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STATUTORY INSTRUMENTS

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**1993 No. 3253**

**The Parliamentary Pensions (Consolidation  
and Amendment) Regulations 1993**

**PART A**

**Preliminary**

**Title and commencement**

**A1.** These Regulations may be cited as the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993 and shall come into force on 21st January 1994.

**Interpretation**

**A2.—**(1) In these Regulations—

“the 1965 Act” means the Ministerial Salaries and Members' Pensions Act 1965 (1);

“the 1972 Act” means the Parliamentary and other Pensions Act 1972 (2);

“the Pensions Act 1975” means the Social Security Pensions Act 1975 (3);

“the 1987 Act” means the Parliamentary and other Pensions Act 1987;

“the Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (4);

“actual period of reckonable service as a participating Member”, “actual period of reckonable service as a participating office holder” and “actual period of reckonable service as a participant” have the meanings assigned to them by regulation E1;

“added year” means a period of reckonable service as a participating Member purchased under regulation Q1 and Schedule 6 including a part of a year expressed in days and any future added year;

“aggregate period of reckonable service as a participating Member”, “aggregate period of reckonable service as a participating office holder” and “aggregate period of reckonable service as a participant” have the meanings assigned to them by regulation E2;

“basic or prospective pension or pensions” has the meaning assigned to it by regulation K6;

“the Consolidated Fund” means the Consolidated Fund of the United Kingdom;

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- (1) 1965 c. 11; the whole of this Act was repealed with savings by the Parliamentary and other Pensions Act 1972 (c. 48), section 36(1)(b) and Schedule 4. The repeal does not affect the operation of any of the provisions of Part II of the Act or of Schedule 2 or Schedule 3 to the Act, in relation to the deduction of contributions from Members of the House of Commons before 1st January 1972, and to any refund of contributions to or in respect of a person who last served as a Member of the House of Commons before 1st January 1972.
- (2) 1972 c. 48 Part 1 of this Act (sections 1-25), and sections 30, 33 and 35 were repealed, with savings, by the Parliamentary and other Pensions Act 1987 (c. 45). Those enactments (other than sections 1(1) to (4) and (7), 5, 23 and 24(4)) have continued to have effect as if they were contained in regulations made in accordance with section 2 of the 1987 Act.
- (3) 1975 c. 60.
- (4) 1988 c. 1.

“contracted-out scheme” means an occupational pension scheme which is for the time being specified in a contracting-out certificate issued by the Occupational Pensions Board under regulations made in accordance with section 31 of the Pensions Act 1975;

“contribution”, (except in the expression “contributions equivalent premium”), means any amount deducted from salary or deemed to have been paid under section 5 of the 1965 Act, under section 3 or section 4 of the 1972 Act or under regulation D1 or regulation D2 and any reference to the payment of a contribution shall be construed accordingly;

“contributions equivalent premium” has the same meaning as in section 42(1) of the Pensions Act 1975 (5);

“deferred pensioner” means a person who—

- (a) having been but having ceased to be a participant; and
- (b) having accrued rights to a pension from the Fund,

is not, or was not at his death, yet entitled to receive a pension from the Fund.

“effective resolution” means a resolution of the House of Commons relating to the remuneration of Members which is not framed as an expression of opinion and where there are at any time two or more such resolutions in force they shall be read together;

“fraction of a year” means part of a year of reckonable service expressed as the proportion borne by the number of days in that part to three hundred and sixty-five; and

“fraction of an added year” shall be construed accordingly;

“guaranteed minimum pension” has the same meaning as in section 35 and section 36(3) of the Pensions Act 1975 (6);

“interest” (where the reference is to the payment of any sum with interest) means compound interest at the rate of three per cent per annum in respect of any period falling before 2nd August 1978 and at the rate of four per cent per annum in respect of any later period, and, in either case, the interest shall be calculated with annual rests;

“a Member’s ordinary salary” means the amount determined under an effective resolution which is for the time being in force and—

- (a) if the resolution provides for salary to be paid to Members at different rates according to whether or not they are holders of particular offices, or are in receipt of salaries or pensions as the holders or former holders of particular offices, a Member’s yearly salary at the higher or highest rate; and
- (b) in any other case, a Member’s yearly salary at the rate specified in or determined under the resolution;

“the multiple” means

- (a) subject to paragraph (b) below, in respect of a pension under regulation F1 of a person who is or has been a participating Member, the relevant terminal salary under regulation F2(2); or

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(5) Section 42(1) was amended by the Social Security Act 1985 (c. 53), Schedule 5, paragraph 25(1) and by the Social Security Act 1986 (c. 50), Schedule 2, paragraph 6(1), and Schedule 10 paragraph 21.

(6) Section 35(2) was amended by the Social Security Act 1986 (c. 50), Schedule 8 paragraph 8. Section 35(2A) was inserted by the Social Security Act 1989 (c. 24), Schedule 6 paragraph 5. Section 35(3) was substituted by the Social Security Act 1986 (c. 50), section 9(1). Section 35(4) was amended by the Social Security Act 1979 (c. 18), Schedule 3 paragraph 13. Section 35(5) was amended by the Social Security Act 1979 (c. 18), Schedule 3 paragraph 18(a), by the Social Security Act 1988 (c. 7), Schedule 2, paragraphs 1(2) and (3), and by the Social Security (Consequential Provisions) Act 1992 (c. 6), Schedule 2 paragraph 27(2). Section 35(6) was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 3(2). Section 35(6A) and (6B) were inserted by the Social Security Act 1986 (c. 50), section 9(2). Section 35(7) was amended by the Social Security Act 1979 (c. 18), Schedule 3 paragraph 18(b), by the Social Security Act 1985 (c. 53), Schedule 3, paragraphs 2(1) and (2) and 7 and by the Social Security (Consequential Provisions) Act 1992 (c. 6), Schedule 2, paragraph 27(2). Section 35(8) was amended and subsection (8A) was inserted by the Social Security Act 1985 (c. 53), Schedule 3, paragraph 8. Section 36(3) was substituted by the Social Security Act 1986 (c. 50), section 9(3).

- (b) in respect of a pension under regulation F1 of a person who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons—
- (i) the amount of his salary as a Member of the House of Commons during his final year of reckonable service; or
  - (ii) if at the relevant date his reckonable service as a participating Member since the date of his appointment or election to that office is less than a year, the amount calculated using the formula

$$\frac{A \times 365}{B}$$

where:

A is the amount of his salary as a Member of the House of Commons since the date of his appointment or election; and

B is the number of days of his reckonable service as a participating Member since the date of that appointment or election; and

- (c) in respect of a pension under regulation F3 of a person who is or has been a participating office holder, the relevant terminal salary under regulation F4(4) multiplied by the average of all the contribution factors under regulation F4(2) calculated in relation to him for his aggregate period of reckonable service as a participating office holder;

“normal retirement date” means the date on which a participant reaches the age of sixty-five;

“office holder” has the meaning assigned to it by regulation C3(3);

“opted-out Member” has the meaning assigned to it by regulation C4(4);

“opted-out office holder” has the meaning assigned to it by regulation C5(4);

“overseas fund or scheme” means a fund or scheme which is established outside the United Kingdom and wholly or primarily administered outside the United Kingdom;

“participant” means a person making contributions to the Fund; and may be either a participating Member or a participating office holder or both a participating Member and a participating office holder;

“participating Member” means a person making contributions to the Fund deducted from his salary as a Member of the House of Commons (or who is excused from making such contributions because his aggregate period of reckonable service exceeds that which would give rise to the maximum pension allowed in respect of him under the principal scheme);

“participating office holder” means a person making contributions to the Fund deducted from his salary as an office holder;

“pension” does not include an allowance or gratuity;

“pensioner” means a person entitled to receive a pension from the Fund; and may be either a pensioner Member or a pensioner office holder or both a pensioner Member and a pensioner office holder;

“pensioner Member” means a person entitled to receive a pension from the Fund (including an early retirement pension or an ill health pension) in respect of his service as a Member of the House of Commons;

“pensioner office holder” means a person entitled to receive a pension from the Fund (including an early retirement pension or an ill health pension) in respect of his service as an office holder;

“period of tenure of a qualifying office” has the meaning assigned to it by regulation C3(2);

“permitted maximum” for any tax year means the figure specified for that tax year in an order made under section 590C of the Taxes Act 1988(7);

“the principal scheme” means the scheme from time to time in force;

“qualifying office” has the meaning assigned to it by regulation C3(3);

“relevant child” has the meaning assigned to it by regulation K3(5);

“relevant date” means the relevant date for the determination under any provision of these Regulations of the pension of a person;

“tax year” means a year beginning on the 6th April in any year and ending on the following 5th April.

“transfer premium” has the same meaning as in section 44A of the Pension Act 1975(8).

- (2) In these Regulations, except where the context otherwise requires—
- (a) a reference to a numbered regulation or Schedule is a reference to the regulation of, or the Schedule to, these Regulations so numbered; and
  - (b) a reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph of that regulation or Schedule so numbered.

## PART B

### Trustees and Administration

#### Trustees and Administration

**B1.**—(1) The provisions of Schedule 1 to these Regulations shall have effect with respect to the number, qualification and proceedings of Trustees of the Fund, the distribution of functions between the Custodian Trustee and the Managing Trustees, the administration of the Fund and the management and application of the assets of the Fund.

(2) All pensions and other sums payable under these Regulations by the Trustees, including contributions equivalent premiums and transfer premiums payable in respect of former participants, shall be paid out of the Fund, and all sums received by the Trustees under these Regulations shall be paid into the Fund.

## PART C

### Membership

#### Membership for Members of the House of Commons

**C1.** Any person serving as a Member of the House of Commons shall be a participating Member in the principal scheme except the following—

- (a) any person who holds or who has held the office of Prime Minister and First Lord of the Treasury who has not exercised an option under regulation C2; and

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(7) Section 590C was inserted into the Taxes Act 1988 by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 4 and 18(2).

(8) Section 44A was inserted into the Pensions Act 1975 by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 1. Section 44A(1)(a) was amended by the Social Security Act 1986 (c. 50), Schedule 2, paragraph 6(1). Section 44A(1)(b) and section 44A(4) were amended by the Social Security Act 1986 (c. 50), Schedule 11. Section 44A(1)(c) was substituted by the Social Security Act 1989 (c. 24), Schedule 6, paragraph 11.

- (b) the Speaker of the House of Commons if he has not exercised an option under regulation C2; and
- (c) any Member of that House who has exercised an option under regulation C4 not to be a participant in the principal scheme.

### **Membership for Prime Ministers and Speakers**

**C2.**—(1) Any person who on or after 28th February 1991 holds or has held the office of—

- (a) Prime Minister and First Lord of the Treasury; or
- (b) the Speaker of the House of Commons

may exercise an option in writing to become a participating Member in the principal scheme.

