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STATUTORY INSTRUMENTS

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**1997 No. 3001**

**EDUCATION, ENGLAND AND WALES**

**The Teachers' Pensions Regulations 1997**

*Made* - - - - *15th December 1997*  
*Laid before Parliament* *17th December 1997*  
*Coming into force* - - *3rd February 1998*

The Secretary of State, in exercise of the powers conferred by sections 9 and 12 of, and Schedule 3 to, the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consulting with representatives of the local education authorities, teachers and other persons likely to be affected in accordance with section 9(5) of that Act, and with the consent of the Treasury(2), hereby makes the following Regulations:

**PART A**  
**PRELIMINARY**

**Citation and commencement**

**A1.** These Regulations may be cited as the Teachers' Pensions Regulations 1997 and shall come into force on 3rd February 1998 but the following provisions shall have effect from 1st September 1997—

regulation C2,  
regulation C3(3),  
regulation C18 insofar as it relates to contributions payable under regulation C3(3),  
regulation E7,  
regulation G2(2) insofar as it relates to contributions payable under regulation C3(3),  
regulation G2(3) insofar as it relates to contributions payable under regulation G6,  
regulation G6,  
regulation G7(1)(c) and (2),

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(1) 1972 c. 11; section 9 was amended by sections 4(1), 8(3) and (4) and 11 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) and section 12 was amended by section 10 of that Act.  
(2) See S.I. 1981/1670.

regulation H1,  
regulation H12(1) insofar as it relates to regulations C1(6) to (11) and H1 of the 1988 Regulations,  
regulation H13, and  
Schedule 16.

### **Interpretation**

**A2.**—(1) Schedule 1 to these Regulations contains a glossary of expressions: and in these Regulations, unless the context otherwise requires, any expression for which there is an entry in the first column of that Schedule has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) In these Regulations, unless the context otherwise requires—

- (a) any reference to the purchase of added years is, in relation to previous provisions, to be construed as including a reference to the payment of contributions by a person in respect of a period during which he was not in pensionable employment,
- (b) any reference to contributions and benefits payable in respect of a person is to be construed as including a reference to contributions paid by him and benefits paid to him, and
- (c) any reference to a transfer value paid or accepted is to be construed as including a reference to a transfer value which would have been paid or accepted but for arrangements made for the avoidance of payments between Ministers.

(3) Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(4) For the purposes of these Regulations a person's pensionable employment ends with the last day of the employment or, as the case may be, the last day on which the employment was pensionable.

## **PART B**

### **PENSIONABLE EMPLOYMENT**

#### **Employment—general**

**B1.**—(1) Subject to paragraphs (2) to (5), regulation B3 (where applicable) and regulations B4 to B6 a person is in pensionable employment while he is in employment—

- (a) in a capacity described in Schedule 2 and satisfies every condition and is not within any exception specified in that Schedule in relation to employment in that capacity, or
- (b) as a teacher in an accepted school.

(2) Employment in a capacity described in Part II of Schedule 2 is not pensionable unless the person has elected that it is to be so.

(3) Except in the case of employment in a capacity described in paragraph 16, 21, 22 or 24 of Schedule 2, an election for the purposes of paragraph (2) may not be made without the consent of the employer.

(4) A person who is in part-time employment is not in pensionable employment unless he has at some time made an election for the purposes of this paragraph.

(5) A person who is in part-time employment is not in pensionable employment while he is a member of the occupational pension scheme constituted by the Local Government Pension Scheme

Regulations 1995(3) (“the 1995 Regulations”) or, when they are in force, the Local Government Pension Scheme Regulations 1997(4), the Local Government Pension Scheme (Transitional Provisions) Regulations 1997(5) and the 1995 Regulations (so far as they continue to operate).

- (6) An election for the purposes of this regulation—
  - (a) may be made at any time by giving written notice to the Secretary of State, and
  - (b) has effect from the first day of the month after that in which the notice was given, unless the Secretary of State specifies that it should have effect from an earlier date.

### **Continuing employment**

**B2.** Subject to regulations B4 to B6, a person who immediately before 3rd February 1998 was in employment (“the first employment”) which was pensionable employment by virtue of regulation B3 of the 1988 Regulations (continuing employment) is in pensionable employment—

- (a) while he is in the first employment, and
- (b) while he is in employment which is in continuation of the first employment.

### **Employment in accepted school**

**B3.—**(1) A person employed in an accepted school is not in pensionable employment if he has any financial interest in the establishment other than a right to a salary.

- (2) Subject to paragraph (6), an establishment is an accepted school if—
  - (a) immediately before 3rd February 1998 it was an accepted school for the purposes of regulation B4 of the 1988 Regulations, or
  - (b) the Secretary of State has accepted it for the purposes of this regulation.
- (3) The establishments that may be accepted are—
  - (a) an independent school finally registered under section 465 of the 1996 Act,
  - (b) an independent school provisionally registered under that section which had been a school of a kind mentioned in paragraph 1, 2, 3 or 4 of Schedule 2,
  - (c) an independent school provisionally registered under that section which was constituted by an amalgamation of schools of which at least one was an accepted school, and
  - (d) an establishment which provides further education constituted by an amalgamation of establishments which provided such education of which at least one was an accepted school.

(4) An establishment may only be accepted if its governing body have made a written application to the Secretary of State.

(5) No establishment need be accepted, but if an establishment is accepted its acceptance takes effect—

- (a) where paragraph (3)(b) applies, as from the date of provisional registration, and
- (b) in any other case, as from a date to be agreed between the Secretary of State and the governing body, which must be—
  - (i) the first day of a month later than that in which the application was made, or
  - (ii) if the establishment was constituted by an amalgamation, either the first day of such a month or the date of the amalgamation.

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(3) [S.I. 1995/1019](#).  
(4) [S.I. 1997/1612](#).  
(5) [S.I. 1997/1613](#).

(6) An establishment which has become an accepted school ceases to be one from the date specified in a written notice given to its governing body by the Secretary of State.

(7) Notice for the purposes of paragraph (6) may be given—

(a) in the case of an independent school, if it ceases to be a registered or provisionally registered school within the meaning of section 465 of the 1996 Act, or

(b) in the case of an establishment of further education, if—

(i) it ceases to be one, or

(ii) it employs as a teacher a person whom it would have been precluded from employing if regulations for the time being in force under section 218(6) of the Education Reform Act 1988(6) had applied, or

(c) in any case, if the governing body—

(i) have made a written application to the Secretary of State for the establishment to cease to be an accepted school, or

(ii) have failed to pay or remit contributions (whether under these Regulations or under the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994)(7) to the Secretary of State, or

(iii) have failed to comply with regulation H3 (records and information) or any other provision of these Regulations relating to pensionable employment.

(8) Paragraphs (4) to (7) apply to an establishment which had previously ceased to be an accepted school as they apply to an establishment which has not previously been an accepted school.

(9) In this regulation “governing body” includes any person by whom teachers are employed.

### **Employment not pensionable**

**B4.**—(1) A person is not in pensionable employment unless he is—

(a) 18 years old or older and under 70, and

(b) entitled to be paid his salary in full, or on sick leave and entitled to be paid not less than half his salary, or on maternity leave and entitled to be paid any contractual remuneration or statutory maternity pay.

(2) A person who is entitled to be paid a teacher’s pension including cases where the annual rate of pension has been reduced to zero in accordance with regulation E14 (abatement of retirement pension during further employment) is not in pensionable employment if he is in employment which—

(a) commenced on or after 1st April 1997, or

(b) is part-time employment.

(3) A person is not in pensionable employment while he is in an employment which immediately before 3rd February 1998 by virtue of regulation B5(2) of the 1988 regulations (exclusion from pensionable employment) was not pensionable employment.

(4) This paragraph applies to a person who—

(a) immediately before 3rd February 1998 was in, or

(b) not more than 12 months before that date had ceased to hold,

an employment which by virtue of regulation B5(4) of the 1988 Regulations was not pensionable employment.

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(6) 1988 c. 40; section 218(6) was amended by section 290(3) of the Education Act 1993 (c. 35).

(7) S.I. 1994/2924.

(5) Subject to paragraph (6), a person to whom paragraph (4) applies is not in pensionable employment while he is in an employment which would not have been pensionable employment if—

- (a) regulation B5(4) of the 1988 Regulations had continued in force, and
- (b) he had made no election under regulation B5(5) of those Regulations.

(6) Within 3 months after the start of an employment to which paragraph (4) applies the person may, by giving written notice to the Secretary of State and to the appropriate administering authority within the meaning of the Local Government Pension Scheme Regulations 1995 or, when they are in force, the Local Government Pension Scheme Regulations 1997, elect that paragraph (5) is to cease to apply.

### **Election for employment not to be pensionable**

**B5.**—(1) A person who—

- (a) is in pensionable employment, or
- (b) is not in pensionable employment but expects to enter an employment which would otherwise be pensionable employment,

may, at any time, by giving written notice to the Secretary of State, make an election under this regulation.

(2) As from the date from which the election has effect—

- (a) where paragraph (1)(a) applies, the person ceases to be in pensionable employment for all purposes of these Regulations, and
- (b) in any case, subject to regulation B6, no subsequent employment of his is pensionable employment.

(3) Where paragraph (1)(a) applies, an election under this regulation—

- (a) if the notice is given within 3 months after the start of the person's pensionable employment, has effect as from the first day of his pensionable employment, and
- (b) in any other case, has effect from the first day of the month after that in which the notice was given.

(4) Where paragraph (1)(b) applies, the election has effect as from the day before that on which the person first enters any such employment as is there mentioned.

### **Resumption of pensionable status**

**B6.**—(1) A person who has made an election under regulation B5, who has since been in employment which would otherwise have been pensionable employment and who—

- (a) is in such employment, or
- (b) is not in, but expects to enter, such employment,

may at any time, by giving written notice to the Secretary of State, make an election under this regulation.

(2) As from the date on which the election has effect, subject to regulations B1(2) and (4) and B5, any employment on and after that date is pensionable employment if it is such employment by virtue of regulations B1 to B4.

(3) Where paragraph (1)(a) applies, an election under this regulation—

- (a) if the notice was given within 3 months after the start of any period of employment which would otherwise have been pensionable, has effect as from the first day of that employment, and

- (b) in any other case, has effect from the first day of the month after that in which the notice was given.
- (4) Where paragraph (1)(b) applies, the election has effect as from the day before that on which the person first enters any employment which would otherwise be pensionable.

## PART C

### TEACHERS' CONTRIBUTIONS

#### **Salary on which contributions are payable**

**C1.**—(1) Subject to paragraphs (3) to (5) and (8) to (11) and regulation C2, the contributable salary of a person to whom the 1991 Act applies is the total of—

- (a) the amounts payable by his employer under any order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order,
- (b) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any contractual liability arising out of sickness or maternity,
- (c) the amounts payable by his employer in respect of his pensionable employment in satisfaction of any statutory liability arising out of sickness or maternity, and
- (d) if the employer has satisfied the Secretary of State that it is expedient for residential accommodation to be provided free in connection with the employment, the money value as an allowance in kind of—
  - (i) the accommodation provided, and
  - (ii) any heat, lighting or water provided free or council tax paid in connection with it.

(2) Subject to paragraphs (3) to (11) and regulation C2, the contributable salary of a person to whom paragraph (1) does not apply is the total of—

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his pensionable employment,
- (b) the amounts mentioned in paragraph 1(c), and
- (c) the money value mentioned in paragraph 1(d).

(3) If the money value of any accommodation as mentioned in paragraph (1)(d)(i) provided free exceeds one sixth of the aggregate of the amounts mentioned in paragraph (1)(a) to (c), or, as the case may be, paragraph (2)(a) and (b), the excess is not part of the person's contributable salary.

(4) A person's contributable salary does not include—

- (a) any allowance in kind not falling within paragraph (1)(d) or (2)(c),
- (b) any payment by way of bonus,
- (c) any payment in respect of overtime, or
- (d) any payment by way of travelling or expense allowance.

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

- (a) a payment by way of bonus shall not include any payment calculated by reference to the performance of the person in question or the performance of the institution where he is employed,
- (b) a payment by way of bonus shall not include any payment made to the person in question where such a payment is made as part of a pay settlement which applies to all persons, or to all persons of a particular class or description, employed at the institution,

- (c) if at any time a payment is made to a person which is not part of his contributable salary, then any subsequent payment of the same nature is a payment by way of bonus (whether or not it is described as such), and
  - (d) if at any time a payment is made to a person which is part of his contributable salary, then any subsequent payment of the same nature is not a payment by way of bonus (whether or not it is described as such).
- (6) The contributable salary of a person employed as mentioned in paragraph 14 of Schedule 2 (teacher in European Schools) does not include any amount not payable by, or money value not attributable to, the Secretary of State.
- (7) The contributable salary of a person employed as mentioned in paragraph 22 of Schedule 2 (services education officer) is the amount that would for the time being be payable by way of salary under an order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order, to a teacher of the same age and with the same qualifications and experience employed in a school outside the London area (within the meaning of any such document).
- (8) Subject to paragraphs (9) and (10), in the case of a person entering pensionable employment after 31 May 1989 with no right to count any period before 1 June 1989 as reckonable service, in any tax year in which the contributable salary calculated in accordance with paragraphs (1) to (7) and regulation C2 exceeds the permitted maximum in terms of section 590C of the Taxes Act<sup>(8)</sup>, the excess does not form part of his contributable salary.
- (9) Paragraph (8) shall not apply to a person who was in pensionable employment before 1 June 1989 and who resumes pensionable employment following—
- (a) an absence on maternity leave in respect of which she enjoyed a right to return to work under sections 79 to 85 of the Employment Rights Act 1996<sup>(9)</sup>,
  - (b) a period of secondment or additional period of absence necessarily attributable to that secondment, and
  - (c) in any other case, a break in teaching employment not exceeding one year.
- (10) Paragraph (8) shall not apply to a person who was in comparable British service before 1st June 1989 and who enters pensionable employment provided there has not been a period of more than one year between cessation of employment in comparable British service and entering pensionable employment.
- (11) For the purpose of paragraph (10) “comparable British service” does not include service which is pensionable under a superannuation scheme for teachers in public employment in the Channel Islands and the Isle of Man.

### **Salary on which contributions are payable—election**

**C2.**—(1) A person who—

- (a) continues in pensionable employment but whose contributable salary is reduced, otherwise than by reason of sick leave or maternity leave, and who satisfies the conditions in paragraph (2), or
- (b) leaves pensionable employment with one employer (“employer A”) and—
  - (i) takes up employment again with employer A, or
  - (ii) takes up employment with another employer (“employer B”)at a lower contributable salary and who satisfies the conditions in paragraph (3),

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<sup>(8)</sup> Section 590C was inserted by the Finance Act 1989 (c. 26), Schedule 6, paragraph 4(a).

<sup>(9)</sup> 1996 c. 18.

may make an election that his salary is to be treated as having continued at the rate specified in paragraph (4).

- (2) The conditions referred to in paragraph (1)(a) are—
- (a) that on the date when the contributable salary was reduced the person had attained the age of 50,
  - (b) that on the date when the contributable salary was reduced he had been in pensionable employment or excluded employment for at least five years, and
  - (c) that the responsibility of his post after the reduction in contributable salary is lower than the responsibility of any of the posts which he had held during the period of five years immediately preceding the date of the reduction in contributable salary.
- (3) The conditions referred to in paragraph (1)(b) are—
- (a) that on the date of leaving pensionable employment with employer A the person had attained the age of 50,
  - (b) that at the date of leaving pensionable employment with employer A he had been in pensionable employment or excluded employment for at least 5 years,
  - (c) that the responsibility of his new post with employer A or, as the case may be, his post with employer B is lower than the responsibility of any of the posts which he has held during the period of 5 years immediately preceding the date on which he left employment with employer A as described in paragraph (1),
  - (d) that employer A notifies the Secretary of State that he has provided satisfactory service during the period of 5 years referred to in sub-paragraph (c) or, where he has been employed by employer A for less than 5 years, during the period when he was employed by employer A, and
  - (e) that no more than one year had elapsed between leaving pensionable employment with employer A as described in paragraph (1) and taking up pensionable employment again with employer A or, as the case may be, taking up pensionable employment with employer B.
- (4) The rate of salary referred to in paragraph (1) is—
- (a) where the person falls within paragraph (1)(a) and is employed full-time after the reduction, the rate applicable immediately before the reduction, and
  - (b) where the person falls within paragraph (1)(b) and is re-employed full-time with employer A, or employed full-time with employer B, the rate applicable immediately before he left employment with employer A as described in paragraph (1),
  - (c) where the person falls within paragraph (1)(a) and is employed part-time after the reduction, the rate which would have been applicable immediately before the reduction if he had been employed for the same number of hours or, for the same proportion of the year, term, month or week, as the case may be, as he is employed immediately after the reduction, and
  - (d) where the person falls within paragraph (1)(b) and is employed part-time at the start of his re-employment with employer A or his employment with employer B, the rate which would have been applicable immediately he left his employment with employer A as described in paragraph (1) if he had been employed for the same number of hours or for the same proportion of the year, term, month or week, as the case may be, as he is employed at the start of his re-employment with employer A, or, as the case may be, his employment with employer B,

increased, in each case, on each increase day by



**(RI – RE)**

**RE**

where—

RI is the retail prices index for the month in which the increase day occurs, and

RE is the retail prices index for the month in which the election was made.

(5) For the purposes of paragraph (4) the increase day is the first day of the month in each year following the month in which—

- (a) the salary was reduced, in a case where the person falls within paragraph (1)(a), or
- (b) the person left his employment with employer A as described in paragraph (1) in a case where the person falls within paragraph (1)(b),

and the first increase day is that falling in the year after the year in which the salary was reduced or the person left his employment with employer A, as the case may be.

(6) An election for the purposes of paragraph (1)—

(a) must be made by giving written notice to the Secretary of State before the date which is 3 months after—

- (i) the reduction in salary, in a case where the person falls within paragraph (1)(a), or
- (ii) taking up employment again with employer A or, as the case may be, taking up employment with employer B, in a case where the person falls within paragraph (1)(b),

or before 3rd May 1998 whichever date is later.

(b) has effect from—

- (i) the day after the last day on which the person's salary was payable at the rate applicable immediately before the reduction, in a case where the person falls within paragraph (1)(a), or
- (ii) the day on which the person takes up employment again with employer A or, as the case may be, takes up employment with employer B, in a case where the person falls within paragraph (1)(b); and

(c) subject to paragraph (7), continues to have effect until the person ceases to be in pensionable employment unless he—

- (i) elects to pay additional contributions under regulations C9 or C10, or
- (ii) takes up pensionable employment with another employer ("employer C") within six months of ceasing to be in pensionable employment.

(7) An election for the purposes of paragraph (1) may be cancelled by giving written notice to the Secretary of State at any time.

(8) Notice of cancellation—

- (a) has effect from the first day of the month following that in which it was received, and
- (b) is irrevocable.

(9) If, while an election made for the purposes of paragraph (1) has effect, there is any further reduction in salary during a period of sick leave or maternity leave, the rate of salary specified in paragraph (4) is, during that period, to be treated as having been reduced in the same proportion as the actual rate.

(10) In paragraph (1)(a) and (b) the reference to contributable salary is, in the case of a person in part-time employment, a reference to the salary which would have been the person's contributable salary if the person had been in full-time employment.

(11) In this regulation “the retail prices index” means the index of retail prices published by the Office for National Statistics.

### **Ordinary contributions**

**C3.**—(1) Subject to paragraph (3), a person, other than a services education officer, who is in pensionable employment is to pay contributions of 6% of his contributable salary for the time being.

(2) Subject to paragraph (3), a services education officer is to pay contributions equivalent to the total of—

- (a) 6% of his contributable salary for the time being, and
- (b) the employer’s contributions that would have been payable if regulation G5 had applied.

(3) A person who has made an election under regulation C2(1) shall, in addition to the contributions referred to in paragraph (1), pay contributions of the required percentage of the difference between the person’s actual contributable salary and the contributable salary at the rate referred to in regulation C2(4) to the extent that such contributions are not paid by any employer referred to in regulation G6 under an election mentioned in that regulation.

(4) No contributions are to be paid by any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.

### **Additional contributions for past period**

**C4.**—(1) This regulation applies to a person who—

- (a) is in pensionable employment, and
- (b) first became employed in pensionable employment, or has been credited with reckonable service on the acceptance of a transfer value in respect of comparable British service that began, before he attained the age of 55, and
- (c) has not become entitled to payment of retirement benefits under regulation E4(2) or (3).

(2) Subject to paragraphs (4) to (7) and (9), a person to whom this regulation applies may elect to pay additional contributions in accordance with—

- (a) Part I of Schedule 4 (“Method A”), or
- (b) Part II of Schedule 4 (“Method B”),

in order to become entitled to count an additional period (“the past period”) as reckonable service.

(3) Subject to paragraphs (4) to (6), (8) and (9), the employer of a person to whom this regulation applies may elect to pay additional contributions in respect of the person in accordance with Part II of Schedule 4.

(4) The past period must not exceed the maximum calculated in accordance with Schedule 3, and—

- (a) must have begun after the person attained the age of 20,
- (b) must have ended—
  - (i) before the person attained the age of 60,
  - (ii) before the date of the election, and
  - (iii) if the person has become entitled to payment of retirement benefits by virtue of regulation E4(5) (redundancy, etc), before the relevant termination of employment.
- (c) must be one during which the person was not in full-time pensionable employment, unless—
  - (i) contributions in respect of the period have been repaid after 31 May 1973, or

- (ii) the right to count reckonable service in respect of it has been extinguished by payment of a transfer value.
  - (d) if payment is to be made by Method A, must satisfy paragraph 2 of Schedule 4, and
  - (e) unless payment is to be made by Method B and notice of the election is given no earlier than the date of applying for payment of retirement benefits, must be a period of not less than 30 days.
- (5) Where payment is to be made by Method A, the period during which additional contributions are to be paid (“the contribution period”) must satisfy paragraph 2 of Schedule 4.
- (6) An election under this regulation may be made at any time.
- (7) An election under paragraph (2) must be made by giving written notice to the Secretary of State, which—
- (a) is to specify the past period,
  - (b) is to specify the method by which payment is to be made,
  - (c) where payment is to be made by Method A, is to specify the length of the contribution period, and
  - (d) where payment is to be made by Method A, is to contain a declaration that the person has no reason to believe that his health may prevent him from continuing in pensionable employment until payment has been completed.
- (8) An election under paragraph (3) must be made by giving written notice to the Secretary of State which—
- (a) is to specify the person in respect of whom it is made, and
  - (b) is to specify the past period.
- (9) An election under this regulation has effect only if the Secretary of State notifies the person making it in writing that it has been accepted.
- (10) Where the Secretary of State has notified the person in writing that his election under this regulation has been accepted, the person may at any time revoke the election by giving written notice to the Secretary of State but, in the case of such election being so revoked, any additional contributions paid up to that time are not to be refunded.
- (11) A revocation of an election under this regulation has effect only if the Secretary of State notifies the person in writing that it has been accepted.

