
STATUTORY INSTRUMENTS

1987 No. 1850

**The Local Government Superannuation
(Scotland) Regulations 1987**

**PART E
BENEFITS**

Guaranteed minimum pension for certain pensionable employees and their widows

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

(2) Where this regulation applies it overrides any other provision of these Regulations that is inconsistent with it, except regulations E15 (reduction of retirement pension in the case of certain re-employed pensioners), E21 (power to compound certain small pensions) and M1 (forfeiture of rights).

(3) Where this regulation applies and the pensionable employee has a guaranteed minimum under section 35 of the Pensions Act, in relation to benefits under these Regulations—

- (a) unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum,
- (b) if he attains state pensionable age while in local government employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum, and
- (c) if he dies at any time and leaves a widow, unless she is entitled to a widow's pension at a higher rate she is, during any such period as is mentioned in section 36(6) of the Pensions Act, entitled to a pension at a weekly rate equal to half that guaranteed minimum.

Entitlement to retirement pension and retiring allowance

E2.—(1) Subject to paragraphs (3) to (10), when a person ceases to hold a local government employment he shall be entitled in relation to that employment to an annual retirement pension and a lump sum retiring allowance if—

- (a) he has attained the age of 60 years and his reckonable service and any qualifying service when added together amount to not less than 25 years; or
- (b) his reckonable service and any qualifying service when added together amount to not less than 5 years, and—
 - (i) he is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body, or
 - (ii) he has attained the age of 65 years, or

- (iii) he has attained the age of 50 years and one of the conditions in paragraph (4) is satisfied; or
 - (c) neither sub-paragraph (a) nor sub-paragraph (b) applies, and—
 - (i) his reckonable service and any qualifying service when added together amount to not less than 5 years, or
 - (ii) he is a person who by virtue of regulation B4(6) or J13(3) is to be treated as if he had ceased to be employed; or
 - (d) none of the preceding sub-paragraphs applies and he—
 - (i) has attained state pensionable age, or
 - (ii) would attain state pensionable age before the following 6th April.
- (2) When a person ceases to hold a local government employment he shall be entitled in relation to that employment to an annual retirement pension if—
- (a) he is not so entitled under paragraph (1)(a) to (c), or he is entitled under paragraph (1)(c) and receives a return of contributions (in which case he shall be treated as having ceased to hold the employment on the day before the date of receipt), and
 - (b) the whole or some part of his reckonable service was service in a non-participating employment or was reckonable service which relates to employment with a non-local government employer in a non-participating employment, and
 - (c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 56(1) of the Insurance Act or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960 as modified by regulation 9(2)(a) or (b) of the Transitional Provisions Regulations, and
 - (d) no payment in lieu of contributions is made in respect of such service as is mentioned in sub-paragraphs (b) and (c).
- (3) Where but for the revocation of the 1974 Regulations, regulation E2(2) of those Regulations (certain female nursing and other staff deemed to have satisfied regulation E2(1)(b)(iii) of those Regulations) would have applied to a person on her ceasing to hold a local government employment, she shall be deemed to have ceased to hold the employment in the circumstances mentioned in paragraph (1)(b)(iii).
- (4) The conditions mentioned in paragraph (1)(b)(iii) are—
- (a) that the employing authority certify that the person has ceased to hold the local government employment by reason of redundancy or in the interests of the efficient exercise of their functions, or
 - (b) that the person was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment.
- (5) Benefits to which a person is entitled by virtue of paragraph (1)(a) or (b) are payable immediately.
- (6) Subject to paragraphs (9) to (11), preserved benefits become payable from the date on which the person attains pensionable age, or if earlier—
- (a) from any date on which he becomes incapable by reason of permanent ill-health or infirmity of mind or body of discharging efficiently the duties of the employment he ceased to hold, or
 - (b) from any date after he has attained the age of 50 years from which the employing authority determine on compassionate grounds that the benefits are to become payable, or
 - (c) in the case of a woman, from the first date on which she is both—

- (i) at least 60 years old, and
- (ii) no longer in any employment,

unless he is a man who has attained the age of 60 years and has, on or after but not more than 3 months after the date of his attaining that age or of his ceasing to be employed, whichever is the later, by notice in writing to the employing authority, elected to receive payment from that date.

(7) Benefits to which a person has become entitled by virtue of paragraph (1)(d) are payable immediately if the person had attained the age of 65 years before he ceased to hold the employment.

(8) Subject to paragraph (11), benefits to which a person has become entitled by virtue of paragraph (1)(d) but which have not become payable by virtue of paragraph (7) and benefits to which a person was entitled by virtue of regulation E2(1)(d) of the 1974 Regulations immediately before 21st December 1987 which have not otherwise become payable, become payable—

- (a) in the case of a man who has so elected by notice in writing given to the employing authority not later than 3 months after ceasing to hold the employment, as from the date on which he ceased to hold it, or
- (b) in the case of a woman, from the first date (if earlier than the date mentioned in subparagraph (c)) on which she both—
 - (i) has attained the age of 60 years, and
 - (ii) is no longer in any employment, or
- (c) in any other case, from the date on which the person attains the age of 65 years.

(9) A person who is entitled to preserved benefits ceases to be entitled to them—

- (a) if the whole of the aggregate amount of his contributions to the appropriate superannuation fund, within the meaning of regulation C12, has been returned to him under that regulation or under regulation C8 of the 1974 Regulations and, after receiving the return of contributions, he has no further right to reckon any reckonable service to which a transfer value accepted under regulation J8 relates, or
- (b) if rights in respect of the reckonable service he was entitled to reckon in relation to the employment he ceased to hold have been transferred to a non-local government scheme by virtue of the payment of a transfer value, or
- (c) if he re-enters local government employment, unless he elects to remain entitled to the preserved benefits.

(10) An election for the purposes of paragraph (9)(c) must be made by giving notice in writing to the appropriate administering authority, within 3 months after re-entering local government employment unless they, or where there is a change of fund the administering authorities of both funds, allow a longer period.

(11) A person may not make an election under paragraph (6) or (8)(a) if the retirement pension to which he has become entitled—

- (a) is a pension in relation to which he has a guaranteed minimum under section 35 of the Pensions Act, and
- (b) would, but for regulation E1(3)(a), be reduced under regulation E3(14) to less than his guaranteed minimum pension.

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

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

Amount of retirement pension and retiring allowance

E3.—(1) Subject to paragraphs (2) and (12) to (16), and to regulation E30, the annual rate of a person's retirement pension is the amount obtained by multiplying one eightieth of his pensionable remuneration by the length in years of his reckonable service.

(2) In the case of a person who—

- (a) is entitled under regulation D4, D5, D6(1) or D7 to reckon an additional period as reckonable service, and
- (b) had at the appropriate time (as defined in paragraph 1(2) of Schedule 4) attained the age of 45 years,

the rate specified in paragraph (1) is increased by the amount obtained by multiplying one two hundred and fortieth of his pensionable remuneration by the length in years of that additional period.