(2) Subject to paragraphs (3) and (4) below, the effective date of the option is whatever date the Trustees shall determine to be the earliest practicable date after that on which they receive written notice of the exercise of the option.

(3) If in respect of a person entitled to exercise an option under paragraph (1) above the Trustees receive the written notice not more than three months after the date of the appointment or election of that person to that office, the effective date of the option is the date of that appointment or election; and he shall pay to the Trustees within twenty-eight days of his exercise of the option, or within such longer period as the Trustees may in their discretion determine, the sum certified by the Trustees as being the amount which would have been deducted from his salary under regulation D1 between the effective date of the option and the first date thereafter when a deduction from his salary under regulation D1 is made.

(4) If in respect of the person who on 28th February 1991 held the office of Prime Minister and First Lord of the Treasury, the Trustees receive the written notice not more than three months after the date when these Regulations come into force, the effective date of the option is 1st April 1993; and he shall pay to the Trustees within twenty-eight days of his exercise of the option, or within such longer period as the Trustees may in their discretion determine, the sum certified by the Trustees as being the amount which would have been deducted from his salary under the principal scheme between 1st April 1993 and the first date thereafter when a deduction from his salary under regulation D1 is made.

### **Membership for Office Holders**

**C3.**—(1) An office holder who—

- (a) has not at any time held the office of Prime Minister and First Lord of the Treasury; and
- (b) has not exercised an option under regulation C5; and
- (c) is either
  - (i) a participating Member; or
  - (ii) not a Member of the House of Commons

shall be a participating office holder in the principal scheme in respect of any period of tenure of a qualifying office.

(2) In these Regulations “period of tenure of a qualifying office” means any continuous period beginning on or after 1st April 1972 for which a person is—

- (a) the holder of one and the same qualifying office, or
- (b) the holder successively of two or more qualifying offices in respect of which the same salary is payable.

(3) In these Regulations “qualifying office” means any of the following offices—

- (a) the offices specified in Parts I to IV of Schedule 1 to the Ministerial and other Salaries Act 1975 (9), except the office of Prime Minister and First Lord of the Treasury;
- (b) the offices specified in Part I of Schedule 2 to that Act; and
- (c) the offices of Chairman of Ways and Means, Deputy Chairman of Ways and Means, Chairman of Committees of the House of Lords and Deputy Chairman of Committees of the House of Lords

and “office holder” means the holder of a qualifying office.

### **Right to opt out for Members of the House of Commons**

**C4.**—(1) A participating Member who does not fall within subparagraphs (a) or (b) of regulation C1 may exercise an option in writing under this regulation not to be a participant in the principal scheme.

(2) Subject to paragraph (3) below, the effective opt-out date in respect of a Member is whatever date the Trustees shall determine to be the earliest practicable date after that on which they receive from him written notice of the exercise of the option.

(3) If the Trustees receive the written notice not more than three months after the date of a General Election or by-election at which the person was elected for the first time to membership of the House of Commons, the effective opt-out date is the date of that election and any contributions deducted from him since that election under regulation D1 and, if he is an office holder, under regulation D2, shall be repaid to him.

(4) A Member of the House of Commons who has exercised his right under paragraph (1) above to opt out of the principal scheme is referred to in these Regulations as “an opted-out Member”.

### **Right to opt out for office holders.**

**C5.**—(1) An office holder who is a participating Member or who is not a Member of the House of Commons may exercise an option in writing under this regulation not to be a participating office holder in the principal scheme.

(2) Subject to paragraph (3) below, the effective opt-out date in respect of an office holder is whatever date the Trustees shall determine to be the earliest practicable date after that on which they receive from him written notice of the exercise of the option.

(3) If the Trustees receive the written notice not more than twelve months after the date of commencement of a period of tenure of a qualifying office, the effective opt-out date is the date on which that period of tenure commenced and any contributions deducted from an office holder under regulation D2 in respect of that period of tenure shall be repaid to him.

(4) An office holder who has exercised an option under paragraph (1) above not to be a participating office holder or who has exercised the option under regulation C4(1) is referred to in these Regulations as an opted-out office holder.

### **Right to opt in for Members of the House of Commons**

**C6.** An opted-out Member may apply to rejoin the principal scheme as a participating Member as from the date of any General Election or by-election at which he was elected to membership of the House of Commons (“the effective opt-in date”) by giving notice in writing to the Trustees within a period of three months beginning with the effective opt-in date provided that—

- (a) he pays to the Trustees within twenty-eight days of their acceptance of his application, or within such longer period as the Trustees may in their discretion determine, the sum

certified by the Trustees as being the amount which would have been deducted from his salary under regulation D1 between the effective opt-in date and the first date thereafter when a deduction from his salary under regulation D1 is made; and

- (b) at the effective opt-in date, at least three months had elapsed since he was last elected to membership of the House of Commons.

### **Right to opt in for office holders**

**C7.** An opted-out office holder who is either—

- (a) a participating Member; or
- (b) not a Member of the House of Commons,

may apply to rejoin the principal scheme as a participating office holder as from the date of commencement of a new period of tenure of a qualifying office (“the effective opt-in date”) by giving notice in writing to the Trustees within a period of twelve months beginning with the effective opt-in date provided that he pays to the Trustees within twenty-eight days of their acceptance of his application, or within such longer period as the Trustees may in their discretion determine, the sum certified by the Trustees as being the amount which would have been deducted from his salary under regulation D2 between the effective opt-in date and the first date thereafter when a deduction from his salary under regulation D2 is made.

## **PART D**

### **Contributions**

#### **Contributions by participating Members**

**D1.**—(1) Subject to paragraph (4) below and to regulation D3, there shall be deducted from each payment in respect of salary made to a participating Member the appropriate percentage of that payment; and all sums so deducted shall be paid into the Fund.

(2) In this regulation, “salary”

- (a) in the case of a participating Member who is or has been Prime Minister and First Lord of the Treasury or Speaker of the House of Commons means his salary as a Member of the House of Commons pursuant to an effective resolution; and
- (b) in the case of any other participating Member, means a Member’s ordinary salary.

(3) For the purposes of paragraph (1) above the appropriate percentage, in relation to a payment of salary made in respect of a period beginning on or after 1st April 1992, is 6 per cent.

(4) Where a person’s aggregate period of reckonable service as a participating Member exceeds that which would give rise to the maximum pension allowed in respect of that person as a participating Member under regulation F5 or F6, no deduction shall be made under this regulation from payments in respect of salary made to him.

(5) If any salary from which a deduction is required to be made under this regulation is not drawn, there shall be set aside, out of moneys available for the payment, a sum equal to the relevant deduction, and any sum so set aside shall be paid into the Fund.

#### **Contributions by participating office holders**

**D2.**—(1) Subject to Regulation D3, there shall be deducted from each payment in respect of salary made to a participating office holder, the appropriate percentage of that payment; and all sums so deducted shall be paid into the Fund.

- (2) In this regulation “salary” means—
- (a) in relation to a participating office holder who is also a participating Member, the difference between—
    - (i) the aggregate of the annual amount payable to him as an office holder in respect of his tenure of that office and of the annual salary, which, pursuant to an effective resolution is or was payable to him as a Member holding that office; and
    - (ii) a Member’s ordinary salary; or
  - (b) in relation to a participating office holder who is not a Member of the House of Commons, the annual salary payable to him as an office holder in respect of his tenure of that office.
- (3) For the purpose of paragraph (1) above, the appropriate percentage, in relation to a payment of salary made in a period or part of a period beginning on or after 1st April 1992, is 6 per cent.
- (4) If any salary from which a deduction is required to be made under this regulation is not drawn, there shall be set aside, out of moneys available for the payment, a sum equal to the relevant deduction, and any sum so set aside shall be paid into the Fund.

### **Earnings Cap**

**D3.** Where in respect of any person who became a participant in the principal scheme on or after 1st June 1989, his annual salary—

- (a) as a Member of the House of Commons; or
- (b) as an office holder; or
- (c) as both (a) and (b) cumulatively

exceeds the permitted maximum, the contributions deducted from that annual salary shall be limited to the appropriate percentage (as defined in regulations D1 and D2) of that permitted maximum and where sub-paragraph (c) applies his contributions under regulation D2 shall be reduced before his contributions under regulation D1.

## **PART E**

### **Reckonable Service**

#### **Actual Reckonable Service**

**E1.**—(1) Subject to paragraphs (2) and (3) below and to regulations N1 (refunds), and P1, P2 and P3 (transfers out) for the purpose of these Regulations in respect of any person who has been a Member of the House of Commons after 19th July 1983—

- (a) any period before 16th October 1964 during which he was a Member of the House of Commons; and
- (b) any period beginning on or after 16th October 1964 during which he—
  - (i) was or is a Member of the House of Commons; and
  - (ii) has made contributions to the Fund,

is a period of reckonable service as a participating Member; and in these Regulations “actual period of reckonable service as a participating Member”, in relation to a person, means the period, falling within either of the preceding sub-paragraphs, during which he is or was a participating Member or (if more than one) the aggregate of such periods.

(2) Subject to regulations N1 (refunds) and P1, P2 and P3 (transfers out) in respect of any person who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of



the House of Commons who not more than three months after the date of his appointment to that office has exercised an option under regulation C2, any period beginning on or after 28th February 1991 during which he

- (a) was or is a Member of the House of Commons; and
- (b) has made contributions to the principal scheme under section 3 of the 1972 Act, or under regulation D1, or under regulation C2(4),

is a period of reckonable service as a participating Member; and in these Regulations “actual period of reckonable service as a participating Member” in relation to a person who holds or has held the aforesaid offices means the period referred to in this paragraph during which he is or was a participating Member or (if more than one) the aggregate of such periods.

(3) Subject to regulation N1 (refunds) and P1, P2 and P3 (transfers out) in respect of any person who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons who more than three months after the date of his appointment to that office has exercised an option under regulation C2, any period beginning on the effective date of the option during which he

- (a) was or is a Member of the House of Commons; and
- (b) has made contributions to the principal scheme under regulation D1,

is a period of reckonable service as a participating Member; and in these Regulations “actual period of reckonable service as a participating Member” in relation to a person who holds or has held the aforesaid offices means the period referred to in this paragraph during which he is or was a participating Member or (if more than one) the aggregate of such periods.

(4) In respect of a person who has been a participating office holder on or after 20th July 1983, and subject to regulations F8(3) (payment to office holder after normal retirement), N1 (refunds), P1, P2 and P3 (transfers out), any period during which a person is a participating office holder is a period of reckonable service as a participating office holder; and in these Regulations “actual period of reckonable service as a participating office holder”, in respect of a person, means his period (or, if more than one, the aggregate of his periods) of reckonable service as a participating office holder.