#### **Additional contributions for past period by family pensioner**

- C5.**—(1) This regulation applies where a person dies in circumstances where—
- (a) had he ceased to be in pensionable employment on the day when he died, would have become entitled under regulation E4 to the payment of retirement benefits, and
  - (b) another person (“the pensioner”) is entitled under regulation E26 to a long-term pension in respect of him.
- (2) Where this regulation applies, the pensioner, or in the case of a child a person acting on his behalf, may by giving written notice to the Secretary of State within 3 months after the death, make any election which, on the hypothesis stated in paragraph (1)(a), the deceased person could have made under regulation C4.
- (3) Subject to paragraph (4), an election under this regulation has effect as if it had been made under regulation C4 by the deceased person.
- (4) The additional contributions are payable by the pensioner except to the extent that they are, with the consent of any person entitled to it, met out of a terminal sum.

### **Additional contributions for past period under earlier provisions**

**C6.** Schedule 5 has effect where immediately before 3rd February 1998 additional contributions remained to be paid by virtue of regulations 26, 28 or 29 of the 1976 Regulations or Part III of Schedule 4 to the 1988 Regulations.

### **Reduction of past period**

**C7.—**(1) This regulation applies where—

- (a) an election has been made under regulation C4 or C5, and
- (b) the person by or in respect of whom it was made subsequently becomes entitled to count a further period as reckonable service, by virtue of regulation D5 of the 1988 Regulations (which continues to have effect for certain purposes by virtue of paragraph 12 of Schedule 15) or regulation F4(8), and
- (c) apart from this regulation some of his reckonable service (“the excess period”) consequently would, or would if he continued in pensionable employment until his 60th birthday, be left out of account, by reason of regulation E32(2), for the purpose of calculating benefits.

(2) Where this regulation applies, the period in respect of which the election mentioned in paragraph (1)(a) was made is to be treated as reduced by the excess period.

(3) Where the additional contributions already paid exceed those required for the reduced period, the excess is to be refunded.

### **Additional contributions in respect of war service**

**C8.—**(1) This regulation applies to a person who became entitled by virtue of regulations 7 and 72(1)(a) of the 1976 Regulations to count as reckonable service a period related to war service (“the war service period”).

(2) Subject to paragraph (6), there is to be paid by or in respect of a person to whom this regulation applies, by way of deduction from the appropriate terminal sum, an additional contribution of

**A + B,**

where—

A is 3.75% of the salary notionally received during the person’s war service, and

B is interest on A at 3.5% per annum, compounded with yearly rests, from 1st July 1950 to the relevant date.

(3) The salary notionally received during the person’s war service is £200 per annum in the case of a man and £175 per annum in the case of a woman.

(4) The relevant date is—

- (a) 1st September 1974 if the person was then receiving a teacher’s pension,
- (b) if a transfer value has become payable in respect of him after 31st August 1974, the date on which he became subject to the receiving scheme, and
- (c) in any other case, the date on which the terminal sum is paid.

(5) If the additional contribution exceeds the terminal sum the excess is to be paid in such manner as may be agreed.

(6) If—

- (a) the counting of the war service period does not increase the retirement benefits payable, and

(b) no election is made under paragraph (8),  
no additional contribution is payable under paragraph (2).

(7) This paragraph applies where the whole of the person's other reckonable service would, in the event of his death, count in the calculation under regulation E28 of a spouse's or nominated beneficiary's pension ("the family pension").

(8) Where paragraph (7) applies, the person may elect that there is to be paid, by way of a further deduction from the appropriate terminal sum, an additional contribution in respect of his war service.

(9) The amount of the additional contribution is the actuarial cost of the increase in the family pension that would result from the war service period counting under regulation E28(4)(c).

(10) An election under paragraph (8) must be made by giving written notice to the Secretary of State before the appropriate terminal sum is paid.

(11) If a person who could have made an election under paragraph (8) dies without having made it, the election may be made by the nominated beneficiary or surviving spouse before the appropriate terminal sum has been paid.

#### **Additional contributions for current period**

**C9.**—(1) Subject to paragraphs (11) to (14), this regulation applies to a person who—

- (a) before attaining the age of 60 has ceased to be in pensionable employment, otherwise than by virtue of an election under regulation B5, and
- (b) was not then incapacitated, and
- (c) did not then become entitled to payment of retirement benefits, and
- (d) has not become a member of another occupational pension scheme or is not engaged in full-time employment in a capacity described in Part II of Schedule 2.

(2) Subject to paragraphs (3), (4) and (10), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period ("the period") beginning on the day after the cessation of the pensionable employment or, where paragraph (4)(a) applies, on the day after the last day of the earlier period.

(3) The period—

- (a) must end before the person's 60th birthday, and
- (b) must not in any case exceed the maximum calculated in accordance with Schedule 3, and
- (c) if the person has become employed as a teacher or supervisor in a school or educational service outside the British Islands, must not exceed 6 years, and
- (d) in any other case, must not exceed 3 years.

(4) If the person has paid additional contributions under this regulation for an earlier period and—

- (a) he has not since the end of that period been in pensionable employment, or
- (b) he has since been in pensionable employment but for less than 12 months,

the earlier period is to be deducted from the maximum allowed by paragraph (3)(b).

(5) If before the end of the period the person—

- (a) becomes entitled to payment of retirement benefits,
- (b) becomes a member of another occupational pension scheme, or
- (c) dies,

the period is to be treated as having ended on the day on which the relevant event occurred; and if before the end of the period he fails to pay an additional contribution, or a late payment is not

accepted under paragraph (9), it is to be treated as having ended on the day up to which additional contributions have been paid.

(6) An additional contribution is payable for each financial year and is a percentage of the notional salary for so much of the period as falls within that year.

(7) For the purposes of paragraph (6)—

- (a) the notional salary is an amount notified by the former employer or, where no such notification is given, estimated by the Secretary of State as being what the person's contributable salary would have been if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms taking into account, where appropriate, any election under regulation C2(1); and
- (b) the percentage is  $(A+B-C)$  where A, B and C have the same meanings as in regulation G5(2).

(8) The contribution for a financial year is to be paid direct to the Secretary of State—

- (a) where the period has not ended during the financial year, within 3 weeks after the end of the financial year, and
- (b) in any other case, within 6 weeks after the end of the period or the date of a written notification by the Secretary of State that payment is due, whichever is the later.

(9) A late payment of a contribution may for special reasons be accepted by the Secretary of State; but if it is accepted the person is to pay interest on the amount of the contribution at 4% per annum compounded with yearly rests, from the due date of payment to the date of payment.

(10) An election under this regulation must be made by giving written notice to the Secretary of State, which must specify the period and must be given—

- (a) if paragraph (3)(c) applies, within 6 months, and
- (b) in any other case, within 3 months,

after the cessation of the person's pensionable employment or, if later, the end of a previous period for which he has paid additional contributions under this regulation.

(11) For the purposes only of this regulation a person remains in pensionable employment while he is absent from duty during and in consequence of a trade dispute.

(12) Paragraph (11) applies—

- (a) even if the person was not participating in or financing or otherwise directly interested in the trade dispute, and
- (b) even if his employer was not a party to the trade dispute.

(13) This regulation does not apply to a person whose pensionable employment is employment as a relief teacher, that is to say a teacher who is employed in place of a person regularly employed and whose contract of employment is a short-term one.

(14) In this regulation "trade dispute" has the meaning given in section 244 of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(10)</sup>.

#### **Additional contributions for current period: service in a reserve force**

**C10.**—(1) This regulation applies to a person who ceases to be in pensionable employment by virtue of being called out or recalled for permanent service in Her Majesty's armed forces in pursuance of a call-out notice or call-out order or a recall order made under the provisions of the Reserve Forces Act 1996<sup>(11)</sup>, provided that—

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(10) 1992 c. 52.

(11) 1996 c. 14.

- (a) the person does not apply for payment of any retirement benefits to which he would otherwise be entitled on ceasing to be in such employment, and
  - (b) he does not accrue any reckonable service in the Armed Forces Pension Scheme or become a member of any other occupational pension scheme during his period of permanent service.
- (2) Subject to paragraphs (10) and (11), a person to whom this regulation applies may elect to pay additional contributions in order to become entitled to count as reckonable service a period (“the period”) beginning on the day after the cessation of the pensionable employment and ending with the date on which he is released from permanent service or discharged.
- (3) An additional contribution is payable for each financial year and is—
- (a) 6% of the notional salary for so much of the period as falls within that financial year; and
  - (b) where an election has been made under regulation C2(1), an amount equivalent to any contributions which would have been paid under regulation C3(3) for so much of the period as falls within that financial year taking the reference in that regulation to the person’s actual contributable salary as a reference to the notional salary disregarding the election under regulation C2(1).
- (4) The notional salary is the salary that would have been payable if pensionable employment had not ceased and the person had continued to be employed in the same post and on the same terms taking into account, where appropriate, any election under regulation C2(1).
- (5) Subject to paragraphs (7) and (8), an election under this regulation must be made by giving written notice to the Secretary of State and must be given at any time between the cessation of pensionable employment and 6 months after the return to pensionable employment after the end of the period.
- (6) An election has effect only if any contribution under this regulation is paid by the person to the Secretary of State within three months of the date of a written notification by the Secretary of State that payment is due to him; and provided that the person pays all contributions and payments payable by him in respect of the period in accordance with an election or elections made by him under regulation C4 (taken with Schedule 4), regulation C11 (taken with Schedule 6) and regulation C16.
- (7) Where an election is made before the end of the period it must specify the day on which the period begins; and where an election is made after the end of the period it must specify the period.
- (8) Subject to paragraph (9), where the person dies during his service in a reserve force without having made an election under this regulation, he shall be deemed to have made such an election so that the period beginning on the day after the cessation of the pensionable employment and ending with the date of his death shall count as reckonable service.
- (9) Any contributions due under this regulation at the date of such death shall be deducted from any benefits payable under these Regulations.
- (10) Notwithstanding that a person to whom this regulation applies has not made an election under this regulation, he shall be entitled to count the period as reckonable service where during the period his service pay, when aggregated with any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(12), is less than the remuneration he would have received if he had during the period continued in the pensionable employment in which he was employed immediately before being called into service in a reserve force.
- (11) For the purposes of paragraph (10), “service pay” means pay for performing service in a reserve force, and includes marriage, family and other similar allowances.

### **Additional contributions for family benefits**

**C11.**—(1) Parts I and III of Schedule 6 have effect for enabling men and unmarried women to pay additional contributions (“family benefit contributions”) in order to secure, or to increase, family benefits in respect of reckonable service before April 1972.

(2) Parts II and III of Schedule 6 have effect for enabling married women to pay family benefit contributions in respect of reckonable service before 6th April 1988.

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

**C12.**—(1) Subject to paragraphs (3) and (4), this regulation applies where a person has ceased to be in pensionable employment and—

- (a) he is not qualified for retirement benefits, and
- (b) no transfer value has since been paid or become payable in respect of him, and
- (c) he has not since taken any right to a cash equivalent, and
- (d) he did not re-enter pensionable employment within one month after ceasing to be in pensionable employment, and
- (e) he has not elected to pay additional contributions under regulation C9 or C10 for any period which includes the period beginning when he ceased to be in pensionable employment and ending one month later.

(2) This regulation does not apply if—

- (a) the person ceased to be in pensionable employment before 6th April 1980, and
- (b) the salary on which contributions were payable by him under the 1976 Regulations or under previous provisions in any year had exceeded £5,000.

(3) For the purposes of paragraph (1) a woman who ceased to be in pensionable employment wholly or partly because of pregnancy or confinement is to be treated—

- (a) as having remained in such employment while she enjoyed the right to return to work conferred by sections 79 to 85 of the Employment Rights Act 1996<sup>(13)</sup>, and
- (b) if she has exercised that right, as not having ceased to be in pensionable employment.

(4) Subject to regulation C15 (application for repayment), where this regulation applies the person is entitled to be repaid the balance of his contributions, calculated in accordance with regulation C13.

(5) The entitlement takes effect one month after the person ceased to be in pensionable employment or on his 70th birthday if earlier.

### **Calculation of contributions to be repaid**

**C13.**—(1) The balance of contributions referred to in regulation C12(4) is to be calculated as at the date of the calculation, or the person’s 70th birthday if earlier (“the calculation date”).

(2) The balance is

$$(A - B) - C,$$

where—

A is the total of the amounts specified in paragraph (3),

B is the total of the deductions specified in paragraph (4), and

C is the amount of the tax chargeable on (A–B) under section 598 of the Taxes Act.

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(13) 1996 c. 18.



- (3) The amounts are those of—
- (a) all contributions paid, up to the date of receipt of the application for repayment, under regulations C3, C4, C9, C10 and C11, except—
    - (i) any treated for the purposes of regulation G2 as employer's contributions, and
    - (ii) any paid in respect of a period of employment for which a short-service incapacity grant under regulation E17 has been received,
  - (b) contributions paid in respect of any comparable British service in respect of which the person is entitled to count reckonable service by virtue of the acceptance of a transfer value,
  - (c) if the person was entitled to count any reckonable service by virtue of the acceptance of a transfer value in respect of an employment that was not comparable British service, either—
    - (i) any payment by way of repayment of contributions, and interest, that he would otherwise have been entitled to receive under the rules of the pension scheme to which he was subject in the employment, or
    - (ii) if that scheme made no provision for the repayment of contributions, the contributions he paid under it in respect of the employment, and
  - (d) interest to the calculation date, at 3% per annum, compounded with yearly rests—
    - (i) on the contributions mentioned in sub-paragraphs (a) and (b), from the first day of the financial year following that in which they were paid, and
    - (ii) where sub-paragraph (c) applies, from the first day of the financial year following that in which the transfer value was paid.
- (4) The deductions are—
- (a) the amount of any previous repayment of contributions,
  - (b) if the Secretary of State has made a payment in lieu of contributions, or the person is entitled to equivalent pension benefits, half the amount of the payment in lieu of contributions that was or, as the case may be, would otherwise have been made, and
  - (c) if the Secretary of State has paid a contributions equivalent premium, the amount recoverable by him under sections 61 to 63 of the 1993 Act.

### **Repayment of certain contributions paid for family benefits**

**C14.**—(1) This paragraph applies where a member who has made no election under paragraph 3 of Schedule 6—

- (a) becomes entitled under regulation C12 to the repayment of the balance of his contributions, or
  - (b) becomes entitled to payment of retirement benefits unless on his death family benefits would become payable.
- (2) Subject to regulation C15, where paragraph (1) applies, the member is entitled to be repaid an amount calculated in accordance with paragraphs (3) to (5).
- (3) Where no family benefit would have been payable if the member had died before 1st April 1972, the amount includes the whole of his normal contributions and any additional contributions.
- (4) Where paragraph (3) does not apply, the amount includes—
- (a) half the normal contributions paid in respect of any period during which family benefits would have been payable in the event of the member's death,
  - (b) the whole of the normal contributions paid in respect of any other period, and
  - (c) the whole of any additional contributions.

(5) The remainder of the amount consists of interest at 3% per annum, compounded with yearly rests, from the first day of the financial year following that in which the contributions were paid to—

- (a) the date of the calculation, or
- (b) the member's 70th birthday, or
- (c) the date of his death,

whichever is the earliest.

(6) There is to be deducted from the amount the tax chargeable on it under section 598 of the Taxes Act.

(7) Subject to regulation C15, where a member who has made no election under paragraph 3 of Schedule 6 dies and he was entitled under regulation C12 to be repaid the balance of his contributions or—

- (a) a death grant is payable under regulation E20, and
- (b) no family benefit other than a children's pension is payable,

his personal representatives are entitled to be paid an amount calculated in accordance with paragraphs (3) to (5) but with the interest component calculated to the date of his death.

### **Application for repayment**

**C15.**—(1) An amount to which a person is entitled under regulation C12 or C14 is to be paid to him only if the Secretary of State receives a written application for payment and paragraph (2), if applicable, is complied with.

(2) If the Secretary of State notifies him in writing that he so requires, the applicant is to provide any relevant information specified by the Secretary of State that is in his possession or that he can reasonably be expected to obtain.

### **Return of repaid contributions**

**C16.**—(1) A person to whom contributions were repaid before June 1973—

- (a) who is in pensionable employment, or
- (b) who is in comparable British service and in respect of whom no transfer value has been paid since the end of his last pensionable employment,

may at any time, by giving written notice to the Secretary of State, elect to return the contributions, with interest, to him.

(2) The return of contributions—

- (a) may in any case, and
- (b) if the amount of the contributions, together with the interest payable, does not exceed £500, must,

be made by a single payment, which must be made within ten weeks of the giving of notice under paragraph (1).

(3) Except where paragraph (2)(b) applies, the person may elect to make the return of contributions—

- (a) if he is in full-time pensionable employment, by instalments under paragraph (5), or
- (b) if he is in part-time pensionable employment or in comparable British service, by instalments under paragraph (7).

(4) Interest is payable at the rate of 3.5% per annum from the date on which the contributions were repaid to the date on which their return is completed, and—

- (a) where the return is made by a single payment, is payable on the full amount of the contributions and is compounded with yearly rests, and
  - (b) where the return is made by instalments, is payable on the balance for the time being outstanding and is compounded with yearly rests on 31st March.
- (5) Instalments payable under this paragraph are of equal amounts and are, subject to paragraph (6), payable by deduction from the person's salary for a number of whole years, not exceeding 5 and ending before his 61st birthday, to be specified in the notice of the election.

(6) Where the total of—

- (a) the instalments payable by a person under paragraph (5) in any year, and
- (b) the other amounts to be deducted in that year under regulation C18,

would otherwise exceed 15% of his contributable salary for that year, the instalments are payable for the smallest number of whole years that will secure that the total does not exceed 15% of his annual contributable salary.

(7) Instalments payable under this paragraph are, subject to paragraph (8), payable—

- (a) at equal intervals, of not more than six months, and
- (b) for a period,

determined by the Secretary of State after consulting the person making the election.

(8) Instalments are of equal amounts unless in any year the payment of an instalment of an amount equal to that paid in previous years would exceed the limit specified in paragraph (9) and in that event the instalments (and the corresponding period over which they are payable) shall be recalculated so that they do not exceed that limit.

(9) The annual amount of instalments paid under paragraph (7) is to be such that A+B does not exceed 15% of the annual rate of the person's contributable salary in the year where—

A is the annual amount of the instalments; and

B is the annual amount of other contributions paid under Part C (except any treated for the purposes of regulation G2 as employers' contributions) or towards the provision of a pension otherwise than under these Regulations.

(10) For the purposes of this regulation, a person is to be treated as being in pensionable employment if he is paying additional contributions under regulation C9 or C10 and such a person may, except where paragraph (2)(b) applies, elect to make the return by instalments under paragraph (7).

### **Uncompleted return by instalments of repaid contributions**

**C17.—**(1) This regulation applies where instalments are payable by a person under regulation C16(5) or (7).

(2) If before all the instalments have been paid—

- (a) the person becomes entitled to payment of retirement benefits, or
- (b) a death grant becomes payable in respect of him,

the balance outstanding, discounted for early payment, is to be deducted from the appropriate terminal sum and the return of the contributions is to be treated as having been completed.

(3) This paragraph applies where the instalments are payable under regulation C16(5) and before they have all been paid, the person—

- (a) ceases to be in full-time pensionable employment, and
- (b) does not become entitled to payment of retirement benefits, and

- (c) continues in part-time pensionable employment or in comparable British service.
- (4) Where paragraph (3) applies—
  - (a) the person may by giving written notice to the Secretary of State elect to pay the balance outstanding by instalments under regulation C16(7), and
  - (b) if he does not so elect, he is to make a single payment of the balance outstanding, discounted for early payment.
- (5) This paragraph applies where before all the instalments have been paid—
  - (a) the person ceases to be in pensionable employment or in comparable British service, and
  - (b) neither paragraph (2) nor paragraph (3) applies.
- (6) Where paragraph (5) applies—
  - (a) the person may, if he elects to pay additional contributions for a current period under regulation C9 or C10, by giving written notice to the Secretary of State elect to pay the balance outstanding by instalments under regulation C16(7) (but payable at the same times as the additional contributions), and
  - (b) if he does not so elect, he is to make a single payment of the balance outstanding, discounted for early payment.
- (7) Where paragraph (3) or (5) applies and the person has not, within 3 months after the end of the relevant employment—
  - (a) made a payment under paragraph (4)(b) or (6)(b), or
  - (b) made any election he could have made under paragraph (4)(a) or (6)(a),
 the amount of the instalments already paid is to be repaid to him.
- (8) Where—
  - (a) a person who has elected as mentioned in regulation C16(3)(b) is in part-time pensionable employment or in comparable British service and an instalment has not been paid by the due date, or
  - (b) a person has made an election under paragraph (4)(a) and an instalment has not been paid by the due date, or
  - (c) a person has made an election under paragraph (6)(a) and an instalment is not paid by 21st April in the financial year following that in which it fell due,
 then, unless within 3 months he makes a single payment of the balance outstanding, discounted for early payment, the amount of the instalments already paid is to be repaid to him.

### **Deduction, payment and recovery of contributions**

**C18.—**(1) The employer of a person in pensionable employment, other than a services education officer, is to deduct from his salary each month—

- (a) the contributions payable under regulation C3(1) and any contributions payable under regulation C3(3),
- (b) any additional contributions payable in accordance with Part I of Schedule 4 as a result of an election under regulation C4,
- (c) any additional contributions payable by virtue of regulation C6 or C11, and
- (d) any instalments payable under regulation C16(5),

and any amount not so deducted in any month is to be deducted from the person's salary no later than 30th April next following the end of the financial year in which it ought to have been deducted.

