is not paid a salary or is paid less than half the salary;
- “normal pension age”—
- (a) in relation to this scheme, is determined in accordance with section 10 of the Act; and
  - (b) in relation to the existing scheme, has the meaning given in that scheme;

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

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

“opening balance”, in relation to earned pension or transferred pension, has the meaning given in regulation 52;

“opening balance”, in relation to additional pension, has the meaning given in regulation 56;

“parental leave” means leave within the meaning of Part 3 of the Maternity and Parental Leave etc. Regulations 1999;

“part-time”, in relation to employment, has the meaning given in regulation 15(b);

“paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(11);

“pay period” means a period in respect of which a member’s pensionable earnings are payable;

“pension credit” has the meaning given in Part 7;

“pension credit member” has the meaning given in Part 7;

“pension credit member’s account” has the meaning given in regulation 77;

“pension credit retirement pension” has the meaning given in Part 7;

“pension debit member” has the meaning given in Part 7;

“pensionable earnings” has the meaning given in Chapter 4 of Part 3;

“pensioner member” has the meaning given in section 124(1) of PA 1995;

“pensioner member’s account” has the meaning given in regulation 73;

“pension sharing order” means any provision or order specified in section 28 of WRPA 1999;

“period of permanent service”, in relation to service in the armed forces, has the meaning given in regulation 25;

“permitted maximum” means the amount determined in accordance with paragraph 2 of Schedule 29 to FA 2004;

“personal pension scheme” means a personal pension scheme as defined in section 1 of PSA 1993 that is a registered pension scheme;

“phased retirement application” has the meaning given in Chapter 3 of Part 5;

“phased retirement pension” means a pension payable under regulation 90;

“phased retirement proportion” means the proportion of accrued earned pension specified in a phased retirement application;

“PIA index adjustment”, in relation to the opening balance of additional pension for any financial year, means the amount by which the annual rate of a pension of an amount equal to the opening balance would have been increased in that year under PIA 1971 if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the first day of the previous financial year;

“post-benefit service” has the meaning given in regulation 80(3);

“premature retirement pension” means a pension payable under regulation 98;

“prospective normal pension age”, in relation to a member’s prospective entitlement to benefits under this scheme, means the normal pension age that the scheme manager determines (by reference to Treasury directions made under section 11(2) of the Act) would apply in relation to those benefits;

“qualified”, in relation to retirement benefits payable under this scheme, has the meaning given in regulation 79;

“registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 of FA 2004;

“re-qualified”, in relation to retirement benefits payable under this scheme, has the meaning given in regulation 80;

“retirement benefits” means—

- (a) a retirement pension; and
- (b) a lump sum payable under regulation 162 in place of part of that pension;

“retirement pension” means—

- (a) an age retirement pension;
- (b) a phased retirement pension;
- (c) a premature retirement pension;
- (d) an early retirement pension;
- (e) an ill-health pension;
- (f) a total incapacity pension;

“salary” means gross salary payable under an employment contract;

“this scheme” means the scheme established by these Regulations;

“scheme actuary” means the person appointed by the scheme manager for the time being to provide a consulting service on actuarial matters;

“scheme closing date” has the meaning given in Part 1 of Schedule 3;

“scheme manager” has the meaning given in Part 2;

“sending scheme” means a pension scheme to which an application is made for payment of a transfer value or club transfer value;

“short-service serious-ill health grant” means a grant payable under Chapter 7 of Part 5;

“standard accrual rate”, in relation to a member’s pensionable earnings, means 1/57th;

“standard contributions” means contributions payable under regulation 179(1) for standard earned pension;

“standard contributions rate” has the meaning given in regulation 179(2);

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

“standard increase”, in relation to pensionable earnings, has the meaning given in Chapter 4 of Part 3;

“standard rate”, in relation to interest, means the Superannuation Contributions Adjusted for Past Experience discount rate set by the Treasury;

“standard reduction” has the meaning given in Chapter 7 of Part 4;

“statutory pay” means—

- (a) statutory adoption pay, statutory maternity pay or statutory paternity pay within the meaning of the Social Security Contributions and Benefits Act 1992(12); or
- (b) additional statutory paternity pay within the meaning given in regulation 2(1) of the Additional Statutory Paternity Pay (General) Regulations 2010(13);

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(12) 1992 c.4.

(13) S.I. 2010/1056.

- “surviving adult” has the meaning given in regulation 131;
- “surviving adult pension” means a pension payable under regulation 139;
- “surviving civil partner” means a person who, at the time of a member’s death, was in a civil partnership **(14)** with the member;
- “surviving nominated beneficiary” has the meaning given in regulation 133;
- “surviving nominated partner” has the meaning given in regulation 132;
- “surviving spouse” means a person who, at the time of a member’s death, was married to the member;
- “survivor’s pension” has the meaning given in Part 6;
- “total incapacity benefits” means—
- (a) a total incapacity pension; and
  - (b) a lump sum payable under regulation 162 in place of part of that pension;
- “total incapacity pension” means a pension payable under regulation 113;
- “transfer club” means the club of registered occupational pension schemes which make and receive transfer value payments under the club transfer arrangements;
- “transfer day” means the day on which a pension sharing order takes effect;
- “transfer payment” means a transfer value payment or a cash transfer sum made or received by this scheme in relation to a member;
- “transfer value” in relation to accrued rights to earned pension accrued under this scheme or under another club scheme, has the meaning given in Part 10;
- “transfer value payment” means—
- (a) the payment of a transfer value or club transfer value under Part 10; or
  - (b) the payment of a transfer value under Chapter 4 of Part 4 of PSA 1993;
- “transferred pension” means pension attributable to the receipt of a transfer value payment;
- “transition member” has the meaning given in Schedule 3;
- “the Treasury order”, in relation to a given period, means the Treasury order made under section 9 (2) of the Act that specifies a percentage increase or decrease in prices in relation to that period;
- “TUPE transfer” means a transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006**(15)**.

### **Connected schemes**

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

### **Leaving pensionable service**

- 5.—(1)** For the purpose of these Regulations, a person (P) leaves all pensionable service—
- (a) if P is in pensionable service in relation to one employment only, when P leaves pensionable service in relation to that employment; or
  - (b) if P is in pensionable service in relation to more than one employment, when P leaves pensionable service in relation to all those employments.

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

**(15)** S.I. 2006/246.

(2) For the purpose of these Regulations, P leaves pensionable service in relation to an eligible employment when—

- (a) P begins a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave in relation to that employment;
- (b) P opts out of this scheme in relation to that employment; or
- (c) P leaves that employment.

### **Leaving eligible employment**

6.—(1) For the purpose of these Regulations, a person (P) leaves all eligible employment—

- (a) if P is in one eligible employment only, when P leaves that employment; or
- (b) if P is in more than one eligible employment, when P leaves all those employments.

(2) For the purpose of these Regulations—

- (a) P leaves an eligible employment when P ends a period of non-pensionable family leave, non-pensionable sick leave or unpaid leave in relation to that employment and does not return to that employment; but
- (b) P does not leave an eligible employment unless at least one complete day has passed since P's last day in that employment.

## **PART 2**

### **Governance**

#### **Scheme manager**

7.—(1) The Scottish Ministers are the scheme manager for this scheme and any connected scheme.

(2) The scheme manager is responsible for managing this scheme and any connected scheme.

(3) The scheme manager may delegate any functions under these Regulations, including this power to delegate.

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

8.—(1) A pension board (“the Scottish Teachers’ Pension Scheme Pension Board”) is established.

(2) The Scottish Teachers’ Pension Scheme Pension Board is responsible for assisting the scheme manager in relation to securing compliance with—

- (a) these Regulations;
- (b) any other legislation relating to the governance and administration of this scheme and any connected scheme; and
- (c) requirements imposed by the Pensions Regulator in relation to this scheme and any connected scheme.

(3) The scheme manager is to determine the process by which the Scottish Teachers’ Pension Scheme Pension Board discharges its functions.

#### **Membership of pension board**

9.—(1) Subject to paragraph (2), the scheme manager may determine—



- (a) the membership of the Scottish Teachers' Pension Scheme Pension Board;
- (b) the manner in which the Scottish Teachers' Pension Scheme Pension Board members may be appointed and removed; and
- (c) the terms of appointment of the Scottish Teachers' Pension Scheme Pension Board members.

(2) The Scottish Teachers' Pension Scheme Pension Board is to include equal numbers of members representing the employers<sup>(16)</sup> and members.

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

**10.**—(1) A scheme advisory board (“the Scottish Teachers' Pension Scheme Advisory Board”) is established.

(2) The Scottish Teachers' Pension Scheme Advisory Board is responsible for providing advice to the scheme manager, at the scheme manager's request, on the desirability of changes to this scheme.

(3) The scheme manager is to determine the process by which the Scottish Teachers' Pension Scheme Advisory Board discharges its functions.

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

**11.** The scheme manager may determine—

- (a) the membership of the Scottish Teachers' Pension Scheme Advisory Board;
- (b) the manner in which members of the Scottish Teachers' Pension Scheme Advisory Board may be appointed and removed; and
- (c) the terms of appointment of the members of the Scottish Teachers' Pension Scheme Advisory Board.

#### **Conflict of interest**

**12.**—(1) The scheme manager must be satisfied that—

- (a) any person to be appointed as a member of the Scottish Teachers' Pension Scheme Pension Board does not have a conflict of interest within the meaning of section 5(5) of the Act;
- (b) any person to be appointed as a member of the Scottish Teachers' Pension Scheme Advisory Board does not have a conflict of interest within the meaning of section 7(5) of the Act.

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

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

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

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<sup>(16)</sup> See section 37 of the Act for the meaning of “employer”.

## PART 3

### Scheme membership

#### CHAPTER 1

##### Interpretation

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

13. An eligible employment is an employment mentioned in Part 2 of Schedule 1.

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

14. For the purpose of this Part—

- (a) “P’s automatic enrolment date” is the date on which section 3 of PA 2008 applies to a person (P) in relation to P’s eligible employment; and
- (b) “P’s automatic re-enrolment date” is a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(17) in relation to P’s eligible employment.

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

15. For the purpose of these Regulations—

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

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

16.—(1) For the purpose of these Regulations, an employment is an irregular employment if the contract of employment requires the employee – (a) to be available for work for the period specified in the contract of employment, and (b) to undertake and be remunerated for work during that period only when so required by the employer.

(2) A person in pensionable service in relation to an irregular employment is in pensionable service for the period specified in the contract of employment.

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

17. For the purpose of these Regulations—

- (a) “opt-out notice”, in relation to service in an eligible employment, means a notice under regulation 27 or 30; and
- (b) “opt-in notice”, in relation to service in an eligible employment, means a notice under regulation 28 or 31.

## CHAPTER 2

### Membership

#### Eligibility for active membership

**18.**—(1) A person (P) is eligible to be an active member of this scheme if—

- (a) P is in an eligible employment; and
- (b) P has reached the age of 16 and has not reached the age of 75.

(2) P is not eligible to be an active member of this scheme if—

- (a) P is employed in an accepted school in which P has a financial interest;
- (b) P is a full protection member of the existing scheme;
- (c) P is a tapered protection member of the existing scheme; or
- (d) P satisfies the condition in regulation B7 of the 2005 Regulations.

(3) In this regulation—

- “financial interest” does not include the right to receive a salary; and
- “accepted school” has the meaning given in paragraph 2 of Schedule 1.

#### More than one employment

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

#### Dual capacity membership

**20.** A person is a dual capacity member of this scheme if the person is a member in 2 or more of the following capacities—

- (a) an active member;
- (b) a deferred member;
- (c) a pensioner member.

(2) In determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person’s rights in that capacity are to be disregarded.

(3) In determining whether a person who is an active member or a pensioner member is also a deferred member, the fact that the person is an active member or a pensioner member and the person’s rights in that capacity are to be disregarded.

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

**21.** Retirement benefits under this scheme are payable to a dual capacity member as if the member were 2 or more members and the amounts payable are determined accordingly<sup>(18)</sup>.

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<sup>(18)</sup> The result is that 2 or more pensions or lump sums may be payable in respect of the one member.