(3) Subject to paragraphs (4) to (14) and to regulation E30, the amount of a person's retiring allowance is the amount obtained by multiplying three eightieths of his pensionable remuneration by the length in years of his reckonable service; but where paragraph (2) applies his reckonable service does not for the purposes of this paragraph include the additional period.

(4) Where but for the revocation of the 1974 Regulations regulation E3(4) of those Regulations (preservation of certain rights under former Regulations to increased retiring allowance) would have applied to a person on ceasing to hold a local government employment, the amount calculated in accordance with paragraph (3) is increased by the amount by which it would have been increased if that regulation had applied.

(5) For the purposes of paragraph (4)—

- (a) an additional period which a person has become entitled to reckon as reckonable service by virtue of, or of payments commenced under, regulation D10 of the 1974 Regulations shall be treated as reckonable service ending immediately before the date on which he first became a contributory employee or, if earlier, a local Act contributor, and
- (b) no account shall be taken of any period which a person has become entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) (war service).

(6) In the case of a person to whom regulation E19 of the 1974 Regulations applied but who made an election under paragraph (2) of that regulation, paragraph (4) of this regulation applies as if he had at no time been entitled as mentioned in paragraph (1)(b) of that regulation and had immediately before the time mentioned in that regulation been such a person as was mentioned in regulation 14(a) or (b) of the Benefits Regulations.

(7) Subject to paragraph (10), where the person is a married man and a widow's pension may become payable under regulation E5, the amount calculated in accordance with paragraphs (3) to (6) is reduced by the amount obtained by multiplying two eightieths of his pensionable remuneration by the length in years of any reckonable service before 1st April 1972.

(8) Subject to paragraphs (10) and (11), where—

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

and the death, separation or dissolution occurred after the relevant date specified in paragraph (9), the amount calculated in accordance with paragraphs (3) to (6) is reduced by two eightieths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 or, if earlier, the date of the death, separation or dissolution.

(9) The relevant date for the purposes of paragraph (8) is—

- (a) 30th September 1950, or

- (b) if, but for the revocation of the 1974 Regulations, sub-paragraph (ii) of paragraph (6) of regulation E3 of those Regulations (certain cases where local Act provisions had applied before 16th May 1974) would have applied, the date that would have been the relevant date for the purposes of that paragraph.

(10) In calculating any reduction under paragraph (7) or (8), no account shall be taken of any reckonable service in respect of which payment under regulation C8 has or is to be treated as having been completed.

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

(12) Where regulation E2(1)(b)(i) (permanent ill-health etc.) applies, the person is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 10.

(13) Where a person has become entitled to preserved benefits and subsequently receives a return of contributions but regulation E2(9)(a) does not apply, for the purposes of this regulation his reckonable service shall be taken to be the reckonable service which he is entitled to reckon after he receives the return of contributions, excluding reckonable service to which the return of contributions relates.

(14) Subject to paragraph (15), where benefits have become payable—

- (a) to a man by virtue of an election under regulation E2(6) or E2(8)(a), or
- (b) to a woman by virtue of regulation E2(6)(c) or E2(8)(b),

the amounts calculated in accordance with paragraphs (1) to (13) are reduced in accordance with Schedule 11.

(15) A person's retirement pension is not to be reduced under paragraph (14)—

- (a) to less than any minimum rate of equivalent pension benefits applicable under the Insurance Acts, or
- (b) in the case of a woman, to less than the annual rate determined by multiplying one eightieth of her pensionable remuneration by the length in years of the whole period of her service in contracted-out employment.

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

Ill-health lump sum retiring allowance

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

- (a) who has at any time after 13th November 1978 ceased to hold a local government employment, and
- (b) who when he ceased to hold that employment—
 - (i) was entitled to reckon an aggregate of one or more but less than 5 years' reckonable service and qualifying service, and
 - (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body, and
- (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation C12(5), and

- (d) who is not apart from this regulation entitled, whether by virtue of his having made a claim under regulation C12(7)(b) or otherwise, to any benefit under these Regulations, other than a return of contributions, and has not—
 - (i) received any return of contributions other than one in respect of which a payment was made under regulation E21(3) of the 1974 Regulations, or
 - (ii) been granted any gratuity under Part K, under Part T of the 1974 Regulations, under section 18 of the Act of 1953, or under any local Act, or
 - (iii) received an allowance under regulation E21 of the 1974 Regulations, and
 - (e) who if a return of contributions were made to him would receive a net amount smaller than that of an allowance calculated in accordance with paragraph (2).
- (2) A person to whom paragraph (1) applies is, subject to paragraph (3), entitled to be paid an allowance (“an ill-health lump sum retiring allowance”) of an amount equal to—
- (a) one twelfth of his pensionable remuneration multiplied by the length in years of his reckonable service, or
 - (b) three eightieths of his pensionable remuneration multiplied by the length in years of the total period he would have been entitled to reckon as reckonable service if—
 - (i) he had continued in local government employment until he had attained the age of 65 years, and
 - (ii) any added period payments had been completed,
 whichever is the lesser amount.
- (3) A person to whom paragraph (1) applies—
- (a) may, notwithstanding that he is for the time being entitled to an ill-health lump sum retiring allowance, at any time before such an allowance is paid to him be granted a gratuity under Part K, and
 - (b) on being so granted a gratuity under Part K he shall cease to be entitled to an ill-health lump sum retiring allowance.
- (4) In the case of a person falling within paragraph (1)(a) to (c) who has ceased to hold his employment after 20th December 1987, the appropriate administering authority are, without prejudice to any subsequent decision under regulation N5 or N6, to notify him in writing, within 3 months after the date on which he ceased to hold his employment, of the amount of the ill-health retirement grant to which he would, subject to paragraph (3), be entitled if he were and remained a person to whom paragraph (1) applies.

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

- E5.**—(1) If at the time of his death a man—
- (a) was entitled to receive payments in respect of a retirement pension, or
 - (b) would have been so entitled but for the operation of regulation E15 (reduction of certain retirement pensions), or
 - (c) was in a local government employment and—
 - (i) the total of his reckonable service and any qualifying service when added together amounted to not less than 5 years, or
 - (ii) he would if he had then ceased to be employed otherwise than by reason of his death have become entitled to benefits by virtue of regulation E21(1)(d),

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) where regulation E5(1)(a) or (b) applies and any new employment for the purposes of regulation E15 (re-employed pensioners) was not a local government employment, the annual rate of her husband's retirement pension immediately before the date of his death, disregarding any reduction under regulation E15, or

(b) where regulation E5(1)(c) applies and the local government employment was not a new employment for the purposes of regulation E15, a rate equal to his pensionable remuneration, or

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

(i) if the retirement pension was not reduced under regulation E15, to the total of his pensionable remuneration in the new employment and the annual rate of the retirement pension, or