(2) If and so far as deductions are not made under paragraph (1), any sum remaining due is to be paid by the person to the Secretary of State on receipt of a written demand specifying the sum.

(3) If the sum is not paid within 6 weeks after the date of the demand, interest is payable on it at 4% per annum, compounded with yearly rests, from the expiry of the 6 weeks to the date of payment.

(4) Without prejudice to any other means of recovery, any sum due to the Secretary of State under paragraph (2) or (3) may be recovered by deducting it from any benefits payable under Part E.

(5) Amounts due from a person under this Part which are not deductible under paragraph (1) are to be paid by him to the Secretary of State.

(6) If any amount to which paragraph (5) applies, except one due under regulation C9, C10, C16 or C17, is not paid within 6 months after the end of the period to which it relates, but remains payable, interest is payable on it at 4% per annum, compounded with yearly rests, from the expiry of the 6 months to the date of payment.

## PART D

### RECKONABLE SERVICE

#### Reckonable service generally

**D1.**—(1) Subject to regulation D2, a person is entitled to count as reckonable service—

- (a) subject to paragraph (2), any period spent by him in pensionable employment,
- (b) any period counting as reckonable service by virtue of regulations D3 (past period for which additional contributions have been paid), D4 (current period for which additional contributions have been paid) or F4(8) (acceptance of transfer value),
- (c) any period which does not count as reckonable service by virtue of sub-paragraph (a) or (b) but which immediately before 1st November 1988 counted as reckonable service under regulation 4(1) of the 1976 Regulations,
- (d) any period which immediately before 1st November 1988, under regulations 7 and 72(1) (a) of the 1976 Regulations (war service), was capable of counting as reckonable service for the purpose of calculating benefits under Part III of those Regulations,
- (e) any period counting as reckonable service by virtue of regulation D5 of the 1988 Regulations (which continues to have effect for certain purposes by virtue of paragraph 12 of Schedule 15), and
- (f) any period of specified country service.

(2) Where during a financial year a person has spent one or more periods in part-time pensionable employment each such period counts as—

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

of reckonable service, where—

A is the person's contributable salary for the period, and

B is what his contributable salary for the whole of the financial year would have been if the employment had been full-time and had continued throughout the year.

(3) For the purposes of paragraph (2)—

- (a) a period of part-time employment ends, and another such period begins, when any change occurs in the rate of the person's contributable salary,

- (b) no account is to be taken of any reduction in contributable salary during a period of sick leave or maternity leave,
  - (c) if a half or any greater fraction of a day results it is to be taken as one day, and any smaller fraction resulting is to be left out, and
  - (d) if the calculation would result in more than 365 days counting as reckonable service in respect of the financial year, the excess does not so count.
- (4) In calculating the length of reckonable service—
- (a) no account shall be taken of a leap year day (29th February) except as provided in subparagraph (b) below; but
  - (b) where total reckonable service which includes part of a year ends in a leap year on or after the leap year day that day shall be included in the number of days of reckonable service.

#### **Exclusion from reckonable service**

**D2.** The following do not count as reckonable service—

- (a) any contributions refund period, and
- (b) any period in respect of which a transfer value has been paid under regulation F1 or a cash equivalent has been paid.

#### **Past period for which additional contributions have been paid**

**D3.**—(1) A person—

- (a) who has paid additional contributions for a past period in accordance with Part II of Schedule 4, or
- (b) in respect of whom payment of additional contributions for a past period in accordance with Part II of Schedule 4 has been made

is entitled to count the past period as reckonable service.

(2) A person who—

- (a) has paid any additional contributions for a past period in accordance with Part I of Schedule 4, or
- (b) has continued to pay additional contributions for a past period in accordance with Schedule 5,

is entitled to count as reckonable service a period calculated in accordance with Schedule 7.

#### **Current period for which additional contributions have been paid**

**D4.**—(1) A person who has paid additional contributions for a current period in accordance with regulation C9 is entitled—

- (a) if he was in full-time pensionable employment immediately before the start of the period, to count as reckonable service the period in respect of which they were paid, or
- (b) if he was then in part-time pensionable employment, to count as reckonable service the proportion of the period that would have counted under regulation D1 if he had continued in that employment.

(2) A person who has paid additional contributions for a current period in accordance with regulation C10 is entitled to count as reckonable service the period specified in regulation C10(2).

## PART E

### BENEFITS

#### **Overriding provision as to guaranteed minimum pensions**

**E1.**—(1) This regulation applies where a person’s pensionable employment is contracted-out employment.

(2) Where this regulation applies it overrides anything in these Regulations that is inconsistent with it, except regulations E14 (abatement on re-employment) and E18 (deferment, etc. of benefits).

(3) Where this regulation applies and the person, in relation to employment up to 6th April 1997, has a guaranteed minimum in relation to benefits under these Regulations—

- (a) unless on the cessation of the pensionable employment he is entitled to a retirement pension at a higher rate, he is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to his guaranteed minimum,
- (b) if he attains state pensionable age while in pensionable employment, continues in the same employment for a further period of 5 years and does not then cease to hold it, he is (unless he consents to a postponement of the entitlement) entitled from the end of that period to so much of his retirement pension as equals his guaranteed minimum,
- (c) in the case of a man who dies at any time and leaves a widow, unless she is entitled to a widow’s pension at a higher rate she is, during any such period as is mentioned in section 17(5) of the 1993 Act, entitled to a pension at a weekly rate equal to half his guaranteed minimum, and
- (d) in the case of a woman who dies at any time leaving a widower who is not entitled to a widower’s pension at a higher rate, in circumstances prescribed under section 17(6) of the 1993 Act, the widower is entitled to a pension payable for the period so prescribed.

(4) The weekly rate of a widower’s pension payable under paragraph (3)(d) is half of that part of the deceased’s guaranteed minimum which is attributable to earnings factors for the period beginning with the tax year 1988-89 and ending with the tax year 1996-7.

(5) In paragraph (4) “earnings factors” means the earnings factors referred to in section 14(2) of the 1993 Act.

#### **Nature of retirement benefits**

**E2.** Retirement benefits consist of—

- (a) a retirement pension, and
- (b) a retirement lump sum,

calculated in accordance with this Part.

#### **Qualification for retirement benefits**

**E3.**—(1) A person is qualified for retirement benefits if—

- (a) immediately before 6th April 1988 he would, but for his age, have been entitled under regulation 53 of the 1976 Regulations to payment of an annual allowance and an additional allowance by way of lump sum payment.
- (b) immediately before 3rd February 1998 regulation E3(5) of the 1988 Regulations applied to him and he was qualified for retirement benefits under regulation E3 of those Regulations, or

- (c) an appropriate qualifying period has been completed.
- (2) An appropriate qualifying period—
  - (a) comprises every period of a kind described in Schedule 8 together with any period referred to in paragraph (4)(b), where that sub-paragraph applies, but excluding any contributions refund period, and
  - (b) may be discontinuous.
- (3) If the person—
  - (a) was in pensionable employment, or paying contributions for a current period under regulation 30 of the 1976 Regulations on 6th April 1988, or
  - (b) entered pensionable employment after 6th April 1988 without having been in such employment before that date,
 any qualifying period of 2 years is an appropriate one.
- (4) If paragraph (3) does not apply, but the person was in pensionable employment before 6th April 1988 and subsequently entered pensionable employment again after that date, any qualifying period of—
  - (a) two years beginning on or after 6th April 1988; or
  - (b) such period beginning on or after 6th April 1988 as will, when taken with every period of a kind described in Schedule 9 to the 1988 Regulations before 6th April 1988, amount to 5 years
 whichever is the shorter, is an appropriate one.
- (5) For the purposes of paragraph (4) any period of the kind described in paragraph 4 of Schedule 8 (transfer value accepted) is to be treated as having begun after 5th April 1988.
- (6) Notwithstanding that an appropriate qualifying period has not been completed, a person is qualified for retirement benefits—
  - (a) subject to paragraph (7), if he has a guaranteed minimum in relation to benefits under these Regulations, or
  - (b) if a transfer value was paid in respect of him by the Secretary of State to the superannuation scheme of the Commission of the European Communities and one has since been received by the Secretary of State from that scheme.
- (7) If a contributions equivalent premium is paid by the Secretary of State, paragraph (6)(a) is to be treated as not having applied.

#### **Entitlement to payment of retirement benefits**

**E4.**—(1) Subject to regulation E33(2) (application for payment), a person qualified for retirement benefits becomes entitled to payment of them in any of the Cases described in this regulation.

- (2) In Case A the person—
  - (a) has attained the age of 60,
  - (b) has ceased to be in pensionable employment, and
  - (c) is not within Case B or D.
- (3) In Case B the person—
  - (a) has attained the age of 60,
  - (b) has ceased after 31st March 1972 and after attaining that age to be in pensionable employment, but would have ceased to be in such employment before attaining that age



had not the employment continued beyond the attainment of that age due to a period of paid sick leave, and

(c) has become incapacitated before attaining that age.

(4) In Case C the person—

(a) has not attained the age of 60,

(b) has ceased after 31st March 1972 and before attaining the age of 60 to be in pensionable employment,

(c) is incapacitated and became so before attaining the age of 60, and

(d) is not within Case D,

and, in cases where the pensionable employment ceased on or after 1st April 1997 the Secretary of State has notified the person in writing that he has not exercised, or is not considering the exercise of, his powers under regulation 10(2) or (10) of the Education (Teachers) Regulations 1993<sup>(14)</sup> to direct on grounds of that person's misconduct that he be not appointed to or employed in relevant employment as defined in regulation 7 of those Regulations.

(5) In Case D the person—

(a) has attained the age of 50,

(b) has ceased after attaining that age but before attaining the age of 60 to be in pensionable employment or excluded employment,

(c) is not within Case C, and

(d) has not received and is not to receive compensation under Part III of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997<sup>(15)</sup> (discretionary compensation for termination), and his employer has notified the Secretary of State in writing—

(i) that his employment was terminated by reason of his redundancy or in the interests of the efficient discharge of the employer's functions, and

(ii) that the employer has agreed that he should become entitled to retirement benefits under this Case.

(6) If regulation 4(8) of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997 (employer to notify for purposes of those Regulations if requested by governing body) applies, the employer must notify the Secretary of State as mentioned in paragraph (5) above.

(7) In Cases A and B the entitlement takes effect as soon as the person falls within the Case.

(8) In Case C the entitlement takes effect—

(a) where, immediately before the person became incapacitated he was in excluded employment, on the day after the last day of his excluded employment; and

(b) in any other case, as soon as the person falls within the Case or as soon as the person would have fallen within the Case had there not been a requirement that the Secretary of State notify that person that he has not exercised, or is not considering the exercise of, his powers of direction under regulation 10(2) or (10) of the Education (Teachers) Regulations 1993,

or (in all cases), if later, 6 months before the date of the last of any medical reports considered by the Secretary of State in determining under regulation H9 that the person had become incapacitated.

(9) In Case D the entitlement takes effect as from the day after the end of the employment.

(10) In no case shall a person be regarded as having ceased to be in pensionable employment until at least one day has passed without the person being in pensionable employment.

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<sup>(14)</sup> S.I. 1993/543; relevant amending instruments are S.I. 1994/222 and S.I. 1995/2594.

<sup>(15)</sup> S.I. 1997/311.

### Amount of retirement pension

**E5.**—(1) Subject to paragraphs (2) to (6) and regulations E7 to E10, the annual rate of a person's retirement pension is 1/80th of his average salary multiplied by his effective reckonable service.

(2) If—

- (a) the person is entitled to count a period as reckonable service by virtue of regulation D3 (past period for which additional contributions have been paid), and
- (b) by reason of regulation E32(3) part of that period does not count in calculating his retirement lump sum,

the annual rate calculated in accordance with paragraph (1) is, in respect of each year comprised in that part, increased by 1/350th of his average salary.

(3) Subject to paragraphs (4) to (6), where a person who has become entitled to payment of retirement benefits by virtue of regulation E4(5) has ceased to be in pensionable employment or excluded employment on or after 1st September 1997, the annual rate of the person's retirement pension shall be the annual rate of such pension calculated in accordance with paragraphs (1) and (2) and, where appropriate, regulations E7 or E9 but disregarding the effect of regulation E10, multiplied by the appropriate factor.

(4) Paragraph (3) does not apply where notice to terminate the person's employment was given or his resignation tendered on or before 22nd October 1996.

(5) If—

- (a) the person has a guaranteed minimum in relation to employment up to 6th April 1997, and
- (b) **A exceeds B,**

where—

A is the annual equivalent of his guaranteed minimum pension together with that of any equivalent pension benefits, and

B is the annual rate calculated in accordance with paragraphs (1) and (2) and, where applicable, paragraph (3),

the annual rate of his retirement pension is A.

(6) If a contributions equivalent premium has been paid in respect of the person and has not been refunded (and his entitlement to a guaranteed minimum pension is therefore extinguished) the annual rate of his retirement pension is reduced by the annual equivalent of the guaranteed minimum pension to which he would otherwise have been entitled.

### Amount of retirement lump sum

**E6.**—(1) Subject to paragraphs (2) and (3) and regulations E7 and E8, the amount of a person's retirement lump sum is

$$A \times (B + C)$$

where—

A is 3/80th of the person's average salary,

B is his effective reckonable service (except any falling within C), and

C is any period which he is entitled to count as reckonable service by virtue of regulation D3 (past period for which additional contributions have been paid).

(2) If the person's effective reckonable service is restricted by regulation E32(2) the part of his retirement lump sum that is attributable to service before he attained the age of 60 is not to exceed his average salary multiplied by 1½.

(3) Subject to paragraph (4), where a person who has become entitled to the payment of retirement benefits by virtue of regulation E4(5) has ceased to be in pensionable employment or excluded employment on or after 1st September 1997, the amount of the person's retirement lump sum shall be the amount calculated in accordance with paragraphs (1) and (2) multiplied by the appropriate factor.

(4) Paragraph (3) shall not apply where notice to terminate the person's employment was given or his resignation tendered on or before 22nd October 1996.

#### **Limitation of retirement benefits in certain cases**

**E7.**—(1) Paragraphs (2) to (5) apply to a person who has made an election under regulation C1(6) of the 1988 Regulations or regulation C2(1) (reduced salary treated as having continued at previous rate) and whose average salary falls to be calculated by reference to the notional rate or, as the case may be, the rate specified in regulation C2(4).

(2) The annual rate of the person's retirement pension is not to exceed the fraction of the appropriate sum ascertained, by reference to the relevant age, from Table 1 below.

**TABLE 1**

<i>Relevant age</i>	<i>Fraction</i>
Under 50	1/2
50	2/5
51	3/10
52	1/5
53	1/10
54	1/14

(3) Where the person has been in pensionable employment for less than 20 years, his retirement lump sum is not to exceed 3/80ths of the appropriate sum multiplied by the total of his reckonable service and the period ascertained, by reference to the number of complete years he has been in pensionable employment, from Table 2 below.

**TABLE 2**

<i>Years in pensionable employment</i>	<i>Period in years</i>
19	17
18	15
17	13
16	11
15	9
14	7
13	5
12	4
11	3
10	2

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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<i>Years in pensionable employment</i>	<i>Period in years</i>
9	1
Fewer than 9	0

(4) Where the person has been in pensionable employment for 20 years or more his retirement lump sum is not to exceed the appropriate sum multiplied by 1½.

(5) The appropriate sum is the greater of—

- (a) the person’s contributable salary for the best one of his last 5 years in pensionable employment, and
- (b) 1/3rd of his aggregate contributable salary for his best 3 consecutive years in pensionable employment within the 10 years ending with its cessation,

and, for the purposes of paragraph (2), the relevant age is his age when he first entered pensionable employment, unless he was not continuously in pensionable employment in which case it is the figure obtained by subtracting the number of years in pensionable employment from 60.

(6) In this regulation references to “retirement pension” and “retirement lump sum” are references to such pension and lump sum before any actuarial reduction required by regulation E5(3) or E6(3).

#### **Enhancement of retirement benefits in case of incapacity**

**E8.**—(1) This regulation applies to a person who has become entitled to payment of retirement benefits by virtue of regulation E4(3) or (4) by reason of his having become incapacitated before ceasing to be in pensionable employment, but only if—

- (a) he had completed periods of the kinds described in Schedule 8 totalling at least 5 years, excluding any contributions refund period, and
- (b) the application for payment required by regulation E33 is made within 6 months after the end of his pensionable employment.

(2) Subject to regulation E32(2) (limitation of effective reckonable service to 45 years, etc.), for the purpose of calculating the person’s retirement benefits the effective reckonable service of a person to whom this regulation applies is to be treated as having been increased by the appropriate period.

(3) If the person’s relevant service amounts to less than 10 years, the appropriate period is the shorter of—

- (a) the length of his relevant service, and
- (b) the period beginning when his pensionable employment ended and ending immediately before his 65th birthday.

(4) If the person’s relevant service amounts to 10 years or more, the appropriate period is the longer of period A and period B.

(5) Period A is the shortest of—

- (a) the period by which the person’s relevant service falls short of 40 years,
- (b) the period beginning when the person’s pensionable employment ended and ending immediately before his 60th birthday, and
- (c) 6 years and 243 days.

(6) Period B is so much of the period beginning when the person’s pensionable employment ended and ending immediately before his 65th birthday as would not cause his effective reckonable service to be increased to more than 20 years.

(7) A person's relevant service is so much of his effective reckonable service as does not consist of periods that count—

- (a) by virtue of regulation D3 (past period for which additional contributions have been paid),  
or
- (b) by virtue of the application to him of regulation 7 of the 1976 Regulations (war service).

(8) For the purposes of this regulation a person is to be treated as having been in pensionable employment during any period for which he was paying additional contributions under regulation C9 or C10.

### **Avoidance of duplicate pensions**

**E9.**—(1) Subject to paragraph (2), this regulation applies where a person's effective reckonable service includes a period that also counts towards another pension payable directly or indirectly out of moneys provided by Parliament or by the rates or council tax levied by local authorities ("the double period").

(2) This regulation does not apply where the other pension is subject to reduction under Schedule D6 to the Local Government Pension Scheme Regulations 1995<sup>(16)</sup> or, when in force, regulation 142 of the Local Government Pension Scheme Regulations 1997<sup>(17)</sup> or where the other pension is payable under regulation 7 of the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1997<sup>(18)</sup>.

(3) Subject to paragraphs (4) and (5), where this regulation applies the person's retirement benefits are reduced by so much as is necessary to secure that

**A is reduced by B,**

where—

- A is the actuarial value of the retirement benefits in respect of the double period, and
- B is the actuarial value of the other pension in respect of that period.

(4) A is not to be reduced to less than the actuarial value of  
**(C + D),**

where—

C is the amount of the contributions paid by the person in respect of the double period, including any paid under regulation C9 or C10, and

D is interest on those contributions at 3% per annum, compounded with yearly rests, from the first day of the financial year following that in which they were paid to the date on which the person became entitled to payment of the retirement pension.

(5) A retirement pension is not to be reduced so that so much of it as is attributable to the double period falls below the rate of any equivalent pension benefits attributable to that period.

(6) For the purposes of this regulation—

- (a) the other pension includes any sum payable, whether as a continuing allowance or as a lump sum, by way of pension, superannuation allowance, compensation for loss or abolition of office or otherwise in respect of retirement; and
- (b) references to "retirement benefits" are references to such benefits before any actuarial reduction required by regulation E5(3) or E6(3).

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<sup>(16)</sup> S.I. 1995/1019.

<sup>(17)</sup> S.I. 1997/1612.

<sup>(18)</sup> S.I. 1997/311.

### **National Insurance modification of pensions**

**E10.** Part I of Schedule 10 has effect for modifying the retirement pensions of persons who were in pensionable employment before 1st April 1980 including retirement pensions that have been actuarially reduced under regulation E5(3).

### **Allocation of part of retirement pension**

**E11.**—(1) A person who has become qualified for retirement benefits may, unless he becomes entitled to payment of them by virtue of regulation E4(4) (incapacity), allocate part of his retirement pension to the provision of an alternative benefit.

(2) The alternative benefit may be either—

- (a) an annuity for life, commencing on the death of the person making the allocation (“the allocator”), for a surviving spouse or dependant, or
- (b) an annuity payable to the allocator while the allocator and allocator’s spouse are both alive, and if the spouse is the survivor a subsequent annuity for life, at twice the rate of the first annuity, for the spouse.

(3) The rates of the annuities mentioned in paragraph (2) shall be determined in accordance with tables prepared by the Government Actuary.

(4) An allocation must be made by delivering a declaration to the Secretary of State, and in paragraph (2) “spouse” refers to status at the time of its delivery.

(5) Further provisions as to an allocation under this regulation are contained in Schedule 11.

### **Duration of retirement pension**

**E12.** Subject to regulations E13 to E15 and E18, a retirement pension continues to be payable, at the rate at which it initially became payable in accordance with regulation E5, until the death of the person entitled to it.

### **Pensioner ceasing to be incapacitated**

**E13.**—(1) This regulation applies where a person who became entitled to payment of a teacher’s pension by virtue of regulation E4(4) ceases to be incapacitated.

(2) On the person ceasing to be incapacitated the pension ceases to be payable, but any equivalent pension benefits continue to be payable.

(3) Subject to paragraph (4) and to regulation E33(2) (application for payment), the pension becomes payable again—

- (a) from the person’s 60th birthday, or
- (b) if earlier, from the start of any renewed incapacity.

(4) Paragraph (3) does not apply if the person has been in pensionable employment at any time after he first became entitled to payment of the pension.

(5) If the pension becomes payable again under paragraph (3)(a) it is to be treated for the purposes of regulation E14 as one to the payment of which the person has become entitled by virtue of regulation E4(2).