## CHAPTER 3

### Pensionable service

#### SECTION 1

##### *General provisions*

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

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

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

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

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

**23.**—(1) The scheme manager may decide that a period of service in respect of which a member’s contributions are not paid is not a period of pensionable service if—

- (a) the scheme manager has sent the member a demand under regulation 188 (“the demand”) in respect of those contributions; and
  - (b) within 3 years after the date of the demand, the member has not paid the whole of the amount and interest stated in the demand.
- (2) The period of service is not a period of pensionable service if the scheme manager—
- (a) gives the member written notice to that effect; and
  - (b) repays the member any amount paid in part satisfaction of the demand.

#### SECTION 2

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

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

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

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

**25.**—(1) This regulation applies in relation to an active member (P) who is called out, or recalled, for permanent service in Her Majesty’s armed forces under a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(19).

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

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

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

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

- (a) P pays the contributions by lump sum within 3 months after receiving the notice; or
- (b) P pays contributions by monthly payments in accordance with regulation 181 in respect of the whole period.

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

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

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

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

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

### SECTION 3

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

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

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

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

(2) P is in pensionable service in relation to that employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice under this Section does not have effect in relation to service in that employment.

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

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

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

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

- (a) if the scheme manager receives the opt-out notice within 3 months after P enters the employment, from the first day of the employment;

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

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

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

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

(3) P may opt into this scheme in relation to service in an employment if the employment is mentioned in Part 2 of Schedule 1, and P has previously opted out of this scheme in relation to service in that employment.

- (4) For an employment mentioned in Part 2 of Schedule 1, an opt-in notice has effect—
- (a) if the scheme manager receives the opt-in notice not later than 3 months after P enters the employment, from the first day of the employment; or
  - (b) if sub-paragraph (a) does not apply, from the first day of the month after the month in which the scheme manager receives the opt-in notice.

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

## *SECTION 4*

### *Pensionable service before automatic enrolment date*

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

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

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

(2) P is in pensionable service in relation to that employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice under this Section does not have effect in relation to service in that employment.

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

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

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

(3) An opt-out notice has effect—

- (a) if the scheme manager receives the opt-out notice no later than 3 months after P enters the employment, from the first day of the employment; or
- (b) otherwise, from the first day of the month after the month in which the scheme manager receives the opt-out notice.

(4) An opt-out notice ceases to have effect from the earlier of—

- (a) the date on which a subsequent opt-in notice has effect; and
- (b) P’s automatic enrolment date for that employment.

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

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

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

(3) P may opt into this scheme in relation to service in an employment if the employment is mentioned in Part 2 of Schedule 1 and an opt-out notice has effect.

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

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

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

## **CHAPTER 4**

### **Pensionable earnings**

#### **Interpretation**

**32.** In this Chapter—

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

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

“notional salary”, in relation to a period of permanent service in respect of which an election under regulation 24 has effect or is taken to have effect, means P’s pensionable earnings for the pay period immediately before the period of permanent service began, increased by—

- (a) the amount (if any) of any standard increase applied in relation to P’s eligible employment during P’s period of permanent service; and
- (b) the amount (if any) by which those pensionable earnings together with any standard increase would have been increased if they had been an official pension within the meaning of section 5(1) of PIA 1971 beginning, and first qualifying for increases under that Act, on the day after the day on which the period of permanent service began;

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

“residential benefits in kind” means—

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

“salary sacrifice arrangement” means an arrangement specified by the scheme manager under which P gives up the right to receive part of P’s salary in return for P’s employer agreeing to provide P with benefits in kind as specified by the scheme manager; and

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

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

### **Pensionable earnings**

**33.**—(1) This regulation applies to an active member (P).

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

- (a) all salary and allowances paid for the performance of P’s contractual duties;
- (b) the amount of any payment in respect of overtime;
- (c) any salary or statutory pay paid while P is on sick leave, maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave;
- (d) an amount equal to any part of P’s salary which P has given up the right to receive under a salary sacrifice arrangement;
- (e) the amount of any payment made to P by way of bonus under a pay settlement that applies to all employees (or all employees of a particular class or description) at the institution where P is employed.

(3) P’s pensionable earnings do not include any amounts mentioned in regulation 34.

### **Amounts not forming part of pensionable earnings**

**34.**—(1) This regulation applies to any active member (P).

(2) P’s pensionable earnings do not include any of the following amounts paid to P by P’s employer—

- (a) any benefit in kind, or the money value of such a benefit, excluding—
  - (i) any residential benefits in kind; or
  - (ii) a benefit in kind under a salary sacrifice arrangement;
- (b) any bonus other than a payment under regulation 33(2)(e));
- (c) any allowance paid for travelling or other expenses;
- (d) any amount paid for the performance of duties that are not carried out in the course of P’s pensionable service;
- (e) any payment in consideration for the loss of, or the agreement to give up the right to, paid leave under P’s contract of employment;
- (f) any payment in lieu of notice to terminate P’s contract of employment.



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

**35.**—(1) This regulation applies to a person (P) who receives residential benefits in kind.

(2) P's employer (E) may apply in writing to the scheme manager asking for the money value of those residential benefits in kind to form part of P's pensionable earnings.

(3) The application must be made within 3 months after the later of—

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

(4) The application must be accompanied by a statement certifying that E will—

- (a) review the value of the residential benefits in kind at the times mentioned in paragraph (5); and
- (b) inform the scheme manager in writing of the results of each review.

(5) E must review the money value of the residential benefits in kind as follows—

- (a) the first review must be carried out within 2 years after the later of—
  - (i) the first day of P's employment; or
  - (ii) the first day on which residential accommodation is provided to P; and
- (b) each subsequent review must be carried out within 2 years after the previous review.

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

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

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

(2) If the money value of the residential accommodation exceeds 1/6th of the aggregate of the amounts mentioned in regulation 33(2)(a) to (d), the excess does not form part of P's pensionable earnings.

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

- (a) carry out the reviews in accordance with regulation 35; or
- (b) inform the scheme manager of the results of those reviews within a reasonable time.

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

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

(5) The amount is the difference between—

- (a) the sum of the amount of members' contributions, any faster accrual contributions and any buy-out contributions E deducted from P's pensionable earnings<sup>(20)</sup> during the period in which the residential benefits in kind formed part of P's pensionable earnings; and
- (b) the sum of the amount of members' contributions, any faster accrual contributions and any buy-out contributions which E would have deducted from P's pensionable earnings during that period had the residential benefits in kind not formed part of P's pensionable earnings.

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

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<sup>(20)</sup> Contributions are deducted under Part 9.

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

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

- 37.** For the purpose of calculating a member's (P's) amount of earned pension for a pay period—
- (a) if P's pensionable earnings are reduced during sick leave, adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave, P's pensionable earnings for that period include P's notional pensionable earnings; and
  - (b) if an election under regulation 25 has effect or is taken to have effect for that period, P's pensionable earnings for that period are an amount equal to P's notional salary.

## CHAPTER 5

### Annual rate of pensionable earnings for multiple employments

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

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

$$\frac{\text{The A value}}{B}$$

where—

- (a) for a full-time employment, the A value is 1;
  - (b) for a part-time employment, the A value is—
- $$\frac{PT}{FT};$$
- (c) PT means the amount payable for a full year of a part-time employment, not its full-time equivalent; and
  - (d) B is the sum of all the A values.

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

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

- (a) Figure 1; and
- (b) either—
  - (i) Figure 2, if P is in more than one regular employment; or
  - (ii) Figure 3, if P is only in one regular employment.
- (3) In paragraph (2)—
  - (a) Figure 1 is obtained by dividing the sum of the annual rate of each of P’s employment by the total number of P’s employments;
  - (b) Figure 2 is the result of the calculation set out in regulation 38 for P’s regular employments, disregarding P’s irregular employment or employments;
  - (c) Figure 3 is the full-time equivalent rate of pensionable earnings for P’s sole regular employment; and
  - (d) if Figure 1 and either Figure 2 or Figure 3 are the same amount, P’s annual rate of pensionable earnings is that amount.

## PART 4

### Pension accounts

#### CHAPTER 1

##### Interpretation

#### **Interpretation**

**40.** In this Part—

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

“the relevant last day” means—

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

#### **Pensionable service**

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

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

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

##### *Step 1*

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

##### *Step 2*

Multiply the result at Step 1 by A/B

where—

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

B is 12.

The resulting percentage is the leaver index percentage.

*Step 3*

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

The resulting amount is the leaver index adjustment.

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

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

**Meaning of "leaver PIA index adjustment"**

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

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

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

CHAPTER 2

Calculation of accrued pension

**Calculation of amount of accrued pension for purposes of retirement other than phased retirement**

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

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

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

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

- (g) the opening balance of transferred pension (if any) for the last active financial year and the index adjustment for that opening balance; and
  - (h) the amount of transferred pension for the last active financial year.
- (4) The amount of accrued additional pension is—
- (a) the sum of the following amounts specified in the additional pension account as at the end of the last day of pensionable service—
    - (i) the opening balance of additional pension for the last active financial year; and
    - (ii) the PIA index adjustment (if any) for that opening balance; or
  - (b) an amount determined by the scheme manager under Part 2 of Schedule 2.
- (5) In these Regulations, “the last active financial year” means the financial year in which the last day of pensionable service falls.

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

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

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

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

(3) If a member claims payment of additional pension under regulation 91, the amount of accrued additional pension is—

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

## **CHAPTER 3**

### **Pension accounts: general**

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

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

(2) A pension account—

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

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

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

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

- (a) a transfer payment is made in respect of P's accrued rights under this scheme; or
- (b) P is repaid the balance of contributions under regulation 183.

## **CHAPTER 4**

### **Active member's account**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**53.** If an ill-health pension ceases to be payable to a person (P) under regulation 111 or 115 and P re-enters pensionable service—

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

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

**54.** If a phased retirement pension ceases to be payable under regulation 94 and P re-enters pensionable service—

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

## **CHAPTER 5**

### **Additional pension account**

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

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

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

(3) The additional pension account must remain open until—

- (a) an additional pension is paid in respect of P;
- (b) a transfer value payment is made or a cash transfer sum is paid in respect of P's rights to the accrued additional pension; or
- (c) all additional pension contributions are refunded under Schedule 2.

(4) Part 2 of Schedule 2 has effect in relation to the making of an additional pension election.

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

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

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

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

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

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

(3) The opening balance of additional pension—

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



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

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

- (a) an additional pension is payable with an ill-health pension; and
- (b) the ill-health pension ceases to be payable under regulation 111 or 115.

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

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

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

- (a) an additional pension is payable with a phased retirement pension; and
- (b) the phased retirement pension ceases to be payable regulation 94.

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

## **CHAPTER 6**

### **Deferred member's account**

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

**60.** When an active member leaves all pensionable service and becomes a deferred member—

- (a) the active member's account must be closed; and
- (b) a pension account for the deferred member must be established ("deferred member's account").

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

**61.** The deferred member's account must specify—

- (a) the amount of accrued earned pension; and
- (b) the leaver index adjustment for that amount.

#### **Account closed after break not exceeding 5 years or after service under another public service scheme**

**62.**—(1) If a deferred member re-enters pensionable service after a gap in service not exceeding 5 years—

- (a) the deferred member's account must be closed; and
- (b) the active member's account must be re-established.

(2) The active member's account—

- (a) must specify the amount of accrued earned pension as at the beginning of the gap in service; and
- (b) must be adjusted as if the member had continued as an active member during the gap in service but had received no pensionable earnings.

(3) Paragraphs (4) and (5) apply if—

- (a) a deferred member (P) re-enters pensionable service under this scheme after a gap in service of more than 5 years;
- (b) the gap in service included a period of service under another public service scheme; and

- (c) the period in which P was not in any service was less than 5 years.
- (4) When P re-enters pensionable service under this scheme—
  - (a) the deferred member’s account must be closed; and
  - (b) the active member’s account must be re-established.
- (5) For the financial year in which the active member’s account is re-established, the opening balance for each description of pension must be equal to the amount of accrued pension specified in the deferred member’s account in relation to that description of pension as at the end of the gap in service.