(5) Subject to regulation N1 (refunds) and P1, P2 and P3 (transfers out) in respect of any person who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons who not more than three months after the date of his appointment to that office has exercised an option under regulation C2, any period or periods beginning on a date on or after 28th February 1991 and ending on or before the date of his appointment or election to that office during which he was a participating officer holder is a period of reckonable service as a participating office holder; and in these Regulations “actual period of reckonable service as a participating office holder” in relation to a person who holds or has held the aforesaid offices means the period referred to in this paragraph during which he was a participating office holder or (if more than one) the aggregate of such periods.

(6) In these Regulations “actual period of reckonable service as a participant”, in respect of a person, means the total of whichever of the following apply to him, namely—

- (a) his actual period of reckonable service as a participating Member; or
- (b) his actual period of reckonable service as a participating office holder; or
- (c) if (a) and (b) both apply, his actual period of reckonable service as a participating Member together with such part, if any, of his actual period of reckonable service as an office holder when he was not also a participating Member.

### **Aggregate Reckonable Service**

**E2.**—(1) In respect of a person, his aggregate period of reckonable service as a participating Member is his actual period of reckonable service as a participating Member together with any

increases in reckonable service attributable to sums received by way of transfer value or to the purchase of added years.

(2) In respect of a person, his aggregate period of reckonable service as a participating office holder is his actual period of reckonable service as a participating office holder together with any increase in reckonable service attributable to sums received by way of transfer value.

(3) In respect of a person, his aggregate period of reckonable service as a participant is his actual period of reckonable service as a participant together with any increases in reckonable service attributable to sums received by way of transfer value or to the purchase of added years.

## PART F

### Pension Entitlement

#### Entitlement of pensioner Members

**F1.**—(1) Subject to the provisions of these Regulations, a person who on or after 31st July 1984 has ceased to be a participating Member and who has reckonable service as a participating Member under Part E or under section 6 of the 1972 Act shall be entitled to receive a pension under this regulation as from the time when the following conditions are or were fulfilled in respect of him—

- (a) he is or was neither a Member of the House of Commons nor a candidate for election to it;
- (b) he is not or was not an office holder; and
- (c) he has or had attained the age of sixty-five years.

#### Amount payable to pensioner Members

**F2.**—(1) Subject to regulations F5, F6 and F7, G1 (Commutation), H1 (Early retirement) and J1 and J3 (Ill health pensions) and to paragraph (5) below, the annual amount of the pension payable to a person under regulation F1 shall be a sum equal to the aggregate of the amounts produced, in relation to each year or fraction of a year comprised in his aggregate period of reckonable service as a participating Member, by multiplying the relevant terminal salary by the appropriate fraction.

(2) In this regulation “the relevant terminal salary”—

- (a) in relation to a person who has been a participating Member for a period of twelve months or more, or for two or more periods amounting in the aggregate to more than twelve months, means the amount of a Member’s ordinary salary for the last twelve months (whether continuous or discontinuous) during which that person was a participating Member; and
- (b) in relation to a person who has been a participating Member, but whose actual period of service as a participating Member was less than twelve months, means an amount calculated by taking the aggregate amount of a Member’s ordinary salary for the period (whether continuous or discontinuous) for which he was a participating Member and multiplying it by the appropriate figure;

and in sub-paragraph (b) of this paragraph “the appropriate figure” in relation to a person, means the figure (whether being a whole number or not) by which the number of days comprised in his period of service as a Member of the House of Commons must be multiplied in order to be equal to a year.

(3) In paragraph (1) of this regulation “the appropriate fraction”, in relation to a year or part of a year comprised in a person’s aggregate period of reckonable service as a participating Member, means—

- (a) in the case of a year ending before 20th July 1983, one-sixtieth, or, if the period before that date includes a part of a year, a proportionate fraction of one-sixtieth; and
  - (b) in the case of a year beginning on or after 20th July 1983, one-fiftieth, or, if the period on or after that date includes a part of a year, a proportionate fraction of one-fiftieth.
- (4) For the purposes of paragraph (4) of this regulation, where a year or part of a year comprised in a person's aggregate period of reckonable service as a participating Member began before, but ended on or after, 20th July 1983—
- (a) so much of that year or part of a year as ended with 19th July 1983 shall be treated as a part of a year in relation to which sub-paragraph (a) of that paragraph applies; and
  - (b) the remainder of that year or part of a year shall be treated as part of a year in relation to which sub-paragraph (b) of that paragraph applies.
- (5) The annual amount of the pension payable under regulation F1 to a person who has been Prime Minister and First Lord of the Treasury or Speaker of the House of Commons shall be calculated in accordance with the provisions of regulation F4, but where regulation F4 applies in relation to such a pension—
- (a) every reference to a “participating office holder” shall be construed as a reference to a “participating Member”; and
  - (b) the reference to regulation D2 in paragraph (2)(a) of that regulation shall be construed as a reference to regulation D1.

#### **Entitlement of pensioner office holders**

**F3.**—(1) Subject to the provisions of these Regulations, a person who on or after 20th July 1983 has ceased to be a participating office holder and who has reckonable service as a participating office holder under Part E or under section 6 of the 1972 Act shall be entitled to receive a pension under this regulation as from the time when the conditions specified in paragraphs (a), (b) and (c) of regulation F1(1) are fulfilled in respect of him.

(2) The same person may be entitled to a pension under regulation F1 and to a pension under this regulation; and the amounts of the two pensions shall be cumulative.

#### **Amount payable to pensioner office holders**

**F4.**—(1) Subject to regulations F5, F6 and F7, to G1 (Commutation) and to H1 (Early Retirement), the provisions of this regulation shall have effect for the purpose of calculating the annual amount of a pension payable to a person under regulation F3.

(2) For each year of which the whole or any part was comprised in the person's aggregate period of reckonable service as a participating office holder the following amounts shall be calculated—

- (a) an amount equal to the sums deducted under regulation D2 or section 4 of the 1972 Act in respect of that year from the person's salary (within the meaning of that regulation or section), and
- (b) an amount equal to the aggregate amount which fell to be deducted under regulation D1 or section 3(2) of the 1972 Act from a participating Member's ordinary salary in respect of that year,

and for each such year there shall be calculated the amount (referred to in these Regulations, in relation to any such year, as “the contribution factor” for that year) which is equal to the amount calculated under sub-paragraph (a) divided by the amount calculated under sub-paragraph (b) of this paragraph.

(3) For each such year as is mentioned in paragraph (2) of this regulation a contribution credit shall be calculated by multiplying the appropriate fraction of the relevant terminal salary by the

amount of the contribution factor for that year; and, subject to regulation G1 the annual amount of the pension payable to the person under regulation F3 shall be an amount equal to the aggregate of the contribution credits calculated under this paragraph.

(4) In this regulation “the relevant terminal salary”—

- (a) if the person’s actual period of reckonable service as a participating office holder was twelve months or more, means the amount of a Member’s ordinary salary for the last twelve months (whether continuous or discontinuous) comprised in that actual period of reckonable service; and
- (b) if the person’s actual period of reckonable service as a participating office holder was less than twelve months, means an amount calculated by taking the amount of a Member’s ordinary salary for the period (whether continuous or discontinuous) which constituted that actual period of reckonable service and multiplying it by the appropriate figure;

and in sub-paragraph (b) of this paragraph “the appropriate figure” means the figure (whether being a whole number or not) by which the number of days comprised in the person’s actual period of reckonable service as a participating office holder must be multiplied in order to be equal to twelve months.

(5) In paragraph (3) of this regulation “the appropriate fraction” means—

- (a) in relation to the year beginning with 1st April 1984 and subsequent years, one-fiftieth;
- (b) in relation to the year beginning with 1st April 1982 and previous years, one-sixtieth; and
- (c) in relation to the year beginning with 1st April 1983—
  - (i) in the case of a person who held a qualifying office at some time in the period beginning with 1st April 1983 and ending with 19th July 1983 but did not hold such an office at any time in the period beginning with 20th July and ending with 31st March 1984, one-sixtieth;
  - (ii) in the case of a person who did not hold such an office at any time in the first of those periods but did hold such an office at some time in the second of those periods, one fiftieth; and
  - (iii) in the case of a person who held such an office at some time in each of those periods, nineteen-thousandths.

(6) In paragraphs (2), (3) and (5) of this regulation “year” (except in the expression “sixty-five years”) means a period of twelve months beginning with 1st April.

#### **Permitted maximum pensions: pensioners who joined before 1st June 1989**

The annual amount of the pension payable under regulation F1 or regulation F3 to a person who became a participant before 1st June 1989 shall not exceed whichever is the less of—

- (a) the amount equal to two-thirds of the multiple; or
- (b) such maximum pension as is calculated in respect of that person in accordance with the provisions of Schedule 2,

except to the extent that it is calculated by reference to so much (if any) of that person’s actual period of reckonable service as a participant as fell after he attained the age of sixty-five years.

#### **Permitted maximum pensions: pensioners who joined after 1st June 1989**

**F6.—**(1) The annual amount of the pension payable under regulation F1 or regulation F3 to a person who became a participant on or after 1st June 1989 shall not exceed whichever is the less of—

- (a) the amount equal to two-thirds of the multiple; or

- (b) such maximum pension as is calculated in respect of that person in accordance with the provisions of Schedule 2; or
- (c) the amount equal to two-thirds of the permitted maximum.

(2) In the case of a person who became a participant on or after 1st June 1989 and who is entitled to a pension both under regulation F1 and under regulations F3, the amount of the two pensions together shall not exceed two-thirds of the permitted maximum and, if they do, the pension payable under regulation F3 shall be reduced before the pension payable under regulation F1.

### **Guaranteed minimum pensions**

Notwithstanding any provision of these Regulations to the contrary, any person entitled to receive a pension under regulation F1 or regulation F3 (including an early retirement pension or an ill-health pension by virtue of Part H or Part J)—

- (a) shall be entitled to receive, subject to the provisions of regulation F8(3), from the age of sixty-five years in the case of a man and from the age of sixty years in the case of a woman, a pension payable for the remainder of his or her life, at a rate equivalent to a weekly rate of not less than the guaranteed minimum pension, unless his or her rights thereto are extinguished by payment of a contributions equivalent premium under section 42 of the Pensions Act 1975 (**10**); and
- (b) if the payment of the guaranteed minimum pension of that person is postponed in the circumstances to which section 33(3) of the Pensions Act 1975 applies, the guaranteed minimum pension of that person shall be increased to the extent, if any, specified in section 35(6) of the Pensions Act 1975 (**11**).

### **Duration of pensions**

**F8.**—(1) Subject to the following provisions of this regulation, a pension under regulation F1 or regulation F3 (including an early retirement pension or an ill-health pension by virtue of Part H or Part J) shall continue for the life of the person to whom it is payable.

(2) Subject to paragraph (3) below no such pension shall be payable to a person in respect of any period during which he is a Member of the House of Commons or a candidate for election to that House, or in respect of any part of a period of tenure of a qualifying office other than a part in respect of which no salary is payable or in respect of which no salary is drawn.