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

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

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

- (b) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(i), one half of the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) (permanent ill-health, etc.),
 - (c) where paragraph (1)(b) applies by virtue of regulation E5(1)(c)(ii), one half of the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(d),
 - (d) where paragraph (1)(c) applies, the greater of—
 - (i) the total of half the annual rate of her husband’s retirement pension and half the annual rate of the retirement pension to which he would have been entitled in respect of the new employment if on the date of his death he had become entitled under regulation E2(1)(b)(i), and
 - (ii) half the annual rate of the retirement pension to which he would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(i) and notice had been given under regulation E16, and
 - (e) where regulation E5(2) applies, half the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had become entitled under regulation E2(1)(b)(ii).
- (3) For the purposes of paragraph (2)—
- (a) the retirement pension mentioned in paragraph (2)(a) is to be taken to be the pension that would have been payable but for—
 - (i) any increase under regulation E3(2), (certain cases where additional service is reckonable),
 - (ii) any reduction under regulation E3(14) (early payments) or E15 (re-employed pensioners) or E32 (National Insurance), and
 - (iii) any surrender under regulation E20, and
 - (b) any retirement pension mentioned in paragraph (2)(b) or (d) is to be taken to be the pension that would have been payable but for any surrender under regulation E20, and if the pension would have been increased under regulation E3(2) or reduced under regulation E32 no account is to be taken of that increase or reduction.
- (4) Where regulation E5(5) (post-retirement marriages) applies—
- (a) the references in paragraphs (1)(a), (2)(a), (c), (d) and (e), and the second reference in paragraph (1)(c)(i), to the retirement pension are to be construed as references to, and
 - (b) for the purposes of paragraph (1)(c)(ii), any annual rate at which the retirement pension was payable is to be taken not to have exceeded the rate of,

the part of the pension attributable to the whole period of his service in respect of which the pension was payable which was in contracted-out employment.

(5) The annual rate of the pension payable under this regulation shall not be less than the amount determined by multiplying one one hundred and sixtieth of the pensionable remuneration of the deceased husband by the length in years of the whole period of his service in contracted-out employment.

Widow’s special short-term pension

E7.—(1) If at the time of his death a man was in a local government employment and he leaves a widow or widows but neither of the conditions in regulation E5(1)(c) is satisfied, then she is, or as the case may be they are jointly, entitled to a widow’s special short-term pension at an annual rate equal to his pensionable remuneration except that any widow’s entitlement shall cease if she is—

- (a) judicially separated from him, or
 - (b) cohabiting with another man.
- (2) Where the deceased leaves no eligible child or there is no eligible child in the widow's care, the pension is payable for 3 months after the day of his death.
- (3) While there is one eligible child in the widow's care, the pension is payable for 4 and one half months after the day of his death.
- (4) While there are two or more eligible children in the widow's care, the pension is payable for 6 months after the day of his death.

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

- E8.**—(1) If at the time of his death a man—
- (a) was entitled to receive payments in respect of a retirement pension, or
 - (b) would have been so entitled but for the operation of regulation E15 (re-employed pensioners), or
 - (c) was in a local government employment and the total of his reckonable service and any qualifying service when added together amounted to not less than 5 years,
- and he leaves one or more eligible children, they are, subject to paragraphs (3) to (5), entitled to, or to the benefit of, a children's short-term pension for 3 months after the death and then a children's long-term pension.
- (2) If at the time of his death a man was entitled to preserved benefits and he leaves one or more eligible children, they are, subject to paragraphs (4) and (5), entitled to, or to the benefit of, a children's long-term pension.
- (3) No children's short-term pension is payable while a widow's short-term pension is payable under regulation E5.
- (4) There is no entitlement to any pension by virtue of paragraph (1)(a) or (b) or paragraph (2) if the deceased became entitled to a retirement pension by virtue of regulation E2(2).
- (5) Payments in respect of a pension under this regulation shall not be made to or for the benefit of a female eligible child—
- (a) while she is married or during any period of cohabitation outside marriage, or
 - (b) from the end of any marriage or period of cohabitation outside marriage unless the appropriate administering authority in their discretion so decide.

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

- E9.**—(1) Subject to paragraph (2), the annual rate of a children's short-term pension is the rate at which a widow's short-term pension is or would have been payable by virtue of regulation E6(1).
- (2) Where a widow's short-term pension is payable by virtue of regulation E5(5), the children's short-term pension rate specified in paragraph (1) is reduced by the rate of that pension.
- (3) Subject to paragraphs (4) and (5), the annual amount of a children's long-term pension is—
- (a) where there is one eligible child and he is in the care of a widow of the deceased person, one quarter of the deceased person's retirement pension,
 - (b) where there is one eligible child and he is not in the care of such a widow, one third of the retirement pension,
 - (c) where there are two or more eligible children and—
 - (i) half or more of them are in the care of such a widow, or

- (ii) fewer than half of them are in the care of such a widow but a widow's pension under regulation E5 is for the time being payable,
 - one half of the retirement pension, and
 - (d) where there are two or more eligible children and fewer than half of them are in the care of such a widow and no such widow's pension is payable, two thirds of the retirement pension.
 - (4) For the purposes of paragraph (3)—
 - (a) the retirement pension of a deceased person who died while in local government employment shall be deemed to be the retirement pension to which he would have become entitled if regulation E2(1)(b)(i) (permanent ill-health, etc.) had applied,
 - (b) the retirement pension of a person who was entitled at the time of his death to preserved benefits shall be deemed to be the retirement pension to which he would have become entitled if regulation E2(1)(b)(ii) (retirement on or after pensionable age) had applied,
 - (c) the retirement pension of a person who was entitled at the time of his death to receive payments in respect of a retirement pension shall be deemed to be the retirement pension that would have been payable but for—
 - (i) any increase under regulation E3(2) (certain cases where additional service is reckonable),
 - (ii) any reduction under regulation E3(14) (early payments) or E15 (re-employed pensioners) or E32 (National Insurance), and
 - (iii) any surrender under regulation E20, and
 - (d) where a children's long-term pension is payable under paragraph (3)(b) or (d) and a widow's long-term pension is payable under regulation E5(5) the amount of the children's long-term pension shall not exceed an amount equal to the difference between—
 - (i) the aggregate amount that would have been payable by way of widow's and children's long-term pensions had the post-retirement marriage been a pre-retirement marriage, and
 - (ii) the long-term widow's pension payable under regulation E5(5),
- and for the purposes of sub-paragraphs (a) and (b) it is to be assumed that the pension to which the person would have become entitled would not have been subject to any increase under regulation E3(2) or reduction under regulation E3(14), and that there has been no surrender under regulation E20.
- (5) If a child in respect of whom a children's long-term pension is payable has attained the age of 17 years and is receiving remuneration in respect of full-time training for a trade, profession or calling at an annual rate in excess of the indexed training rate defined in paragraph (6), then—
 - (a) the annual rate of the pension is to be reduced by the amount of the excess, or
 - (b) the child is to be disregarded for the purpose of calculating the pension, whichever results in the smaller reduction in its annual rate.
 - (6) In paragraph (5) "the indexed training rate" means the annual rate at which an official pension within the meaning of the Pensions (Increase) Act 1971(1) would for the time being be payable if it had begun on 1st June 1972 and had then been payable at an annual rate of £250.
 - (7) The appropriate administering authority may—
 - (a) apportion a children's pension among the eligible children in respect of whom it is for the time being payable in such shares as they think fit, and

- (b) pay the pension or any part of it to a person other than an eligible child, to be applied in accordance with any directions they may give for the benefit of any eligible child or eligible children.