#### **Account remains open after disqualifying break of more than 5 years**

- 63.**—(1) If a deferred member re-enters pensionable service (“the further service”) following a disqualifying break in service—
- (a) the deferred member’s account remains open; and
  - (b) an active member’s account must be established in respect of the further service.
- (2) In this regulation, “a disqualifying break in service” means a period of more than 5 years which does not include any period of service under another public service pensions scheme.

#### **Account established after ill-health pension ceases to be payable**

- 64.** If an ill-health pension ceases to be payable to a person (P) under regulation 111 or 115 and P does not re-enter pensionable service—
- (a) a deferred member’s account must be established; and
  - (b) that account must be credited with an amount equal to the annual rate of pension payable immediately before the ill-health pension ceased to be payable.

#### **Account established after phased retirement pension ceases to be payable**

- 65.** If a phased retirement pension ceases to be payable under regulation 94 and P does not re-enter pensionable service—
- (a) a deferred member’s account must be established; and
  - (b) the scheme manager must increase the amount of accrued earned pension by the phased retirement proportion.

## CHAPTER 7

### Pensioner members’ accounts

#### SECTION 5

#### *Interpretation*

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

- 66.**—(1) The amount of full retirement earned pension is the sum of—
- (a) the amount of accrued earned pension calculated under regulation 44(3); and
  - (b) the leaver index adjustment for that amount.
- (2) In calculating the amount of full retirement earned pension, the leaver index adjustment is not applied to the amount of accrued earned pension if a transfer value payment is made or a cash

transfer sum is paid in respect of the member's rights to that accrued pension before the end of the last active financial year.

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

- 67.—(1) The amount of full retirement additional pension is the sum of—
- (a) the amount of accrued additional pension calculated under regulation 44(4); and
  - (b) the leaver PIA index adjustment for that amount.

(2) In calculating the amount of full retirement additional pension, the leaver PIA index adjustment is not applied to the amount of accrued additional pension if a transfer value payment is made or a cash transfer sum is paid in respect of the member's rights to that accrued pension before the end of the last active financial year.

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

68. The amount of phased retirement earned pension is the sum of—
- (a) the amount of accrued earned pension calculated under regulation 45(2); and
  - (b) the leaver index adjustment for that amount.

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

69. The amount of phased retirement additional pension is the sum of—
- (a) the amount of accrued additional pension calculated under regulation 45(3); and
  - (b) the leaver index adjustment for that amount.

**Meaning of “standard reduction”**

70.—(1) The standard reduction is 3% and applies in relation to a maximum of 3 years from age 65 to normal pension age.

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

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

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

**Meaning of “actuarial adjustment”**

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

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

### **Meaning of “commutation amount”**

72. In these Regulations, “commutation amount”, in relation to any pension, means the amount of pension exchanged for a lump sum under regulation 162, 165, 166 or 168.

## *SECTION 6*

### *Establishment of pensioner members’ accounts*

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

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

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

(2) When a deferred member becomes entitled to payment of a retirement pension other than a phased retirement pension in respect of any pensionable service—

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

(3) The pensioner member’s account must specify—

- (a) the amount of full retirement earned pension payable to the member, and for that amount—
  - (i) the standard reduction (if any);
  - (ii) the actuarial adjustment (if any); and
  - (iii) the commutation amount (if any); and
- (b) the amount of full retirement additional pension payable to the member, and for that amount—
  - (i) the actuarial adjustment (if any); and
  - (ii) the commutation amount (if any).

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

74.—(1) On the entitlement day for a phased retirement pension—

- (a) a pensioner member’s account must be established for the member;
- (b) if the member is an active member, the active member’s account must be adjusted by reducing the amount of accrued earned pension specified in that account by the phased retirement proportion;
- (c) if the member is a deferred member, the deferred member’s account must be adjusted by reducing the amount of accrued earned pension specified in that account by the phased retirement proportion;
- (d) after the adjustment, Chapters 2 and 3 apply in relation to the member as if the amount of accrued earned pension specified in the active member’s account or deferred member’s account had always been reduced by the phased retirement proportion; and
- (e) if the member has applied under regulation 91 to receive additional pension with the phased retirement earned pension, the additional pension account must be closed.

(2) The pensioner member’s account must specify—

- (a) the amount of phased retirement earned pension payable to the member, and for that amount—
  - (i) the standard reduction (if any);
  - (ii) the actuarial adjustment (if any); and
  - (iii) the commutation amount (if any); and
- (b) the amount of phased retirement additional pension payable to the member, and for that amount—
  - (i) the actuarial adjustment (if any); and
  - (ii) the commutation amount (if any).

### *SECTION 7*

#### *Closure of accounts*

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

75. If an ill-health pension ceases to be payable under regulation 111 or 115, the pensioner member's account must be closed.

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

76. If a phased retirement pension ceases to be payable under regulation 94, the pensioner member's account must be closed.

## CHAPTER 8

### Pension accounts for pension credit members

#### **Pension accounts for pension credit members**

77.—(1) A pension account must be established for each pension credit member (“the pension credit member’s account”).

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

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

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

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

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

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

## PART 5

### Retirement benefits for teachers

#### CHAPTER 1

##### Interpretation

#### Qualifying for retirement benefits

**79.**—(1) A person (P) is qualified for retirement benefits in respect of a period of pensionable service if—

- (a) P has at least 2 years' qualifying service; or
  - (b) after P enters pensionable service, a transfer value payment or cash transfer sum is accepted under Part 10 (transfers) in respect of P's rights accrued under a personal pension scheme.
- (2) In these Regulations, a period of qualifying service is the total of the following—
- (a) any period of pensionable service under this scheme (other than a period of post-benefit service);
  - (b) if after P enters pensionable service under this scheme a transfer value payment or cash transfer sum has been accepted under Part 10 in respect of rights accrued under another occupational pension scheme, a period equal to the person's period as an active member in that scheme;
  - (c) any period of comparable British service;
  - (d) any period of comparable United Kingdom service;
  - (e) for a transition member with continuity of service, any period of pensionable service under the existing scheme before the closing date.
- (3) Any pensionable service in respect of which a person's rights under this scheme or the existing scheme are extinguished is not qualifying service.

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

**80.**—(1) A person (P) is re-qualified for retirement benefits under these Regulations if—

- (a) P has at least 12 months' post-benefit qualifying service; or
  - (b) a transfer payment otherwise than from another occupational pension scheme has been accepted in relation to P during P's post-benefit service.
- (2) In these Regulations, a period of post-benefit qualifying service is the total of the following—
- (a) any period of post-benefit service under this scheme;
  - (b) for a transition member in respect of post-benefit service, any period of post-benefit service under the existing scheme before the member's transition date;
  - (c) if after P enters a period of post-benefit service a transfer payment has been accepted in respect of rights accrued under another occupational pension scheme, a period equal to the person's period of pensionable service under that scheme.
- (3) For the purpose of these Regulations, P enters a period of "post-benefit service" when—
- (a) P re-enters pensionable service—
    - (i) on or after reaching normal pension age; and
    - (ii) after a retirement pension (other than a phased retirement pension) or a short-service serious ill-health grant becomes payable; or

- (b) P re-enters pensionable service—
  - (i) before reaching normal pension age; and
  - (ii) after a retirement pension (other than an ill health pension or phased retirement pension) or a short-service serious ill-health grant becomes payable.
- (4) For the purpose of these Regulations, P does not enter a period of “post-benefit service” if P re-enters pensionable service—
  - (a) before reaching normal pension age; and
  - (b) after an ill-health pension or phased retirement pension becomes payable.
- (5) Any period of service in respect of which P’s rights under this scheme or the existing scheme are extinguished is not included in a period of post-benefit service<sup>(21)</sup>.

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

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

## CHAPTER 2

### Age retirement

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

- 82.**—(1) The entitlement day for an age retirement pension is as follows.
- (2) If a person (P) is qualified for retirement benefits, the entitlement day is the earliest of the following—
- (a) if P is in pensionable service on the day on which P reaches normal pension age—
    - (i) the day after P leaves all pensionable service; or
    - (ii) the day on which P reaches 75; and
  - (b) if P is not in pensionable service on the day on which P reaches normal pension age, the day on which P reaches normal pension age.
- (3) If P is re-qualified for retirement benefits, the entitlement day is the earliest of the following—
- (a) if P is in pensionable service on the date of application, the day after P leaves all pensionable service;
  - (b) if P has left all pensionable service on the date of application, such day as P specifies in the application, which must be no earlier than 6 weeks after the date of application;
  - (c) the date of P’s 75th birthday.
- (4) In this regulation, “date of application” means the day on which P applies for the payment of an age retirement pension.

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

- 83.**—(1) A member (P) is entitled to payment of an age retirement pension from the entitlement day if—
- (a) P has reached normal pension age;
  - (b) P is qualified or re-qualified for retirement benefits;

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(21) Regulation 183(4) provides for extinguishment of rights following the refund of the member’s contributions. Regulation 197(6) provides for extinguishment of rights following a transfer value payment.

- (c) P has left all pensionable service; and
  - (d) P has applied under regulation 159 for the payment of an age retirement pension.
- (2) An age retirement pension is payable for life.

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

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

- (2) The annual rate of age retirement pension payable to P is found by—
- (a) taking the amount of full retirement earned pension specified in P’s pensioner member’s account;
  - (b) applying the actuarial adjustment (if any) specified in that account in relation to that amount;
  - (c) subtracting the conversion amount (if any) specified in that account in relation to that amount;
  - (d) adding the amount of full retirement additional pension (if any) specified in that account; and
  - (e) subtracting the commutation amount (if any) specified in that account in relation to the sum of those amounts.

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

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

- (a) the amount found by multiplying the sum of the amount of full retirement earned pension and the amount of full retirement additional pension (if any) specified in P’s pensioner member’s account by the period (in years and fractions of a year) for which P was a deferred member after reaching normal pension age; and
- (b) interest payable on that amount in accordance with regulation 172.

### **CHAPTER 3**

#### **Phased retirement**

#### **Interpretation of Chapter**

**86.**—(1) In this Chapter—

- “average annual rate”, in relation to pensionable earnings in a 6 month period, means the amount of pensionable earnings in that period multiplied by 2;
- “increased annual rate”, in relation to pensionable earnings, has the meaning given in regulation 94;
- “new employment” has the meaning given in regulation 88(2);
- “new employment condition” has the meaning given in regulation 88;
- “pensionable earnings”, for a person not in an eligible employment, means the amount which would be the person’s pensionable earnings if the employment were eligible employment;
- “phased retirement application” means an application under regulation 159 for payment of a phased retirement pension;
- “previous employment” has the meaning given in regulation 88(2);



“reduced annual rate”, in relation to pensionable earnings, has the meaning given in regulation 87(2);

“reduced annual rate condition” has the meaning given in regulation 87.

(2) When calculating the reduced annual rate or increased annual rate of a person’s pensionable earnings, any standard increase<sup>(22)</sup> which takes effect on or after the entitlement day must be ignored.

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

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

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

### **The new employment condition**

**88.**—(1) A person (P) meets the new employment condition if—

- (a) P leaves all eligible employment;
- (b) within 6 months after leaving all eligible employment, P enters a new employment; and
- (c) on the day after the entitlement day referred to in regulation 89 the reduced annual rate of P’s pensionable earnings in the new employment does not exceed 80% of the average annual rate of P’s pensionable earnings for the last 6 months of the previous employment.

(2) In this regulation—

“a new employment” means—

- (a) one or more new eligible employments;
- (b) one or more employments with an employer mentioned in any paragraph in Part 2 of Schedule 1 that is not an eligible employment where P’s normal duties in the employment include providing education or services ancillary to education (other than administrative services); or
- (c) one or more new eligible employments and one or more employments mentioned in paragraph (b); and

“previous employment” means one or more previous eligible employments.

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

**89.** The entitlement day for a phased retirement pension is—

- (a) if a person (P) meets the reduced annual rate condition, the day on which the reduced annual rate takes effect; or
- (b) if P meets the new employment condition, the day on which P enters a new employment.

### **Entitlement to phased retirement pension**

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

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

- (a) P has reached 55 but has not reached 75;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P meets the reduced annual rate condition or the new employment condition;
- (d) P has made a phased retirement application; and
- (e) P has not applied under regulation 159 for payment of any other retirement pension.