(3) Where, in the case of any person, a pension under regulation F1 or regulation F3 or a pension under each of those regulations would, but for paragraph (2) above, be payable to him in respect of a period of tenure of a qualifying office during which he is neither a Member of the House of Commons nor a candidate for election to that House—

- (a) that paragraph shall not apply to that pension or either of those pensions in respect of any part of that period; but
- (b) the amount or aggregate amount payable to him in right of that pension or those pensions for any part of that period shall not exceed the amount, if any, by which the total salary payable to him for that part of that period falls short of the amount of a Member's ordinary salary for that period; and
- (c) if he is a participating office holder in respect of that period then, for the purpose of calculating the amount, if any, which would, apart from sub-paragraph (b) above, be

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(10) Section 42 was amended by the Social Security Act 1985 (c. 53), Schedule 5, paragraph 25(1) and by the Social Security Act 1986 (c. 50), Schedule 2, paragraph 6(1) and Schedule 10, paragraph 21.

(11) Section 35(6) was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 3(2) and subsections (6A) and (6B) were inserted by the Social Security Act 1986 (c. 50), section 9(2), which also by section 9(7) substituted a new section 37A.

payable to him in right of a pension under regulation F3 for any part of that period (but not for any other purpose, and in particular not for the purpose of recalculating at the end of that period the annual amount of the pension, if any, to which apart from sub-paragraph (b) above he is entitled under regulation F3), that period shall be deemed not to be a period of reckonable service as a participating office holder.

In this paragraph “salary” (except in the expression “a Member’s ordinary salary”) means salary payable to the office holder in respect of his tenure of that office.

(4) For the purposes of this regulation a person who ceases to be a Member in consequence of the dissolution of Parliament shall be treated as a candidate for election unless and until he gives notice in writing to the Trustees that he is not seeking re-election.

(5) The provisions of this regulation shall not apply for the purposes of calculating the amounts payable under regulations M2(3), M2(4)(b), M3(4), M4(2) or M7 (five year guarantee).

## PART G

### Commutation

#### Commutation into lump sum

**G1.**—(1) Any person who is entitled to receive a pension under Part F (including an ill-health pension payable by virtue of Part J) or who applies to receive a pension under Part H may, before the first instalment of the pension is paid, give notice to the Trustees that he desires to commute into a lump sum such part of the pension as is specified in the notice.

(2) Where a person has given notice under this regulation, the Trustees shall determine—

- (a) what lump sum would be actuarially equivalent to the part of the pension specified in the notice; and
- (b) what reduction of the annual amount of his pension would be appropriate in consideration of the payment of that lump sum; and

subject to the following provisions of this regulation, a lump sum of the amount so determined shall be paid to that person and the annual amount of his pension shall be reduced accordingly.

(3) Any lump sum or reduction to be determined under paragraph (2) above shall be a sum or reduction either certified by the Government Actuary, or calculated in accordance with tables to be prepared from time to time by the Government Actuary, as fulfilling the conditions specified in sub-paragraph (a) or sub-paragraph (b) of that paragraph, as the case may be.

(4) If, in the case of any person who has given notice under this regulation, the amount of the lump sum determined in accordance with paragraphs (2) and (3) above, would exceed the maximum commutable sum—

- (a) the amount of the lump sum so determined shall be diminished by such proportion as is necessary to make it equal to the maximum commutable sum; and
- (b) the reduction of the annual amount of his pension under that regulation shall be diminished by the like proportion.

(5) For the purposes of paragraph (4) above, the maximum commutable sum in the case of any person shall be calculated in accordance with Schedule 3 and, in the case of a person who became a participant on or after 1st June 1989, shall be subject to an overall maximum of 120/80 of the permitted maximum.

(6) In determining the amount of the lump sum under this regulation, the maximum commutable sum shall if necessary be diminished so that the annual amount of pension shall not be reduced under paragraph (4) above below the rate of the guaranteed minimum pension.

## PART H

### Early retirement and early abated pensions

#### Early retirement for Members

**H1.**—(1) Where a person who—

- (a) has ceased to be a Member of the House of Commons; and
- (b) is not the holder of a qualifying office; and
- (c) has attained the age of fifty years; and
- (d) has an actual period of reckonable service as a participating Member which
  - (i) includes service on or after 2nd April 1991; and
  - (ii) amounts to not less than fifteen years (hereinafter referred to in respect of a person as his “qualifying period”),

applies in writing to the Trustees for an immediate pension under this regulation then, if the Trustees are satisfied that he does not intend to stand for re-election to that House, he shall be entitled to receive a pension under regulation F1 as if he had attained the age of 65 years on the date of his application or, if later, such other date as may be there specified; but the annual amount of the pension to which he is so entitled, both before and after he attains the age of sixty-five years, shall (subject to Part G (Commutation)) be an amount calculated in accordance with regulation F2 and abated in accordance with Schedule 4.

(2) For the purposes of this regulation service of a person as a Member of the Parliament of the European Communities, whether rendered before or after 2nd April 1991, may count towards his qualifying period to the extent that it is not concurrent with service as a Member of the House of Commons.

#### Early retirement for office holders who have been Members

**H2.** A person who is entitled to receive a pension under regulation H1 who is or has been a participating office holder shall (subject to Part G (Commutation)) be entitled also to receive a pension under regulation F3 calculated in accordance with regulation F4 and abated in accordance with Schedule 4 and payable from the same date as the pension payable under regulation H1.

## PART J

### Ill-health Pensions

#### Ill-health pensions based on service as a participating Member

**J1.**—(1) A participant who because of ill-health—

- (a) ceases to be a participating Member before attaining the age of sixty-five years; or
- (b) while not a Member of the House of Commons but while having a period of reckonable service as a participating Member ceases to be a participating office holder before attaining that age,

may apply to the Trustees for an early pension under regulation F1 if at the time when he so ceases (“the material time”) he would have become entitled to receive a pension under that regulation but for his not having attained the age of sixty-five years.

(2) If on an application under this regulation the Trustees are satisfied—

- (a) that the applicant does not intend to seek re-election to the House of Commons or to accept any future offer of a qualifying office;
- (b) that his ceasing as mentioned in sub-paragraph (a) or (b) of paragraph (1) above was a direct consequence of his ill-health; and
- (c) that his ill-health is such as would prevent him from performing adequately the duties of a Member of the House of Commons,

the applicant shall be entitled to receive a pension under regulation F1 as from the material time.

(3) A person who, if he were to cease as mentioned in sub-paragraph (a) or (b) of paragraph (1) above at a particular time in the future because of ill-health, would become entitled to make an application under that paragraph, may make such an application before that time, specifying in it the time when he proposes so to cease, and where on such an application the Trustees are satisfied that, if the applicant so ceases at the time specified therein, he will be entitled under paragraph (2) above to receive a pension under regulation F1 as from that time, they shall give him notice in writing to that effect.

(4) The annual amount of a pension payable under regulation F1 to a person by virtue of this regulation shall (subject to Part G (Commutation)) be calculated in accordance with regulation F2; but for the purposes of that calculation his actual period of reckonable service as a participating Member shall be increased by a period equal to the period between his ceasing as mentioned in sub-paragraph (a) or (b) of paragraph (1) above and the time when he would attain the age of sixty-five years.

(5) Paragraph (4) above shall apply to the calculation of a pension payable under this regulation to a participating Member who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons; save that

- (a) the amount of the pension shall be calculated in accordance with regulation F2(5); and
- (b) for the purpose of that calculation, it shall be assumed that the contribution factor in respect of each year of reckonable service added to the person's actual period of reckonable service by virtue of paragraph (4) above—
  - (i) shall equal the contribution factor in respect of his final year of reckonable service; or
  - (ii) if at the material time it is less than a year since he was first appointed to that office, shall equal a contribution factor calculated in accordance with regulation F4(2) in respect of the fraction of a year since the date of that appointment.

(6) For the purposes of this regulation—

- (a) a person who has ceased to be a participating Member in consequence of the dissolution of Parliament shall be treated as having so ceased because of ill-health if, but only if, he satisfies the Trustees that as a direct consequence of his ill-health he did not seek re-election to the House of Commons after the dissolution; and
- (b) a person who has, while not a Member of the House of Commons, ceased to be a participating office holder because of the result of a general election consequent upon the dissolution of Parliament shall be treated as having so ceased as a direct consequence of his ill-health if, but only if, he satisfies the Trustees that on the day of the poll in that election his ill-health was such as would prevent him from performing adequately the duties of a Member of the House of Commons.

### **Ill-health pensions based on service as an office holder**

**J2.**—(1) A participant who because of ill-health—

- (a) ceases to be a participating Member before attaining the age of sixty-five years; or



- (b) while not a Member of the House of Commons ceases to be a participating office holder before attaining that age,

may apply to the Trustees for an early pension under regulation F3 if at the time when he so ceased (“the material time”) he would have become entitled to receive a pension under that regulation but for his not having attained the age of sixty-five years.

(2) If on an application under paragraph (1) above the Trustees are satisfied as mentioned in sub-paragraph (a) (so far as applicable) and sub-paragraphs (b) and (c) of regulation J1(2), the applicant shall be entitled to receive a pension under regulation F3 as from the material time.

(3) Regulation J1(3) shall apply in relation to paragraphs (1) and (2) above as it applies to paragraphs (1) and (2) of that regulation, the reference to a pension under regulation F1 being for this purpose read as a reference to a pension under regulation F3.

(4) The annual amount of a pension payable under regulation F3 by virtue of this regulation shall (subject to Part G (Commutation)) be calculated in accordance with regulation F4.

(5) Regulation J1(6) shall apply for the purposes of this regulation.

### **Ill-health pensions for former Members**

**J3.**—(1) A person who because of ill-health has, while neither a Member of the House of Commons nor a candidate for election to it nor an office holder, retired from gainful work before attaining the age of sixty-five years may apply to the Trustees for an early pension under regulation F1 if at the time when he so retired he would have become entitled to receive a pension under that regulation but for his not having attained the age of sixty-five years.

(2) If on an application under this regulation the Trustees are satisfied—

- (a) that the applicant does not intend to seek election to the House of Commons or to accept any future offer of a qualifying office;
- (b) that his retirement from gainful work was a direct consequence of his ill-health; and
- (c) that his ill-health is such as would prevent him from performing adequately the duties of a Member of the House of Commons,

the applicant shall, as from the date on which the Trustees are so satisfied, be entitled to receive a pension under regulation F1.

(3) Where an application is made under this regulation, the Trustees shall by notice in writing inform the applicant whether they are satisfied as mentioned in paragraph (2) above and, if they are so satisfied, shall state the date as from which the pension payable to him by virtue of this regulation is payable in accordance with that paragraph.

(4) In this regulation “gainful work” means work under a contract of employment, or as the holder of an office, or as a self-employed person engaged in a business or profession, being in any case work from which the person concerned gains the whole or a substantial part of his income.