### **Abatement of retirement pension during further employment**

**E14.**—(1) This regulation applies while a person who has become entitled to payment of a teacher’s pension is employed—

- (a) in pensionable employment, comparable British service, or employment which would have been pensionable employment but for—
    - (i) his having made an election under regulation B5 (election for employment not to be pensionable),
    - (ii) his having attained the age of 70, or
    - (iii) regulation B4(2)(a) (employment not pensionable).
  - (b) in part-time employment in a capacity described in paragraphs 1 to 9 of Schedule 2.
- (2) If the person is concurrently both in employment falling within paragraph (1)(a) and in employment falling within paragraph (1)(b), this regulation applies only in respect of the former.
- (3) Where this regulation applies, the annual rate of the pension is reduced—
- (a) If A equals or exceeds (C+D-E), to zero, and
  - (b) in any other case, and subject to paragraph (4), by the amount (if any) which is necessary to secure that (A+B) does not exceed

$$(C + D - E),$$

where—

A is the initial annual rate of the person's salary in the employment,

B is the reduced annual rate of the pension as increased under the Pensions (Increase) Act 1971(19) disregarding any actuarial reduction required by regulation E5(3),

C is, or where his previous pensionable employment was part-time is the full-time equivalent of, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he became entitled to payment of the pension, or, if applicable, the highest annual rate of contributable salary that was payable to him during the 3 years ending immediately before he ceased to be employed in any pensionable employment entered into by him after he became entitled to payment of the pension, whichever is the greater.

D is the amount (if any) by which, immediately before the first day of the employment, C would have been increased if it had been the annual rate of an official pension, within the meaning of section 5(1) of the Pensions (Increase) Act 1971 beginning, and first qualifying for increases under that Act, on the same date as the pension, and

E is any part of the pension allocated under regulation E11.

(4) Where regulation E5(3) applies the amount (if any) by which the annual rate of the pension is to be reduced under paragraph (3)(b) shall be the amount (if any) referred to in that sub-paragraph multiplied by the appropriate factor.

### **Retirement benefits on cessation of further employment**

**E15.**—(1) This regulation applies to a person who—

- (a) became entitled to payment of a teacher's pension ("the first pension"),
- (b) was subsequently in pensionable employment ("the further employment"), and
- (c) has ceased to be in the further employment.

(2) Subject to paragraph (3), if the first pension was not enhanced under regulation E8 (enhancement of retirement benefits in case of incapacity), the person—

- (a) ceases to be entitled to payment of the first pension, and

- (b) becomes entitled to payment of retirement benefits (“combined benefits”) calculated, subject to paragraph (8), by reference to the total of his reckonable service in the further employment and the reckonable service taken into account in calculating the first pension.
- (3) If the average salary by reference to which combined benefits would fall to be calculated is less than that by reference to which the first pension was calculated, the person—
  - (a) remains entitled to the first pension, and
  - (b) subject to paragraph (7), becomes entitled to payment of retirement benefits calculated by reference to his reckonable service in the further employment.
- (4) Subject to paragraph (7), if the first pension was enhanced under regulation E8 he becomes entitled to payment of the first pension and of additional retirement benefits in respect of the further employment.
- (5) The additional retirement benefits are to be calculated—
  - (a) in respect of pensionable employment before attaining the age of 60, as if regulation E8 had applied and the further employment had begun when he became entitled to payment of the first pension, and
  - (b) in respect of other pensionable employment, in accordance with regulations E5 and E6, but the additional retirement lump sum is subject to reduction under paragraph (8).
- (6) If in the application of regulation E8 to the calculation of the first pension the appropriate period was Period B, paragraph (5)(a) applies with the substitution for “60” of “65”.
- (7) If the person ceased to be in the further employment before attaining the age of 60 and neither regulation E4(4) (incapacity) nor regulation E4(5) (redundancy, etc.) applied, he does not become entitled to payment of retirement benefits under paragraph (3)(b) or (4) until he attains that age.
- (8) A retirement lump sum payable under paragraph (2)(b), and an additional retirement lump sum payable under paragraph (4), is reduced by the amount of the retirement lump sum to which the person became entitled when he became entitled to payment of the first pension, of any lump sum to which he had previously become entitled under this regulation, and of any short-service incapacity grant paid to him under regulation E17.
- (9) Where a person ceases to be in further employment on or after 1st September 1997 and becomes entitled to retirement benefits by virtue of regulation E4(5)—
  - (a) regulation E5(3) shall apply to that person’s retirement pension under paragraph (2)(b) or (3)(b) or to his additional retirement pension under paragraph (4); and
  - (b) regulation E6(3) shall also apply to that person’s retirement lump sum under paragraph (2)(b) or (3)(b) or to his additional retirement lump sum under paragraph (4).

### **Short-service annuity**

- E16.**—(1) A person who—
- (a) has not been in pensionable employment at any time after 5th April 1980, and
  - (b) is not qualified for retirement benefits, and
  - (c) would, but for regulation 46(2) of the 1976 Regulations or regulation C12(2) (salary exceeding £5,000), have been entitled to be repaid the balance of his contributions,
- is entitled to be paid, from his 60th birthday, an annuity for life.
- (2) The rate of the annuity is the actuarial equivalent of the balance of his contributions calculated in accordance with regulation C13 as at his 60th birthday.



### Short-service incapacity grant

**E17.**—(1) A person who—

- (a) has been in pensionable employment for at least one year, and
- (b) has become incapacitated, and
- (c) had not attained the age of 70 when he became incapacitated, and
- (d) is not entitled to payment of retirement benefits the aggregate value of which exceeds the relevant amount,

is entitled, if he applies for payment within 6 months after the end of his pensionable employment, to an incapacity grant.

(2) The aggregate value of retirement benefits is the total of the retirement lump sum and the actuarial equivalent of the retirement pension.

(3) The relevant amount is

$$\frac{A}{12} \times B,$$

where,

A is the person's average salary, and

B is the length of his reckonable service.

(4) The amount of the incapacity grant is the difference between the relevant amount and the aggregate value of any retirement benefits to which the person is entitled.

(5) The incapacity grant is not to be paid before the end of the person's pensionable employment.

### Deferment etc. of benefits

**E18.**—(1) This regulation applies where a person is convicted of—

- (a) an offence of treason,
- (b) one offence or more under the Official Secrets Acts 1911 to 1989<sup>(20)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years, or
- (c) an offence in connection with pensionable employment or excluded employment which is certified by the Secretary of State either to have been gravely injurious to the State or to be liable to lead to serious loss of confidence in the public service,

and any benefit under regulations E1 to E17 becomes payable to him after the offence was committed.

(2) Subject to paragraph (3), the Secretary of State may—

- (a) defer or, as the case may be, suspend payment of the benefit for so long, or
- (b) reduce its amount or rate by so much,

as he may determine,

(3) If—

- (a) the person has a guaranteed minimum in relation to benefits under these Regulations, and
- (b) the offence does not fall within paragraph (1)(a) or (b),

a determination under paragraph (2) may not deprive him of his guaranteed minimum pension after he attains state pensionable age.

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<sup>(20)</sup> 1911 c. 28; 1920 c. 75; 1939 c. 121; 1989 c. 6.

### **Commutation: exceptional circumstances of ill-health**

**E19.**—(1) Where, at the time when a person first becomes entitled to a retirement pension by virtue of regulation E4(3) or (4), there are exceptional circumstances of serious ill health affecting the person the Secretary of State may discharge the liability to pay that pension in respect of so much of it as exceeds the person's guaranteed minimum by payment of a lump sum calculated in accordance with paragraph (2).

(2) The lump sum is an amount equal to five times the amount by which the annual rate of the retirement pension which would otherwise be payable to the person exceeds the amount of his guaranteed minimum.

### **Death grant**

**E20.**—(1) Subject to paragraph (6), if at the time of his death a person—

- (a) was in pensionable employment, or
- (b) was paying additional contributions under regulation C9 or C10, or
- (c) had, not more than 12 months earlier, ceased to be in pensionable employment while incapacitated,

a death grant may be paid.

(2) The amount of a death grant under paragraph (1) is the greater of—

- (a) the amount which, if on the date of the person's death he had ceased to be employed on becoming incapacitated, would have become payable by way of retirement lump sum or short-service incapacity grant, or both, and
- (b) (i) in a case of a death occurring before 1st April 1998, his average salary, or  
(ii) in the case of a death occurring on or after 1st April 1998, twice his average salary, less, in either case, the amount of any retirement lump sum or short-service incapacity grant previously paid to him.

(3) Subject to paragraph (6), if a person who has ceased after 31st March 1972 to be in pensionable employment dies without having become entitled to payment of retirement benefits and—

- (a) the qualifying condition is satisfied, and
- (b) no death grant could be paid under paragraph (1),

a death grant may be paid under this paragraph.

(4) The qualifying condition—

- (a) if the person ceased to be in pensionable employment before 1st November 1988, is that he was entitled to count at least 2 years' reckonable service, and
- (b) in any other case, is that he was so entitled and was qualified for retirement benefits,

but, where sub-paragraph (a) applies, it is to be assumed for the purpose of calculating the death grant that he was qualified for retirement benefits.

(5) The amount of a death grant under paragraph (3) is the amount that would have become payable by way of retirement lump sum if the person had become entitled under regulation E4(2) to payment of retirement benefits, less the amount of any retirement lump sum or short-service incapacity grant previously paid to him.

(6) If a person who has at any time been in pensionable employment dies and—

- (a) no death grant could be paid under paragraph (1) or (3), or
- (b) the amount of such a death grant would be smaller and no pension becomes payable under regulation E26 to a surviving spouse or a nominated beneficiary,

a death grant equal to the balance of his contributions, calculated in accordance with regulation C13 as at the date of his death, may be paid.

(7) Where any death grant is paid under this regulation, it is to be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination—

- (a) if the deceased is survived by one widow or by a widower, to the widow or widower,
- (b) if there are two or more widows, to the widows in equal shares, or
- (c) if there is no widow or widower, to the personal representatives.

(8) Any nomination for the purposes of paragraph (7) shall be made by giving written notice to the Secretary of State.

### **Supplementary death grant**

**E21.**—(1) Subject to paragraph (5), this regulation applies where a person dies who—

- (a) has become entitled to payment of retirement benefits, and
- (b) is not in pensionable employment.

(2) If—

- (a) at least 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and
- (b) the total of the amounts paid in respect of them is less than his average salary,

a supplementary death grant equal to that deficiency or, where regulation E5(3) applies for the calculation of retirement pension, equal to that deficiency multiplied by the appropriate factor, may be paid.

(3) If—

- (a) less than 10 years' reckonable service was taken into account in calculating the person's retirement benefits, and
- (b) the amount paid in respect of his retirement pension is less than 5 times the annual rate at which it was payable when he died,

a supplementary death grant equal to that deficiency or, where regulation E5(3) applies for the calculation of retirement pension, equal to that deficiency multiplied by the appropriate factor, may be paid.

(4) For the purposes of this regulation—

- (a) any amount by which a retirement pension was reduced under regulation E5(3), E9 (avoidance of duplicate pensions) or E14 (abatment of retirement pension during further employment), and any part of a pension allocated under regulation E11, is to be treated as having been paid, and
- (b) a retirement lump sum is to be treated as having been paid without any deduction under these Regulations (including any actuarial reduction under regulation E6(3)).

(5) This regulation does not apply if the person's last employment was of a kind described in Part II of Schedule 9 to the 1988 Regulations and, by virtue of regulation E3(1)(b), formed part of the qualifying period for the purposes of regulation E3.

(6) Where any supplementary death grant is paid under this regulation it is to be paid to the individual nominated by the deceased to receive the grant or, in the absence of such a nomination,

- (a) if the deceased is survived by one widow or by a widower, to the widow or widower,
- (b) if there are two or more widows, to the widows in equal shares, or
- (c) if there is no widow or widower, to the personal representatives.

(7) Any nomination for the purposes of paragraph (6) shall be made by giving written notice to the Secretary of State.

### **Family benefits generally**

**E22.**—(1) Pensions are payable in accordance with regulations E24 to E30 to widows, widowers, children and nominated beneficiaries of persons who die in, or after having been in, pensionable employment.

(2) References in those regulations to a surviving spouse are references to a widow or widower; but—

- (a) in the case of a man who has not been in pensionable employment or paying additional contributions for a current period under regulation C9 or C10 at any time after 5th April 1978, such references, and references to a widow, do not include references to a woman married by that man after his last day in pensionable employment or, as the case may be, the end of the period for which such contributions were paid;
- (b) subject to paragraph (3), in the case of a woman who has not been in pensionable employment or paying additional contributions for a current period under regulation C9 or C10 at any time after 5th April 1988, such references and references to a widower do not include references to a man married by that woman after her last day in pensionable employment or, as the case may be, the end of the period for which such contributions were paid.

(3) Where a woman who nominated a person under regulation E23 subsequently marries, paragraph 2(b) shall have effect with the substitution of “1978” for “1988”.

(4) Where those regulations provide for a pension to be payable to a widow and there are two or more widows, the widows are jointly entitled to the pension.

(5) References in those regulations to a person’s child are to a person who is—

- (a) his legitimate, adopted or illegitimate child, or
- (b) accepted by him as a member of the family and wholly or mainly dependent on him,

and who is a child within the meaning given in paragraphs (6) to (8).

(6) Subject to paragraphs (7) and (8) and paragraph 14 of Schedule 15, for the purposes of regulations E23 to E30 a person is a child while he is unmarried and—

- (a) he has not attained the age of 17, or
- (b) having attained that age, he is receiving full-time education or attending a course of not less than 2 years’ full-time training for a trade, profession or calling and he has been receiving such education or attending such a course of training or both continuously since having attained that age without a break at any one time of longer than a year, or
- (c) having ceased while incapacitated to fall within sub-paragraph (a) or (b), he continues to be incapacitated.

(7) For the purposes of paragraph (6)(b)—

- (a) a person is to be treated as receiving full-time education up to and including the week which includes the first Monday in January or the first Monday after Easter Monday or the first Monday in September next following the end of the last term in which he received it, and
- (b) a person is to be treated as not attending a course of training while he is receiving disqualifying remuneration.

(8) For the purposes of paragraph (7)(b) disqualifying remuneration is remuneration at a rate of not less than the annual rate at which an official pension, within the meaning of section 5(1) of

the Pensions (Increase) Act 1971(21), would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.

(9) References in regulations E24 to E30 to a nominated beneficiary are to a person nominated under regulation E23.

### **Nomination of beneficiaries**

**E23.**—(1) Subject to paragraph (2), an unmarried person (“the appointor”) may at any time before retirement benefits have been paid, by giving written notice to the Secretary of State, nominate an eligible person who is wholly or mainly financially dependent on the appointor and who is not a child to receive a pension under regulations E24 to E30.

(2) No person may be nominated while a previous nomination under this regulation has effect.

(3) The eligible persons are—

(a) a parent, brother or sister of the appointor who is not married and is either widowed or has never been married, and

(b) a widowed step-parent of the appointor.

(4) A nomination under this regulation may be revoked by giving written notice to the Secretary of State, and if not previously revoked ceases to have effect—

(a) on the death or marriage (or, as the case may be, remarriage) of the person nominated, and

(b) on the marriage of the appointor.

### **Entitlement to short-term family benefits**

**E24.**—(1) Subject to paragraphs (3) and (4), a short-term pension is payable, from the day after that of his death, if a person dies—

(a) while in pensionable employment,

(b) during a period for which he is paying additional contributions under regulation C9 or C10,

(c) within 12 months after ceasing to be in pensionable employment, or to pay such contributions, as a result of ill-health, but before becoming entitled to payment of retirement benefits, or

(d) after becoming entitled to payment of retirement benefits.

(2) The short-term pension is payable—

(a) subject to paragraph (4), to any surviving spouse or, if a nomination under regulation E23 had effect at the time of his death, to the nominated beneficiary; and

(b) if the deceased is survived by a child or children of his to, or for the benefit of, the child or, as the case may be, the children jointly.

(3) Where two or more teachers confer on the same child or, as the case may be, children entitlement to a short-term pension, regulation E26(7)(b) shall apply in a like manner to short-term pensions payable by virtue of this regulation.

(4) No short-term pension is payable—

(a) to a widower if one is payable to another person as a nominated beneficiary,

(b) to a nominated beneficiary who, at the date of death of the deceased, was not wholly or mainly financially dependent on the deceased,

(c) if there is no surviving spouse, nominated beneficiary or surviving child, or

- (d) where paragraph (1)(d) applies, to a person who is not entitled under regulation E26 to a long-term pension.

### **Amount and duration of short-term family benefits**

**E25.**—(1) Subject to paragraphs (2) and (4), the annual rate of a short-term pension under regulation E24—

- (a) if regulation E24(1)(a) or (c) applies, is the annual rate of the deceased’s contributable salary on his last day in pensionable employment, disregarding any reduction by reason of sick leave or maternity leave,
- (b) if regulation E24(1)(b) applies, is the annual rate, at the time of the deceased’s death, of the notional salary described in regulation C9(7) or, as the case may be, C10(4),
- (c) if regulation E24(1)(d) applies, is the annual rate, at the time of the deceased’s death, of his retirement pension, and
- (d) if regulation E24(1)(a) and (d) both apply, is the total of the rates specified in subparagraphs (a) and (c) above.

(2) If—

- (a) the short-term pension is payable to a surviving spouse, and
- (b) the annual rate calculated in accordance with paragraph (1) is less than that of a long-term pension to which the surviving spouse is prospectively entitled under regulation E26,

the annual rate of the short-term pension is the same as that of the long-term pension.

(3) The duration of the short-term pension payable shall be ascertained from the table below and in that table “adult pension” means a short-term pension payable to the spouse or nominated beneficiary.

TABLE

<i>Category</i>	<i>Person falling within regulation E24(2)</i>	<i>Duration of pension (months)</i>
1	Spouse or nominated beneficiary	3
2	One child or more where an adult pension is payable	3
3	Where no adult pension is payable	6

(4) Where regulation E5(3) applies the annual rate of the short-term pension shall be the annual rate calculated in accordance with paragraph (1) or (2) multiplied by the appropriate factor.

### **Entitlement to long-term family benefits**

**E26.**—(1) A long-term pension is payable in accordance with paragraph (2) if a person dies who—

- (a) has been in pensionable employment at any time after 31st March 1972, and
- (b) has relevant service within the meaning of regulation E27 amounting to at least 2 years,

but, in the case of a person who ceased to be in pensionable employment before 6th April 1988, subparagraph (b) has effect with the substitution for “2 years” of “5 years”.

(2) If paragraph (1) applies—

- (a) subject to paragraph (3) a long-term pension is payable to any surviving spouse,
- (b) if a nomination under regulation E23 had effect at the time of the death, a long-term pension is payable to the nominated beneficiary provided that, at the date of death of the deceased, the nominated beneficiary was wholly or mainly financially dependent on the deceased, and
- (c) if a pension is payable under sub-paragraph (a) or (b) and the deceased is survived by a child or children of his, a long-term pension is payable to, or for the benefit of, the child or, as the case may be, the children jointly.

(3) Subject to paragraph (5), unless family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6, no long-term pension is payable to a widower if one is payable to another person as a nominated beneficiary.

(4) If when a person dies paragraph (2) does not apply but he—

- (a) has been in pensionable employment at any time after 31st March 1972, and
- (b) is qualified for retirement benefits, and
- (c) is survived by a child or children of his,

a long-term pension is payable to or for the benefit of the child or, as the case may be, the children jointly.

(5) Subject to paragraph (6), if neither paragraph (2) nor paragraph (4) applies but the deceased had a guaranteed minimum in relation to benefits under these Regulations and leaves a surviving spouse, a long-term pension is payable to the surviving spouse.

(6) If a contributions equivalent premium is paid by the Secretary of State, paragraph (5) is to be treated as not having applied.

- (a) (7) (a) Sub-paragraph (b) applies where two or more teachers, by virtue of this regulation, confer on the same child or, as the case may be, children entitlement to a long-term pension.
- (b) The child or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of not more than two teachers; but where entitlement derives from the relevant service of three or more teachers, the child, or, as the case may be, children shall be entitled to receive payment of the long-term pension in respect of the two teachers which by virtue of their relevant service provide pensions of the largest amounts.

### **Relevant service**

**E27.**—(1) In the case of a man, and in the case of a woman in relation to a nominated beneficiary or a widower on whose marriage to her a nomination ceased to have effect, relevant service, subject to paragraph (3), comprises—

- (a) any period of pensionable employment after 31st March 1972,
- (b) any period beginning after that date for which additional contributions have been paid under regulation C9 or C10,
- (c) any period for which additional contributions have been paid under regulation C4 or under Schedule 5, except paragraph 7, in accordance with an election made after 31st March 1974,
- (d) if a transfer value has been accepted in respect of comparable British service, the period that would, immediately before its acceptance, have counted for family benefits in the relevant pension scheme,

- (e) any period counting as reckonable service by virtue of the acceptance of any other transfer value under regulation F4 or under the Teachers' Superannuation (Added Years and Interchange) Regulations 1974(22),
  - (f) so much of any period counting as reckonable service by virtue of an election under regulation 4 of the Teachers' Superannuation (Policy Schemes) Regulations 1979(23) as is attributable to service after 31st March 1972,
  - (g) any period counting as reckonable service by virtue of regulation 34 of the 1976 Regulations (special provision relating to period from December 1973 to March 1974),
  - (h) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part I of Schedule 6, and
  - (i) in the case of a member, so much of his credited service as does not exceed the total of his normal service, any additional period and any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6.
- (2) In relation to a widower not falling within paragraph (1), the deceased's relevant service comprises, subject to paragraph (3)—
- (a) so much of the periods described in paragraph (1)(a), (b) and (d) as consists of, or is attributable to, service after 5th April 1988,
  - (b) any period for which additional contributions have been paid under regulation C4 in accordance with an election made after 31st May 1988,
  - (c) any period in respect of which family benefit contributions have, or are to be treated as having, been paid under Part II of Schedule 6, and
  - (d) if the deceased entered pensionable employment after 5th April 1988, and a transfer value offered in respect of him was accepted under regulation F4, any period counting as reckonable service by virtue of the acceptance of the transfer value.
- (3) Relevant service does not include any contributions refund period.

### **Amounts of spouses' and nominated beneficiaries' long-term pensions**

**E28.**—(1) Subject to paragraph (2), the annual rate of a pension payable under regulation E26 to a surviving spouse or a nominated beneficiary is 1/160th of the deceased's average salary multiplied by the length of his family benefit service.