Children’s special short-term pension

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

- (a) the total of his reckonable service and any qualifying service is less than 5 years, and
- (b) he leaves one or more eligible children, and
- (c) any such child is in the care of a guardian,

a children’s special short-term pension at an annual rate equal to the deceased’s pensionable remuneration shall be paid to the guardian.

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

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

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

- (a) if there is no eligible child in the widow’s care, the pension is payable to the guardian—
 - (i) for 1 and one half months after the day of death if there is one eligible child in the care of the guardian, and
 - (ii) for 3 months after the day of death if there are two or more eligible children in the care of the guardian, and
- (b) if there is an eligible child in the widow’s care, the pension is payable to the guardian for 1 and one half months after the day of death.

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

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

Death gratuity

E11.—(1) Subject to paragraphs (9) to (11), if at the time of his death a person—

- (a) was in a local government employment, or
- (b) was entitled to receive payments in respect of a retirement pension in relation to which this paragraph applies, or
- (c) would have been so entitled but for the operation of regulation E15 (re-employed pensioners), or
- (d) was entitled to preserved benefits,

his executors are entitled to receive a lump sum death gratuity.

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

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

(b) the reckonable service taken into account in calculating the pension amounted to 10 years or more.

(3) In paragraphs (4) to (11)—

A is the deceased's pensionable remuneration,

B is three eightieths of his pensionable remuneration,

C is the length in years of his reckonable service,

D is two eightieths of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 in respect of which a widow's pension is payable under regulation E5, other than service in respect of which a return of contributions has been made or payment under regulation C8 has been or is to be treated as having been completed,

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

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

G is the annual rate of his retirement pension, and

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

(4) Subject to paragraphs (9) and (11), where—

(a) paragraph (1)(a) applies, or

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

the amount of the death gratuity is the greater of A and $(B \times C)$ but, where paragraph (1)(a) applies, C is to be treated as having included an additional period calculated as if Schedule 10 had applied.

(5) Where—

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

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

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

(ii) would have had 10 years' or more reckonable service on attaining pensionable age,

the amount of the death gratuity is the greater of

$$(B \times C) - (D + E) \text{ or } \frac{C}{F} \times (A - (D + E)).$$

(6) Subject to paragraph (10), where paragraph (1)(b) or (c) and paragraph (2)(a) apply and the deceased became entitled to the retirement pension otherwise than by virtue of regulation E2(1)(c) or (d), the amount of the death gratuity is $5 \times G$.

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

(a) became entitled to the retirement pension by virtue of regulation E2(1)(c) and would have had less than 10 years' reckonable service on attaining pensionable age, or

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

the amount of the death gratuity is

$$\frac{C}{F} \times ((5 \times G) - H).$$

(8) Subject to paragraph (9), where paragraph (1)(d) applies the amount of the death gratuity is $B \times C$.

(9) Where—

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

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

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

- (a) by H, or
- (b) where the pension was reduced under regulation E15 or had been surrendered in part under regulation E20, by the amount which would have been paid in respect of the pension but for the reduction or surrender.

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

- (a) by E, or
- (b) where the pension was reduced under regulation E15 or had been surrendered in part under regulation E20, by the amount which would have been paid in respect of retirement pension and retiring allowance but for the reduction or surrender.

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

(13) Where a death gratuity is reduced under paragraph (9), any reckonable service to be left out of account under paragraph (12) is to be taken from the beginning of the period of reckonable service.

Pensions of widowers etc.

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

- (a) has no husband but has a potentially eligible child or eligible children, or
- (b) having a husband who is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, elects,

she will participate in the benefits provided by the Regulations as if she were a man and, where subparagraph (b) applies, as if her husband were a woman.

(2) Where a female pensionable employee makes an election under paragraph (1)(b) and thereafter she re-marries, the subsequent marriage and—

- (i) the legitimate children of the subsequent marriage;
- (ii) any adopted child of hers, adopted after re-marriage;
- (iii) any legitimate child of hers, born after the expiration of one year after the date of the death of her former husband;
- (iv) any step-child of hers, being a child of an earlier marriage of her husband by the subsequent marriage; and
- (v) any adopted child of her husband by the subsequent marriage,

shall be left out of account for all the purposes of this Part unless her husband by the subsequent marriage is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her, and she makes a further election under paragraph 1)(b).

(3) An election under paragraph (1)(b) or (2) is to be made by giving notice in writing to the appropriate administering authority.

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

Discretionary additional benefits for certain female nursing staff

E13.—(1) This regulation applies to a woman who—

- (a) immediately before 16th May 1974 was a nurse, midwife or health visitor to whom section 16(1) of the Act of 1937 applied,
- (b) became a pensionable employee on 16th May 1974,
- (c) has not since had a disqualifying break of service,
- (d) on or after attaining the age of 60 years, but before completing 40 years' reckonable service, becomes entitled, otherwise than by virtue of regulation E2(2), to a retirement pension, and
- (e) immediately before becoming entitled to the pension was employed as a nurse, midwife or health visitor.

(2) The employing authority of a woman to whom this regulation applies may grant her an additional benefit not exceeding the difference between the benefit to which she is entitled and the benefit to which she would have been entitled if she had remained in their employment until she attained the age of 65 years receiving an annual remuneration equal to her pensionable remuneration.

Reduction of retirement pension in the case of certain former teachers

E14.—(1) Where a person becomes entitled to a retirement pension in the calculation of the amount of which account is taken of service which he was entitled to reckon under section 15 of the Act of 1937 (which related to teachers), the amount receivable by him in any year in respect of that pension shall be reduced by a sum equivalent to the amount (if any) which is receivable by him in that year by virtue of the Teachers Superannuation (Scotland) Regulations 1969 to 1976 or the Teachers' Superannuation (Scotland) Regulations 1977(2) together in this regulation referred to as “the Teachers' Regulations”), or would have been so receivable by him in that year but for any reduction made under regulation 51 of the Teachers Superannuation (Scotland) Regulations 1969(3) or regulation 61 of the Teachers' Superannuation (Scotland) Regulations 1977.