### **Ill-health pensions for former office holders**

**J4.** Regulation J3 shall apply in relation to a person who because of ill-health has while neither a Member of the House of Commons nor a candidate for election to it nor an office holder, retired from gainful work before the age of sixty-five years and who applies to the Trustees for an early pension under regulation F3; and where regulation J3 applies to such a person any reference to regulation F1 shall be construed as a reference to regulation F3.

## Medical evidence

**J5.**—(1) Every application under Part J must be accompanied by medical evidence of the applicant's state of health.

(2) In the case of any such application the Trustees may require the applicant to undergo a medical examination by a medical practitioner nominated by them for the purpose; and the fees for any such examination shall be borne by the Trustees or the applicant, as the Trustees may determine.

## PART K

### Widows, Widowers and Children

#### Equal Treatment

**K1.** Regulations K2, 3, 4 and 5 shall apply in relation to a woman who was a participant on or after 31st July 1984 who has died and her widower as they apply in relation to a man who has so died and his widow, except in so far as they relate to the guaranteed minimum pension and to pensions payable to widows under section 36(6) of the Pensions Act 1975 (Regulation K2(5)(6)(7) and (8)).

#### Pensions for Widows and Widowers

**K2.**—(1) Subject to the provisions of this regulation, the widow of a man who—

- (a) was a participant at any time on or after 31st July 1984; and
- (b) was at the time of his death either:
  - (i) a participant; or
  - (ii) a pensioner; or
  - (iii) a deferred pensioner;

shall be entitled to receive a pension under this regulation.

(2) The annual amount of a pension payable under this regulation to a widow whose husband died on or after 6th April 1988 shall be five-eighths of the basic or prospective pension or pensions of her late husband.

(3) Subject to paragraphs (4) and (6), a pension payable under this regulation to a widow shall continue for her life or until her remarriage; but in the case of remarriage the Trustees may, if they think fit, at any time direct that the pension shall be restored if satisfied that the subsequent marriage has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage.

(4) Subject to paragraph (6), no pension shall be payable under this regulation to a widow who, at her husband's death, was cohabiting with another person; and if a widow entitled to such a pension cohabits with another person, the pension shall cease to be payable:

Provided that the Trustees may, if they think fit, direct that the pension shall be paid or restored, as the case may be, if satisfied that the cohabitation has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding that the cohabitation continues.

(5) Notwithstanding anything in these Regulations and in particular notwithstanding the provisions of paragraphs (3) and (4) above—

- (a) the widow of a man who had a guaranteed minimum pension under these Regulations or under Part I of the 1972 Act shall, upon his death, be entitled to a pension for the remainder

of her life at a rate equivalent to a weekly rate of not less than half the guaranteed minimum of that man; and

- (b) the widower of a woman who had such a guaranteed minimum pension, shall, upon her death, be entitled to a pension for the remainder of his life at a rate equivalent to not less than half of that part of the woman's guaranteed minimum pension which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.

(6) During any period specified in section 36(6) of the Pensions Act 1975 (12) as being a period during which a Category B retirement pension, widowed mother's allowance or widow's pension is payable to her under that sub-section, the widow of a person shall, notwithstanding the provisions of paragraphs (3) and (4) above, be entitled to a pension under paragraphs (1) and (2) above, but if after she has attained the age of sixty years she remarries or cohabits with another person the Trustees may direct that the pension be restricted to the guaranteed minimum pension to which she is entitled.

(7) Where a man dies in circumstances in which, apart from this paragraph, a widow's pension calculated in accordance with paragraph (2) would be payable to a woman married by him within the period of six months ending with his death and it appears to the Trustees that his death within six months was to be foreseen by him at the date of the marriage, then if—

- (a) there are no children of that marriage; and
- (b) the man was married to the woman after the termination of his service in contracted-out employment in respect of which the widow's pension is payable; and
- (c) the rate of the widow's pension payable to her would be in excess of the widow's guaranteed minimum pension,

the Trustees may direct that any part of the widow's pension which is in excess of the widow's guaranteed minimum pension shall not be payable.

(8) Paragraph (7) shall apply in relation to a woman who has died on or after 6th April 1988 and her widower as it applies in relation to a man who has so died and his widow, save that the widower's guaranteed minimum pension payable shall be the amount specified in paragraph (5)(b) above.

### **Pensions for Children**

**K3.**—(1) Subject to the provisions of this regulation, a children's pension shall be payable for the benefit of any relevant child or children of a person who has died on or after 6th April 1988 and who is or has been married, if at the time of his death the conditions specified in regulation K2(1) (b) are fulfilled in his case.

(2) The annual amount of a children's pension payable under this regulation for the benefit of any relevant child or children of a person who has died in the circumstances mentioned in the previous paragraph shall be:

- (a) a sum equal to one-quarter of the basic or prospective pension or pensions of the deceased if there is one child or, if there is more than one, a sum equal to three-sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two; or
- (b) if the widow or widower is dead and subject to paragraph (4) below, a sum equal to five-sixteenths of the basic or prospective pension or pensions of the deceased for each relevant child not exceeding two.

(3) Where the deceased left a widow or widower who was (or, apart from the provision as to cohabitation, would have been) entitled to a pension under regulation K2 and that pension—

- (a) has ceased to be payable in consequence of the remarriage of the widow or widower, or

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(12) Section 36(6) was amended by the Social Security Act 1986 (c. 50), Schedule 11 and by the Social Security (Consequential Provisions) Act 1992 (c. 6) Schedule 2, paragraph 28.

- (b) was not payable, or has ceased to be payable, by reason of the provision as to cohabitation, any children's pension under this regulation shall cease to be payable or, as the case may be, shall not be payable, unless and until the Trustees for exceptional reasons direct that the children's pension shall be payable.

(4) A children's pension under this regulation shall be paid to or distributed between such person or persons as the Trustees may from time to time direct, and shall be applied by that person or those persons, without distinction, for the benefit of the relevant child or relevant children of the deceased or such of them as the Trustees may from time to time direct.

(5) In this regulation "child" in relation to any person includes an illegitimate child, a stepchild or an adopted child and "relevant child" (subject to the provisions of Schedule 6) means any child of the deceased, or of any wife or husband of the deceased, who—

- (a) is under seventeen years of age; or
- (b) is under twenty-two years of age and is within his period of full-time education as defined by Schedule 5; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within subparagraph (a) or (b) of this paragraph or incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by Parliament in a hospital or similar institution so maintained,

and "the provision as to cohabitation" means regulation K2(4).

#### **Death in service of participating Member**

**K4.**—(1) Where a man has died and, at the time of his death, he was a participating Member, paragraph (2) below and regulation K5 (so far as applicable) shall apply if his widow is entitled to receive a pension under regulation K2, or if a children's pension is payable under regulation K3 for the benefit of any relevant child or children of his.

(2) If the deceased died before attaining the age of sixty-five years, the annual amount of any pension payable to his widow under regulation K2, or for the benefit of any relevant child or children of his under regulation K3, shall be calculated as if he had immediately before his death ceased because of ill-health to be a Member of the House of Commons and had by virtue of regulation J1 been entitled to receive a pension under regulation F1 as from the time when he so ceased.

#### **Enhancement of initial widows' and widowers' pensions**

**K5.**—(1) In this regulation "the three month period", in relation to a person who has died, means the period of three months beginning with the day following the date of his death.

(2) Where the widow of a man who—

- (a) has been a participating Member at any time on or after 2nd August 1978; and
- (b) was at the time of his death a pensioner Member,

is entitled to receive a pension under regulation K2, paragraphs (3) and (4) of this regulation shall apply.

(3) If, for any part of the three month period, the aggregate of the following amounts, namely—

- (a) the amount payable to her by way of pension under regulation K2 apart from this paragraph; and

- (b) any amount which (by direction of the Trustees under regulation K3(4)) is payable to her by way of pension under regulation K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (4) below, then for that part of that period the amount payable to her by way of pension under regulation K2 shall be increased by the difference.

(4) The said amount is the amount which, if the deceased had lived, would have been payable to him for the part of the three month period in question by way of pension under one or both of regulation F1 and regulation F3 or under section 7 or section 9 of the 1972 Act.

(5) Where a man has died and, at the time of his death, he was a participating Member, paragraphs (6) and (7) of this regulation (so far as applicable) shall apply if his widow is entitled to receive a pension under regulation K2 or if a children's pension under regulation K3 is payable for the benefit of any relevant child or children of his.

- (6) If, for any part of the three month period, the aggregate of the following amounts, namely—
  - (a) the amount payable to the deceased's widow by way of pension under regulation K2 apart from this paragraph; and
  - (b) any amount which (by direction of the Trustees under regulation K3(4)) is payable to her by way of pension under regulation K3 for the benefit of any relevant child or children of the deceased,

is less than the amount mentioned in paragraph (7) below, then for that part of that period the amount payable to her by way of pension under regulation K2 shall be increased by the difference.

(7) The said amount is the amount which would have been payable to the deceased for the part of the three month period in question if—

- (a) the deceased had lived and had at the material time become entitled to a pension under regulation F1; and
- (b) the annual amount of that pension had been—
  - (i) in the case of a person who held or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, a sum equal to his salary as a Member of the House of Commons pursuant to an effective resolution at the rate in force at the material time; or
  - (ii) in the case of any other person, a sum equal to the Member's ordinary salary at the rate in force at the material time.

In this paragraph "the material time" means the time when the deceased in fact died.

(8) The preceding provisions of this regulation are without prejudice to paragraphs (3), (4), (7) and (8) of regulation K2 (duration of widow's pension, and restrictions on payment).

### **Meaning of "basic or prospective pension or pensions"**

**K6.**—(1) The definition in paragraph (2) below applies in respect of a person whose actual period of reckonable service as a participant includes service at any time on or after 31st July 1984.

- (2) In these Regulations "basic or prospective pension or pensions"
  - (a) in relation to a person who has died and who at the time of his death was a participant, means the annual amount of the pension or pensions specified in whichever of the following paragraphs apply to him:
    - (i) where the deceased was or had been a participating Member, the annual amount of the pension calculated in respect of him in accordance with regulation F2 or, if he died while a participating Member before attaining the age of sixty five years, the

annual amount of the pension calculated in respect of him by virtue of regulation K4; and

- (ii) where the deceased was or had been a participating office holder, the annual amount of the pension, calculated in accordance with regulation F4, which he would have been entitled to receive under regulation F3, if immediately before his death he had fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1(1); and
- (b) in relation to a person who has died and who at the time of his death was a pensioner, means the annual amount of the pension or pensions of which he was in receipt or which he was entitled to receive calculated in accordance with Part F, including an ill health pension calculated in accordance with Part J; provided that where the annual amount of which he was in receipt resulted from one or more reductions or abatements made under regulations G1 (commutation) or H1 or H2 (early retirement), no such reduction or abatement shall be made in calculating the annual amount of that pension or pensions for the purposes of this regulation;
- (c) in relation to a person who has died and who at the time of his death was a deferred pensioner, means the annual amount of the pension or pensions specified in whichever of the following sub-paragraphs apply to him—
  - (i) where the deceased was a former participating Member, the annual amount of the pension, calculated in accordance with regulation F2, which he would have been entitled to receive under regulation F1 if he had ceased to be a Member of the House of Commons immediately before his death and he had then fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1(1);
  - (ii) where the deceased was a participating office holder, the annual amount of the pension, calculated in accordance with regulation F4, which he would have been entitled to receive under regulation F3 if immediately before his death he had fulfilled the conditions specified in sub-paragraphs (a) to (c) of regulation F1 (1).