(2) If—

- (a) paragraph 16 of Schedule 6 (retrospective salary increases affecting deductions from terminal sums and amounts of lump sum payments) applies, and
- (b) a person entitled to limit the amount of the deduction or lump sum had done so,

the retrospective salary increase is not to be taken into account in calculating the deceased's average salary.

(3) Family benefit service does not include any contributions refund period.

(4) Subject to paragraphs (3), (5) and (8) to (10), if the pension is payable to a nominated beneficiary, to a widower on whose marriage to the deceased a nomination ceased to have effect, or to a woman whom the deceased married before the end of his pensionable employment the deceased's family benefit service comprises—

- (a) any period falling within regulation E27(1)(a) to (h),

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(22) S.I. 1974/260 revoked by S.I. 1976/1987.

(23) S.I. 1979/47 revoked by S.I. 1988/1652.



- (b) in the case of a member, his credited service and any period that fell to be calculated in accordance with paragraph 7(3) of Schedule 6, and
- (c) any period related to war service in respect of which an additional contribution has been paid under regulation C8(8) or Part IV of Schedule 6 or which is included by virtue of paragraph 21(1) of that Schedule.

(5) If the member's credited service exceeds the total of his normal service and any additional period, for the purposes of paragraph (4)(b) his credited service is reduced by 1/6th of the excess.

(6) If the deceased had been in pensionable employment after 5th April 1978 and the pension is payable to a woman whom he first married after his last day in pensionable employment, his family benefit service, subject to paragraph (3), comprises—

- (a) any period of pensionable employment after 5th April 1978,
- (b) any period for which additional contributions have been paid under regulation C4 in accordance with an election made after that date,
- (d) if a transfer value has been accepted after that date in respect of comparable British service, any period of reckonable service attributable to comparable British service after that date,
- (e) any period counting as reckonable service by virtue of the acceptance after that date of any other transfer value, and
- (f) so much of any period counting as reckonable service by virtue of an election under regulation 4 of the Teachers' Superannuation (Policy Schemes) Regulations 1979(24) as is attributable to service after that date.

(7) If the pension is payable to a widower not falling within paragraph (4), the deceased's family benefit service, subject to paragraphs (3) and (8) to (10), comprises the relevant service described in regulation E27(2).

(8) This paragraph applies if the deceased died—

- (a) while in pensionable employment, or
- (b) during a period for which he was paying additional contributions under regulation C9 or 10, or
- (c) within 12 months after ceasing to be in pensionable employment as a result of ill health but before becoming entitled to payment of retirement benefits, or
- (d) after becoming entitled to payment of retirement benefits, if they fell to be enhanced under regulation E8 (enhancement of retirement benefits in case of incapacity).

(9) If paragraph (8) applies and the family benefit service calculated in accordance with paragraphs (3) to (7) is less than the deceased's effective reckonable service, his family benefit service is increased by—

$$\frac{A}{B} \times C;$$

where—

A is the family benefit service calculated in accordance with paragraphs (3) to (7),

B is his effective reckonable service apart from C, and

C is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of regulation E8.

(10) If paragraph (8) applies and A is not less than B, his family benefit service is increased by C.

### Amounts of children's long-term pensions

**E29.**—(1) Subject to paragraphs (3) to (6), if a long-term pension become payable under regulation E26—

- (a) to a surviving spouse or a nominated beneficiary (an “adult pension”), and
- (b) to or for the benefit of a child or children (a “children’s pension”),

the annual rate of the children’s pension is the appropriate fraction of the deceased’s average salary multiplied by the length of his family benefit service.

(2) The appropriate fraction—

- (a) while a children’s pension is payable to or for the benefit of 2 or more children, is 1/160th, and
- (b) while a children’s pension is payable to or for the benefit of one child, is 1/320th.

(3) Subject to paragraphs (4) to (6), if—

- (a) an adult pension becomes payable to a woman whom the deceased married after his last day in pensionable employment,
- (b) before that day he had married another woman, and
- (c) the persons to or for whose benefit a children’s pension is payable include a child who was, or children who were, a child or children of the deceased’s at any time during the earlier marriage, the annual rate of the children’s pension is the appropriate fraction of his average salary multiplied by the length of what would have been his family benefit service if regulation E28(4) had applied (“the notional family benefit service”).

(4) If the children’s pension is payable to, or for the benefit of—

- (a) one child who was a child of the deceased’s during the earlier marriage, and
- (b) one or more children who were not children of his during that marriage,

the annual rate of the children’s pension is

$$\mathbf{A - B,}$$

where—

A is 1/320th of his average salary multiplied by the length of the notional family benefit service, and

B is 1/320th of his average salary multiplied by the actual length of his family benefit service.

(5) If—

- (a) no adult pension becomes payable, or
- (b) an adult pension ceases to be payable,

the annual rate of a children’s pension is the applicable fraction of the deceased’s average salary multiplied by the greater of C and D or, where regulation E28(8) applies, the greater of

$$\mathbf{C \text{ and } (D + E),}$$

where—

C is the notional family benefit service,

D is the deceased’s effective reckonable service apart from E, and

E is the period which was, or would if regulation E8 had applied have been, the appropriate period within the meaning of regulation E8.

(6) The applicable fraction—

- (a) while a children's pension is payable to or for the benefit of 2 or more children, is 1/120th, and
- (b) while a children's pension is payable to or for the benefit of one child, is 1/240th.

### **Commencement and duration of long-term family pensions**

**E30.**—(1) A pension under regulation E26 payable to a surviving spouse or a nominated beneficiary (“an adult pension”) is to be paid—

- (a) from the day on which any short-term pension that became so payable under regulation E24 ceases to be payable, or
- (b) if no short-term pension became payable, from the day after that of the death.

(2) Subject to paragraph (3), an adult pension is payable for life.

(3) Unless the Secretary of State determines otherwise in the particular case, and subject always to regulation E1(3)(c) and (d) (guaranteed minimum pension for surviving spouse), an adult pension is not payable during or after any marriage or period of cohabitation outside marriage.

(4) A pension under regulation E26 payable to or for the benefit of a child or children (“a children's pension”) is to be paid—

- (a) from the day on which any short-term pension that became so payable, or payable to a surviving spouse or a nominated beneficiary, under regulation E24 ceases to be payable, or
- (b) if no short-term pension became payable, from the day after that of the death.

(5) A children's pension ceases to be payable to a person or for his benefit when he ceases to be a child.

### **Average salary**

**E31.**—(1) Subject to paragraph (11), a person's average salary—

- (a) where the material part of his average salary service is one year or more, is his full salary for the best consecutive 365 days of that part, and
- (b) in any other case, is the average annual rate of his full salary for that part.

(2) In determining, for the purposes of paragraph (1), what are the best consecutive 365 days of the material part of the person's average salary service, days on which the person is not in pensionable employment are disregarded.

(3) Average salary service comprises—

- (a) any period spent by the person in pensionable employment,
- (b) any period counting as reckonable service by virtue of regulation D4 (current period for which additional contributions have been paid), and
- (c) any period of comparable British service which began before 1st April 1974 and has not been followed by a period of pensionable employment and for which a transfer value has been accepted.

(4) The material part of a person's average salary service is—

- (a) where the person has less than 3 years of such service, the whole of it, or
- (b) in any other case, the last 3 years of it.

(5) In determining the material part of a person's average salary service, periods when the person was not in pensionable employment shall be disregarded and accordingly the period of 3 years referred to in paragraph (4) may be discontinuous.

(6) For the purposes of paragraphs (2), (3)(a) and (5) a person who is employed under a contract whereby that person is available for work but only undertakes (and accordingly is only paid for) work when, and for periods, requested by the employer is not treated as being in pensionable employment during periods when he is not undertaking work (whether or not such a person would be so treated apart from this paragraph).

(7) Subject to paragraphs (8) and (9), a person's full salary—

- (a) for a period falling within paragraph (3)(a), is his contributable salary for the period of pensionable employment, disregarding any reduction during sick leave or maternity leave,
- (b) for a period falling within paragraph (3)(b), is the notional salary by reference to which the additional contributions paid under regulation C9 or, as the case may be, C10 were calculated, and
- (c) for a period falling within paragraph (3)(c), is what would have been his salary for the purpose of calculating benefits under the pension scheme to which he was subject in the relevant employment.

(8) For—

- (a) a period of pensionable employment, or
- (b) a period counting as reckonable service by virtue of regulation D4,

beginning after 31st July 1975 and ending before 1st August 1978, a person's full salary includes any sums that would have been payable to him if payment of them had not been withheld, whether by virtue of an enactment or otherwise, in order to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975(25).

(9) For—

- (a) a period of pensionable employment, or
- (b) a period counting as reckonable service by virtue of regulation D4

beginning after 31st March 1979 and ending before 1st September 1980, a person's full salary is the notional salary resulting from the application to him of the Teachers' Superannuation (Notional Salaries) Regulations 1981(26).

(10) Where a person has during the material part of his average salary service spent any period in part-time employment the full salary for that period shall be the amount which it would have been if the employment had been full-time during that period.

(11) Subject to paragraph (12), where at any time during the material part of a person's average salary service a person has received an increase in his contributable salary such that—

$$\left( \frac{B}{A} - 1 \right) \times 100 - C - 10$$

is greater than zero where—

A is the person's salary before the increase (or, in a case where the person has previously received an increase in salary such as is mentioned in this paragraph but no election under regulation G8 is made, the salary which the person is treated as receiving in accordance with the provision of this paragraph),

B is the person's salary after the increase, and

C is the standard increase of salary (expressed as a percentage),

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(25) 1975 c. 57; section 1 was amended, and the period for which it had effect extended to end with 31st July 1978, by the Price Commission Act 1977 (c. 33), section 17; references to limits set out in documents laid before Parliament in 1976 and 1977 were added by S.I. 1976/1097, 1977/1294.

(26) S.I. 1981/934.

the person is treated as having received an increase in his contributable salary such that his salary after the increase is

$$A \left( 1 + \frac{C + 10}{100} \right)$$

unless an election is made under regulation G8(3) to pay the additional contribution referred to in that regulation.

(12) Paragraph (11) does not apply—

- (a) in relation to a person who becomes entitled to the payment of retirement benefits by virtue of regulation E4(4),
- (b) for the purpose of calculating—
  - (i) a death grant under regulation E20, or
  - (ii) a pension payable under regulation E28 (spouses' and nominated beneficiaries' long-term pensions) or E29 (children's long-term pensions) in relation to a person who died while in pensionable employment, or
- (c) to any increase in contributable salary which was received while the person was employed by an employer other than the body which was the person's employer immediately before he became entitled to the payment of retirement benefits.

(13) For the purposes of paragraph (11), paragraph (12) and this paragraph—

- (a) where a person receives more than one increase in salary in a financial year the increases taken together shall be treated as one increase and accordingly, in paragraph (11), A is the person's salary before the first increase and B is the person's salary after the last increase;
- (b) a discretionary increase of salary is an increase received by a person to whom on the material date the 1991 Act applied which arises from—
  - (i) the person's promotion such that his salary is based on a different pay spine; or
  - (ii) the person being paid at the discretion of the body responsible for determining the person's salary at a higher point within the pay spine applicable to him;
- (c) the material date is the date on which the increase of salary took effect;
- (d) the standard increase of salary is—
  - (i) in the case of a person to whom on the material date the 1991 Act applied, the increase, if any, other than a discretionary increase of salary, that would have been received on the material date by the person in question in accordance with any order under section 2 of the 1991 Act for the time being in force or under any document referred to in such an order, had he not received the increase in salary referred to in paragraph (11) or, if he would have received no increase on that date in accordance with any such order or document, the next increase other than a discretionary increase of salary that would have been received by him in accordance with any such order or document;
  - (ii) In the case of a person to whom on the material date the 1991 Act does not apply, the average percentage of the increases, if any, that would have been received on the material date by persons ("the comparable employees") who were employed at the school or institution where the person in question was employed and whose circumstances corresponded most closely to those of that person or, if there were no comparable employees, by persons who were employed as teachers at that school or institution or, if the comparable employees or the persons so employed as teachers (as the case may be) would have received no increases on that date, the next increases they would have received;

- (e) where a body becomes a person's employer by virtue of any enactment regarding the transfer of staff or the transfer of rights and liabilities under a contract of employment that body and the person's previous employer shall be taken to be the same employer.

(14) Where an election under regulation G8 is made after the person becomes entitled to payment of retirement benefits the person is, until the date on which the election is received by the Secretary of State, entitled to retirement benefits calculated on the basis only of the contributable salary he is treated as receiving in the absence of such an election and accordingly as from the date on which the election is received by the Secretary of State the person becomes entitled to—

- (a) a lump sum payment equal to the difference between the retirement lump sum to which the person is entitled taking into account the election and the retirement lump sum previously paid to the person; and
- (b) a retirement pension taking into account the election.

### Effective reckonable service

**E32.**—(1) A person's effective reckonable service is so much of his reckonable service as counts for the purpose of calculating a benefit under this Part, except a pension under regulation E26.

(2) Subject to paragraph (3), effective reckonable service does not include—

- (a) any reckonable service in excess of 45 years—
- (b) any reckonable service in excess of 40 years before attaining the age of 60.

(3) In relation to a retirement lump sum, if the person's relevant service, that is to say the total of—

- (a) the time he has spent in pensionable employment,
- (b) any comparable British service counting as reckonable service by virtue of the acceptance of a transfer value, and
- (c) any period counting as reckonable service by virtue of an election under regulation 4 of the Teachers' Superannuation (Policy Schemes) Regulations 1979<sup>(27)</sup>,

is less than 20 years, his effective reckonable service does not include so much of any period counting as reckonable service by virtue of regulation D3 (past period for which additional contributions have been paid) as exceeds the maximum ascertained from the Table below.

TABLE

<i>Relevant service in years</i>	<i>Maximum</i>
19	17 years
18	15 years
17	13 years
16	11 years
15	9 years
14	7 years
Fewer than 14	8 years less than the length in years and days of the relevant service

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(27) S.I. 1979/47 revoked by S.I. 1988/1652.

(4) For the purposes of paragraph (3) a person who becomes entitled to payment of retirement benefits by virtue of regulation E4(4) or (5) (incapacity or redundancy before attaining the age of 60) is to be treated as having continued in pensionable employment up to that age.

(5) Effective reckonable service does not include—

- (a) any period in respect of which a short-service annuity is payable under regulation E16, or
- (b) any period which, having been reckoned under section 17 of the Local Government Superannuation Act 1937(28) or a corresponding provision contained in a local Act scheme within the meaning of that Act, has become reckonable as service under regulations under section 10 of the Superannuation Act 1972 (persons engaged in health services, etc.).

### **Payment of benefits**

**E33.**—(1) Benefits under this Part are payable by the Secretary of State.

(2) No benefit is to be paid unless a written application for payment has been made and paragraph (3), if applicable, has been complied with.

(3) If the Secretary of State notifies him in writing that he so requires, the applicant is to provide any relevant information specified by the Secretary of State that is in his possession or that he can reasonably be expected to obtain.

(4) Subject to paragraphs (6) to (9), a benefit that does not consist of a single payment is to be paid monthly—

- (a) in the case of a family benefit, on the 28th of the month, and
- (b) in any other case, on the day before the birth date of the person entitled to payment,

and the first payment under this paragraph is to be made on the first date referred to in subparagraph (a) or (b) which falls at least one month after the person's entitlement to benefit took effect.

(5) If a person was born on the 1st of a month, his birth date in any month is the 1st, and so on; in any month in which the date arrived at in that way does not occur, his birth date is the last day of the month.

(6) If—

- (a) the person's entitlement to payment of the benefit took effect, or
- (b) the benefit ceases to be payable,

on the day other than the day following the one specified in paragraph (4) (the "due date"), a proportionate payment is to be made for the relevant period as soon as practicable after the material date.

(7) The relevant period is—

- (a) where paragraph (6)(a) applies, the period beginning on the day on which the entitlement took effect and ending with the material date, and
- (b) where paragraph (6)(b) applies, the period beginning on the day following the last due date before the benefit ceased to be payable and ending with the material date.

(8) The material date is—

- (a) where paragraph (6)(a) applies, the due date immediately following the date on which the person's entitlement to benefit took effect, and
- (b) where paragraph (6)(b) applies, the day before the benefit ceased to be payable.

(9) A proportionate payment is a payment of

$$\frac{A}{12} \times \frac{B}{C}$$

where—

A is the annual rate of the benefit,

B is the number of days in the relevant period, and

C is the number of days in the month ending with the material date.

(10) The Apportionment Act 1870<sup>(29)</sup> (being inconsistent with paragraphs (4) to (9)) is to be taken not to have effect in relation to benefits under this Part.

(11) If the person entitled to payment of a benefit has not attained the age of 18, or is incapable by reason of infirmity of mind or body of managing his affairs, the Secretary of State may—

(a) pay it to any person having the care of the person entitled, or

(b) apply it as he thinks fit for the benefit of the person entitled or his dependants.

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

**E34.**—(1) Where all or any part of the benefits payable under this Part, other than a pension payable under regulation E24, is not paid within one month of the due date, the Secretary of State shall pay to the person to whom the benefit is payable interest on the amount unpaid at the base rate for the time being quoted by the reference banks.

(2) The interest referred to in paragraph (1) shall be calculated on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.

(3) For the purposes of paragraph (1) the due date, where a benefit consists of a single payment, is—

(a) the date on which the person becomes entitled to the benefit, where the benefit consists of a single payment other than a death grant referred to in paragraph (b), or

(b) the day after the date on which the Secretary of State has become satisfied that the death grant may be paid under regulation E20 or E21, where the benefit is a death grant payable under either of those regulations.

(4) For the purposes of paragraph (1) the due date, in a case where a benefit does not consist of a single payment, is—

(a) the material date referred to in regulation E33(8) in the case of the payment referred to in regulation E33(6), or

(b) the date referred to in regulation E33(4) in relation to each payment in the case of any other monthly payment.

(5) For the purposes of paragraph (1)—

(a) “the base rate” means the rate for the time being quoted by the reference banks as applicable to sterling deposits or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of four, is the first in the sequence; and

(b) “the reference banks” means the four largest institutions for the time being which—

(i) are authorised by the Bank of England under the Banking Act 1987<sup>(30)</sup>;

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<sup>(29)</sup> 1870 c. 35.

<sup>(30)</sup> 1987 c. 22.



- (ii) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
- (iii) quote a base rate applicable to sterling deposits.

### **Benefits not assignable**

**E35.**—(1) Any assignment of or charge on or agreement to assign or charge any benefit under this Part is void.

(2) An allocation under regulation E11 is not an assignment, and an arrangement for the recovery by the Secretary of State of an overpayment does not constitute an assignment or an agreement to assign.

(3) Paragraph (1) shall not preclude any payment of benefit pursuant to an order of the court under section 25B or 25C of the Matrimonial Causes Act 1973<sup>(31)</sup> or pursuant to regulations under section 25D of that Act.

(4) On the bankruptcy of a person entitled to a benefit under this Part, no part of the benefit passes to any trustee or other person acting on behalf of the creditors except in accordance with an income payments order made by a court under section 310 of the Insolvency Act 1986<sup>(32)</sup>.

## PART F

### TRANSFER VALUES

### **Payment of transfer values**

**F1.**—(1) Subject to paragraphs (2) to (7), a transfer value is to be paid in respect of a person who has ceased to be in pensionable employment and has become subject to an approved pension scheme or, if he ceased to be in pensionable employment after 31st December 1985, a personal pension scheme (“the receiving scheme”).

(2) The person must have made a written application to the Secretary of State, within 12 months after the day on which he became subject to the receiving scheme, for the transfer value to be paid.

(3) A transfer value is not to be paid if one was paid before 3rd February 1998 in relation to the same transfer.

(4) A transfer value is not to be paid in respect of a person who, when the application was received, had become entitled under regulation E4 to payment of retirement benefits or under regulation E16 or E17 respectively to a short-service annuity or incapacity grant, unless the employment in which he has become subject to the receiving scheme is comparable British service and he entered it—

- (a) immediately after ceasing to be in pensionable employment, or
- (b) on or before his 60th birthday,

and has not applied for payment of any benefit.

(5) A transfer value is not to be paid if the receiving scheme is an approved pension scheme which is administered wholly or primarily in the United Kingdom and is not a contracted-out scheme, unless the person—

- (a) has been in pensionable employment for less than 2 years or is not qualified for retirement benefits, or

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<sup>(31)</sup> 1973 c. 18; Sections 25B and 25C were inserted by Section 166 of the 1995 Act.

<sup>(32)</sup> 1986 c. 45.

- (b) ceased to be in pensionable employment before 6th April 1978, or
  - (c) is a married woman or widow who, by virtue of an election made or treated as made under regulations under section 19(4) of the Social Security Contributions and Benefits Act 1992(33), either is liable to pay primary Class 1 contributions or Class 2 contributions at a reduced rate or is under no liability to pay Class 2 contributions.
- (6) A transfer value is not to be paid if the person has acquired a right to a cash equivalent, unless—
- (a) the service to which the cash equivalent relates includes service before 1st September 1988, and
  - (b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the scheme managers of an approved pension scheme which is not a club scheme.
- (7) A transfer value is not to be paid if the person—
- (a) has acquired a right to a part cash equivalent, and
  - (b) would on taking that right remain qualified for retirement benefits.

#### **Amounts of transfer values and additional transfer values**

**F2.**—(1) Part I of Schedule 12 has effect, subject to paragraphs (2) and (3), for determining the amounts of transfer values payable under regulation F1.

(2) Unless the receiving scheme is a club scheme, where—

- (a) the person in respect of whom a transfer value is payable had become entitled to count reckonable service under regulation F4(8) (acceptance of transfer value), and
- (b) the amount determined in accordance with Part I of Schedule 12, together with that of any cash equivalent paid on the transfer, is less than the appropriate amount,

a transfer value of the appropriate amount is to be paid.

(3) The appropriate amount is

$$\mathbf{A + B - C,}$$

where—

A is the transfer value accepted under regulation F4,

B is the total of the contributions paid by the person under Part C, except any that fell to be treated for the purposes of regulation G2 as employers' contributions, and

C is any cash equivalent paid on the transfer.