(2) In computing the reduction to be made under paragraph (1), account shall be taken of any sum paid or payable at any time under the Teachers' Regulations which was or is in the nature of a capital payment or which represents a return of contributions in respect of a period of service which has been taken into account in calculating the amount of the retirement pension, in the following manner, that is to say—

- (a) the amount of any sum paid under the Teachers' Regulations on or before the date on which the person became entitled to that retirement pension or becoming payable under the Teachers' Regulations at any time thereafter which was or is in the nature of a capital payment shall be divided by the factor shown in the following Table in relation to the class of the person and to his age at the date on which the sum was paid or becomes payable, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year;
- (b) the amount representing any balance of his contributions under the Teachers' Regulations which he has become entitled to be repaid at the date on which he became entitled to the retirement pension in respect of a period of service which has been taken into account

(2) [S.I. 1977/1360](#)

(3) [S.I. 1969/77](#)

in calculating the amount of the retirement pension shall be divided by the factor shown in the Table in relation to the class of the person and to his age at the date on which he became entitled to the retirement pension, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year;

- (c) the amount representing any balance of his contributions under the Teachers' Regulations which he may become entitled to be repaid after the date on which he became entitled to the retirement pension in respect of a period of service which has been taken into account in calculating the amount of the retirement pension shall be divided by the factor shown in the Table in relation to the class of the person and to his age at the date on which he so becomes entitled to be repaid that balance of his contributions, and the resulting amount shall be treated as a sum receivable by him by virtue of the Teachers' Regulations in any year:

Provided that if, after the provisions of either sub-paragraph (b) or (c) have become applicable in relation to any person, an additional allowance under the Teachers' Regulations is granted to him then, if the aggregate amount of the deductions made from his retirement pension by reason of the previous operation of those provisions is less than the amount granted to him by way of additional allowance under the Teachers' Regulations, such latter amount for the purpose of the application of sub-paragraph (a) shall be deemed to be the difference between that amount and such aggregate amount as aforesaid and sub-paragraphs (b) and (c) shall cease to have any further effect in relation to him.

(3) If, after the provisions of either paragraph (2)(b) or (c) have become applicable in relation to any person, a repayment of the amount representing the balance of the person's contributions under the Teachers' Regulations is made to him, those provisions shall, in respect of the amount so repaid, continue to apply in the same manner as they had previously applied in relation to him for the purpose of computing the reduction to be made in his retirement pension in any year under paragraph (1) and no further account for that purpose shall be taken of that amount.

(4) If a person allocates or has allocated in accordance with Part VI of the Teachers Superannuation (Scotland) Regulations 1969, or the Teachers' Superannuation (Scotland) Regulations 1977, part of the annual allowance payable to him under the Teachers' Regulations, the annual allowance receivable in any year by virtue of the Teachers' Regulations shall for the purpose of paragraph (1) be deemed to be the annual allowance which would have been receivable by him in that year but for the allocation.

(5) Any reference in this regulation to the date on which a person becomes entitled to a retirement pension shall, in relation to a person who ceased to be employed in the circumstances mentioned in regulation E2(1)(c), be construed as a reference to the date on which he becomes entitled to receive payments in respect of that pension.

TABLE

Factor <i>Age</i>	<i>Men</i>		<i>Women</i>	
	A.	B.	A.	B.
Under 60 years	10	—	12.5	—
60 years but under 61 years	10	11.6	12.5	13.4

A. Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1)(b)(i).
 B. Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1), other than sub-paragraph (b)(i).

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Factor <i>Age</i>	<i>Men</i>		<i>Women</i>	
	A.	B.	A.	B.
61 years but under 62 years	10	11.2	12.5	13
62 years but under 63 years	10	10.8	12.5	
63 years but under 64 years	10	10.4	12.1	
64 years but under 65 years	10		11.7	
65 years but under 66 years	9.7		11.2	
66 years but under 67 years	9.3		10.8	
67 years but under 68 years	8.9		10.3	
68 years but under 69 years	8.5		9.9	
69 years but under 70 years	8.1		9.5	
70 years but under 71 years	7.7		9	
A.	Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1)(b)(i).			
B.	Applicable to persons who ceased to be employed in the circumstances mentioned in regulation E2(1), other than sub-paragraph (b)(i).			

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

E15.—(1) Subject to paragraph (12), this regulation applies to a person who, since becoming entitled to a retirement pension in relation to a former employment, has entered a new employment with any scheduled body, other than an employment by virtue of which he is entitled to participate in benefits provided under Regulations made under section 9 of the Act of 1972 (superannuation of teachers).

(a) (2) (a) In paragraph (3)—

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

B is the amount (if any) by which, immediately before the first day of the new employment, A would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974(4) or the Pensions Act, beginning on and payable from the day after the last day of the former employment,

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

D is the reduced rate of the retirement pension, and

E is the amount (if any) by which D would, immediately before the first day of the new employment, have been increased under the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act if it had been the rate of the retirement pension;

(b) in paragraph (5) A, B and C have the same meanings as in paragraph (2)(a), and—

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

G is the amount (if any) by which, immediately before the first day of the new employment, F would have been increased if it had been the rate of an official pension, within the meaning of the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act, beginning on and payable from the day after the last day of the concurrent employment.

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

(a) if C equals or exceeds (A + B), to zero, and

(b) in any other case by the amount (if any) which is necessary to secure that C + D + E does not exceed A + B.

(4) This paragraph applies where within the last 12 months of the former employment the person held another concurrent employment with any scheduled body, former local authority or local Act authority, has ceased to hold the concurrent employment without becoming entitled in relation to it to a retirement pension, and—

(a) has—

(i) ceased to hold the concurrent employment before ceasing to hold the former employment, and

(ii) entered the new employment within 12 months after ceasing to hold the concurrent employment, or

(b) has ceased to hold the concurrent employment after ceasing to hold the former employment.

(5) Where paragraph (4) applies—

(a) if the person does not devote substantially more of his time to the new employment than he devoted to the concurrent employment during the 12 months before he ceased to hold it, the annual rate of the retirement pension is not reduced, and

(b) in any other case, the annual rate of the retirement pension is reduced by the amount (if any) by which the aggregate of that rate and C exceeds A + B + F + G.

(6) For the purposes of this regulation the annual rate of remuneration of the former employment is, subject to paragraph (7), to be ascertained in accordance with the Table below.

TABLE

<i>Annual rate of remuneration</i>	<i>Fixed-rate emoluments</i>	<i>Fees</i>
<i>Source of entitlement to the retirement pension</i>		
These Regulations or the 1974 Regulations	Rate on last day of relevant period for the purposes of regulation E22.	Average rate during period by reference to which pensionable remuneration fell to be calculated under regulation E22(11).

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<i>Annual rate of remuneration</i>	<i>Fixed-rate emoluments</i>	<i>Fees</i>
<i>Source of entitlement to the retirement pension</i>		
Other	Rate on last day of employment.	Average rate during period, within last 3 years of employment during which fees were receivable.

(7) For the purposes of paragraph (6), where the person’s remuneration was at any material time reduced or discontinued by reason of his absence from duty, and either the absence was due to illness or injury or he made contributions or payments under section 6(5) of the Act of 1937 or regulation C3 or C4, then—

- (a) any reduction or discontinuance of fixed-rate emoluments is to be disregarded, and
- (b) any fees are to be averaged over a period of the same length as the period mentioned in the Table to paragraph (6) but ending immediately before the reduction or discontinuance.