## PART L

### Death Gratuities

#### **Gratuity on death in service**

**L1.**—(1) Where a person has died at a time when he was a participant the Trustees may, if they think fit in their discretion to do so, grant a gratuity under this regulation in respect of him.

- (2) A gratuity granted under this regulation in respect of a participant shall be granted—
  - (a) to the individual nominated in any nomination made by him for the purposes of this regulation which was in force at the time of his death; or
  - (b) if no such nomination was in force at that time, to his personal representatives.
- (3) The Trustees shall treat a nomination made for the purposes of this section by any participant as not being in force at the time of the participant's death—
  - (a) if the individual nominated was the participant's wife or husband at the time the nomination was made but has subsequently ceased to be the participant's wife or husband; or
  - (b) if they are of the opinion that the payment of the gratuity to the individual nominated is not reasonably practicable in all the circumstances.

(4) A nomination for the purposes of this regulation must be made, and may be revoked, by a notice in writing given to the Trustees; and such a notice must be in such form as the Trustees may require.

(5) Subject to paragraph (6) below, the amount of a gratuity granted under this regulation in respect of a participant shall be whichever of the two following amounts is the greater—

- (a) the amount equal to twice a Member's ordinary salary at the time of his death;
- (b) the aggregate of the contributions paid by that participant, and not refunded to him, together with interest on each such contribution from the date on which it was paid.

(6) In the case of a person who became a participant on or after 1st June 1989 the amount of the gratuity in paragraph (5) above shall be subject to an overall maximum of twice the permitted maximum.

### **Gratuity on death after retirement**

**L2.**—(1) Where a pensioner who was a participant at any time on or after 6th April 1988 dies and no pension in respect of him is payable under regulation K2 or regulation K3, the Trustees may, if they think fit in their discretion to do so, but subject to paragraph (2) below, grant to his personal representatives a gratuity under this regulation.

(2) The Trustees shall not grant a gratuity under this regulation in respect of a person who was a participant at any time on or after 1st April 1992 if the amount of any such gratuity would be less than the amount of any lump sum or the aggregate of any lump sums payable by virtue of regulation M4(2) or regulation M7.

(3) For the purpose of determining the amount of a gratuity which may be granted in respect of a pensioner under this regulation, there shall be calculated—

- (a) the amount of the gratuity which the Trustees could have granted to his personal representatives under regulation L1 above if he had died at a time when he was a participant; and
- (b) the aggregate amount of the payments made to him by way of pension under Part F, Part H or Part J together with any lump sum paid to him under regulation G1;

and the amount of the gratuity shall be the amount (if any) by which the amount calculated under sub-paragraph (a) exceeds the amount calculated under sub-paragraph (b) of this paragraph.

## **PART M**

### **FIVE YEAR GUARANTEE**

#### **Entitlement**

**M1.**—(1) Regulations M2, M3, M4, M5 and M6 shall apply in respect of a deceased pensioner Member whose actual period of reckonable service as a participating Member includes service at any time on or after 1st April 1992.

(2) Regulation M7 shall apply in respect of—

- (a) a deceased pensioner office holder whose actual period of reckonable service as an office holder includes service at any time on or after 1st April 1992; and
- (b) a deceased pensioner to whom paragraph (1) applies whose actual period of reckonable service as a participant includes service as a participating office holder at any time.

(3) Part M shall be deemed to have come into force on 1st April 1992.

### **Guarantees for widows and widowers**

**M2.**—(1) Where a pensioner Member dies during the pensioner Member’s five year period and is survived by a widow or widower, paragraphs (2) to (6) of this regulation shall apply.

(2) If for any part of the pensioner Member’s five year period, the aggregate of the following amounts namely—

- (a) the amount payable to the widow or widower by way of pension under regulation K2 apart from this paragraph (including any enhancement payable under regulation K5); and
- (b) any amount which (by direction of the Trustees under regulation K3(4)) is payable by way of pension under regulation K3 for the benefit of any relevant child or children of the deceased pensioner Member,

is less than the amount mentioned in paragraph (3) of this regulation, then for that part of that period the difference shall be payable to the widow or widower.

(3) The said amount is the amount which, if the deceased pensioner Member had lived, would have been payable to him for the part of the pensioner Member’s five year period in question by way of pension under regulation F1 (including an early retirement pension or an ill-health pension payable by virtue of regulation H1, J1 or J3).

(4) If the widow or widower of the deceased pensioner Member dies during the pensioner Member’s five year period, there shall be paid to the personal representatives of the widow or widower a lump sum which shall be calculated by deducting the amount mentioned in sub-paragraph (a) below from the amount mentioned in sub-paragraph (b) below—

- (a) the total of any pensions which (by direction of the Trustees under regulation K3(4)) would have been payable under regulation K3 for the benefit of any relevant child or children of the deceased pensioner Member if the annual sum payable under regulation K3(2) (after the death of the widow or widower of the deceased pensioner Member) in respect of each relevant child had continued during the period ending on the pensioner Member’s children’s prospective pension end date for that child;
- (b) the amount which would have been payable to the deceased pensioner Member if the annual amount of the pension to which he was entitled under regulation F1 (including an early retirement pension or an ill health pension payable by virtue of regulation H1, J1 or J3) were to have been paid to him during the remainder of the pensioner Member’s five year period.

(5) In this Part, “the pensioner Member’s five year period” means the period of five years beginning with the day on which he became entitled to receive a pension or pensions under regulation F1 (including an early retirement pension or an ill health pension payable by virtue of regulation H1, J1 or J3).

(6) In this Part, “the pensioner Member’s children’s prospective pension end date” means, in respect of any relevant child of a deceased pensioner Member the sooner of,

- (a) (i) the date before that on which that child reaches seventeen years of age; or
- (ii) if the child is within his period of full time education as defined by Schedule 6, such later date as the Trustees may determine being no later than the date before that on which the child reaches twenty two years of age;

and

- (b) the end of the pensioner Member’s five year period.

### **Guarantees where children but no spouse survive**

**M3.**—(1) Where a pensioner Member dies during the pensioner Member’s five year period and is survived by a relevant child or children, but no spouse, paragraph (2) of this regulation shall apply.



(2) There shall be paid to the personal representatives of the deceased pensioner Member a lump sum which shall be calculated by deducting the amount mentioned in subparagraph (a) below from the amount mentioned in subparagraph (b) below—

- (a) the total of any pensions payable under regulation K3 (by direction of the Trustees under regulation K3(4)) for the benefit of any relevant child or children of the deceased pensioner Member, if the annual sum payable under regulation K3(2) (after the death of the pensioner Member) in respect of each relevant child were to continue during the period ending on the pensioner Member's children's prospective pension end date for that child;
- (b) the amount which would have been payable to the deceased pensioner Member if the annual amount of the pension to which he was entitled under regulation F1 (including an early retirement pension or an ill health pension payable by virtue of regulation H1, J1 or J3) were to have been paid to him during the remainder of the pensioner Member's five year period after his death.

#### **Guarantees where no survivors**

**M4.**—(1) Where a pensioner Member dies within the pensioner Member's five year period and is not survived by his spouse nor by any relevant child or children, paragraph (2) of this Regulation shall apply.

(2) There shall be paid to the personal representatives of the deceased pensioner Member a lump sum calculated as if the annual amount of the pension to which he was entitled under regulation F1 (including an early retirement pension or an ill health pension payable by virtue of regulation H1, J1 or J3) were to be paid to him during the remainder of the pensioner Member's five year period after his death.

(3) This regulation shall not apply if a gratuity is granted under regulation L2.

#### **Remarriage or cohabitation of surviving spouse**

**M5.**—(1) If during a deceased pensioner Member's five year period—

- (a) the widow or widower of that deceased pensioner Member remarries or cohabits with another person; and
- (b) the Trustees direct that the widow's or widower's pension be paid or restored under regulation K2(3) or (4);

the Trustees may direct that payments under regulation M2(2) shall continue until the end of the pensioner Member's five year period or until such earlier date as the Trustees may in their discretion think fit.

(2) If, during a deceased pensioner Member's five year period

- (a) the widow or widower of that deceased pensioner Member remarries or cohabits with another person; and
- (b) the Trustees direct that only the guaranteed minimum pension to which the widow or widower is entitled to be paid;

the Trustees may direct that a lump sum be paid to the personal representatives of the deceased calculated as follows:

- (i) if the Trustees direct under regulation K3(3) that the pensions payable to any relevant child or children of the deceased shall for exceptional reasons be payable, by deducting the total of the guaranteed minimum pension payable to the widow or widower during the remainder of the pensioner Member's five year period from the amount calculated in accordance with regulation M3(2); or

- (ii) otherwise, by deducting the total of the guaranteed minimum pension payable to the widow or widower during the remainder of the pensioner Member's five year period from the amount calculated in accordance with regulation M4(2);

or, in either case, any such lesser sum as the Trustees may in their discretion think fit.

### **Early termination of child's period of full time education**

#### **M6. If**

- (a) a sum has been paid to the personal representatives of the widow or widower of a deceased pensioner Member under regulation M2(4) or to the personal representatives of a deceased pensioner Member under regulation M3(2); and
- (b) the period of full time education of any relevant child of the deceased pensioner Member has come to end on a date earlier than the pensioner Member's children's prospective pension end date for that child used in the calculation of that sum;

the Trustees may pay a further sum to the said personal representatives calculated by deducting the amount mentioned in sub-paragraph (ii) below from the amount mentioned in sub-paragraph (i) below—

- (i) the total of any pensions which would have been payable for the benefit of that child if the payments had continued until his pensioner Member's children's prospective pension end date;
- (ii) the total of the pensions which have been paid for his benefit.

### **Deceased pensioner office holders**

**M7.—**(1) Regulations M2, M3, M4, M5 and M6 shall apply in relation to a deceased pensioner office holder and his or her widow or widower and any relevant child or children as they apply in relation to a deceased pensioner member and his or her widow or widower and relevant child or children but where those Regulations apply in relation to a deceased pensioner office holder—

- (a) any reference to "pensioner Member" shall be construed as a reference to "pensioner office holder"; and
- (b) any reference to "the pensioner member's children's prospective pension end date" shall be construed as a reference to "the pensioner office holder's children's prospective pension end date"; and
- (c) any reference to "the pensioner member's five year period" shall be construed as a reference to "the pensioner office holder's five year period"; and
- (d) any reference to regulation F1 shall be construed as a reference to regulation F3; and
- (e) any reference to regulation H1 shall be construed as a reference to regulation H2; and
- (f) any reference to regulation J1 shall be construed as a reference to regulation J2; and
- (g) any reference to regulation J3 shall be construed as a reference to regulation J4.