#### **Termination of right to count reckonable etc. service**

**F3.** A person—

- (a) in respect of whom a transfer value has been paid under regulation F1, or
- (b) who has acquired a right to a cash equivalent and exercised the option to take that right,

ceases to be entitled to count as reckonable service, or as part of a qualifying period within the meaning of regulation E3, any period to which the transfer value or cash equivalent related.

### **Acceptance of transfer values**

**F4.**—(1) Subject to paragraphs (2) to (6), a transfer value offered to the Secretary of State by the scheme managers of—

- (a) an approved pension scheme, or
- (b) a personal pension scheme, or
- (c) a scheme consisting of a self-employed pension arrangement,

(“the previous scheme”), in respect of a person who has entered pensionable employment, may be accepted.

(2) In paragraph (1) “self-employed pension arrangement” means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Taxes Act which—

- (a) is approved by the Commissioners of Inland Revenue under that Chapter, and
- (b) is neither a personal pension scheme nor a contract or scheme approved under Chapter III of Part XIV of the Taxes Act.

(3) The person must have made a written request to the Secretary of State for the transfer value to be accepted.

(4) Unless while the person was subject to the previous scheme he was employed in comparable British service, the request must have been made within 12 months after the day on which he entered pensionable employment.

(5) A transfer value is not to be accepted if one was accepted before 3rd February 1998 in relation to the same transfer.

(6) Subject to paragraph (7), a transfer value is not to be accepted if—

- (a) before he ceased to be subject to the previous scheme the person became entitled under regulation E4 to payment of retirement benefits, or
- (b) he has become entitled to payment of benefits under a provision of a statutory scheme corresponding to regulation E4.

(7) Paragraph (6) does not apply if, while the person was subject to the previous scheme, he was employed in comparable British service and he entered pensionable employment—

- (a) immediately after the end of the employment, or
- (b) on or before his 60th birthday.

(8) A person in respect of whom a transfer value has been accepted is entitled to count reckonable service in accordance with Part II of Schedule 12.

## **PART G**

### **FINANCE**

#### **Teachers' Pension Account**

**G1.** An account substantially in the form set out in Schedule 13 is to be prepared by the Secretary of State for every financial year starting with the financial year ending with 31st March 1998.

#### **Receipts etc. to be credited**

**G2.**—(1) Employees' and employers' contributions received during the financial year are to be credited to the account.

(2) Employees' contributions comprise—

- (a) all contributions payable under regulations C3(1) and (3), C4, C5, C6, C8, C11 and paragraph 36 of Schedule 10,
  - (b) so much of the contributions payable by services education officers under regulation C3(2) as falls within regulation C3(2)(a),
  - (c) so much of any additional contributions payable under regulation C9 and C10 as would have been payable under regulation C3(1) if pensionable employments had continued, and
  - (d) all amounts payable under regulations C16 and C17 (return of repaid contributions).
- (3) Employers' contributions comprise—
- (a) the contributions payable under regulations G5, G6 and G8,
  - (b) so much of the contributions payable by services education officers under regulation C3(2) as falls within regulation C3(2)(b), and
  - (c) so much of any additional contributions payable under regulation C9 and C10 as would have been payable under regulation G5 if pensionable employments had continued.
- (4) There are also to be credited to the account—
- (a) the closing balance in the account for the preceding financial year,
  - (b) all transfer values accepted under regulation F4 and additional transfer values under regulation D6 of the 1988 regulations (which continues to have effect by virtue of paragraph 12 of Schedule 15 despite the revocation of the 1988 Regulations) received during the financial year,
  - (c) all contributions equivalent premiums refunded, or recovered under section 61 of the 1993 Act, during the financial year,
  - (d) any interest and other payments under these Regulations received during the financial year, and
  - (e) the notional investment income for the financial year on the balance in the account.
- (5) For the purposes of paragraph (4)(e), the notional investment income is an amount determined by the Government Actuary and derived by multiplying the balance on the account from time to time by the estimated percentage return (calculated over such period as the Government Actuary determines) on the total invested assets of relevant pension funds in the United Kingdom; and “relevant pension funds” means pension funds in excess of £1,000 million or such other sum as the Secretary of State may from time to time determine: provided that, in determining such an amount, the Government Actuary shall have regard to such information relating to such return on such assets as may be available to him from any organisation in the United Kingdom, designated by the Secretary of State, which compiles and publishes statistics relating to the assets of such funds.

### **Payments to be debited**

- G3.** There are to be debited to the account all sums paid during the financial year by way of—
- (a) benefits under Part E, so far as not attributable to service before 1st June 1922,
  - (b) payments under paragraph 12 of Schedule 10 (equivalent pension benefits),
  - (c) repayment of contributions (including interest) under regulations C12 and C14,
  - (d) transfer values under regulation F1, additional transfer values under regulation F2 of the 1988 Regulations (war service) (which continues to have effect by virtue of paragraph 17 of Schedule 15 despite the revocation of the 1988 Regulations) and transfer values under Chapter IV of Part IV of the 1993 Act.
  - (e) contributions equivalent premiums, and

- (f) increases payable under the Pensions (Increase) Act 1971(34).

### **Actuarial inquiries**

**G4.** The Government Actuary shall make an actuarial inquiry reporting on the position in relation to the account as at the end of the financial year ending with 31st March 2001 and at the end of every fifth subsequent financial year (“the financial year in question”).

(2) The Government Actuary shall make a report on the inquiry to the Secretary of State as soon as practicable after the end of the financial year in question and the Secretary of State shall lay the report before each House of Parliament.

(3) The report is to specify the percentage of the contributable salaries of persons entering pensionable employment on the first day of the next financial year at which contributions should be paid, during the period beginning on 1st April next following the date of the report and ending with 31st March next following the date of the next report (“the relevant period”), so as to defray the cost of the payments of the kinds described in regulation G3(a) to (f) that are likely to be made in respect of them.

(4) The report is to state the amount by which, at the end of the financial year in question, the amount of the scheme assets exceeded or fell short of that of the scheme liabilities.

(5) The scheme assets are—

- (a) the value of the employees' contributions receivable after the end of the financial year in respect of persons who at the end of that year were or had been in pensionable employment,
- (b) the value of employers' contributions in respect of such persons receivable after the end of the financial year, except any such supplementary contributions as are mentioned in paragraph (7),
- (c) the value of payments that would fall to be credited under regulation G2(4)(d) and (e) to the accounts for subsequent financial years, and
- (d) the actuarial value at the end of the financial year in question of the balance in the account.

(6) The scheme liabilities are the payments to be made under these Regulations and in respect of pension increases under the Pensions (Increase) Act 1971 after the end of the financial year in question in respect of persons who at the end of that year were or had been in pensionable employment, except payments attributable to service before 1st June 1922.

(7) If the report states that the amount of the scheme liabilities exceeded that of the scheme assets, it is to specify a rate (expressed as a percentage) at which, during the relevant period, supplementary contributions should be paid by employers of persons in pensionable employment so as to remove the deficiency within the period of 15 years beginning on 1st April following the date of the report.

(8) If the report states that the amount of the scheme assets exceeded that of the scheme liabilities, it is to specify a rate (expressed as a percentage) at which, during the relevant period, the employers of persons in pensionable employment should receive a contribution rebate so as to remove the surplus within the period of 15 years beginning on 1st April following the date of the report.

(9) The rate referred to in paragraphs (7) and (8) is to be expressed as a percentage of the contributable salaries from time to time of persons in pensionable employment; the percentage must either be or be a multiple of 0.05.

(10) In this regulation “employees' contributions” and “employers' contributions” are to be construed in accordance with regulation G2(2) and (3) respectively.

### **Employers' contributions**

**G5.**—(1) Subject to paragraph (3), the employer of a person in pensionable employment, other than a services education officer, is during every relevant period to pay contributions of the required percentage of his contributable salary for the time being.

(2) The required percentage for every relevant period beginning with the relevant period starting on the 1st April next following the date of the first report made under regulation G4, is

$$(A - 6) + B - C$$

or, if the result would be less than zero, zero, where—

A is the percentage specified for the relevant period under regulation G4(3),

B is any percentage specified for the relevant period under regulation G4(7) and (9); and

C is any percentage specified for the relevant period under regulation G4(8) and (9).

(3) Paragraph 9 of Schedule 15 has effect for the purpose of determining the required percentage for relevant periods before that referred to in paragraph (2) above.

(4) No contributions are to be paid in respect of any person to whom regulation E32(2)(a) (restriction of reckonable service to 45 years) has become applicable.

(5) For the purposes of this regulation—

(a) a local education authority is deemed to be the employer of every person employed in or in connection with a school maintained by it, other than of a person who is in the employment of an employment business, and

(b) “relevant period” is to be construed in accordance with regulation G4(3).

(6) In this regulation “employment business” has the meaning assigned to it by section 13(3) of the Employment Agencies Act 1973(35).

### **Employers' contributions—employees' elections under regulation C2**

**G6.**—(1) In this regulation “employer A”, “employer B” and “employer C” have the same meaning as in regulation C2(1)(b) and (6)(c).

(2) Where a person who falls within regulation C2(1)(a) has made an election under regulation C2(1) the person’s employer may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by that employer.

(3) Where a person who falls within regulation C2(1)(b) has made an election under regulation C2(1) either employer A or employer B may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer A or employer B as the case may be.

(4) Where a person who has made an election under regulation C2(1) ceases to be in pensionable employment in circumstances where—

(a) his election continues to have effect by virtue of regulation C2(6)(c)(ii), and

(b) an election has been made under paragraph (2), or under paragraph (3) by employer B, but

(c) the employer who made the election does not confirm it under paragraph (7)(a)(ii),

employer C may elect that the contribution deficit, or such part of it as is specified in the election, is to be paid by employer C.

(5) In paragraphs (2) and (3) “the contribution deficit” means contributions of the required percentage of the difference between the person’s actual contributable salary and his contributable salary at the rate referred to in regulation C2(4).

- (6) An election for the purposes of paragraphs (2), (3) or (4)—
  - (a) must be made by giving written notice to the Secretary of State,
  - (b) has effect—
    - (i) in the case of an election under paragraph (2) or (3), from the date on which the employee's election under regulation C2(1) has effect, or from the end of the month in which the election was made whichever is the later, and
    - (ii) in the case of an election under paragraph (4), from the date on which the person takes up employment with employer C or from the end of the month in which the election was made whichever is the later, and
  - (c) shall state whether the employer elects to pay the whole of the contribution deficit or a proportion of it and if so what that proportion is, and
  - (d) is irrevocable.
- (7) An election made under paragraph (2), under paragraph (3) by employer B or under paragraph (4) ceases to have effect—
  - (a) in the case of an election under paragraph (2) or (3), if the person ceases to be employed by the employer who made the election unless—
    - (i) the person elects to pay additional contributions under regulation C10, or
    - (ii) by virtue of regulation C2(6)(c)(ii) the person's election does not cease to have effect and the employer confirms the election before the date on which the person takes up employment with the new employer, and
  - (b) in the case of an election under paragraph (4) if the person ceases to be employed by the person who made the election unless he elects to pay additional contributions under regulation C10.
- (8) An election made under paragraph (3) by employer A ceases to have effect if the person ceases to be in pensionable employment unless he—
  - (a) elects to pay additional contributions under regulation C10, or
  - (b) takes up pensionable employment with another employer within 6 months of ceasing to be in pensionable employment.
- (9) Where, in relation to a person who falls within regulation C2(1)(b)—
  - (a) there are at any time elections by both employer A and employer B, or as the case may be both employer A and employer C; and
  - (b) if both elections were fully effective their combined effect would be that more than the contribution deficit would be paid to the Secretary of State,the election by employer B or as the case may be, employer C shall have full effect but the election by employer A shall have effect only to the extent of the difference (if any) between the contribution deficit and the amount which is the subject of the election by employer B or employer C.

### **Payment by employers to Secretary of State**

- G7.**—(1) The employer of a person in pensionable employment is to pay to the Secretary of State, within 7 days after the end of each month—
- (a) all amounts due from the person that are deductible from his salary under regulation C18(1),
  - (b) the contributions payable under regulation G5, and
  - (c) the contributions payable in pursuance of an election under regulation G6,
- in respect of his contributable salary for that month.

(2) The former employer of a person in pensionable employment who has made an election under regulation G6(3) (referred to in regulations C2(1)(6) and G6 as “employer A”) is to pay to the Secretary of State within 7 days after the end of each month the contributions in pursuance of the election.

(3) For the purposes of paragraph (1)—

- (a) all salaries are to be treated as being payable monthly in arrears, and
- (b) any arrears payable by reason of a retrospective increase in contributable salary are to be treated as having become payable in the month in which they were paid.

(4) If the full amount of any payment required by paragraph (1) or (2) is not received by the Secretary of State within 7 days after the end of the month, interest is payable by the employer or the former employer on the amount outstanding at 12% per annum, compounded with monthly rests, from the 8th day to the date of payment; but the Secretary of State may in any particular case waive the payment of interest.

### **Employers' additional contributions**

**G8.**—(1) Where an employer has elected under regulation C4(3) to pay additional contributions in respect of a person, payment to the Secretary of State of the lump sum referred to in paragraph 13(1) of Schedule 4 shall be made within the period referred to in paragraph 13(2) of that Schedule.

(2) Where a person receives an increase in contributable salary as is mentioned in regulation E31(11), the person’s last employer before he became entitled to payment of retirement benefits (“the former employer”) may make an election under paragraph (3).

(3) An election under this paragraph is an election to pay an additional contribution of

$$A - B - C$$

where—

A is the actuarial value of the retirement benefits to which the person would be entitled calculated by reference to the salary he received,

B is the actuarial value of the retirement benefits to which the person would be entitled if he was treated as receiving the increase in his contributable salary referred to in regulation E31(11), and

C is the aggregate of contributions which would be repaid under regulation H6 if no election had been made.

(4) An election under paragraph (3) may be made by giving written notice to the Secretary of State no later than six weeks after the date on which the person became entitled to payment of retirement benefits.

(5) Where an election is made under paragraph (3) the payment to the Secretary of State under the election shall be made within 14 days after the date of the election.

(6) If the full amount of payment under the election under paragraph (3) is not received by the end of the period referred to in paragraph (5), interest is payable by the former employer on the amount outstanding at 12% per annum compounded with monthly rests from the day after the end of the period referred to in paragraph (5) to the date of payment.



## PART H

### MISCELLANEOUS AND SUPPLEMENTAL

#### **Modified application in case of employment at reduced salary**

##### **H1.—(1) If—**

- (a) a person who has been in pensionable employment either—
  - (i) continues to be employed by the same employer, or
  - (ii) ceases to be employed and is re-employed within six months (whether by the same or a different employer),at a reduced rate of contributable salary, and
- (b) where he continues to be employed by the same employer, is employed in a different post, and
- (c) he does not make an election under regulation C2(1) that his contributable salary is to be treated as having continued at the previous rate, and
- (d) the relevant employer notifies the Secretary of State in writing of the matters specified in paragraph (2) before—
  - (i) the date which is 3 months after the first day of his employment at the reduced rate, or
  - (ii) 3rd May 1998,whichever is the later
- (e) the application to him of this paragraph would, taking into account prospective increases under the Pensions (Increase) Act 1971 of benefits under Part E, be beneficial,

these Regulations have effect in relation to him with the modifications set out in Part II of Schedule 10.

(2) For the purposes of paragraph (1)(d) the matters which are to be notified to the Secretary of State are—

- (a) where the person continues to be employed with the same employer or ceases to be employed and is re-employed by the same employer, that the person's employment at a reduced rate of contributable salary is in the interests of the efficient discharge of the employer's functions, and
  - (b) where the person ceases to be employed by one employer and is re-employed by a different employer—
    - (i) that the person had provided satisfactory service throughout the period of the person's employment with the relevant employer; and
    - (ii) that the person had ceased employment with the relevant employer with the intention of seeking employment in a new post with less responsibility.
- (3) For the purpose of this regulation—
- (a) the contributable salary of a person in part-time employment is to be taken to be what it would have been if the employment had been full-time, and
  - (b) the "relevant employer" is—
    - (i) where the person ceases to be employed by one employer and takes up employment with a different employer, the person's former employer, and
    - (ii) in any other case, the person's employer.
- (4) A second or subsequent application of paragraph (1) does not affect its previous operation.

### Modified application in certain other cases

**H2.**—(1) In relation to persons who made an election under regulation 4 of the Teachers' Superannuation (Policy Schemes) Regulations 1979<sup>(36)</sup> these Regulations have effect with the modifications set out in Part III of Schedule 10.

(2) In relation to persons with admitted service these Regulations have effect with the modifications set out in Part IV of Schedule 10.

(3) In relation to persons with specified country service these Regulations have effect with the modifications set out in Part V of Schedule 10.

(4) In relation to certain persons who were formerly members of the National Health Service Pension Scheme these Regulations have effect with the modifications set out in Part VI of Schedule 10.

### Records and information

**H3.**—(1) The employer of a person in pensionable employment is to record for each financial year—

- (a) the rate of the person's salary,
- (b) the amount of his contributable salary,
- (c) where during the financial year the person has spent one or more periods in part-time pensionable employment, the amount which his contributable salary would have if the employment had been full-time throughout the year,
- (d) any money value forming part of his contributable salary by virtue of regulation C1(1)(d) (accommodation and related services),
- (e) the contributions deducted under regulation C18(1),
- (f) the period during which he was in pensionable employment, and
- (g) the dates of any absence on sick leave or maternity leave, and the amount of salary paid during it.

(2) Employers are, within such reasonable time as he may require, to make to the Secretary of State such reports and returns, and to give him such information about persons who are or have been in pensionable employment, as he may reasonably require for the purposes of his functions under these Regulations; and such persons, and their personal representatives, are to give him such information and to produce such documents as he may reasonably require for those purposes.

### Payments in respect of deceased persons

**H4.**—(1) This regulation applies where a person dies and the total of—

- (a) any sums that were due to him under these Regulations, and
- (b) any sums payable under these Regulations to his personal representatives,

(“the amount due”) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965<sup>(37)</sup> and applying in relation to the death.

(2) Where this regulation applies the Secretary of State may, without requiring the production of probate or other proof of title, pay the amount due—

- (a) to the personal representatives, or

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<sup>(36)</sup> S.I. 1979/47 revoked by S.I. 1988/1652.

<sup>(37)</sup> 1965 c. 32; the amount specified in S.I. 1984/539 is £5,000.

- (b) to the person, or to or among any one or more of any persons, appearing to him to be beneficially entitled to the estate.

#### **Revaluation of guaranteed minimum in certain cases**

**H5.**—(1) This regulation applies where a person has ceased to be in pensionable employment and has taken a right to a cash equivalent by requiring the Secretary of State to use the cash equivalent wholly or partly in the way specified in section 95(2)(c) of the 1993 Act (purchase of annuity).

(2) Where this regulation applies, to the extent that the person's guaranteed minimum is otherwise appropriately secured within the meaning of section 19(3) of the 1993 Act—

- (a) for the purposes of section 14(2) of that Act (amount of guaranteed minimum) the person's earnings factors shall be determined by reference to the last order under section 21 of the Social Security Pensions Act 1975<sup>(38)</sup> or section 148 of the Social Security Administration Act 1992<sup>(39)</sup> to come into force before the end of the tax year in which his service was terminated and without reference to the last such order to come into force before the end of the final relevant year, and
  - (b) the weekly equivalent mentioned in section 14(2) of the 1993 Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 55(5) of that Act (exclusion from liability to pay a limited revaluation premium).
- (3) In this regulation "final relevant year" has the meaning given in section 16(5) of the 1993 Act.

#### **Repayment of contributions where an election is not made under regulation G8**

**H6.**—(1) This regulation applies where—

- (a) a person receives an increase in contributable salary as is mentioned in regulation E31(11), but
  - (b) no election under regulation G8(3) has been made.
- (2) Where this regulation applies the Secretary of State shall repay—
- (a) to the person who was in pensionable employment a sum equivalent to A–B, and
  - (b) to that person's last employer before he became entitled to retirement benefits a sum equivalent to C–D.
- (3) In paragraph (2) above—

A is the aggregate of the contributions paid by the person under regulation C3, C4, C6 or C11 during the relevant period,

B is the aggregate of the contributions which would have been paid under regulation C3, C4, C6 or C11 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11),

C is the aggregate of contributions paid by the person's employer under regulation G5 during the relevant period, and

D is the aggregate of the contributions which would have been paid by the person's employer under regulation G5 during the relevant period if the person had actually received the salary which he was treated as having received under regulation E31(11),

and in this paragraph the "relevant period" is the period which started when the person received the increase in contributable salary as mentioned in regulation E31(11) and ended when the person became entitled to the payment of retirement benefits.

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<sup>(38)</sup> 1975 c. 60.

<sup>(39)</sup> 1992 c. 5.

### **Extension of time**

**H7.** The Secretary of State may in any particular case extend, or treat as having been extended, the time within which anything is required or authorised to be done under these Regulations.

### **Calculation of full-time equivalent salary**

**H8.** Where any reference occurs in these Regulations, in relation to a person who is in, or has spent any period in, part-time employment to the amount which his contributable salary would have been if he had been employed full-time then, in a case where the person's contract entitles him to remuneration at a rate which is not expressed as a proportion of the annual, termly or monthly rate for a comparable full-time employment, the amount which his contributable salary would have been if the employment had been full-time shall be calculated on the same basis as is used for the calculation of the person's salary in the part-time employment in question.

### **Determination of questions**

**H9.** All questions arising under these Regulations are to be determined by the Secretary of State.

### **Election in respect of protected benefits**

**H10.**—(1) Where—

- (a) apart from this regulation, any provision of these Regulations, which re-enacts with any modification any provision revoked by these Regulations, would place any person to whom a protected benefit is or may become payable in a worse position than he would have been in if that modification had not been made, and
- (b) that person so elects, by giving written notice to the Secretary of State before 3rd May 1998,

then, subject to paragraph (3), these Regulations shall have effect, in relation to him and to that benefit as if these Regulations had re-enacted the revoked provision without modification.

(2) In this regulation "protected benefit" means a benefit payable to, or in respect of, a person who before 3rd February 1998—

- (a) was employed in pensionable employment but ceased to be so employed (whether or not he has subsequently become re-employed in pensionable employment); or
- (b) died.