(8) For the purposes of this regulation the annual rate of remuneration of the new employment is, subject to paragraph (9), to be ascertained in accordance with the Table below.

TABLE

<i>Nature of remuneration</i>	<i>Annual rate of remuneration</i>
Fixed-rate emoluments	Rate on first day of employment.
Fees	(1) Where fees were receivable in the former employment, the annual rate of those fees ascertained in accordance with paragraph (6). (2) Where no fees were receivable, a rate agreed by the person and the body employing him or, in default of agreement, determined by the Secretary of State.

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

- H is the annual rate of remuneration of the former employment, and
- J is the annual rate of remuneration of the new employment ascertained in accordance with the Table,

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

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

- (10) If—
 - (a) the person’s contractual hours in a part-time new employment are altered, or
 - (b) he is transferred to another post under the same employing body at an altered remuneration,
 this regulation applies as if he had again entered a new employment.

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

(12) This regulation does not apply to a person who has become entitled to a retirement pension payable to him in respect of service rendered without a disqualifying break of service—

- (a) as a designated employee and a contributory employee, or
- (b) as a designated employee, a contributory employee and a pensionable employee,

unless, within 3 months after entering his new employment, he elects by notice in writing to the employing authority that it is to apply to him.

(13) Where a person who has become entitled to a retirement pension proposes to accept any further employment with any scheduled body, he shall inform that body that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the body from whom he receives the pension.

(14) In this regulation, “retirement pension” includes an annual pension under the former Regulations and a retirement pension under the 1974 Regulations.

Combined benefits in the case of certain re-employed pensioners

E16.—(1) Subject to paragraph (7), where—

- (a) a person has become entitled to a retirement pension other than one to which he became entitled under regulation E2(2) or one which is reduced under regulation E3(14) (“the first retirement pension”), and
- (b) after becoming so entitled he entered further whole-time local government employment, and
- (c) at any time while he held the further employment the first retirement pension was liable to be reduced or suspended under regulation E15, and
- (d) he has ceased to hold the further employment and has become entitled, in relation to it, to a retirement pension which has become payable (“the second retirement pension”),

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

(2) Subject to paragraphs (4) to (7), a person to whom this regulation applies is to be treated as having, on the date on which the second retirement pension became payable—

- (a) become entitled to payment of an annual retirement pension (“the annual pension”) and a lump sum payment (“the lump sum”) each calculated by reference to both his reckonable service in the further employment and the reckonable service taken into account in calculating the first retirement pension, and
- (b) ceased to be entitled to the first retirement pension and the second retirement pension.

(3) In paragraph (2) “the reckonable service” includes any period by reference to which an additional benefit has been granted under regulation E13 or under regulation 13 of the Benefits Regulations (both of which concern additional benefits for certain female nursing staff).

(4) If in conjunction with the first retirement pension the person received a retiring allowance—

- (a) in calculating the lump sum no account is to be taken of any additional period excluded in accordance with regulation E3(3) from the calculation of the retiring allowance,
- (b) if the lump sum would be the same as or less than the retiring allowance, the person—
 - (i) is not entitled to payment of the lump sum, and
 - (ii) is not entitled to the annual pension unless, within 3 months after giving notice under paragraph (1), he pays to the appropriate administering authority the amount of any difference, and

- (c) if the lump sum is greater than the retiring allowance, the lump sum is reduced by the amount of the allowance.
- (5) If—
- (a) the first retirement pension was, and
- (b) the second retirement pension would have been,
- reduced under Part F of the 1974 Regulations or regulation E32, the annual pension is reduced by the same amount as the first retirement pension.
- (6) If part of the first retirement pension was surrendered under regulation E20—
- (a) the annual pension is to be treated as having been surrendered to the same extent, and
- (b) any resulting pension becoming payable on the person's death is to be paid by the authority by whom the annual pension is payable.
- (7) In relation to a person who—
- (a) before 1st April 1972—
- (i) became entitled to a superannuation allowance under Part I of the Act of 1937 or to an annual pension under the former Regulations, and
- (ii) again became a contributory employee, and
- (b) has not, since he again became a contributory employee, had a disqualifying break of service,

this regulation has effect as if references to the first retirement pension were references to that superannuation allowance or annual pension and references to a retiring allowance were references to a retirement grant under the former Regulations.

Separate benefits in the case of certain re-employed pensioners

- E17.**—(1) This regulation applies to a person who—
- (a) (i) has become entitled to a retirement pension (a “previous pension”), and
- (ii) after becoming so entitled entered further local government employment, and
- (iii) has ceased to hold the further employment and has become entitled in relation to it to a retirement pension (an “additional pension”), and
- (iv) has not become entitled to the annual pension mentioned in regulation E16 (combined benefits), or
- (b) is subject to regulation E18.
- (2) If—
- (a) on the person's ceasing to hold an employment in relation to which he became entitled to a previous pension (a “previous employment”) regulation E2(1)(b)(i) (permanent ill-health) applied, and
- (b) he gave a notice under paragraph 4 of Schedule 10, regulation E3(12) (additional reckonable service) does not apply on his ceasing to hold any further employment.
- (3) If regulation E2(1)(b)(i) did not apply on the person's ceasing to hold a previous employment, but does apply on his ceasing to hold a further employment—
- (a) sub-paragraph (1) of paragraph 2 of Schedule 10 applies with the substitution for the words

“ $6\frac{243}{365}$ years”, and”

(b) paragraph 4 of Schedule 10 does not apply.

(4) Subject to paragraph (5), if when the person dies paragraph (4) of regulation E11 (death gratuity) applies, it applies with the substitution for the words “is the greater of A and $(B \times C)$ ” of the words “is $(B \times C)$ ”.

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

(a) if P equals or exceeds Q, there is no entitlement under regulation E11 to a death gratuity in relation to the further employment, and

(b) if P is less than Q but $(P + R)$ is greater than Q, R is reduced by the amount of the excess.

(6) In paragraph (5)

(a) P is the total of—

(i) every death gratuity payable in relation to any previous employment calculated in accordance with regulation E11,

(ii) payments made in respect of every previous pension,

(iii) every retiring allowance to which the person became entitled in conjunction with any previous pension,

(iv) any payments made in respect of the additional pension, and

(v) any retiring allowance to which the person became entitled in conjunction with the additional pension,

including in each case any increase under the Pensions (Increase) Act 1971;

(b) Q is the greater of—

(i) the aggregate obtained by taking for each previous pension the amount of the pensionable remuneration by reference to which it was calculated and the amount by which that amount would have been increased if it had been the rate of an official pension, within the meaning of that Act, beginning on and payable from the day after the last day of the relevant previous employment, and

(ii) the amount of the pensionable remuneration by reference to which the additional pension was calculated; and

(c) R is the amount of the death gratuity calculated in accordance with regulation E11 in relation to the further employment.

(7) In this regulation “retirement pension” includes—

(a) a superannuation allowance under Part I of the Act of 1937,

(b) an annual pension under the former Regulations,

(c) a pension under a local Act scheme, and

(d) a short service grant under regulation 9 of the Benefits Regulations.