(2) P is entitled to payment of a phased retirement additional pension from the entitlement day if P has applied under regulation 91 to receive an additional pension with the phased retirement earned pension.

(3) Subject to regulation 94, a phased retirement pension is payable for life.

### **Phased retirement applications**

**91.**—(1) For the purpose of regulation 90, a person (P) must make a phased retirement application within 3 months after the entitlement day.

(2) The application must—

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

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

### **Phased retirement proportion**

**92.**—(1) A phased retirement application must specify the proportion of accrued earned pension for which payment is claimed (“phased retirement proportion”).

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

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

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

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

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

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

- (a) in the 12 months after the entitlement day, the annual rate of P’s pensionable earnings increases; and

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

(2) In this regulation, “increased annual rate” means the annual rate of P's pensionable earnings in the 12 months after the entitlement day.

### **Subsequent phased retirement applications**

**95.**—(1) P may make a subsequent phased retirement application if—

- (a) a phased retirement pension ceases to be payable under regulation 94 but P once more meets the reduced annual rate condition or the new employment condition; or
- (b) while P is receiving a phased retirement pension, the terms of P's employment change or P enters a new employment and P once more meets the reduced annual rate condition or the new employment condition.

(2) P may not make a subsequent phased retirement application if—

- (a) P has made 3 previous phased retirement applications; or
- (b) P has not reached 60 and has made 2 previous phased retirement applications.

(3) If P makes a subsequent phased retirement application after a phased retirement pension ceases to be payable—

- (a) the phased retirement proportion specified in that application must be the same as or greater than the phased retirement proportion specified in the original application;
- (b) if P applied under regulation 91 to receive an additional pension as part of the original pension, P must apply under that regulation to receive an additional pension as part of the new phased retirement pension (“the new pension”); and
- (c) if P received a lump sum under regulation 162 in place of part of the original pension (“original lump sum”)—
  - (i) P must apply under that regulation to receive a lump sum in place of part of the new pension (“new lump sum”);
  - (ii) the amount of the new lump sum must be the same as or greater than the amount of the original lump sum; and
  - (iii) the amount of lump sum payable is the amount of the new lump sum less the amount of the original lump sum.

(4) Any subsequent phased retirement application must be made in accordance with regulation 91.

(5) In this regulation—

“original application” means P's application under regulation 159 for payment of the original pension;

“original pension” means a phased retirement pension that ceases to be payable under regulation 94;

“previous phased retirement application” includes the original application.

## CHAPTER 4

### Premature retirement

#### Interpretation “pensionable service”

96. For the purpose of this Chapter, a person in respect of whom an election under regulation 25 has effect is not treated as being in pensionable service.

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

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

#### Entitlement to premature retirement pension

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

- (a) P has reached 55 but has not reached normal pension age;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P’s pensionable service in relation to an employment is terminated by reason of P’s redundancy or in the interests of the efficient discharge of the functions of P’s employer;
- (d) P’s employer gives written notice to the scheme manager stating that—
  - (i) P’s pensionable service was terminated by reason of P’s redundancy or in the interests of the efficient discharge of the employer’s functions; and
  - (ii) the employer agrees that a premature retirement pension should become payable to P;
- (e) P receives no compensation as a result of P’s pensionable service being terminated;
- (f) P has left all eligible employment;
- (g) P has applied under regulation 159 for payment of a premature retirement pension; and
- (h) P has not applied under that regulation for payment of any other retirement pension.

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

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

#### Annual rate of premature retirement pension

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

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

## CHAPTER 5

### Early retirement

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

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

(2) If a person (P) is not in eligible employment when P applies under regulation 159 for payment of the pension, the entitlement day is a day specified in P’s application which is at least 6 weeks after the day on which the application is made.

(3) If P is in eligible employment when P applies under regulation 159 for payment of the pension and P’s employer agrees that an early retirement pension should become payable to P, the entitlement day is the day after P leaves all eligible employment.

(4) If P is in eligible employment when P applies under regulation 159 for payment of the pension and P’s employer does not agree that an early retirement pension should become payable to P—

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

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

- (a) reaches 55; or
- (b) leaves all eligible employment.

#### Entitlement to early retirement pension

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

- (a) P has reached 55 but has not reached normal pension age;
- (b) P is qualified or re-qualified for retirement benefits;
- (c) P has left all eligible employment;
- (d) P has applied under regulation 159 for the payment of an early retirement pension; and
- (e) P has not applied under that regulation for payment of any other retirement pension.

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

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

#### Annual rate of early retirement pension

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

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

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

## CHAPTER 6

### Ill health retirement

#### SECTION 1

##### General

### Interpretation

**103.** In this Chapter—

“ill-health application” means an application under regulation 159 for payment of—

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

“medical report” means a medical report accompanying an ill-health application.

### Incapacity definitions

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

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

### Ill-health applications

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

- (a) must be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to the payment of an ill-health pension or a total incapacity pension; and
  - (b) must be signed by P’s employer unless—
    - (i) P left all eligible employment for a reason other than because P was incapacitated; or
    - (ii) P made the ill-health application more than 2 years after the last day of pensionable service.
- (2) The medical evidence must include a medical report containing evidence that P meets—
- (a) the incapacity condition; and
  - (b) if applicable, the total incapacity condition.
- (3) An application for a total incapacity pension will not be granted unless it is made—
- (a) before P leaves all eligible employment; or

- (b) within 2 years after the last day of pensionable service.

## *SECTION 2*

### *Ill-health pension*

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

**106.**—(1) The entitlement day for an ill-health pension is the latest of the following—

- (a) the day specified in the medical report as the day on which a person (P) first met the incapacity condition or, if applicable, the total incapacity condition;
- (b) the day which occurs 6 months before the date of a medical report following consideration of which the scheme manager is satisfied that P meets the incapacity condition or, if applicable, the total incapacity condition;
- (c) the day after P leaves all eligible employment.

(2) The entitlement day must not be before the date of any medical report following consideration of which the scheme manager was not satisfied that P met the incapacity condition or, if applicable, the total incapacity condition.

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

**107.**—(1) A member (P) is entitled to payment of an ill-health pension from the entitlement day if—

- (a) P is qualified or re-qualified for retirement benefits;
- (b) P has not reached normal pension age;
- (c) P has left all eligible employment;
- (d) P has applied under regulation 159 for payment of an ill health pension;
- (e) P has not applied under that regulation for payment of any other retirement pension; and
- (f) the scheme manager is satisfied after consideration of a medical report that—
  - (i) if paragraph (2) applies, P meets the incapacity condition and the total incapacity condition; or
  - (ii) if paragraph (3) applies, P meets the incapacity condition.

(2) This paragraph applies if—

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

(3) This paragraph applies if—

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

(4) Except as provided in regulation 111, an ill-health pension is payable for life.

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

**108.**—(1) A member (P) is not entitled to payment of an ill-health pension—

- (a) in respect of any pensionable service after P reaches normal pension age; or

- (b) if paragraph (2) applies.
- (2) This paragraph applies if—
  - (a) P is registered or formerly registered with the General Teaching Council for Scotland and—
    - (i) P’s name has been removed from that Council’s register following a direction by the Council’s Disciplinary Committee; or
    - (ii) P is under an investigation which might result in such removal; or
  - (b) P—
    - (i) is not and has not been registered with that Council; and
    - (ii) has ceased to be in pensionable employment as a result of a dismissal on grounds of misconduct.

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

**109.**—(1) If an ill-health pension does not become payable before the death of a member (D), a death grant is payable in respect of the member.

- (2) For the purpose of paragraph (1)—
  - (a) an ill-health pension does not become payable before D’s death unless the initial payment of the pension is made before D’s death; and
  - (b) an ill-health pension that becomes payable before D’s death but ceases to be payable under regulation 111 or 115 is taken not to become payable before D’s death.

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

- 110.** The annual rate of ill-health pension payable to a person (P) is found by—
- (a) taking the amount of full retirement earned pension specified in P’s pensioner member’s account;
  - (b) adding the amount of full retirement additional pension (if any) specified in that account; and
  - (c) subtracting the commutation amount (if any) specified in that account in relation to the sum of those amounts.

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

- 111.**—(1) An ill-health pension ceases to be payable on the earlier of the following dates—
- (a) the date on which a person (P) re-enters eligible employment;
  - (b) the date on which P engages in any work as a teacher which is not an eligible employment.
- (2) An ill-health pension does not cease to be payable on that date if P has reached normal pension age.

### *SECTION 3*

#### *Total incapacity pension*

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

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



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

- 113.**—(1) A total incapacity pension is payable to a person (P) from the entitlement day if—
- (a) P is entitled to an ill-health pension because the scheme manager is satisfied that P meets the incapacity condition;
  - (b) P has applied under regulation 159 for payment of an ill-health pension and a total incapacity pension; and
  - (c) the scheme manager is satisfied after consideration of a medical report that P meets the total incapacity condition.
- (2) A total incapacity pension is not payable to P if—
- (a) P left an eligible employment for a reason other than because P was incapacitated; or
  - (b) P made the ill-health application—
    - (i) after leaving all eligible employment; and
    - (ii) more than 2 years after the last day of pensionable service.
- (3) Except as provided in regulation 115, the total incapacity pension is payable for life.

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

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

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

AR means P's annual rate of pensionable earnings—

- (i) as at the last day of pensionable service; or
- (ii) if P applies for a total incapacity pension while P is in stepped down employment, as at the day before P's annual rate of pensionable earnings was first reduced under paragraph (2);

PS means P's prospective service (in years and fractions of a year);

"P's prospective service" means the period beginning with the day after the entitlement day and ending on the day on which P would have reached prospective normal pension age.

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

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

- 115.**—(1) A total incapacity pension ceases to be payable to a person (P) on the date on which P's ability to carry out any work ceases to be impaired by more than 90%.

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

- (a) the date on which P re-enters eligible employment;
- (b) the date on which P engages in any work as a teacher which is not an eligible employment;
- (c) the date on which P engages in any other form of work unless—
  - (i) P provides the scheme manager with a certificate from a registered medical practitioner stating that, in the opinion of the practitioner, P continues to meet the total incapacity condition despite engaging in such work; and
  - (ii) the scheme manager is satisfied that P continues to meet that condition despite engaging in such work.

(3) A total incapacity pension does not cease to be payable on that date if P has reached normal pension age.

## CHAPTER 7

### Short-service serious ill health grant

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

**116.**—(1) An application made by a person (P) under regulation 159 for payment of a short-service serious ill-health grant—

- (a) must be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to the payment; and
  - (b) must be signed by P’s employer.
- (2) The medical evidence must include a medical report containing evidence that P—
- (a) meets the incapacity condition; and
  - (b) has a life expectancy of less than a year.
- (3) An application is not to be granted unless it is made—
- (a) before P leaves all eligible employment; or
  - (b) within 6 months after the last day of pensionable service.

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

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

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

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

- (a) P was in pensionable service (other than post-benefit service) for at least 12 months;
- (b) P leaves all eligible employment because P is incapacitated;
- (c) P is not qualified for retirement benefits;
- (d) P has not reached 75;
- (e) P has applied under regulation 159 for payment of the grant; and
- (f) the scheme manager is satisfied after consideration of the medical report that—
  - (i) P meets the incapacity condition; and

(ii) P has a life expectancy of less than a year.

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

#### **Amount of grant**

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

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

(2) The amounts are—

- (a) all members’ contributions, additional pension contributions, buy-out contributions and faster accrual contributions paid up to the date of receipt of the application under regulation 116, except any paid in respect of a period of pensionable service for which a short-service serious ill-health grant has been paid; and
- (b) interest on those contributions from the first day of the financial year following that in which they were paid to the date of payment at 3% per year, compounded with yearly rests.

### CHAPTER 8

#### Short-service annuity for post-benefit service

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

**120.** The entitlement day for a short-service annuity is the date specified in an application under regulation 159 for payment of the annuity, which must be no earlier than 6 weeks after the day on which the application is made.