(3) If an election under paragraph (1) is made in relation to a benefit of a person who is in pensionable employment or who subsequently becomes re-employed in pensionable employment—

- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
  - (i) of periods of reckonable service before the cessation referred to in paragraph 2(a) (or, if there had been more than one cessation, the last of them before 3rd February 1998, or
  - (ii) of contributions paid in respect of such periods of reckonable service; and
- (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never re-entered pensionable employment again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph);

and these Regulations shall apply accordingly.

## **Consequential amendments of the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994**

**H11.**—(1) The Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(40) shall be amended as follows.

(2) In regulation 2(2) for the words “references to the 1988 Regulations are references to the Teachers' Superannuation (Consolidation) Regulations 1988” there shall be substituted the words “references to the 1997 Regulations are references to the Teachers' Pensions Regulations 1997”.

(3) In regulation 2(3)—

(a) in the definition of “dependant” for the words “regulation E21 of the 1988 Regulations” there shall be substituted the words “regulation E22 of (as read with paragraph 14 of Schedule 15 to) the 1997 Regulations” and for the words “regulation E22 of the 1988 Regulations” there shall be substituted the words “regulation E23 of the 1997 Regulations”.

(b) in the definitions of “pensionable employment”, “reckonable service” and “retire” for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”; and

(c) in the definition of “salary”—

(i) in sub-paragraph (a) for the words “regulation C1 of the 1988 Regulations” there shall be substituted the words “regulations C1 and C2 of the 1997 Regulations”; and

(ii) in sub-paragraph (b) for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(4) In regulation 7(2)—

(a) in sub-paragraph (a) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”; and

(b) in sub-paragraph (c) for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(5) In regulation 8(3) (in the definition of “C”) for the words “regulation C16(2) of the 1988 Regulations” there shall be substituted the words “regulation C18(2) of the 1997 Regulations”.

(6) In regulation 11(2) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”.

(7) In regulation 12(11) for the words “the 1988 Regulations” there shall be substituted the words “the 1997 Regulations”.

(8) In regulation 15(1)(b) for the words “regulation C13 of the 1988 Regulations” there shall be substituted the words “regulation C15 of the 1997 Regulations”.

(9) In regulation 16(3) for the words “E19(7) of the 1988 Regulations” there shall be substituted the words “E20(7) of the 1997 Regulations”.

(10) Regulation 20(5) shall cease to have effect.

(11) In paragraphs 3 and 4(1) of the Schedule for the words “regulation C8 or C8A of the 1988 Regulations” there shall be substituted the words “regulation C9 or C10 of the 1997 Regulations”.

(12) In paragraph 5(2) of the Schedule for the words “regulation C1(13) or C1(14) and (15) of the 1988 Regulations” there shall be substituted the words “regulation C1(9) or C1(10) and (11) of the 1997 Regulations”.

(13) In paragraph 11(1) of the Schedule for the words “regulation E4(7) of the 1988 Regulations” there shall be substituted the words “regulation E4(5) of the 1997 Regulations”.

(14) In paragraph 12 for the words “regulation E4(6) of the 1988 Regulations” there shall be substituted the words “regulation E4(4) of the 1997 Regulations” and for the words “regulation E8 of the 1988 Regulations” there shall be substituted the words “regulation E8 of the 1997 Regulations”.

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

**H12.**—(1) Subject to the provisions of Schedule 15 the Regulations specified in Schedule 14 are revoked.

(2) Schedule 15 has effect for the purpose of making savings and transitional provisions consequential on the making of these Regulations.

(3) Nothing in Schedule 15 affects the general operation of sections 16 and 17 of the Interpretation Act 1978<sup>(41)</sup>.

### **Amendments to, and modifications of, the Teachers' Superannuation (Consolidation) Regulations 1988**

**H13.**—(1) From 1st September 1997 the Teachers' Superannuation (Consolidation) Regulations 1988<sup>(42)</sup> shall have effect with the amendments specified in Part I of, and the modifications specified in Part II of, Schedule 16.

(2) The amendments specified in Part I of that Schedule shall not however apply in relation to any person who became entitled to payment of retirement benefits before 1st September 1997 (whether or not he subsequently became entitled to such benefits by virtue of regulation E15 of those Regulations on or after that date).

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<sup>(41)</sup> 1978 c. 30.

<sup>(42)</sup> S.I. 1988/1652.

## SCHEDULE 1

Regulation A2(1)

## GLOSSARY OF EXPRESSIONS

<i>Expression</i>	<i>Meaning</i>
“Act”	Any reference to an Act of a specified year (other than the 1991 Act, the 1993 Act, the 1995 Act or the 1996 Act or references in paragraphs 11 or 12 of Schedule 2) is a reference to an Act relating to the superannuation of teachers enacted in that year.
“The 1991 Act”	The School Teachers' Pay and Conditions Act 1991(43).
“The 1993 Act”	The Pension Schemes Act 1993(44).
“The 1995 Act”	The Pensions Act 1995(45).
“The 1996 Act”	The Education Act 1996(46).
“The Taxes Act”	The Income and Corporation Taxes Act 1988(47).
“The Modification Regulations”	The National Insurance (Modification of Teachers Pensions) Regulations 1948(48).
“The 1966 Regulations”	The Teachers' Superannuation (Family Benefits) Regulations 1966(49).
“The 1967 Regulations”	The Teachers' Superannuation Regulations 1967(50).
“The 1970 Regulations”	The Teachers' Superannuation (Family Benefits) Regulations 1970(51).
“The 1976 Regulations”	The Teachers' Superannuation Regulations 1976(52).
“The 1988 Regulations”	The Teachers' Superannuation (Consolidation) Regulations 1988(53).
“Accepted school”	Construe in accordance with regulation B3.
“Actuarial”	Determined by, or in accordance with tables prepared by, the Government Actuary.
“Actuarial reduction”	In relation to a retirement pension or retirement lump sum, the process of multiplying a retirement pension or retirement lump sum by

(43) 1991 c. 49.

(44) 1993 c. 48.

(45) 1995 c. 26.

(46) 1996 c. 56.

(47) 1988 c. 1.

(48) S.I. 1948/489 revoked by S.I. 1967/889.

(49) S.I. 1966/357 revoked by S.I. 1970/862.

(50) S.I. 1967/489 revoked by S.I. 1976/1987.

(51) S.I. 1970/862 revoked by S.I. 1976/1987.

(52) S.I. 1976/1987 revoked by S.I. 1988/1652.

(53) S.I. 1988/1652 amended by the other instruments listed in Schedule 14 to these Regulations.

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<i>Expression</i>	<i>Meaning</i>
	the appropriate factor as required by regulation E5(3) or E6(3).
“Additional contributions”, “additional period”	In relation to family benefits, the expressions are to be construed in accordance with paragraph 1(3) of Schedule 6.
“Admitted service”	Service to which, immediately before 1st May 1975, Part VIII of the 1967 Regulations applied.
“Appropriate factor”	<p>The percentage being—</p> <p>(a) in relation to a retirement pension and to the retirement benefits referred to in regulations E21 and E25, the factor set out in Table 1 in Schedule 9 or, in the case of a person referred to in paragraph 37 in Part VI of Schedule 10 (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table 3 in Schedule 9, and</p> <p>(b) in relation to a retirement lump sum, the factor set out in Table 2 in Schedule 9 or, in the case of a person referred to in paragraph 37 in Part VI of Schedule 10 (certain nurses, physiotherapists, midwives, health visitors and mental health officers), set out in Table 4 in Schedule 9,</p> <p>corresponding to the age of that person in complete years and months when he became entitled to payment of a retirement pension and retirement lump sum.</p>
“Approved pension scheme”	<p>An occupational pension scheme which—</p> <p>(a) is approved under Chapter I of Part XIV of the Taxes Act and does not fall within section 591(2)(h) of that Act, or</p> <p>(b) immediately before 1st November 1988 was an approved superannuation scheme for the purposes of Part IV of the 1976 Regulations, or</p> <p>(c) is a relevant statutory scheme defined by section 611A of the Taxes Act(54).</p>
“Average salary”	Construe in accordance with regulation E31.
“Cash equivalent”, “part cash equivalent”	The first expression means a cash equivalent mentioned in section 94(1) of the 1993 Act; the second expression means the cash equivalent of any part of the benefits mentioned in that subsection which is prescribed under section 98(1) of that Act (continuation in

(54) Section 611A was inserted into the Taxes Act by the Finance Act 1989 (c. 26), Schedule 6, paragraph 15.



<i>Expression</i>	<i>Meaning</i>
	employment after termination of pensionable service).
“Child”	Construe in accordance with regulation E22 (as read with paragraph 14 of Schedule 15).
“Club scheme”	An approved superannuation scheme which— (a) is a contracted-out scheme or is a scheme established and maintained in the Channel Islands which is not a contracted-out scheme, (b) is a final salary scheme, (c) is a scheme which is open to new participants (“open scheme”) or, if not a scheme so open (“closed scheme”), is a scheme whose trustees or managers also provide an open scheme which is a scheme for new employees of the same employer and of the same grade or level of post as participants of the closed scheme, and (d) is a scheme whose trustees or managers have undertaken to comply with the reciprocal arrangements for the payment and receipt of transfer values agreed from time to time between the trustees or managers of such a scheme.
“Comparable British service”	Service which is or was at any time pensionable under a superannuation scheme for teachers in public employment in any part of the British Islands outside England and Wales.
“Contracted-out employment”, “contracted-out scheme”	Construe in accordance with sections 8(1) and 7(3) respectively of the 1993 Act.
“Contributable salary”	Construe in accordance with regulation C1.
“Contributions equivalent premium”	A premium under section 55(2) of the 1993 Act.
“Contributions refund period”	A period in respect of which contributions have been or are to be paid and— (a) have not been, or fallen to be treated as having been, returned, or (b) have been returned but have since been repaid.
“Credited service”	The meaning given in paragraph 1(6) of Schedule 6.
“Effective reckonable service”	Construe in accordance with regulation E32.
“Employment”	Employment under a contract of service.
“Entitled”	Any reference to a person entitled to payment of retirement benefits is to be construed as

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<i>Expression</i>	<i>Meaning</i>
	including a reference to a person who has not applied for payment of them.
“Equivalent pension benefits”	The meaning given by section 57(1) of the National Insurance Act 1965 <sup>(55)</sup> .
“Excluded employment”	Employment which would be pensionable employment but for the fact that a person— <ul style="list-style-type: none"> <li>(a) Has made an election under regulation B5, or</li> <li>(b) being in part-time employment has not made an election under regulation B1(4).</li> </ul>
“Family benefits”	Benefits payable under regulations E22 to E30.
“Family benefit service”	Construe in accordance with regulation E28.
“Final salary scheme”	A scheme which provides for the calculation of retirement benefits based on— <ul style="list-style-type: none"> <li>(a) a person’s remuneration for any one of the 5 years preceding his retirement date, or</li> <li>(b) the annual average of a person’s aggregate remuneration for any period of 3 or more consecutive years ending not earlier than 10 years before his retirement date.</li> </ul>
“Full-time”	Employment is “full-time” if the contract so describes it (whether expressly or otherwise) and entitles the employee to remuneration at an annual, termly or monthly rate.
“Further education”	The meaning given in section 2(3) of the 1996 Act.
“Grant-maintained special school”	The meaning given in section 337(4) or 346(3) of the 1996 Act.
“Guaranteed minimum”	A guaranteed minimum under section 14 of the 1993 Act.
“Guaranteed minimum pension”	The meaning given in section 8(2) of the 1993 Act.
“Higher education”	The meaning given in section 120(1) of the Education Reform Act 1988 <sup>(56)</sup> .
“Incapacitated”	A person is incapacitated— <ul style="list-style-type: none"> <li>(a) in the case of a teacher, an organiser or a supervisor, while he is unfit by reason of illness or injury and despite appropriate medical treatment to serve as such and is likely permanently to be so,</li> </ul>

<sup>(55)</sup> 1965 c. 51: relevant provisions were continued in force by S.I. 1974/2057.

<sup>(56)</sup> 1988 c. 40.

<i>Expression</i>	<i>Meaning</i>
	(b) in any other case, while he is incapable by reason of infirmity of body or mind of earning his livelihood and is not maintained out of money provided by Parliament or raised by rates, or council tax levied by local authorities.
“Independent school”	The meaning given in section 463 of the 1996 Act.
“Member”	The meaning given in paragraph 1(1) of Schedule 6.
“Normal contributions”, “normal service”	Construe in accordance with paragraph 1(2) of Schedule 6.
“Occupational pension scheme”	The meaning given in section 1 of the 1993 Act.
“Organiser”	A person in employment which involves the performance of duties in connection with the provision of education or services ancillary to education.
“Part-time”	Employment is “part-time” if the contract requires the employee to work for less than the whole of the working week.
“Payment in lieu of contributions”	A payment in lieu of contributions under Part III of the National Insurance Act 1965.
“Pensionable employment”	In relation to any time before 1st November 1988, the expression means employment in reckonable service for the purposes of the 1976 Regulations or previous provisions.  In relation to any time after 31st October 1988, the expression is to be construed in accordance with Part B.
“Personal pension scheme”	A personal pension scheme (within the meaning of section 1 of the 1993 Act) which has been approved by the Commissioners of Inland Revenue under Chapter IV of Part XIV of the Taxes Act or provisionally approved under section 655(5) of that Act.
“Previous provisions”	Provisions contained in or made under an enactment relating to the superannuation of teachers which were in force at any time before 1st January 1977.
“Qualified for retirement benefits”	Construe in accordance with regulation E3.
“Reckonable service”	Construe in accordance with regulation D1.
“Required percentage”	Construe in accordance with regulation G5.

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<i>Expression</i>	<i>Meaning</i>
“Retirement benefits”	Construe in accordance with regulation E2.
“Retirement lump sum”	A retirement lump sum payable under Part E.
“Retirement pension”	A retirement pension payable under Part E.
“Scheme managers”	In relation to a statutory scheme, the expression means the Minister of the Crown or local authority or police or fire authority administering the scheme; in relation to any other scheme, it means the person responsible for the management of the scheme.
“Services education officer”	An officer, other than one whose service as an officer qualifies him for retired pay, serving in the armed forces of the Crown as a teacher or supervisor and holding— <ul style="list-style-type: none"> <li>(a) a short-service commission in the Royal Navy, the regular Army, the Women’s Royal Naval Service or the Women’s Royal Army Corps, or</li> <li>(b) a short or medium-service commission in the education branch or physical fitness branch of the Royal Air Force, or</li> <li>(c) as an officer serving in either of those branches, a short-service commission in the Women’s Royal Air Force.</li> </ul>
“Special school”	The meaning given in section 337 of the 1996 Act.
“Specified country service”	The expression includes— <ul style="list-style-type: none"> <li>(a) service before 25th March 1972 which was, for the purposes of Part IX of the 1967 Regulations, service in a specified country as a services civilian teacher,</li> <li>(b) service after 24th March 1972 and before 1st January 1977 which, if section 25 of the Superannuation Act 1965(57) had continued in force, would have been such service as is mentioned in (a) above, and</li> <li>(c) service after 31st December 1976 and before 1st January 1980 in continuation of such service as is mentioned in (b) above.</li> </ul>
“State pensionable age”	Pensionable age within the meaning given by the rules in paragraph 1 of Schedule 4 to the 1995 Act.
“Supervisor”	A person employed in a capacity connected with education which to a substantial extent involves the control or supervision of teachers.

(57) 1965 c. 74; section 25 was repealed by the Superannuation Act 1972 (c. 11), section 29(4).

<i>Expression</i>	<i>Meaning</i>
“Tax year”	The 12 months beginning with 6th April in any year.
“Teacher’s pension”	An annual allowance which became payable under the 1976 Regulations or previous provisions or a retirement pension.
“Terminal sum”	The expression includes a retirement lump sum, a short-service incapacity grant, a refund of contributions and any sum payable on death.

## SCHEDULE 2

Regulation B1

### PENSIONABLE EMPLOYMENT

#### PART I

##### EMPLOYMENTS PENSIONABLE WITHOUT ELECTION

1. Teacher employed by, or in a school or institution providing further education or higher education (or both) maintained by, a local education authority.
2. Teacher in a special school which is not a grant-maintained special school or maintained by a local education authority.
3. Teacher in a school, other than a special school, in respect of which grants are made by the Secretary of State or a funding authority within the meaning of section 26 of the 1996 Act to the person responsible for its management.
4. Teacher in a grant-maintained special school.
5. Teacher, organiser or supervisor employed—
  - (a) in an independent school which is for the time being recognised by the Secretary of State as a city technology college, or, as the case may be, a city college for the technology of the arts, or
  - (b) in connection with a proposed independent school the proposals for which are for the time being recognised by the Secretary of State as proposals for a city technology college, or, as the case may be, a city college for the technology of the arts.
6. Teacher in an institution providing further education or higher education (or both) in respect of which grants are made to the governing body by the Secretary of State, by a body to which grants are made by the Secretary of State, or by a local education authority, other than—
  - (a) a university or college of a university, and
  - (b) the Royal College of Art.
7. Teacher in a university established on or after 6th May 1992 which, immediately before it became such, was an institution of higher education described in paragraph 6, whether or not that teacher was a teacher in that institution before it ceased to fall within that description and became a university.
8. Teacher employed in—

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- (a) a community home within the meaning of Part VI of the Children Act 1989(58).
- (b) a voluntary home as defined in section 60 of that Act, or
- (c) a home of the kind referred to in section 82(5) of that Act.

9. Teacher employed by a local authority or a voluntary organisation in an establishment which provides facilities under arrangements approved under section 19 of the Children and Young Persons Act 1969(59).

10. Teacher in—

- (a) a residential care home within the meaning of Part I of the Registered Homes Act 1984(60), or,
- (b) a mental nursing home as defined in section 22 of the Act,

who, at any time before the commencement of Part III of the Mental Health Act 1959(61), was in pensionable employment in a certified institution as defined in section 71 of the Mental Deficiency Act 1913(62).

11. Teacher in a special hospital provided by the Secretary of State under section 4 of the National Health Service Act 1977(63) (“the 1977 Act”).

12. Teacher employed for the purpose of instructing, training, or superintending the occupation of persons suffering from mental impairment, severe mental impairment, psychopathic disorder or mental illness—

- (a) in a hospital provided by the Secretary of State in accordance with the 1977 Act, or
- (b) by a voluntary organisation to which—
  - (i) financial assistance is given by a local authority, or
  - (ii) facilities are made available under section 23 of the 1977 Act(64) or
- (c) by a local authority in the exercise of its functions under paragraph 2 of Schedule 8 to the 1977 Act(65).

13. Teacher employed by the Field Studies Council.

14. Teacher employed in pursuance of arrangements made by the Secretary of State with the governors of any establishment which, by virtue of the European Communities (European Schools) Order 1972(66), has the legal capacities of a body corporate.

15. Organiser employed as a youth and community worker by a local education authority for the purposes of their functions under section 15 or 508 of the 1996 Act.

## PART II

### EMPLOYMENTS PENSIONABLE ON ELECTION

16. Teacher in an institution for the further education and training of disabled persons.

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(58) 1989 c. 41.

(59) 1969 c. 54; section 19 was substituted by the Criminal Justice Act 1982 (c. 48), section 21.

(60) 1984 c. 23.

(61) 1959 c. 72.

(62) 1913 c. 28.

(63) 1977 c. 49; section 4 was amended by the Mental Health Act 1983 (c. 20), Schedule 4, paragraph 47.

(64) Section 23 was repealed in part by the Health Services Act 1980 (c. 53), Schedule 7.

(65) Paragraph 2 of Schedule 8 was amended by the Mental Health Act 1983 (c. 20), Schedule 4, paragraph 47.

(66) S.I. 1972/1582.

**17.** Teacher employed in, or in connection with, an establishment for providing social or physical training, being training at that establishment in respect of which grants are made by the Secretary of State, the United Kingdom Sports Council, the English Sports Council or the Sports Council for Wales, whose principal duty is to attend the establishment and provide the training or supervise its provision.

**18.** Teacher employed by the Commonwealth Institute.

**19.** Teacher employed by a person to whom grants are made by either the Secretary of State or a local education authority in respect of expenditure incurred for the purpose for which the teacher is employed.

**20.** Organiser employed by—

- (a) the United Kingdom Sports Council,
- (b) the English Sports Council,
- (c) the Sports Council for Wales, or
- (d) any other body, except a local education authority, to which grants—
  - (i) are made by any of those Councils or by a local education authority, or
  - (ii) are or have been made by the Secretary of State,

in respect of expenditure incurred for the purpose for which the organiser is employed.

**21.** Teacher, supervisor or youth worker employed by the Ministry of Defence in service with the armed forces of the Crown or for purposes connected with the armed forces, unless—

- (a) the Principal Civil Service Pension Scheme applies to him, or
- (b) he was engaged outside the United Kingdom and had not previously been in other pensionable employment.

**22.** Services education officer.

**23.** Organiser employed as a youth and community worker by a body to whom grants are made by a local education authority in the exercise of their functions under section 15 or 508 of the 1996 Act.

**24.** Organiser employed by—

- the Association of Business Schools
- the Association of Christian Teachers
- the Associated Examining Board
- the Church of England Board of Education
- the City and Guilds of London Institute
- the Catholic Education Service
- a Diocesan Board of Education established under the Diocesan Boards of Education Measure 1991<sup>(67)</sup>
- the East Midlands Further Education Council
- the Edexcel Foundation
- the Education 2000 Trust
- the Field Studies Council
- the Independent Schools Careers Organisation
- the London Open College Federation

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the National Nursery Examination Board  
the National Society for Promoting Religious Education  
the National Education Resources Information Service  
the North East Religious Learning Resources Centre Limited  
the North of England Institute for Christian Education  
a Regional Advisory Council for Further Education  
a Roman Catholic Diocesan Schools Commission  
the Royal National Institute for the Blind  
SCOPE  
the Stapleford Centre  
the Yorkshire and Humberside Association for Further and Higher Education

**25.** Teacher in a university who—

- (a) was employed as a teacher in an institution providing further education or higher education (or both) described in paragraph 1 or 6 which has ceased to fall within that description and become part of the university, and
- (b) was so employed immediately before it did so.