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

E18.—(1) This paragraph applies where—

(a) a person was entitled to a retirement pension other than one which was reduced under regulation E3(14),

(b) after becoming so entitled he entered further local government employment,

(c) he dies in the further employment, and

(d) if he had then ceased to be employed otherwise than by reason of his death he would have been entitled to give notice under regulation E16 (combined benefits).

(2) Where paragraph (1) applies—

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

as if immediately before his death he had become entitled to benefits under regulation E16 or E17, whichever is the more favourable to the person entitled to receive the benefits payable.

(3) Where—

- (a) a person was entitled to a superannuation allowance under Part I of the Act of 1937 or an annual pension under the former Regulations or a pension under a local Act scheme,
- (b) after becoming so entitled he entered further local government employment,
- (c) the pension or allowance was on that account reduced or suspended, and
- (d) he dies in the further employment,

any benefits payable in respect of him (except any widow's short-term pension or children's short-term pension) are to be calculated as if immediately before his death he had become entitled to benefits under regulation E17 (separate benefits).

Benefits of certain persons employed before 16th May 1974

E19. In relation to a pensionable employee who is a person to whom regulation E19 of the 1974 Regulations applied but who did not make an election under that regulation, this Part applies—

- (a) if paragraph (1)(b)(i) of that regulation (no previous right to retiring allowance or widow's pension) applied to him, subject to the modifications set out in Parts I and III of Schedule 12, or
- (b) if paragraph (1)(b)(ii) of that regulation (no previous right to widow's pension) applied to him, subject to the modifications set out in Parts II and III of Schedule 12.

Surrender of part of retirement pension

E20.—(1) This regulation has effect subject to Schedule 13.

(2) A person who—

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

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

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

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

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

Power to compound certain small pensions

E21.—(1) Where—

- (a) a pensionable employee has become entitled to a retirement pension or pensions and has attained the age of 65 years in the case of a man or 60 years in the case of a woman; and
- (b) the annual rate of that pension or the aggregate of the annual rates of those pensions, including the amount of any pensions increase payable thereon under the Pensions (Increase) Act 1971⁽⁵⁾, the Pensions (Increase) Act 1974 or the Pensions Act, does not exceed £78,

the administering authority may discharge their liability in respect of—

- (i) that pension or those pensions; and
- (ii) if the pensionable employee is a male—
 - (A) the widow's long-term pension which, in the event of his dying leaving a widow, would be payable to her in respect of his reckonable service; and
 - (B) the children's long-term pension which, in the event of his dying leaving an eligible child or eligible children, would be payable to or for the benefit of his eligible child or eligible children in respect of his reckonable service,

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

(2) For the purposes of paragraph (1) a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) or who satisfies the requirements of regulation E2(1)(d) shall not be treated as having become entitled to a retirement pension until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(3) Where the annual rate of the widow's long-term pension or pensions payable to a widow does not exceed in total £104, including the amount of any pensions increase payable thereon under the Pensions (Increase) Act 1971, the Pensions (Increase) Act 1974 or the Pensions Act, the administering authority may discharge their liability in respect of that pension or those pensions by payment to the widow of a lump sum of such amount as represents the capital value of that pension or pensions, calculated in accordance with the tables mentioned in paragraph (1).

(4) Where the annual amount of the children's long-term pension payable to or for the benefit of an eligible child or eligible children does not exceed £104, the administering authority may discharge their liability in respect of that pension by payment of a lump sum of such amount as represents the capital value of that pension, calculated in accordance with the tables mentioned in paragraph (1).

Pensionable remuneration

E22.—(1) Subject to paragraphs (4) and (6) to (13) and regulations E23 (further provision as to pensionable remuneration) and G1 (certain former contributory employees), a person's pensionable remuneration in relation to a local government employment is his remuneration for so much of the relevant period as he is entitled to reckon as reckonable service in relation to that employment.

(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

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

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

(b) this paragraph applies to him by virtue of a notice or determination, the relevant period comprises the last 365 days which he is entitled to reckon as reckonable service.

(4) Where a person's remuneration has been reduced and the employing authority have certified under regulation E24 that the reduction in his remuneration was in consequence of a material change in his circumstances, then the relevant period is—

- (a) if the reduction occurred during the 13 years ending with the day mentioned in paragraph (2), either—
 - (i) such one of the last 5 of those 13 years, or
 - (ii) such consecutive 3 of those 13 years, as is specified in the notice or determination, or
- (b) if the reduction occurred during the last 5 of those 13 years, such one of those 5 years as is specified in the notice or determination;

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

(5) Where—

- (a) the relevant period would otherwise be the period specified in paragraph (2), and
- (b) either one or each of the 2 immediately preceding years would yield a higher amount of pensionable remuneration, and
- (c) this paragraph applies to the person by virtue of a notice or determination,

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

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

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

- (a) made contributions under regulation C3 (leave of absence) or a payment under regulation C4 (absence due to trade dispute), or
- (b) contributed under section 6(5) of the Act of 1937 (leave of absence etc.),

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

(8) The remuneration of any period of part-time local government service shall be treated as being the remuneration the person would have received in respect of a single comparable whole-time employment except for—

- (a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,
- (b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or
- (c) ascertaining the value of "A" for the purposes of regulation E11(4).

(9) Where immediately before ceasing to be a pensionable employee a person was in the employment in respect of which he was an employee and was required to serve for fewer than 45 weeks in every period of 12 months, his remuneration shall be deemed to be the remuneration which

would have been paid for a single comparable whole-time employment in which remuneration was payable for 52 weeks in every period of 12 months except for—

- (a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,
- (b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or
- (c) ascertaining the value of “A” for the purposes of regulation E11(4).

(10) Where—

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

that remuneration is for that purpose to be multiplied by

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

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

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

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

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

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

, where A is the number of days comprised in that part.

(13) Where—

- (a) any part of the person’s remuneration during the relevant period was determined in accordance with an agreement under regulation G3 (standard remuneration agreements), and
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) exceed one and a half times the lower earnings limit, but do not exceed the upper earnings limit, in force under section 4(1) of the Social Security Act 1975(6) at the end of the period, and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

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

(6) 1975 c. 14; section 4(1) was amended by the Social Security Pensions Act 1975 (c. 60), Schedule 4, Part I, paragraph 36(a).

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

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

Further provision as to pensionable remuneration

E23.—(1) This regulation applies to a person who has at any time after 31st March 1978 ceased to hold an employment in which he was a pensionable employee and who—

- (a) was at a material time a person whose remuneration fell to be determined by reference to the Scottish Teachers Salaries Memorandum 1978, as from time to time amended, or
- (b) was affected by a staging agreement.

(2) A person who has ceased to hold an employment as mentioned in paragraph (1) is affected by a staging agreement if—

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

(3) Subject to paragraph (4), where this regulation applies to a person the amount of any remuneration that is material for the purpose of regulation E22 shall for those purposes—

- (a) where paragraph (1)(a) applies, be taken to be what it would have been on the hypotheses set out in regulation 3(2) of the Teachers' Superannuation (Notional Salaries) (Scotland) Regulations 1982(7), and
- (b) where paragraph (1)(b) applies, be taken to be what it would have been if the final rate had become payable from the relevant date.