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

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

- (a) P enters a period of post-benefit service;
- (b) P is not re-qualified for retirement benefits in respect of that service;
- (c) P leaves all eligible employment; and
- (d) P has applied under regulation 159 for payment of the annuity.

(2) A short-service annuity is payable for life.

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

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

- (a) all of the member’s standard contributions, faster accrual contributions (if any) and additional pension contributions (if any) in respect of a period of post-benefit service paid up to the date of receipt of the application under regulation 159; and
- (b) interest to the date of payment at 3% per year, compounded with yearly rests on those contributions from the first day of the financial year following that in which they were paid.

## PART 6

### Survivor's benefits

#### CHAPTER 1

#### General interpretation

##### General

**123.** In this Part—

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

“survivor's benefits” means any of the following—

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

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

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

**124.** For the purpose of this Part—

- (a) an ill-health pension does not become payable before D's death unless the initial payment of the pension is made before D's death;
- (b) an ill-health pension that does become payable before D's death but ceases to be payable under regulation 111 or 115 is taken not to become payable before D's death; and
- (c) a phased retirement pension that does become payable before D's death but ceases to be payable under regulation 94 does not become payable before D's death.

##### Meaning of “dies in service”

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

- (a) D dies while in pensionable service;
- (b) D dies while on non-pensionable family leave immediately following a period of pensionable service;
- (c) as at the date of D's death, an election under regulation 24 has effect or is taken to have effect; or
- (d) paragraph (2) applies.

(2) This paragraph applies if—

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

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

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

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

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

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

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

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

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

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

## **CHAPTER 2**

### **Specific interpretation**

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

- 130.—(1) For the purpose of a death grant, a person (P) is a “death grant beneficiary” if—
- (a) P is an individual;
  - (b) the member has nominated P to receive a death grant or a share of a death grant on the member’s death; and
  - (c) at the date of the member’s death, the nomination has effect.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The nomination ceases to have effect if—
- (a) the member revokes the nomination by giving written notice to the scheme manager;
  - (b) the member subsequently nominates a different person in place of P; or
  - (c) P dies.
- (4) If a member nominates more than one death grant beneficiary, the notice must state—
- (a) the share of the death grant to be paid to each beneficiary; and
  - (b) whether, if a beneficiary dies before the member, the beneficiary’s share must be paid—
    - (i) to the surviving beneficiaries in accordance with paragraph (5); or
    - (ii) to the member’s executors as part of the member’s estate.
- (5) If a beneficiary’s share is to be paid to the surviving beneficiaries, it is to be paid to them in shares such that the proportion which each surviving beneficiary’s share bears to each of the other surviving beneficiaries’ shares is the same as it was in the nomination.

### **Meaning of “surviving adult”**

- 131.—(1) For the purpose of a death grant, the “surviving adult” of a member who has died means the member’s—
- (a) surviving spouse;
  - (b) surviving civil partner; or
  - (c) surviving nominated partner.

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

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

**Meaning of “surviving nominated partner”**

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

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

(2) A member may nominate P by giving the scheme manager a written declaration signed by both the member and P stating that the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

- (a) the member is able to marry or form a civil partnership with P;
- (b) the member and P are living with each other as if they were a married couple or civil partners;
- (c) neither the member nor P is living with a third person as if they were a married couple or civil partners; and
- (d) the member and P are financially interdependent or P is financially dependent on the member.

(4) A nomination ceases to have effect if—

- (a) the member or P revokes the nomination by giving written notice to the scheme manager;
- (b) the member makes a subsequent nomination under this regulation;
- (c) any condition in paragraph (3) ceases to be satisfied; or
- (d) P dies.

**Meaning of “surviving nominated beneficiary”**

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

- (a) the member has nominated P to receive a pension on the member’s death; and
- (b) at the date of the member’s death—
  - (i) the nomination has effect; and
  - (ii) the conditions in paragraph (3) are satisfied.

(2) A member may nominate P by giving the scheme manager a written notice signed by both the member and P stating that the conditions in paragraph (3) are satisfied.

(3) The conditions are that—

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

#### **Meaning of “eligible child”**

- 134.**—(1) In these Regulations, a person is the “eligible child” of a member who dies (D) if—
- (a) the person—
    - (i) is D's child and was born before D died or within 12 months after D's death;
    - (ii) was adopted by D; or
    - (iii) was accepted by D as a member of D's family and was wholly or mainly financially dependent on D at the date of D's death;
  - (b) the person has never married or formed a civil partnership; and
  - (c) the person meets Condition 1, 2 or 3.
- (2) Condition 1 is that the person is under 17.
- (3) Condition 2 is that the person—
- (a) is 17 or over and under 23;
  - (b) is receiving full-time education; and
  - (c) since reaching the age of 17, has received full-time education without a break.
- (4) Condition 3 is that the person—
- (a) is incapable of earning a livelihood by reason of physical or mental impairment;
  - (b) because of that impairment, was dependent on D at the date of the D's death; and
  - (c) is not wholly maintained out of money provided by the UK Parliament or the Scottish Parliament or by council tax levied by a local authority.
- (5) For the purpose of Condition 2—
- (a) a person is receiving full-time education if the person attends a full-time vocational training course which runs for a period of at least 2 years;

- (b) a person does not cease to receive full-time education if the person takes a single break of up to a year (or such longer period as the scheme manager may determine in the circumstances of the particular case); and
- (c) a person who ceases to receive full-time education is taken to receive it up to and including the week which includes whichever of the following days occurs first after the end of the term in which the person ceases to receive it—
  - (i) the first Monday in January;
  - (ii) the first Monday after Easter Monday;
  - (iii) the first Monday in September.

## CHAPTER 3

### Death grant

#### *SECTION 1*

##### *General*

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

**135.** On the death of a member (D), a death grant is payable as follows—

- (a) to D's death grant beneficiary;
- (b) if there is more than one death grant beneficiary, to those beneficiaries in the shares determined in accordance with regulation 130(4) and (5); or
- (c) if there is no death grant beneficiary—
  - (i) to D's surviving adult; or
  - (ii) if there is no surviving adult, to D's executors as part of D's estate.

#### *SECTION 2*

##### *Death in service*

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

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

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

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

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

- (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
- (b) deducting the following amounts previously paid to D in respect of pensionable service under this scheme—
  - (i) any part of a lump sum under regulation 162;
  - (ii) any short-service serious ill-health grant.



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

- (a) multiplying D's annual rate of pensionable earnings as at the date of D's death by 3; and
- (b) deducting the following amounts previously payable to D under this scheme in respect of both the period of post-benefit service and any previous period of pensionable service—
  - (i) any lump sum under regulation 162 not attributable to additional pension;
  - (ii) any short-service serious ill-health grant.

### SECTION 3

#### *Death out of service*

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

**137.**—(1) A death grant is payable under this regulation if a member (D) dies out of service (“death out of service grant”).

(2) A death out of service grant is not payable if a retirement pension other than a phased retirement pension becomes payable before D's death.

(3) If a surviving adult pension becomes payable on D's death, the amount of the death out of service grant is found by—

- (a) taking the amount of D's accrued earned pension as at the date of D's death;
- (b) multiplying that amount by 2.25; and
- (c) deducting the following amounts previously paid to D in respect of pensionable service under this scheme—
  - (i) any part of a lump sum under regulation 162;
  - (ii) any short-service serious ill-health grant.

(4) If a surviving adult pension does not become payable on D's death, but D was qualified for retirement benefits, the amount of the death out of service grant is the greater of—

- (a) the amount calculated under paragraph (3); or
- (b) D's balance of contributions.

(5) If at the date of D's death D was not qualified for retirement benefits or a short-service serious ill-health grant had not become payable, the amount of the death out of service grant is an amount equal to D's balance of contributions.

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

**138.**—(1) A death grant is payable under this regulation (“supplementary death grant”) if—

- (a) a member (D) dies as a pensioner member; and
- (b) AR is greater than AP.

(2) The amount of the death grant is AR-AP, where—

AR is 5 x D's annual rate of retirement pension payable as at the date of D's death; and  
AP is the total amount of pension which was payable to D up until D's death.

## CHAPTER 4

### Surviving adult pensions

#### Surviving adult pensions

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

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

(3) A surviving adult pension is payable for life.

(4) The annual rate of the pension is to be calculated in accordance with regulations 140 and 141.

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

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

(a) applies if a member (D) dies in service or dies as a pensioner member; and

(b) is payable for the first 3 months after D's death.

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

(a) if D dies in service, it is D's annual rate of pensionable earnings as at the date of D's death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave);

(b) if D dies as a pensioner member, it is D's annual rate of retirement pension as at the date of D's death; or

(c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 141 ("long-term rate"), it is the same as the long-term rate.

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

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

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

(a) if a member (D) dies out of service; or

(b) otherwise, when the short-term rate ceases to be payable.

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

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

#### Enhancement of surviving adult pension

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

(a) dies in service; or

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

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

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

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

## CHAPTER 5

### Additional (surviving adult) pensions

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

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

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

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

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

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

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

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

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

- (a) if D dies in service, it is the annual rate of additional (self only) pension payable as at D's death; or
- (b) if D dies as a pensioner member—
  - (i) where a phased retirement pension became payable before D's death, it is the annual rate of additional (self only) pension which would have been payable as at D's death if D had applied under regulation 91 to receive additional pension with the phased retirement earned pension; and
  - (ii) where a retirement pension other than a phased retirement pension became payable before D's death, it is the annual rate of additional (self only) pension payable as at D's death.

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

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

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

- (a) if a member (D) dies out of service; or

(b) otherwise, when the short-term rate ceases to be payable.

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

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

## CHAPTER 6

### Child pensions

#### Entitlement to child pension

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

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

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

(a) the child is only entitled to payment of a child pension in respect of 2 of those members; and

(b) the 2 highest child pensions are payable.

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

(a) is on a break from receiving full-time education; or

(b) attends a full-time vocational training course in respect of which the eligible child is paid at a rate which equals or exceeds the annual rate at which an official pension within the meaning of section 5(1) of PIA 1971 would be payable if the pension had begun, and first qualified for increases under that Act, on 1st April 2014 and had then been payable at an annual rate of £3045.

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

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

(7) The annual rate of a child pension is to be calculated in accordance with regulations 147 and 148.

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

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

(a) applies if a member (D) dies in service or dies as a pensioner member; and

(b) is payable as follows—

(i) if a surviving adult pension does not become payable on D's death, for the first 6 months after D's death;

(ii) if a surviving adult pension becomes payable on D's death and continues to be payable for the first 3 months after D's death, for those 3 months; or

(iii) if a surviving adult pension becomes payable on D's death but ceases to be payable before the end of the first 3 months after D's death, for those 3 months plus the number of months for which the surviving adult pension was not payable under subparagraph (ii).

- (2) The short term rate of child pension is calculated as follows—
- (a) if D dies in service, it is D’s annual rate of pensionable earnings as at the date of D’s death (disregarding any reduction by reason of sick leave, maternity leave, paternity leave, additional paternity leave or adoption leave) divided by the number of D’s eligible children to whom a pension is payable;
  - (b) if D dies as a pensioner member, it is D’s annual rate of retirement pension payable as at the date of D’s death (disregarding any reduction by virtue of a pension-sharing order) divided by the number of D’s eligible children to whom a pension is payable; or
  - (c) if the rate calculated under sub-paragraph (a) or (b) is smaller than the annual rate calculated in accordance with regulation 148 (“long-term rate”), it is the same as the long-term rate.
- (3) In this regulation, “annual rate of retirement pension” means annual rate of phased retirement earned pension or annual rate of full retirement earned pension.

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

- 148.**—(1) The long-term rate of child pension applies—
- (a) if a member (D) dies out of service; or
  - (b) otherwise, when the short-term rate ceases to be payable.
- (2) The long-term rate of child pension is—
- $$\frac{R \times \text{accrued earned pension}}{EC}.$$
- (3) R is—
- (a) 37.5%, if a surviving adult pension is payable;
  - (b) 50%, if a surviving adult pension is not payable or has ceased to be payable.
- (4) In paragraph (2), “accrued earned pension” is D’s accrued earned pension as at the date of D’s death.
- (5) EC is—
- (a) 2, if a child pension is payable to no more than 2 eligible children; or
  - (b) the number of eligible children, if a child pension is payable to more than 2 eligible children.