(2) In this Part—

"the pensioner office holder's children's prospective pension end date" means, in respect of any relevant child of a deceased pensioner office holder, the sooner of—

- (a) (i) the date before that on which the child reaches seventeen years of age; or
- (ii) if the child is within his period of full time education as defined by Schedule 6, such later date as the Trustees may determine being no later than the date before that on which the child reaches twenty-two years of age;

and

(b) the end of the pensioner office holder's five year period;

"the pensioner office holder's five year period" means the period of five years beginning with the day on which he became entitled to receive a pension under regulation F3 (including an early retirement pension or an ill health pension payable by virtue of regulation H2, J2 or J4).

## PART N

### Refunds

#### Refund to contributor

**N1.**—(1) Subject to paragraphs (3) and (6) below contributions paid by a person and not previously refunded to him, shall be refunded to him by the Trustees, with interest from the dates on which the contributions were paid respectively, if he requests the Trustees to refund the contributions to him and, on the date of that request, the conditions specified in the next following paragraph are fulfilled in relation to him.

(2) The conditions referred to in paragraph (1) of this regulation are that—

- (a) the person has ceased to be a participant on or after 1st January 1972;
- (b) his aggregate period of reckonable service as a participant is less than two years;
- (c) he has not become Prime Minister and First Lord of the Treasury, Speaker of the House of Commons or Lord Chancellor; and
- (d) he has not become entitled to a pension under these Regulations.

(3) A person shall not be entitled to a refund of the contributions paid by him, if that person is a person who in the case of a man had ceased to be a participant during or on a date after the end of the tax year in which he attains the age of sixty-five years or in the case of a woman had ceased to be a participant during or on a date after the end of the tax year in which she attained the age of sixty years.

(4) If, after the refund of contributions to him under this regulation, the person becomes entitled to pay and pays contributions under regulation D1 or regulation D2, he may—

- (a) if he so desires, and makes the repayment before the end of the period of three months beginning with the date on which he becomes so entitled, or
- (b) after the end of that period, if the Trustees so allow,

repay to the Trustees the sum so paid to him, with interest from the date on which it was paid to him provided that in any tax year the amount of the repayment together with—

- (i) the contributions made by him under regulation D1 or regulation D2; and
- (ii) any contributions made by him under regulation Q1; and
- (iii) any other additional voluntary contributions

shall not exceed 15 per cent of his salary as a Member of the House of Commons or as an office holder or both or, in the case of a person who became a participant on or after 1st June 1989, the smaller of 15 per cent of that salary or salaries and 15 per cent of the permitted maximum; and any sum to be paid to the trustees under this paragraph may, if the Trustees so allow, be paid by instalments over such period, not exceeding three years, as the Trustees think fit.

(5) Any amount (whether of principal or interest) paid by the participant to the Trustees under paragraph (4) of this regulation shall be treated for the purposes of this regulation as if it were a contribution paid by him at the time when he makes that payment.

(6) The Trustees shall deduct from the amount of any contributions which may be repaid to a person in accordance with the provisions of this regulation the amount certified by the Secretary of State in accordance with Section 47(2) of the Pensions Act 1975 in respect of that person.

(7) For the purpose of calculating a person's actual period of reckonable service as a participant, no account shall be taken of any period in respect of which contributions paid by that person have been—

- (a) refunded to him under this regulation; and
- (b) not subsequently repaid by him to the Trustees.

### **Refund after death**

**N2.** Where a person has died on or after 1st January 1972—

- (a) without leaving a widow, widower or relevant child who is, or may become, entitled in respect of that person to receive a pension under regulations K2 or K3; and
- (b) in circumstances where the conditions specified in sub-paragraphs (a), (c) and (d) of paragraph (3) of regulation N1 were fulfilled in relation to him, but where he had not made a request for a refund of contributions under that section,

the Trustees shall refund to his personal representatives the contributions paid by the participant and not previously refunded to him, with interest from the dates on which the contributions were paid respectively.

### **Refund of Prime Ministers' and Speakers' contributions**

**N3.—**(1) In respect of any person who has paid contributions and who at any time after these Regulations come into force has been appointed or elected Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, the Trustees shall pay into the Consolidated Fund not less than three months after the date of his appointment or election to that office the sum specified in paragraph (2) below.

(2) The sum referred to in paragraph (1) above—

- (a) in the case of a person who has exercised the option in regulation C2, shall be such sum as represents the value, as at the effective date of the option, of his pension rights (if any) accrued under Part I of the 1972 Act in respect of his participation in the Parliamentary pension scheme on or before 27th February 1991; or
- (b) in the case of a person who has not exercised the option in regulation C2, shall be such sum as represents the value of his accrued pension rights under Part I of the 1972 Act or under these Regulations.

(3) For the purposes of paragraph (2) above, the value of a person's accrued pension rights under Part I of the 1972 Act or under these Regulations shall be taken to be such sum as for those purposes may be certified by, or calculated in accordance with tables prepared by, the Government Actuary.

(4) In the case of a person who, after these Regulations come into force, is appointed or elected to the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, there shall be refunded to him out of the Consolidated Fund (or, if he has died, to his personal representative), not less than three months after the date of his appointment or election to that office—

- (a) if he has exercised the option in regulation C2, that part (if any) of the sum paid into the Consolidated Fund under paragraph (1) above which represents the aggregate of the contributions paid by him into the Fund before 28th February 1991; or
- (b) if he has not exercised the option in regulation C2, the aggregate of the contributions paid by him into the Fund at any time and not previously refunded.

(5) Within three months of the date when these Regulations come into force, there shall be refunded from the Consolidated Fund to each of the persons who on 1st December 1993 held the offices of Prime Minister and First Lord of the Treasury and Speaker of the House of Commons (or, if either of them has died, to his personal representative) the sum which represents the aggregate of the contributions paid by him into the Fund.

(6) Any refund under paragraph (4) or (5) above shall be paid with interest from the dates on which the contributions were paid respectively.

#### **Refund of Lord Chancellors' contributions**

**N4.**—(1) In respect of any person who has paid contributions and who at any time has become Lord Chancellor, the Trustees shall pay into the Consolidated Fund such sum as represents the value of his pension rights accrued under these Regulations or under Part I of the 1972 Act.

(2) For the purposes of paragraph (1) above the value of a person's accrued pension rights shall be taken to be such sum as for those purposes may be certified by, or calculated in accordance with tables prepared by, the Government Actuary.

(3) In the case of a person who has ceased to hold office as Lord Chancellor or has died while holding that office, there shall be refunded to him, or (as the case may be) to his personal representative, out of the Consolidated Fund the aggregate of the contributions paid by him and not previously refunded, with interest from the dates on which the contributions were paid respectively.

#### **Deduction of tax from refunds of contributions**

**N5.**—(1) On making any repayment of contributions (including interest on contributions) under regulation N1, the Trustees shall be entitled to deduct from the repayment any tax to which they may become chargeable under subsection 2 of section 598 of the Taxes Act 1988 (**13**) (charge to tax: repayment of employee's contributions).

(2) In the case of any person entitled to a refund of contributions (including interest on contributions) under regulation N3 or regulation N4 there shall be deducted from the payment the amount of tax payable under subsection 2 of section 598 of the Taxes Act 1988 and where

- (a) any part of an amount falling to be reduced under this paragraph represents a sum paid for the purchase of added years; and
- (b) that sum was so paid otherwise than in respect of an obligation that required the making of periodical payments (whether by way of deduction from salary or otherwise) over a period of five years or more,

there shall be disregarded, for the purposes of calculating the amount of the reduction to be made under this paragraph, so much of that part of the amount falling to be reduced as does not represent interest on that sum.

#### **Deemed contributions**

**N6.** For the purposes of regulations N3(4) and N4(3) any payments made by a person for the purchase of added years shall be treated as contributions.

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(13) Section 598(2) was amended by the Occupational Pension Schemes (Rate of Tax) Order, S.I. 1988/504, made under Section 598(3).

## PART P

### Transfers

#### Transfers to other pension schemes

**P1.**—(1) At the request of any person who has been a participant but who has ceased to be either—

- (a) a Member of the House of Commons, or
- (b) an officer holder

and who (in either case) has not become entitled to a pension under these Regulations or under the 1972 Act or under Part II 1965 Act other than a guaranteed minimum pension, the Trustees shall pay into or for the purposes of any one, or more than one, scheme or annuity to which this regulation applies, a sum or sums representing the transfer value of that person's accrued pension rights in the Fund.

(2) This regulation applies to any scheme or annuity which satisfies the requirements prescribed by regulations made under paragraph 13(2) of Schedule 1A to the Pensions Act 1975(14).

(3) Where a person has required the Trustees to pay a transfer value to or for the purposes of any one or more than one scheme or annuity which does not include—

- (a) a contracted-out scheme; or
- (b) an appropriate personal pension scheme; or
- (c) a self-employed arrangement within the meaning of regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations 1985(15) or regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations 1987(16),

the Trustees shall pay a state scheme premium in respect of that person and sub-paragraphs (5) and (6) of paragraph 13 of Schedule 1A to the Pensions Act 1975 shall apply to the calculation of the transfer value payable.

(4) The state scheme premium referred to in paragraph (3) above shall be either—

- (a) a transfer premium (within the meaning of section 44A of the Pensions Act 1975(17)); or
- (b) if the person's aggregate period of reckonable service as a participant is less than two years, a contributions equivalent premium.

(5) A person may require the Trustees to pay a transfer value in respect of him at any time before a date

- (a) not more than one year before the date on which he attains the age of sixty-five years; or
- (b) not more than six months after the date on which he ceases to be a participant, whichever is the later.

#### Transfers to other pension schemes after opt out

**P2.**—(1) At the request on or after 6th April 1988 of any person who—

- (a) is an opted out Member; or

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(14) Paragraph 13(2) was amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraph 30 and by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987, S.I. 1987/116, Schedule 6; and sub-paragraph (2A) was inserted by the Social Security Act 1986 (c. 50), Schedule 10, paragraph 30.

(15) S.I. 1985/1931; regulation 20 was inserted by S.I. 1988/1016.

(16) S.I. 1987/112, regulation 2A was inserted by S.I. 1988/1016.

(17) Section 44A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 1. Section 44A(1)(a) was amended by the Social Security Act 1986 (c. 50), Schedule 2, paragraph 6(1). Section 44A(1)(b) and section 44A(4) were amended by the Social Security Act 1986 (c. 50), Schedule 11. Section 44A(1)(c) was substituted by the Social Security Act 1989 (c. 24), Schedule 6, paragraph 11.