(4) Paragraph (3) does not apply to the calculation of a person's pensionable remuneration for the purposes of regulations E6(1)(b) or (c), E7 and E10.

(5) For the purposes of this regulation—

- (a) a material time is a time material for the purpose of calculating the person's pensionable remuneration under regulation E22,

- (b) in paragraph (1)(a) the reference to the Scottish Teachers Salaries Memorandum 1978 is a reference to the document published by Her Majesty's Stationery Office on 14th December 1978 under that title, and
- (c) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

(6) In relation to a person to whom regulation G1 applies, any reference in this regulation to regulation E22 is to be construed as a reference to regulation E22 as it has effect in relation to him by virtue of regulation G1.

Certificates as to reduction in remuneration

E24.—(1) Where a pensionable employee other than a person who is a pensionable employee by virtue of an election under regulation 53 suffers a material change in circumstances (being a change resulting from his incapacity to continue to discharge efficiently the duties of his post or otherwise from circumstances beyond his control) which results in a reduction in the remuneration of an employment which he continues to hold, he shall, subject to paragraph (4), be entitled to be issued by the employing authority with a certificate to that effect.

(2) Subject to paragraph (3), a change in circumstances is material if, and only if, the employee's pensionable remuneration would be likely to be less if the relevant period were the period specified in regulation I22(2) than if it were a period mentioned in regulation E22(4).

(3) A change in circumstances is not material if—

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

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

(5) A certificate issued under this regulation is to specify the date of the material reduction and the authority are to keep, for 10 years from that date, a record of the certificate including such information as would be necessary for applying regulation E22(4).

Calculation of part-time service

E25. For the purposes of calculating the amount of any benefit which is or will become payable under these Regulations other than under regulation E3(4) to or in respect of a pensionable employee who—

- (a) has served as a part-time employee, or
- (b) who has made an election under regulation 53 but is not an employee whose contract of employment requires him to serve for less than 45 weeks in every period of 12 months,

the period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

Calculation of service in certain other cases

E26.—(1) For the purposes of calculating the amount of any benefit under these Regulations which is or will become payable to or in respect of a pensionable employee, being an employee whose contract of employment requires him to serve for fewer than 45 weeks in every period of 12 months, the period of service in each income tax year during which he was a pensionable employee by virtue of an election under regulation 53 shall be multiplied by

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

where—

A is the remuneration he would have received during the income tax year on the assumption that there had been no discontinuance or reduction of remuneration during any absence from duty owing to illness or injury, and

B is the remuneration that would, on that assumption, have been paid during the income tax year in respect of a single comparable whole-time employment under a scheduled body in which remuneration was payable for 52 weeks in every period of 12 months.

(2) For the purposes of paragraph (1) “service” includes any period of time covered by the contract of employment but not a period of absence without leave.

Counting of non-contributing service

E27.—(1) Subject to paragraph (3), any period which—

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

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

(2) For the purposes of paragraph (1), the full length of a period of part-time non-contributing service is its length as calculated under regulation E25.

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

- (a) determining whether a person is entitled to, or to payment of, a benefit,
- (b) ascertaining, where notice was given under Schedule 2 to the Benefits Regulations or regulation D6 or D7 of the 1974 Regulations, the maximum length of any additional period to which Schedule 4 applies, or
- (c) ascertaining the length of the additional period where notice is given under paragraph 4 of Schedule 10.

Disregard of certain reckonable service in determining entitlement to benefits

E28. For the purpose of determining entitlement to any benefit, no account shall be taken of—

- (a) any added years,
- (b) any additional period reckonable as reckonable service by virtue of regulations D4 to D7,
- (c) any period which by virtue of interchange rules became reckonable under the former Regulations only for the purpose of calculating the amount of benefits, or
- (d) except in relation to regulation E2(2), any period reckonable by virtue of regulation J9(1) (a).

Counting of certain reckonable service and qualifying service in determining entitlement to benefits

E29. For the purpose of determining whether a person is entitled to, or to payment of, a benefit, any reckonable service and qualifying service which was reckonable for the purpose of determining entitlement to benefits under the former Regulations shall be counted at the same length as it would have been counted for the latter purpose.

Disregard of certain reckonable service in calculating amount of benefits

E30.—(1) For the purpose of calculating the amount of any benefit under regulation E3—

- (a) subject to paragraphs (2) to (4), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years, and
- (b) where an amount is recovered or retained under regulation M3, reckonable service shall be left out of account to the extent necessary to reduce the actuarial value referred to in regulation M3(2)(b) by that amount.

(2) For the purposes of paragraph (1)(a), a period which a person is entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) (war service) shall be treated as reckonable service before attaining the age of 60 years.

(3) Where a retiring allowance is to be reduced under regulation E3(7) or (8) (potential widow's pensions), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the beginning of the person's reckonable service.

(4) Where a retiring allowance is to be increased under regulation E3(4) (preservation of certain rights under former Regulations), any reckonable service to be left out of account by virtue of paragraph (1)(a) shall be taken from the end of the person's reckonable service.

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

(6) In paragraph (5)—

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

B is the length of any earlier period which was taken into account in the calculation of a retirement pension, an annual pension under the former Regulations, or a superannuation allowance under Part I of the Act of 1937, or in respect of which any pension was granted under a local Act scheme, and

C is the length of any period by reference to which an additional benefit has been granted under regulation E13 or under regulation 13 of the Benefits Regulations.

Counting of certain reckonable service in calculating amount of benefits

E31. For the purpose of calculating the amount of any benefit—

- (a) any period which is reckonable as reckonable service by virtue of its having been reckonable under the former Regulations as contributing service shall, subject to regulations E25 and E27 (part-time and non-contributing service), be counted at the same length as it would have been counted for the purpose of calculating any benefit under the former Regulations, and
- (b) such part (if any) of the reckonable service of an employee as does not amount to a number of complete years shall be counted as a fraction of a year, of which the denominator shall be 365 and the numerator shall be the number of completed days comprised in that part.

National Insurance

E32.—(1) Where but for the revocation of the 1974 Regulations the amount of a benefit would have fallen to be reduced under Part F of those Regulations, the amount shall be reduced as if that Part had not been revoked.

(2) No provision in these Regulations—

- (a) for the surrender or assignation of a pension, or

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- (b) for the reduction, termination or suspension of a pension, where the provision is invoked for any cause other than one prescribed by Regulations made or deemed to have been made under section 57(1)(c) of the Insurance Act (which section describes equivalent pension benefits),

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

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

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

Benefits not assignable

E33. Every benefit, including a payment under regulation C12 (return of contributions)—

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

Payment of benefits

E34. Payments in respect of annual benefits paid under these Regulations shall be made at such interval, not being longer than 3 months, as the appropriate administering authority may determine.