**Enhancement of child pension**

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

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

where—

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

S is the sum of the following amounts—

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

EC is—

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

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

## PART 7

### Benefits for pension credit members

#### CHAPTER 1

##### General

#### **Interpretation of Part**

**150.** In this Part—

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

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

“pension credit retirement pension” means a pension payable under regulation 152(1);

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

#### CHAPTER 2

##### Pension credit retirement pension

#### **Entitlement day for pension credit retirement pension**

**151.**—(1) The entitlement day for a person’s (P’s) pension credit retirement pension is—

- (a) the day on which P reaches normal pension age; or
- (b) if P has reached 55 but has not reached normal pension age, a day specified in P’s application under regulation 159 for payment of the pension which is at least 6 weeks after the day on which the application is made.

(2) The entitlement day must not be before the transfer day.

#### **Entitlement to pension credit retirement pension**

**152.**—(1) A pension credit member (P) is entitled to payment of a pension credit retirement pension from the entitlement day if P has applied under regulation 159 for payment of the pension.

(2) If P is entitled to 2 or more pension credits—

- (a) benefits are payable to P under this scheme as if P were 2 or more members, each being entitled to one of the pension credits; and
  - (b) the amounts payable are determined accordingly.
- (3) A pension credit retirement pension is payable for life.

#### **Annual rate of pension credit retirement pension**

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

### **CHAPTER 3**

#### **Death grant**

#### **Meaning of death grant beneficiary**

- 154.**—(1) A person (P) is a “death grant beneficiary” of a pension credit member if—
- (a) the member has nominated P to receive a death grant or a share of a death grant on the member’s death; and
  - (b) at the date of the member’s death, the nomination has effect.
- (2) A member may nominate P by giving written notice to the scheme manager.
- (3) The nomination ceases to have effect if—
- (a) the member revokes the nomination by giving written notice to the scheme manager;
  - (b) the member subsequently nominates a different person in place of P; or
  - (c) P dies.
- (4) If a member nominates more than one death grant beneficiary, the notice must state—
- (a) the share of the death grant to be paid to each beneficiary; and
  - (b) whether, if a beneficiary dies before the member, the beneficiary’s share must be paid—
    - (i) to the surviving beneficiaries in accordance with paragraph (5); or
    - (ii) to the member’s executors as part of the member’s estate.
- (5) If a beneficiary’s share is to be paid to the surviving beneficiaries, it is to be paid to them in shares such that the proportion which each surviving beneficiary’s share bears to each of the other surviving beneficiaries’ shares is the same as it was in the nomination.
- (6) A death grant beneficiary must be an individual.

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

- 155.**—(1) A death grant is payable under this regulation on the death of a pension credit member (D) who dies before a pension credit retirement pension becomes payable to D under regulation 152.
- (2) The amount of the death grant is found by—
- (a) taking the amount of credited pension which would have become payable to D at the date of D’s death if D had reached normal pension age; and
  - (b) multiplying that amount by 2.25.

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

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

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

### **Payment of death grant**

**157.** On the death of a pension credit member, the death grant must be paid—

- (a) to the death grant beneficiary;
- (b) if there is more than one death grant beneficiary, to those beneficiaries in the shares determined in accordance with regulation 154(4) and (5); or
- (c) if there is no death grant beneficiary, to—
  - (i) the member’s surviving spouse or surviving civil partner; or
  - (ii) if there is no such person, to the member’s executors as part of the member’s estate.

## **PART 8**

### **Payment of benefits**

#### **CHAPTER 1**

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

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

- 158.**—(1) Benefits under these Regulations are payable by the scheme manager.
- (2) Benefits are not payable to or in respect of a member unless the provisions of this Chapter are complied with.

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

- 159.**—(1) A person (P) must apply in writing to the scheme manager for payment of benefits.
- (2) P must satisfy a written request from the scheme manager to provide any information specified in the request.
- (3) The information must be information—
- (a) in P’s possession; or
  - (b) which P can reasonably be expected to obtain.



## CHAPTER 2

### Payment of pensions

#### Payment of pension

- 160.**—(1) This regulation applies to the payment of a pension.
- (2) A pension is normally to be paid monthly, but—
- (a) may, on the application of the person entitled to it, be paid quarterly; or
  - (b) may be paid in such instalments and at such intervals as the scheme manager may think appropriate.
- (3) Where payment of any such sum is due in respect of a period which is less than the interval at which it is payable—
- (a) the amount payable in respect of each complete month of the period shall be 1/12th of the annual rate of the sum; and
  - (b) the amount payable in respect of a period of less than 1 complete month shall be—
- $$\frac{A}{12} \times \frac{B}{C}$$
- (4) In paragraph (3)(b)—
- (a) A is the annual rate of the pension;
  - (b) B is the number of days in respect of which the benefit is payable; and
  - (c) C is the total number of days in the month in which the days in B fall.

## CHAPTER 3

### Payment of lump sums

#### Member declaration

- 161.**—(1) The scheme manager may not pay a member a lump sum under this Chapter unless the member declares in writing that, on payment of the lump sum, paragraph 3A of Schedule 29 to FA 2004(23) would not apply.
- (2) The declaration must be—
- (a) signed by the member;
  - (b) in a form specified by the scheme manager; and
  - (c) provided by a date determined by the scheme manager.

#### Commutation of part of pension

- 162.**—(1) The following members may apply to the scheme manager to receive a lump sum in place of part of a pension—
- (a) a member who is entitled to payment of a retirement pension;
  - (b) a pension credit member who is entitled to payment of a pension credit retirement pension.
- (2) Paragraph (1)(b) only applies if—
- (a) the member's pension credit is derived from rights attributable to the pensionable service of a pension debit member; and

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

- (b) a retirement pension does not become payable to the pension debit member before the transfer day in respect of that pensionable service.
- (3) An application under this regulation must—
  - (a) be in writing;
  - (b) be made when the member applies under regulation 159 for payment of the pension; and
  - (c) specify the amount of the lump sum which the member wishes to receive.

#### **Amount of lump sum payable under regulation 162**

- 163.** The amount of a lump sum payable under regulation 162 must—
- (a) be a multiple of £12; and
  - (b) not exceed P’s permitted maximum.

#### **Commutation amount for lump sum payable under regulation 162**

**164.**—(1) For the purpose of calculating the annual rate of pension payable to a member (P) who receives a lump sum under regulation 162, the commutation amount is 1/12th of the amount of the lump sum.

(2) If a retirement pension commuted under regulation 165 ceases to be payable under regulation 94 or 111, the commutation amount for any retirement pension that subsequently becomes payable to P is an amount determined by the scheme manager after consulting the scheme actuary.

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

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

- (2) P may apply to the scheme manager to receive a lump sum instead of the pension.
- (3) The application must—
  - (a) be in writing;
  - (b) be made when P applies under regulation 159 for payment of the pension; and
  - (c) be accompanied by all the medical evidence necessary for the scheme manager to determine that P is entitled to payment of the lump sum.
- (4) If P is eligible to apply under regulation 162 to receive a lump sum under that regulation—
  - (a) the largest permissible lump sum is to be paid under that regulation; and
  - (b) the commutation amount under that regulation is to be deducted when calculating the annual rate under regulation 166.
- (5) In this regulation, “pension” means—
  - (a) an age retirement pension and any phased retirement pension payable with it;
  - (b) an ill-health pension and a total incapacity pension or phased retirement pension payable with it; or
  - (c) a pension credit retirement pension.

#### **Amount of lump sum payable under regulation 165 instead of retirement pension**

**166.**—(1) This regulation applies to a member (P) who applies under regulation 165 to receive a lump sum instead of a retirement pension.

- (2) The amount of the lump sum payable to P is the total of—

- (a) for an age retirement pension, ill health pension or total incapacity pension, a sum equal to 5 x the annual rate of the retirement pension; and
- (b) for a phased retirement pension that is already in payment, a sum equal to—  
(A-B) x the annual rate of the phased retirement pension  
where—  
A is 5, and  
B is the period (in years and fractions of a year) from the date on which the phased retirement pension was first paid until the date of the application<sup>(24)</sup>.

#### **Amount of lump sum payable under regulation 165 instead of a pension credit retirement pension**

**167.**—(1) This regulation applies to a member (P) who applies under regulation 165 to receive a lump sum instead of a pension credit retirement pension.

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

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

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

(2) This paragraph applies if—

- (a) the lump sum is a trivial commutation lump sum as defined in paragraphs 7 and 7A of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(25)</sup>;
- (b) the application under paragraph (1) is made when P applies under regulation 159 for payment of the retirement pension;
- (c) in the 3 years ending with the date of the application, a transfer value payment has not been made in respect of P;
- (d) a transfer value payment or cash transfer sum has not been accepted under Part 10 in respect of P's rights accrued under a personal pension scheme; and
- (e) in the 5 years ending with the date of the application, a transfer value payment or cash transfer sum has not been accepted under Part 10 in respect of rights accrued under another occupational pension scheme.

(3) If a lump sum is paid under paragraph (1), benefits are not payable under Part 6 on P's death.

(4) The scheme manager may, on the application of a pension credit member (P), commute a pension credit retirement pension by paying a lump sum to P if—

- (a) the lump sum is a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to FA 2004 or falls within regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009;
- (b) the application is made when P applies under regulation 159 for payment of the pension; and
- (c) in the 3 years ending with the date of the application, a transfer value payment has not been made in respect of P.

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<sup>(24)</sup> Note: if this period is 5 years or more, no lump sum is payable in respect of the phased retirement pension.

<sup>(25)</sup> S.I. 2009/1171.

(5) The scheme manager may, on the application of a beneficiary to whom a pension is payable under Part 6, commute that pension by paying a lump sum to the beneficiary if—

- (a) the application is made when the beneficiary applies under regulation 159 for payment of the pension; and
- (b) the lump sum is a trivial commutation lump sum death benefit as defined in paragraph 20 of Schedule 29 to FA 2004.

(6) A lump sum payable under this regulation is to be determined by the scheme manager after taking advice from the scheme actuary.

## CHAPTER 4

### Continuing entitlement to benefit

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

**169.**—(1) Where a benefit is being paid to a person (P), the scheme manager may at any time require that evidence be provided, by such date as the scheme manager may specify, to establish—

- (a) the identity of P; and
- (b) P's continuing entitlement to the benefit.

(2) If the evidence is not provided by the date specified, the scheme manager may withhold the whole or any part of the benefit.

(3) If a benefit ceases to be payable because P ceases to meet the incapacity condition or ceases to meet the total incapacity condition, the power in paragraph (1)(b) may be exercised so as to require P to provide evidence that there has been no such cessation.

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

**170.**—(1) This regulation applies if after paying a benefit the scheme manager determines that there was no entitlement or there is no longer an entitlement to the benefit.

- (2) The scheme manager may—
  - (a) cease to pay the benefit;
  - (b) withhold the whole or any part of the benefit;
  - (c) recover any payment made if there was no entitlement to the benefit.

## CHAPTER 5

### Miscellaneous

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

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

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

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

- 172.**—(1) This regulation applies to a benefit except—
  - (a) a phased retirement pension or a lump sum payable under regulation 162 in place of part of that pension; or

- (b) a total incapacity pension payable between the date on which the person to whom it is paid first engages in any other form of work as mentioned in regulation 115(2)(c) and the date on which the scheme manager is satisfied that the person continues to meet the total incapacity condition despite engaging in such work.
- (2) Except as provided in paragraphs (8) and (9), where a benefit to which this regulation applies is not paid within one month after the due date, the scheme manager must pay interest on the amount unpaid at the Bank of England base rate compounded with 3-monthly rests from the due date to the date of payment.
- (3) Where the benefit is a death grant, the due date is the day after the date on which the scheme manager became satisfied that payment may be made.
- (4) Where the benefit is a lump sum under regulation 162, 165 or 168 or a grant other than a death grant, the due date is the day on which the benefit is payable.
- (5) Where the benefit is a pension or annuity, the due date is the last day of the month in which entitlement to the benefit took effect.
- (6) In determining the due date in accordance with paragraphs (4) and (5), no account is to be taken of the requirement to make an application for the benefit under regulation 159.
- (7) In this regulation “Bank of England base rate” means—
  - (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short-term liquidity in the money markets; or
  - (b) where an order under section 19 of the Bank of England Act 1998(26) is in force, any equivalent rate determined by the Treasury under that section.
- (8) Where a payment to the scheme manager is received after the benefit to which it relates becomes payable, the scheme manager may determine that this regulation does not apply to the benefit until the payment is received.
- (9) If paragraph (10) applies, the scheme manager may determine that this regulation does not apply to any benefit, either in respect of the whole period or any part of the period.
- (10) This paragraph applies if—
  - (a) a benefit is payable between the date specified under regulation 169(1) and the date on which the evidence required under that regulation is received by the scheme manager;
  - (b) that evidence was not provided by the date specified but was provided later; and
  - (c) it does not appear to the scheme manager that the delay in providing the evidence was due to circumstances outside the control of the person to whom the benefit is payable.