- (b) is an opted out office holder who is not a Member of the House of Commons; and
- (c) has not become entitled to a pension under these Regulations other than a guaranteed minimum pension arising under regulation F7,

the Trustees shall pay into or for the purpose of any one or more than one scheme or annuity to which this regulation applies the transfer value calculated in accordance with paragraph (3) below.

(2) This regulation applies to any fund or scheme specified in regulation P1(2) above.

(3) For the purposes of this regulation and subject to paragraph (4) below the transfer value payable will be the value of the person's accrued pension rights as follows—

- (a) where they have accrued to or in respect of his period of actual reckonable service as a participating Member or as a participating office holder, that part which relates to his actual reckonable service after 5th April 1988, or
- (b) where they have accrued to or in respect of service notionally attributed to him as a participating Member or as a participating office holder as a result of a transfer from another pension scheme under regulation P6 or the purchase of added years under regulation Q1, that part of such rights as was credited to him after 5th April 1988, or
- (c) where (a) and (b) both apply, the aggregate of the rights derived separately under each head.

(4) Where on 5th April 1988 the person had an aggregate period of reckonable service as a participant of less than two years, the pension rights which have accrued by virtue of such service may, at his option, be included for the purposes of calculating a transfer value in accordance with paragraph (3) above.

(5) Where a transfer value has been paid under this regulation in respect of a person who is an opted out Member or an opted out office holder and that person subsequently ceases to be a Member of the House of Commons or an office holder, a transfer value may be paid under regulation P1 in respect of any pension rights accrued to or in respect of him which are preserved in the principal scheme.

(6) Paragraphs (3), (4) and (5) of regulation P1 shall apply for the purposes of this regulation.

### **Transfer to overseas pension schemes**

**P3.**—(1) At the request of any person who has been a participant but who has ceased to be either

- (a) a Member of the House of Commons; or
- (b) an officer holder

and who (in either case) has not become entitled to a pension under these Regulations or under the 1972 Act or under Part II of the 1965 Act other than a guaranteed minimum pension, the Trustees shall pay into or for the purposes of any one, or more than one, fund or scheme to which this regulation applies a sum or sums representing the transfer value of that person's accrued pension rights in the Fund.

(2) This regulation applies to any overseas fund or scheme which is approved by the Trustees, provided that the Trustees shall before giving such approval consult and have regard to the views of the Board of Inland Revenue and the Occupational Pensions Board as to the suitability of the fund or scheme for the purposes of this regulation.

(3) At the request of any person—

- (a) in respect of whom any sum has been paid under this regulation into or for the purposes of an overseas fund or scheme; and
- (b) who is not at the time the request is made a Member of the House of Commons or the holder of a qualifying office, the Trustees may receive a sum, out of, or out of monies

held for the purposes of, that fund or scheme, equal to the sum paid under this regulation together with interest thereon from the date of that payment at such a rate as may be agreed by the Trustees.

#### **Effect of transfers out on reckonable service**

**P4.**—(1) Subject to paragraph (2) below, where any sums are paid by the Trustees under regulation P1, P2 or P3 in respect of any person, then—

- (a) for the purpose of calculating that person's aggregate period of reckonable service as a participating Member, or his aggregate period of reckonable service as a participating office holder, no account shall be taken of any period before the date of that payment; and
- (b) for the purposes of regulations N1 and N2 any contributions paid by him before that date shall be treated as not having been paid.

(2) Where, in the case of an opted-out participant, the value of accrued pension benefits relating to service before 6th April 1988 remains in the Fund, paragraph (1) above shall be disregarded in respect of—

- (a) his aggregate period of reckonable service before 6th April 1988; and
- (b) his contributions paid before that date.

#### **Certification by Government Actuary**

**P5.** For the purposes of regulations P1, P2 and P3, any transfer value of the whole or part of a person's accrued pension rights under these Regulations or under Part II of the 1965 Act shall be such sum as shall satisfy the requirements prescribed under Schedule 1A to the Pensions Act 1975 and shall be certified by, or calculated in accordance with tables prepared by, the Government Actuary.

#### **Transfers from other pension schemes**

**P6.**—(1) At the request of any person who—

- (a) is a participating Member; or
- (b) is an opted-out Member who applies to rejoin the principal scheme under regulation C6; or
- (c) is not a Member of the House of Commons, but is a participating office holder; or
- (d) is not a Member of the House of Commons, but is an opted-out office holder who applies to rejoin the principal scheme under regulation C7,

the Trustees shall receive any sums payable by way of transfer value in respect of him out of, or out of moneys held for the purposes of, any scheme or annuity to which regulation P1 applies, or under any enactment for the time being in force which authorises the transfer of pension rights.

(2) Where any sums are received by the Trustees under paragraph (1) above at the request of a person who is a participating Member at the time when the request is made—

- (a) his aggregate period of reckonable service as a participating Member shall be treated as increased by the addition of such period as may be determined by the Trustees; and
- (b) for the purposes of regulations N1, N2, N3 and N4, the sums so received by the Trustees, so far as in the opinion of the Trustees they represent his own contributory payments, shall be treated as if they were contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under regulation D1 or under section 3 of the 1972 Act, or under Part II of the Act of 1965, as the case may be.

(3) Where any sums are received by the Trustees under paragraph (1) above at the request of a person who is not a Member of the House of Commons at the time when the request is made—



- (a) the calculation under regulation F4 of the annual amount of any pension shall be made in respect of that person as if—
    - (i) the number of years for which a contribution credit falls to be calculated under paragraph (4) of that regulation were increased by such number of additional years as may have been determined in relation to those sums by the Trustees; and
    - (ii) the contribution factor for each of those additional years were such amount as may have been so determined; and
  - (b) for the purposes of regulations N1, N2, N3 and N4 the sums so received by the Trustees, so far as in the opinion of the Trustees they represent his own contributory payments, shall be treated as if they had been contributions paid by him, at the same times as those contributory payments were made, by deduction from his salary under regulation D2 or under section 4 of the 1972 Act, as the case may be.
- (4) Any period determined by the Trustees under paragraph (2)(a) or paragraph (3)(a) above shall be a period or number of years either certified by the Government Actuary as being appropriate in relation to the sums received by the Trustees at the request of the person in question or a period or number of years calculated, in accordance with tables prepared by the Government Actuary, as being appropriate in relation to those sums.

## PART Q

### Added Years

#### **Purchase of added years by participating Members**

**Q1.** Schedule 6 shall have effect with respect to the purchase of added years by a participating Member, and subject to the provisions of that Schedule, his aggregate period of reckonable service of a participating Member shall be treated as increased by the period of added years so purchased.

## PART R

### Miscellaneous and Supplemental

#### **Application of pensions**

**R1.**—(1) A pension under these Regulations or under Part I of the 1972 Act or under Part II of the 1965 Act shall not be assignable or chargeable with debts or other liabilities.

(2) Section 142 of the Mental Health Act 1983(**18**) (which enables pay or pension of a person who is incapacitated by mental disorder from managing his affairs to be applied for the benefit of himself or his dependants instead of being paid to him) shall have effect in relation to any such pension as if it were payable directly out of moneys provided by Parliament.

#### **Payments due to deceased persons**

**R2.**—(1) Where on the death of any person there is due to the deceased or his personal representatives from the Trustees a sum which (if any part of it due by way of interest is disregarded) does not exceed the amount of the limit for the time being specified by virtue of orders made from

time to time under section 6 of the Administration of Estates (Small Payments) Act 1965,<sup>(19)</sup> probate or other proof of the title of the personal representatives of the deceased may be dispensed with, and the Trustees may pay the whole or any part of that sum to those representatives or to the person, or to or among any one or more of any persons, appearing to the Trustees to be beneficially entitled to the personal or movable estate of the deceased.

(2) Any person to whom a payment is made under the preceding paragraph, and not the Trustees, shall thereafter be liable to account for the amount paid to him under that paragraph.

(3) If the Trustees receive notice in writing of any claim against the estate of the deceased at any time before they have made a full payment under paragraph (1) above, then, except where the sum to be paid appears to them to be *bona vacantia*, they shall not make any, or (as the case may be) any further, payment under that paragraph to any person other than the personal representatives of the deceased until the claim is satisfied or withdrawn.

### **Deferred Rights**

**R3.**—(1) Subject to regulation R4, in the case of any person who has accrued pension rights in the Fund which are not attributable to or derived from the reckonable service of a person who has made contributions to the Fund after the coming into force of these Regulations, these Regulations shall apply in relation to any such benefit as is specified by paragraph (2), subject also, however, to the modifications and supplementary provisions contained in Schedules 8 to 14.

(2) The specified benefits referred to in paragraph (1) are those pensions and other benefits which have not come into payment before the coming into force of these Regulations.

### **Protection against adverse alterations**

**R4.**—(1) Without prejudice to paragraph (2), where the Trustees are of the opinion that, in relation to such a benefit as is specified by paragraph (2) of regulation R3, the provisions of these Regulations (as modified and supplemented in pursuance of that regulation) are materially different from the corresponding provisions of the enactments and regulations revoked by regulation R5(1), the Trustees may, if satisfied that it would be just to do so, determine that regulation R3 shall not apply in relation to that benefit, and in any such case the said enactments and regulations shall have effect in relation thereto as though they had not been so revoked.

(2) Where a person has ceased to be a Member of the House of Commons or to hold a qualifying office before these Regulations come into force and these Regulations put him in a worse position in relation to an accrued right than he would have been in apart from the Regulations, he or (where he has died) persons who are or may become entitled by virtue of that right to or to the benefit of any pension, or a person acting on behalf of that person or those persons, may opt for the accrued rights to remain unaffected by these Regulations.

### **Revocations, savings and transitional provisions**

**R5.**—(1) Subject as hereinafter provided, the enactments and regulations specified in column (1) of Part I and Part II of Schedule 7 are revoked to the extent mentioned in column (3).

(2) The enactments and regulations so specified shall continue to have effect in relation to any pension or other benefit which has come into payment thereunder before the coming into force of these Regulations.

(3) The revocations have effect subject to the savings in Part III of Schedule 7.

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<sup>(19)</sup> 1965 c. 32. Relevant amendments were made to Section 6 by the Parliamentary and other Pensions Act 1972 (c. 48), section 24(4) and by the Parliamentary and other Pensions Act 1987 (c. 45), section 6(2) and Schedule 4.

(4) The provisions of Part III of Schedule 7 do not affect the general operation of section 16 of the Interpretation Act 1978<sup>(20)</sup> (general savings to be implied on a revocation).

(5) Part IV of Schedule 7 has effect with respect to transitional matters in connection with the coming into force of these Regulations.

22nd December 1993

*Tony Newton*  
Leader of the House of Commons

We consent

24th December 1993

*Tim Wood*  
*Andrew Mackay*  
Two of the Lords Commissioners of Her  
Majesty's Treasury