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

- 173.**—(1) Where a person (P) to whom a benefit is payable has not reached the age of 16 or is incapable by reason of infirmity of mind or body of managing P’s affairs, the scheme manager may—
- (a) pay the benefit to any person having the care of P; or
  - (b) apply it as the scheme manager thinks fit for the benefit of P or P’s dependants.
- (2) Where a benefit is payable to a widow and there is more than one widow, the benefit must be paid to the widows in equal shares.
- (3) Where on the death of a person (D) the total of any sums due to D and any sums payable to D’s executors under these Regulations does not exceed the amount specified in any order made

under section 6 of the Administration of Estates (Small Payments) Act 1965<sup>(27)</sup> which applies to D's death, the scheme manager may, without requiring the production of confirmation or other proof of title, pay the amount due—

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

### **Benefits not assignable**

**174.**—(1) Any assignation of or charge on, or agreement to assign or charge, any benefit under these Regulations is void.

(2) On the sequestration of the estate of a person entitled to any such benefit or on the bankruptcy of such a person, no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except as provided in paragraph (3).

(3) Nothing in paragraph (2) affects the powers of the Court under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985<sup>(28)</sup> or under section 310 of the Insolvency Act 1986<sup>(29)</sup>.

### **Forfeiture of benefits**

**175.**—(1) This regulation applies to a benefit payable to a person who is convicted of—

- (a) an offence of treason, or
- (b) one offence or more under the Official Secrets Acts 1911 to 1989<sup>(30)</sup> for which the person has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years,

where the offence was committed before the benefit became payable.

(2) This regulation also applies to retirement benefits or a pension credit retirement pension payable to a person convicted of an offence, committed before the benefit became payable, in connection with service as a public servant certified by the scheme manager to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(3) This regulation also applies to a benefit payable on the death of a person (D) to any person convicted of the murder of D, the culpable homicide of D or any other offence of which the unlawful killing of D is an element.

(4) The scheme manager may defer or suspend payment of a benefit to which this regulation applies for so long, or reduce its amount or rate by so much and for so long, as the scheme manager may determine.

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

**176.**—(1) This regulation applies to the situations set out in paragraphs (2) and (3) and in this regulation “the charge” refers to either of the charges set out in those paragraphs.

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

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<sup>(27)</sup> 1965 c.32; the amount currently specified in S.I. 1984/539 is £5,000.

<sup>(28)</sup> 1985 c.66.

<sup>(29)</sup> 1986 c.45.

<sup>(30)</sup> 1911 c.28, 1920 c.75, 1939 c.121, 1989 c.6.

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

(4) The scheme manager must pay the charge.

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

### **General prohibition on unauthorised payments**

177. Nothing in these Regulations requires or authorises the making of any payment which, if made, would be an unauthorised payment for the purpose of Part 4 of FA 2004 (see section 160(5) of that Act) unless the scheme manager determines otherwise (in the case of a particular payment).

## **PART 9**

### **Contributions**

#### **CHAPTER 1**

##### **Interpretation of Part**

### **Pensionable earnings for a pay period**

178.—(1) In this Part, “pensionable earnings”, in relation to a pay period, has the following meaning.

(2) For any pay period falling within a period of sick leave in which the pensionable earnings of a member (P) are reduced, P’s pensionable earnings are the reduced amount of pensionable earnings paid to P.

(3) For a pay period falling within a period in which an election under regulation 25 has effect or is taken to have effect, P’s pensionable earnings are an amount equal to P’s notional salary.

(4) For a pay period falling within a period in which P is on maternity leave, adoption leave or paternity leave, P’s pensionable earnings include any statutory pay paid to P.

#### **CHAPTER 2**

##### **Employees’ contributions**

### **Contributions for standard earned pension**

179.—(1) In each pay period an active member (P) must pay contributions for standard earned pension (“standard contributions”) at a rate determined in accordance with regulations (“standard contributions rate”).

(2) The standard contributions rate is a percentage of P’s pensionable earnings for a pay period.

### **Contributions under Schedule 2**

180. Schedule 2 has effect for the purpose of enabling—

- (a) payment of additional pension contributions by lump sum; and
- (b) monthly payments of—
  - (i) faster accrual contributions;
  - (ii) additional pension contributions; and

(iii) buy-out contributions.

### **Contributions payable during a period of permanent service in the armed forces**

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

- (a) an election under regulation 25 has effect in respect of a period of permanent service; and
- (b) the member (P) pays contributions by monthly payments.

(2) Unless paragraph (3) applies, the amount of P’s contributions in respect of any pay period that falls within the period of permanent service is the total of—

- (a) the amount of standard contributions payable in respect of P’s notional salary; and
- (b) any contributions under Schedule 2 payable monthly.

(3) This paragraph applies if during the period of permanent service P’s permanent service pay, when aggregated with any payments under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951<sup>(31)</sup> (“aggregated pay”), is less than the amount of P’s notional salary for that period.

(4) If paragraph (3) applies—

- (a) the amount of P’s aggregated pay in a pay period is taken to be the amount of P’s pensionable earnings for that period; and
- (b) P’s contributions in that period are payable at the standard contributions rate.

## **CHAPTER 3**

### **Repayment of contributions after short service**

#### **Meaning of “entitlement day” (repayment of balance of contributions)**

**182.** The entitlement day for repayment of the balance of contributions is one month after the last day of pensionable service.

#### **Entitlement to repayment of balance of contributions**

**183.**—(1) A person (P) is entitled to a repayment of the balance of contributions calculated in accordance with regulation 185 on the entitlement day if—

- (a) P has left all pensionable service and does not re-enter pensionable service before the entitlement day;
- (b) P has applied under regulation 184 for the repayment; and
- (c) paragraph (2) does not apply.

(2) This paragraph applies if—

- (a) P is qualified for retirement benefits;
- (b) a transfer value payment has been made in respect of P’s pensionable service; or
- (c) P is in a period of post-benefit service immediately before the last day of pensionable service<sup>(32)</sup>.

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<sup>(31)</sup> 1951 c.65.

<sup>(32)</sup> See regulation 121 for P’s entitlement to a short service annuity if P is not re-qualified for retirement benefits in respect of a period of post-benefit service.



(3) For the purpose of this regulation, P is in pensionable service while P is absent on maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave if P is entitled to return from leave by virtue of Part 8 of the Employment Rights Act 1996<sup>(33)</sup>.

(4) If a repayment is made, P's rights under this scheme are extinguished.

(5) This regulation is subject to regulation 177.

#### **Application for repayment of balance of contributions**

**184.**—(1) A person (P) must apply in writing to the scheme manager for a repayment of the balance of contributions.

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

(3) The information must be information—

(a) in P's possession; or

(b) which P can reasonably be expected to obtain.

#### **Calculation of balance of contributions**

**185.**—(1) The balance of contributions referred to in regulation 183(1) is—

$$(A - B) - C$$

where—

A is the total of the amounts specified in paragraph (2);

B is the total of the deductions specified in paragraph (3); and

C is the amount of tax chargeable on (A - B) under section 205 of FA 2004.

(2) The amounts are—

(a) all standard contributions and faster accrual contributions paid up to the date of receipt of the application for repayment, except any paid in respect of a period of pensionable service for which a short-service serious ill-health grant has been paid; and

(b) interest on those contributions from the first day of the financial year following that in which they were paid to the date of payment at 3% per year, compounded with yearly rests.

(3) The deductions are—

(a) the amount of any previous repayment under regulation 183; and

(b) if the scheme manager has paid a contributions equivalent premium, the amount recoverable by the scheme manager under sections 61 to 63 of PSA 1993.

### **CHAPTER 4**

#### **Employers' contributions**

#### **Employers' contributions**

**186.** The employer of a person in pensionable service (P) is to pay contributions at a percentage rate of P's pensionable earnings determined in accordance with regulations.

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(33) 1996 c.18; Part 8 was amended by Schedule 4 to the Employment Relations Act 1999 (c.26) and sections 1 and 3 of the Employment Act 2002 (c.22).

## CHAPTER 5

### Deduction and payment of contributions

#### **Deduction of contributions from pensionable earnings**

**187.**—(1) This regulation applies to any person (P) who is in pensionable service.

(2) In each pay period, P's employer must deduct the following contributions from P's pensionable earnings—

- (a) P's standard contributions;
- (b) any faster accrual contributions relating to that employment;
- (c) any additional pension contributions payable monthly (if P has nominated the employer to deduct those contributions);
- (d) any buy-out contributions (if P has nominated the employer to deduct those contributions).

(3) If P's employer does not deduct any contributions in the appropriate pay period, P's employer may deduct those contributions in any subsequent pay period (but this paragraph does not affect regulation 190(2)).

(4) If P is in pensionable service in more than one employment—

- (a) any additional pension contributions or buy-out contributions must be deducted by the employer nominated by P; and
- (b) if in any pay period the contributions are more than the pensionable earnings paid to P by that employer, any remaining contributions must be deducted by the other employer (or, if there is more than one other employer, by whichever other employer is nominated by P).

#### **Deductions not made before an employment ends**

**188.**—(1) This paragraph applies if—

- (a) P ceases to be in an eligible employment;
- (b) P's employer has not made a deduction required by regulation 187; and
- (c) despite regulation 190, a corresponding amount has not been paid to the scheme manager under that regulation.

(2) On receipt of a written demand from the scheme manager, P must pay the scheme manager any amount remaining due, together with interest at the standard rate from the due date to the date of payment.

(3) The scheme manager may waive the payment of the whole or any part of that interest.

(4) In this regulation, "due date" is the 8th day after the end of the pay period in which a deduction under regulation 187 should have been made.

#### **Recovery of unpaid contributions from benefits**

**189.**—(1) If the scheme manager makes a demand under regulation 188 but regulation 23 does not apply, without prejudice to any other means of recovery the scheme manager may recover any sum payable by a person to the scheme manager under this Part by deducting it from the benefits payable to, or in respect of, that person under these Regulations.

(2) Nothing in this regulation affects section 91 of PA 1995.

#### **Payment by employers to scheme manager**

**190.**—(1) This regulation applies in relation to any person (P) who is in pensionable service.

- (2) After the end of each pay period, P's employer is to pay to the scheme manager in respect of P's pensionable earnings for that pay period—
- (a) the contributions payable under regulation 186;
  - (b) the contributions required to be deducted from P's pensionable earnings under regulation 187 (whether or not such amounts were deducted); and
  - (c) an administrative costs levy of such percentage of P's pensionable earnings for the pay period as is notified from time to time by the scheme manager.
- (3) For the purpose of paragraph (1)—
- (a) pensionable earnings are payable in arrears; and
  - (b) any contribution arrears payable by reason of a retrospective increase in pensionable earnings are taken to become payable in the pay period in which they were paid.
- (4) A payment under paragraph (1) must be received by the scheme manager within 7 days after the end of each pay period and if the full amount of the payment is not so received—
- (a) interest is payable by the employer or the former employer on the amount outstanding at the standard rate from the 8th day after the end of the pay period to the date of payment, but the scheme manager may in any particular case waive the payment of the whole or any part of such interest; and
  - (b) if the scheme manager makes a written demand, the employer or former employer must pay to the scheme manager such further sum, not exceeding £100, as the scheme manager may specify in the demand.
- (5) The payment referred to in paragraph (4)(b) must be made within 14 days after the date of the demand.

## PART 10

### Transfers

#### CHAPTER 1

##### Preliminary

#### **Application of Part**

**191.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of PSA 1993 (transfer values); and
- (b) is without prejudice to that Chapter or Chapter 5 of that Part (early leavers: cash transfer sums and contributions refunds).

#### **Interpretation of Part**

**192.** In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 97 of PSA 1993;

“club transfer statement of entitlement”, in relation to a member's accrued earned pension under this scheme, means a statement by the scheme manager of the club transfer value as at the guarantee date;

“club transfer value”, in relation to earned pension accrued under this scheme or under another club scheme, means an amount calculated—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“guarantee date” means—

- (a) for a transfer value, the date specified in the statement of entitlement as the date by reference to which the cash equivalent is calculated; and
- (b) for a club transfer value, the date specified in the club transfer statement of entitlement as the date by reference to which the club transfer value is calculated;

“guaranteed cash equivalent”, in relation to accrued rights to benefits under this scheme, means the cash equivalent of those accrued rights as at the guarantee date, as specified in a statement of entitlement;

“statement of entitlement”, in relation to a member’s accrued rights to benefits under this scheme, means a statement by the scheme manager of the cash equivalent of those rights as at the guarantee date;

“transfer value”, in relation to accrued rights other than rights to earned pension accrued under this scheme or under another club scheme, means—

- (a) for accrued rights to benefits under this scheme, an amount equal to the guaranteed cash equivalent of those accrued rights; and
- (b) for accrued rights under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and
  - (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme.

## CHAPTER 2

### Transfers on a cash equivalent basis

#### SECTION 1

##### *Application of Chapter*

#### **Application of Chapter**

**193.** This Chapter applies to the payment and receipt of transfer values.

#### SECTION 2

##### *Transfers Out*

#### **Application of this Section**

**194.—**(1) This Section applies to a person (P) who—

- (a) has left all pensionable service under this scheme;
- (b) has become subject to—
  - (i) another registered pension scheme which is not a connected scheme; or

- (ii) a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2) of that Act); (in either case, referred to in this Section as “the receiving scheme”), and
  - (c) has not reached normal pension age.
- (2) This Section does not apply if—
- (a) P is not qualified for retirement benefits under this scheme and a repayment of the balance of contributions has been made to P; or
  - (b) P is qualified for retirement benefits under this scheme and a retirement pension (other than a phased retirement pension) or a short-service ill health grant has become payable to P in respect of that pensionable service.

#### **Application for a statement of entitlement**

**195.**—(1) A person (P) may apply for a statement of entitlement by written notice to the scheme manager.

(2) The application must be made within 12 months after the day on which P becomes subject to the receiving scheme.

#### **Application for payment of a transfer value**

**196.**—(1) A person who is provided with a statement of entitlement may apply for a transfer value to be paid to the receiving scheme.

- (2) The application must—
- (a) be made within 12 months after the day on which P becomes subject to the receiving scheme;
  - (b) be by notice to the scheme manager;
  - (c) specify the pension scheme or other pension arrangement to which the transfer value is to be paid; and
  - (d) meet any other conditions the scheme manager requires.

#### **Payment of a transfer value**

**197.**—(1) On receipt of the application under regulation 202, the scheme manager may make a transfer value payment in respect of P.

(2) A member of this scheme may only require the scheme manager to use a transfer value in a way specified in section 95(2) of PSA 1993.

(3) The whole of the transfer value must be applied.

(4) A transfer value payment in respect of a member’s accrued rights under this scheme may only be made to the receiving scheme.

(5) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be made under this regulation.

(6) If a transfer value payment is made in respect of a person’s rights under this scheme, those rights are extinguished.

### SECTION 3

#### *Transfers in*

#### **Application for acceptance of a transfer value**

- 198.**—(1) A person (P) may apply for payment of a transfer value to be accepted from—
- (a) another registered pension scheme; or
  - (b) a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2) of that Act) (in either case, referred to in this Section as “the sending scheme”).
- (2) The application must—
- (a) be made within 12 months after the day on which P enters pensionable service under this scheme;
  - (b) be by written notice to the scheme manager;
  - (c) specify the pension scheme from which the transfer value will be received; and
  - (d) meet any other conditions the scheme manager requires.

#### **Acceptance of a transfer value**

- 199.**—(1) The scheme manager may not accept payment of a transfer value from the sending scheme if—
- (a) P has reached 75;
  - (b) retirement benefits have become payable to P under this scheme or under the sending scheme; or
  - (c) the sending scheme was a money purchase arrangement to which P’s previous employer made no contribution.
- (2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be accepted under this regulation.

#### **Amount of transferred pension**

**200.** The amount of transferred pension a person is entitled to count under this Part is an amount determined by the scheme manager.

### CHAPTER 3

#### Club transfers

### SECTION 1

#### *Application of Chapter*

#### **Application of Chapter**

**201.** This Chapter applies in relation to the payment and receipt of club transfer values.

## SECTION 2

### *Transfers out*

#### **Application of this Section**

- 202.**—(1) This Section applies to a person (P) who—
- (a) has left all pensionable service under this scheme;
  - (b) has become subject to another club scheme (“the receiving scheme”); and
  - (c) has not reached 75.
- (2) This Section does not apply if—
- (a) P is not qualified for retirement benefits under this scheme and a repayment of the balance of contributions has been made to P; or
  - (b) P is qualified for retirement benefits under this scheme and a retirement pension (other than a phased retirement pension) or a short-service serious ill-health grant has become payable to P in respect of that pensionable service.

#### **Application for a club transfer statement of entitlement**

- 203.**—(1) A person (P) may apply for a club transfer statement of entitlement by written notice to the scheme manager.
- (2) The application must be made within 12 months after the day on which P becomes subject to the receiving scheme.

#### **Application for payment of a club transfer value**

- 204.**—(1) A person (P) who is provided with a club transfer statement of entitlement may apply for a club transfer value to be paid to another public service pension scheme (“the receiving scheme”).
- (2) The application must—
- (a) be made within 12 months after the day on which P becomes subject to the receiving scheme;
  - (b) be by notice to the scheme manager;
  - (c) specify the pension scheme to which the club transfer value is to be paid; and
  - (d) meet any other conditions the scheme manager requires.

#### **Payment of a club transfer value**

- 205.**—(1) On receipt of the application, the scheme manager may pay a club transfer value in respect of P.
- (2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be made under this regulation.
- (3) If a transfer value payment is made in respect of a person’s rights under this scheme, those rights are extinguished.

### SECTION 3

#### Transfers in

##### **Application for acceptance of a club transfer value**

**206.**—(1) A person (P) may apply for payment of a club transfer value to be accepted from another club scheme.

(2) The application must—

- (a) be made within 12 months after the day on which P enters pensionable service under this scheme;
- (b) be by written notice to the scheme manager;
- (c) specify the pension scheme from which the club transfer value is to be received; and
- (d) meet any other conditions the scheme manager requires.

##### **Acceptance of a club transfer value**

**207.**—(1) On receipt of an application, the scheme manager may accept payment of a club transfer value from another club scheme (“the sending scheme”) if—

- (a) P has not reached 75;
- (b) retirement benefits have not become payable to P under this scheme or under the sending scheme; and
- (c) the sending scheme was a money purchase arrangement to which P’s previous employer made contributions.

(2) A transfer value payment in respect of any pension credit rights or pension credit benefits must not be accepted under this regulation.

##### **Amount of club transfer earned pension**

**208.** The amount of club transfer earned pension a person is entitled to count under this Part is an amount determined by the scheme manager.

## PART 11

### Miscellaneous and supplemental

##### **Employment records**

**209.**—(1) This regulation applies to the employer of a person (P) in pensionable service.

(2) P’s employer must record for the financial year—

- (a) the rate of P’s salary;
- (b) the amount of P’s pensionable earnings;
- (c) if P was in part-time employment for any part of the financial year, the amount which P’s pensionable earnings would have been if P was in full-time employment throughout the year;
- (d) the contributions deducted under regulation 187;
- (e) the period of pensionable service;



- (f) the dates of any absence on sick leave, maternity leave, paternity leave, additional paternity leave, parental leave or adoption leave and the amount of any salary or statutory pay paid to P during it.
- (3) P's employer must, within such time as the scheme manager may require—
  - (a) make such reports and returns to the scheme manager as the scheme manager may require for the purpose of the scheme manager's functions under these Regulations; and
  - (b) give the scheme manager such information and produce such documents as the scheme manager may require for the purpose of the scheme manager's functions under these Regulations.

### **Information and documents**

**210.**—(1) This regulation applies to a person (P) who is or was in pensionable service.

(2) P or, if P is deceased, P's executors must, within such time as the scheme manager may require, give the scheme manager such information and produce such documents as the scheme manager may require for the purpose of the scheme manager's functions under these Regulations.

### **Provision of benefit information statements to members**

**211.** The scheme manager must provide an annual benefit information statement to each active member of this scheme in accordance with section 14 of the Act and Treasury directions made under that section.

### **Extension of time**

**212.** The scheme manager may in any particular case extend, or treat as extended, the time within which anything is required or authorised to be done under these Regulations.

### **Guaranteed minimum pension**

**213.**—(1) The weekly rate of any relevant pension payable to a person who has a guaranteed minimum P and who reaches GMP age must not be less than the person's guaranteed minimum under sections 14 to 16 of PSA 1993<sup>(34)</sup>.

(2) Where no relevant pension becomes payable to P within 5 years and P reaches GMP age, a guaranteed minimum pension, the weekly rate of which is P's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P.

(3) Paragraph (2) does not apply—

- (a) while P consents to the application of that paragraph being postponed;
- (b) from the date on which a relevant pension becomes payable; or
- (c) where paragraph (4) applies.

(4) This paragraph applies where—

- (a) P has a guaranteed minimum and exercises P's right to a cash equivalent;
- (b) the pension scheme into which P's rights to benefits under these Regulations are transferred does not accept a transfer of P's accrued rights to a guaranteed minimum pension; and
- (c) P's accrued rights to a guaranteed minimum pension are not transferred elsewhere.

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<sup>(34)</sup> Section 14 was amended by PA 1995, Schedules 5 and 7: section 15A was inserted by WRPA 1999, section 32; section 16 was amended by PA 1995, Schedule 5 and by WRPA 1999, Schedule 2.

(5) Where paragraph (4) applies, a guaranteed minimum pension, the weekly rate of which is the person's guaranteed minimum under sections 14 to 16 of PSA 1993, is payable to P for life from the date on which P reaches GMP age.

(6) Where P dies leaving a widow, widower or civil partner, the pension payable to the widow, widower or civil partner under Part 6 must be paid, for any period required by or under section 17 of PSA 1993<sup>(35)</sup>, at a weekly rate which is not to be less than the widow's, widower's or civil partner's guaranteed minimum (as set out in that section).

(7) In this regulation—

“accrued rights to guaranteed minimum pension” is to be construed in accordance with section 20 of PSA 1993;

“contracted-out employment” has the meanings given in sections 8(1) and (1A) of PSA 1993<sup>(36)</sup>;

“relevant pension” means a phased retirement pension or retirement pension which becomes payable in respect of contracted-out employment before 6th April 1997.

(8) In this regulation, the question whether a person has a guaranteed minimum is to be determined in accordance with section 14 of PSA 1993.

(9) This regulation overrides any inconsistent provision elsewhere in these Regulations, save that it is subject to—

(a) regulation 165;

(b) regulation 168;

(c) regulation 175.

### **Transitional provisions**

**214.** Schedule 3 has effect.

St Andrew's House,  
Edinburgh  
28th July 2014

*JOHN SWINNEY*  
A member of the Scottish Government

We consent

1st August 2014

*STEPHEN CRABB*  
*MARK LANCASTER*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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<sup>(35)</sup> Section 17 was amended by the Child Support, Pensions and Social Security Act 2000 (c.19).

<sup>(36)</sup> Subsection (1A) was inserted by the Pensions Act 2007, Schedule 4.