**26.** Teacher employed in—

the British School of Amsterdam (the Netherlands)  
the British School of Brussels (Belgium)  
the British School in the Netherlands  
the British School of Paris (France)  
St Julian’s School, Carcavelos (Portugal)  
Mougins School, Mougins (France)  
St George’s English School, Rome (Italy)  
the British Embassy School, Athens (Greece) or  
the British Primary School, Tervuren (Belgium).

SCHEDULE 3

Regulation C4, C9

MAXIMUM LENGTH OF ADDITIONAL PERIODS

**1.—(1)** Subject to paragraph 2, the maximum length of the period in respect of which an election may be made under regulation C4 or C9 is

**A – B,**

where—

A is the length of time specified in the second column of the Table below against the person’s adjusted age, and

B is the length of any additional period already purchased or in the course of being purchased by him.



TABLE

<i>Adjusted age</i>	<i>Length of time</i>
Under 50	30 years
50 and under 51	23 years
51 and under 52	16 years
52 and under 53	9 years
53 and under 54	2 years
54 and over	Twice the difference in days between the adjusted age and 55 years

(2) A person's adjusted age—

- (a) if the person has continued in pensionable employment since the start of his first such employment and has not been credited with reckonable service on the acceptance of a transfer value in respect of comparable British service, is his age at the start of his first pensionable employment, and
- (b) in any other case, is  
**C – D,**

where—

C is the person's age at the start of his most recent pensionable employment, and  
D is the total of the time he had then spent in pensionable employment and the length of any reckonable service with which he has been credited on the acceptance of a transfer value in respect of comparable British service.

2.—(1) This paragraph applies to a person who—

- (a) has been credited with admitted service
- (b) at the start of his most recent pensionable employment was entitled in respect of a former employment to material benefits, whether or not they had then become payable, or
- (c) will become entitled to retirement benefits under the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994(68) or under a scheme approved by virtue of section 591(2)(h) of the Taxes Act.

(2) Material benefits comprise any benefits by way of pension, allowance, lump sum or gratuity expected to be paid when the person has attained the age of 60 and whose actuarial equivalent as an annuity for life from that age would be more than £260 a year.

(3) Where this paragraph applies and the number of years calculated in accordance with subparagraph (4) is lower than the number specified against the person's adjusted age in the Table, paragraph 1(1) applies with the substitution of that lower number as "A".

(4) The number of years is the highest one that secures that

**E + F + G + H + J does not exceed K,**

where

E is the actuarial equivalent as an annuity for life from the age of 60 of any material benefits,

F is the actuarial equivalent as such an annuity of any benefits attributable to admitted service,

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(68) S.I. 1994/2924.

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G is the actuarial value as such an annuity of any expected retirement benefits such as are mentioned in sub-paragraph (1)(c),

H is the actuarial equivalent as such an annuity of the notional retirement lump sum,

J is the annual amount of the notional pension, and

K is two thirds of the notional average salary.

- (5) The notional retirement lump sum, pension and average salary—
- (a) where the election is made before the person attains the age of 60, are those resulting from the assumptions that he continues in pensionable employment until that age and then becomes entitled to retirement benefits and that the salary scale applicable at the date of the election continues to apply, and
  - (b) where the election is made after the person has attained the age of 60, are those resulting from the assumptions that he ceased to be in pensionable employment on his 60th birthday and then became entitled to retirement benefits.

3.—(1) This paragraph applies where a person—

- (a) has elected to pay additional contributions under regulation C4, or
- (b) has continued to pay additional contributions by virtue of paragraphs 1 to 6 or 8 of Schedule 5,

and before attaining the age of 60 and before the end of the period during which they were to be paid he ceases to be in full-time pensionable employment, otherwise than by reason of his death or his becoming incapacitated or becoming entitled to retirement benefits by virtue of regulation E4(5) (redundancy, etc).

(2) Where this paragraph applies, any right to elect to make a lump sum payment may be exercised only to the extent that it does not result in the addition to the service that the person would otherwise have been entitled to count as reckonable service of more than

$$\left( A \times \frac{B}{C} \right) - D,$$

where—

A is the longest period in respect of which he could have elected to pay the additional contributions,

B is the length of his reckonable service, excluding any past period reckonable by virtue of additional contributions, when he ceased to be in full-time pensionable employment,

C is the total of B and the period beginning at the cessation and ending immediately before his 60th birthday, and

D is the length of the past period or periods reckonable at the time of the cessation by virtue of all additional contributions.

SCHEDULE 4

Regulation C4

ADDITIONAL CONTRIBUTIONS FOR PAST PERIOD

PART I  
METHOD A

1.—(1) In this Part—

“the principal election” means the election under regulation C4(2);

“the past period” means the period specified under regulation C4(7)(a);

“the contribution period” means the period specified under regulation C4(7)(c).

(2) Any reference in this Part, in relation to a person who has spent any part of the contribution period in part-time employment, to a period which a person is entitled to count as reckonable service arising from the contribution period is a reference to a period calculated by applying the formula in regulation D1(2) to the contribution period.

(3) During any period for which a person is paying additional contributions for a current period under regulation C9 or C10, for the purposes of this Part—

(a) he is to be treated as being in full-time pensionable employment, and

(b) his contributable salary is the notional salary described in regulation C9(7)(a) or, as the case may be, regulation C10(4).

2.—(1) The contribution period must be one of not less than one year, and begins on the first day of the month following the expiry of a period of one month from the date of acceptance of the election by the Secretary of State.

(2) The contribution period and the past period must be such that

**A + B**

does not exceed 15% of the person's contributable salary for the time being, where—

A is the rate at which the additional contributions are payable, and

B is the rate at which he pays other contributions under Part C (except any treated for the purposes of regulation G2 as employers' contributions) or towards the provision of a pension otherwise than under these Regulations.

3. Subject to paragraphs 4 and 5, the rate at which the additional contributions are payable is the percentage ascertained from Table 1 below of the person's contributable salary for the time being.

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**TABLE 1**

<i>Contribution period (in years)</i>	2	3	4	5	6	7	8	9	10	
<i>Age when notice of election given</i>	<i>Percentage contribution in respect of each year of past period</i>									
20	19.64	9.87	6.61	4.95	3.94	3.27	2.78	2.42	2.14	1.91
21	19.82	9.96	6.61	4.93	3.92	3.24	2.76	2.40	2.12	1.89
22	20.03	9.93	6.56	4.88	3.88	3.21	2.73	2.37	2.09	1.86
23	19.68	9.76	6.45	4.81	3.82	3.16	2.69	2.33	2.06	1.84
24	19.34	9.60	6.36	4.74	3.76	3.11	2.64	2.29	2.02	1.81
25	19.06	9.47	6.27	4.67	3.70	3.06	2.60	2.26	2.00	1.79
26	18.80	9.34	6.18	4.59	3.64	3.01	2.56	2.23	1.98	1.78
27	18.56	9.19	6.08	4.52	3.59	2.97	2.53	2.21	1.96	1.76
28	18.21	9.03	5.97	4.44	3.53	2.93	2.51	2.19	1.95	1.75
29	17.88	8.87	5.87	4.38	3.49	2.90	2.49	2.18	1.94	1.74
30	17.60	8.74	5.79	4.33	3.46	2.89	2.48	2.17	1.93	1.74
31	17.34	8.62	5.74	4.31	3.45	2.88	2.47	2.17	1.93	1.74
32	17.10	8.57	5.72	4.30	3.45	2.88	2.47	2.17	1.94	1.75
33	17.14	8.58	5.73	4.31	3.46	2.89	2.48	2.18	1.95	1.76
34	17.16	8.60	5.75	4.32	3.47	2.90	2.50	2.19	1.96	1.77
35	17.21	8.63	5.76	4.34	3.48	2.91	2.51	2.20	1.97	1.78
36	17.26	8.65	5.79	4.36	3.50	2.93	2.52	2.22	1.98	1.79
37	17.29	8.69	5.82	4.38	3.52	2.95	2.54	2.23	1.99	1.80
38	17.40	8.74	5.85	4.41	3.54	2.97	2.55	2.25	2.01	1.82
39	17.51	8.80	5.89	4.44	3.57	2.99	2.57	2.26	2.02	1.83
40	17.62	8.85	5.92	4.46	3.59	3.01	2.59	2.28	2.04	1.84
41	17.72	8.89	5.95	4.49	3.61	3.03	2.61	2.29	2.05	1.86
42	17.77	8.93	5.99	4.52	3.63	3.04	2.62	2.31	2.07	1.87
43	17.86	8.98	6.02	4.55	3.66	3.06	2.64	2.33	2.08	1.89
44	17.95	9.03	6.06	4.57	3.67	3.08	2.66	2.34	2.10	1.90
45	18.04	9.08	6.08	4.58	3.69	3.09	2.67	2.36	2.11	1.92
46	18.13	9.09	6.09	4.60	3.70	3.11	2.69	2.37	2.13	1.93

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<i>Contribution period (in years)</i>	2	3	4	5	6	7	8	9	10	
<i>Age when notice of election given</i>	<i>Percentage contribution in respect of each year of past period</i>									
47	18.07	9.09	6.10	4.61	3.72	3.12	2.70	2.39	2.14	1.95
48	18.08	9.10	6.12	4.63	3.73	3.14	2.72	2.40	2.16	1.97
49	18.08	9.11	6.13	4.64	3.74	3.15	2.73	2.42	2.18	1.98
50	18.08	9.12	6.13	4.65	3.76	3.17	2.75	2.43	2.19	2.02
51	18.57	9.37	6.30	4.77	3.86	3.25	2.82	2.50	2.25	2.08
52	19.07	9.62	6.47	4.90	3.97	3.34	2.90	2.57	2.31	2.13
53	19.64	9.91	6.67	5.05	4.09	3.44	2.99	2.65	2.38	2.19
54	20.25	10.22	6.88	5.21	4.22	3.55	3.08	2.73	2.45	2.25
55	20.88	10.54	7.10	5.38	4.35	3.67	3.18	2.81	2.53	2.32
56	21.56	10.89	7.33	5.56	4.50	3.79	3.28	2.91	2.61	2.39
57	22.30	11.26	7.59	5.75	4.65	3.92	3.40	3.01	2.70	2.47
58	23.10	11.67	7.86	5.96	4.82	4.06	3.52	3.12	2.80	2.56
59	23.98	12.12	8.17	6.19	5.01	4.22	3.66	3.23	2.91	2.65
60	25.00	12.64	8.52	6.46	5.23	4.40	3.81	3.37	3.03	
61	24.56	12.42	8.37	6.35	5.13	4.33	3.75	3.31		
62	24.12	12.19	8.22	6.23	5.04	4.25	3.68			
63	23.66	11.96	8.06	6.11	4.94	4.17				
64	23.19	11.72	7.90	5.99	4.85					
65	22.71	11.48	7.74	5.87						
66	22.23	11.24	7.58							
67	21.73	10.99								
68	21.24									

**TABLE 1 (continued)**

<i>Payment period (in years)</i>	11	12	13	14	15	16	17	18	19	20
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
20	1.72	1.57	1.44	1.33	1.23	1.15	1.08	1.02	0.96	0.91

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<i>Payment period (in years)</i>	11	12	13	14	15	16	17	18	19	20
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
21	1.70	1.55	1.42	1.31	1.22	1.14	1.07	1.01	0.96	0.91
22	1.68	1.53	1.41	1.30	1.21	1.13	1.07	1.01	0.95	0.91
23	1.66	1.51	1.39	1.29	1.20	1.13	1.06	1.00	0.95	0.90
24	1.64	1.50	1.38	1.28	1.19	1.12	1.05	1.00	0.94	0.90
25	1.62	1.49	1.37	1.27	1.19	1.11	1.05	0.99	0.94	0.90
26	1.61	1.48	1.36	1.27	1.18	1.11	1.05	0.99	0.94	0.90
27	1.60	1.47	1.36	1.26	1.18	1.11	1.05	0.99	0.94	0.90
28	1.59	1.46	1.35	1.26	1.18	1.11	1.05	0.99	0.94	0.90
29	1.59	1.46	1.35	1.26	1.18	1.11	1.05	0.99	0.94	0.90
30	1.59	1.46	1.35	1.26	1.18	1.11	1.05	1.00	0.95	0.90
31	1.59	1.46	1.36	1.26	1.18	1.12	1.05	1.00	0.95	0.91
32	1.60	1.47	1.36	1.27	1.19	1.12	1.06	1.01	0.96	0.92
33	1.61	1.48	1.37	1.28	1.20	1.13	1.07	1.01	0.97	0.92
34	1.61	1.49	1.38	1.29	1.21	1.14	1.08	1.02	0.97	0.93
35	1.62	1.50	1.39	1.30	1.22	1.15	1.08	1.03	0.98	0.94
36	1.64	1.51	1.40	1.31	1.23	1.16	1.09	1.04	0.99	0.95
37	1.65	1.52	1.41	1.32	1.24	1.17	1.10	1.05	1.00	0.96
38	1.66	1.53	1.42	1.33	1.25	1.18	1.12	1.06	1.02	0.97
39	1.67	1.54	1.43	1.34	1.26	1.19	1.13	1.07	1.03	0.99
40	1.69	1.56	1.45	1.35	1.27	1.20	1.14	1.09	1.04	1.00
41	1.70	1.57	1.46	1.37	1.29	1.22	1.16	1.10	1.06	1.03
42	1.71	1.58	1.47	1.38	1.30	1.23	1.17	1.12	1.09	1.06
43	1.73	1.60	1.49	1.40	1.32	1.25	1.19	1.15	1.12	1.08
44	1.74	1.61	1.50	1.41	1.33	1.27	1.23	1.18	1.14	1.11
45	1.76	1.63	1.52	1.43	1.36	1.31	1.26	1.21	1.17	1.14
46	1.78	1.65	1.54	1.46	1.40	1.34	1.29	1.24	1.20	1.17
47	1.79	1.66	1.57	1.50	1.43	1.38	1.32	1.28	1.23	1.19
48	1.81	1.70	1.61	1.54	1.47	1.41	1.36	1.31	1.26	1.22
49	1.85	1.75	1.66	1.58	1.51	1.45	1.39	1.34	1.29	1.25
50	1.90	1.80	1.70	1.62	1.55	1.48	1.42	1.37	1.32	
51	1.95	1.84	1.74	1.65	1.58	1.51	1.45	1.39		
52	1.99	1.87	1.77	1.68	1.60	1.53	1.47			

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<i>Payment period (in years)</i>	11	12	13	14	15	16	17	18	19	20
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
53	2.04	1.92	1.81	1.72	1.63	1.56				
54	2.10	1.97	1.86	1.76	1.67					
55	2.16	2.02	1.90	1.80						
56	2.22	2.07	1.95							
57	2.29	2.13								
58	2.36									

**TABLE 1 (continued)**

<i>Payment period (in years)</i>	21	22	23	24	25	26	27	28	29	30
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
20	0.87	0.83	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
21	0.87	0.83	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
22	0.86	0.82	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
23	0.86	0.82	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
24	0.86	0.82	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
25	0.86	0.82	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
26	0.86	0.82	0.79	0.76	0.73	0.70	0.68	0.66	0.64	0.62
27	0.86	0.82	0.79	0.76	0.73	0.71	0.68	0.66	0.64	0.63
28	0.86	0.82	0.79	0.76	0.73	0.71	0.69	0.67	0.65	0.63
29	0.86	0.83	0.79	0.77	0.74	0.71	0.69	0.67	0.65	0.64
30	0.87	0.83	0.80	0.77	0.74	0.72	0.70	0.68	0.66	0.65
31	0.87	0.84	0.80	0.78	0.75	0.73	0.70	0.68	0.67	0.66
32	0.88	0.84	0.81	0.78	0.76	0.73	0.71	0.70	0.68	0.67
33	0.88	0.85	0.82	0.79	0.77	0.74	0.72	0.71	0.70	0.68
34	0.89	0.86	0.83	0.80	0.77	0.75	0.74	0.72	0.71	0.70
35	0.90	0.87	0.84	0.81	0.79	0.77	0.75	0.74	0.72	0.71
36	0.91	0.88	0.85	0.82	0.80	0.79	0.77	0.75	0.74	0.73
37	0.92	0.89	0.86	0.84	0.82	0.80	0.79	0.77	0.76	0.74
38	0.94	0.91	0.88	0.86	0.84	0.82	0.81	0.79	0.77	0.76
39	0.95	0.93	0.90	0.88	0.86	0.84	0.82	0.81	0.79	0.78

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<i>Payment period (in years)</i>	21	22	23	24	25	26	27	28	29	30
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
40	0.98	0.95	0.93	0.90	0.88	0.86	0.84	0.83	0.81	
41	1.00	0.97	0.95	0.92	0.90	0.88	0.86	0.85		
42	1.03	1.00	0.97	0.95	0.92	0.90	0.88			
43	1.05	1.02	1.00	0.97	0.95	0.93				
44	1.08	1.05	1.02	0.99	0.97					
45	1.10	1.07	1.04	1.02						
46	1.13	1.10	1.07							
47	1.16	1.13								
48	1.19									

**TABLE 1 (continued)**

<i>Payment period (in years)</i>	31	32	33	34	35	36	37	38	39	40
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
20	0.60	0.58	0.56	0.55	0.54	0.52	0.51	0.50	0.49	0.48
21	0.60	0.58	0.57	0.55	0.54	0.53	0.51	0.50	0.50	0.49
22	0.60	0.58	0.57	0.55	0.54	0.53	0.52	0.51	0.50	0.49
23	0.60	0.58	0.57	0.56	0.54	0.53	0.52	0.51	0.51	0.50
24	0.60	0.59	0.57	0.56	0.55	0.54	0.53	0.52	0.51	0.51
25	0.60	0.59	0.57	0.56	0.55	0.54	0.53	0.53	0.52	0.51
26	0.61	0.59	0.58	0.57	0.56	0.55	0.54	0.53	0.53	0.52
27	0.61	0.60	0.58	0.57	0.57	0.56	0.55	0.54	0.53	0.53
28	0.62	0.60	0.59	0.58	0.57	0.57	0.56	0.55	0.54	0.53
29	0.62	0.61	0.60	0.59	0.58	0.57	0.57	0.56	0.55	0.54
30	0.63	0.62	0.61	0.60	0.59	0.58	0.58	0.57	0.56	
31	0.64	0.63	0.62	0.61	0.60	0.59	0.59	0.58		
32	0.66	0.65	0.63	0.62	0.61	0.61	0.60			
33	0.67	0.66	0.65	0.64	0.63	0.62				
34	0.68	0.67	0.66	0.65	0.64					
35	0.70	0.69	0.67	0.66						
36	0.71	0.70	0.69							



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<i>Payment period (in years)</i>	31	32	33	34	35	36	37	38	39	40
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>									
37	0.73	0.72								
38	0.74									

**TABLE 1 (continued)**

<i>Payment period (in years)</i>	41	42	43	44	45	46	47	48	49
<i>Age</i>	<i>Payment percentage for each extra year bought in</i>								
20	0.48	0.47	0.46	0.46	0.45	0.45	0.44	0.44	0.43
21	0.48	0.48	0.47	0.46	0.46	0.45	0.45	0.44	
22	0.49	0.48	0.48	0.47	0.46	0.46	0.45		
23	0.49	0.49	0.48	0.48	0.47	0.46			
24	0.50	0.49	0.49	0.48	0.48				
25	0.51	0.50	0.49	0.49					
26	0.51	0.51	0.50						
27	0.52	0.51							
28	0.53								

4.—(1) At any time during the contribution period the person may, subject to paragraph 2, by giving written notice to the Secretary of State elect to shorten it or, if he has already made one or more such elections, to shorten it further.

(2) An election under this paragraph—

- (a) has effect only if the Secretary of State notifies the person in writing that it has been accepted, and
- (b) on acceptance, has effect as from the first day of the month following the date of its acceptance by the Secretary of State (“the effective date”).

(3) From the effective date Table 1 in paragraph 3 applies with the substitution—

- (a) for the person’s age at the date of the principal election, of his age at the date when notice of the election under this paragraph was given,
- (b) for the number of years in the contribution period, of the number of years after the effective date in the shortened period, and

for the number of years in the past period, there shall be substituted that number multiplied by

$$C - \left( C \times \frac{D}{E} \right),$$

where—

C is the number of years in the past period,

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D is the number of years in the contribution period up to the effective date, and  
E is the number of years in the contribution period.

5.—(1) At any time during the contribution period the person may by giving written notice to the Secretary of State elect to reduce the rate at which the additional contributions are payable.

- (2) An election under this paragraph is to specify whether the reduced rate is to be paid—
  - (a) in respect of the balance of the contribution period, specified in the principal election, after the election under this paragraph has effect in accordance with sub-paragraph (3), or
  - (b) for a particular period, specified in the election, extending beyond the contribution period during which additional contributions were to be paid in respect of the past period specified in the principal election.
- (3) An election under this paragraph—
  - (a) has effect only if the Secretary of State notifies the person in writing that it has been accepted, and
  - (b) on acceptance, has effect as from the first day of the month following the date of its acceptance by the Secretary of State.
- (4) Calculations relating to any change in the amount of reckonable service to which the person will become entitled, or to any change in the contribution period, resulting from an election under the paragraph shall be made on an actuarial basis.

6.—(1) Where—

- (a) the person is in pensionable employment at the end of the contribution period,
- (b) the principal election has not ceased to have effect under paragraph 7, and
- (c) at any time during the contribution period the person has been in part-time pensionable employment

he may, at any time before he becomes entitled to payment of retirement benefits, by giving written notice to the Secretary of State elect to make an additional lump sum contribution determined in accordance with sub-paragraph (2) (so that paragraph 2 of Schedule 7 shall apply).

(2) The additional lump sum contribution referred to in this paragraph is such sum as would be payable under Part II of this Schedule in order to count as reckonable service a period equivalent to the difference between the length of reckonable service arising from the contribution period and the length of such service if the person had been in full-time employment throughout the contribution period.

7.—(1) Subject to sub-paragraph (2), if the person—

- (a) before the end of the contribution period ceases to be in pensionable employment, and
- (b) does not again enter pensionable employment within one month and before becoming entitled to retirement benefits,

the principal election ceases to have effect.

- (2) Unless the person receives a repayment of contributions under regulation C12, he may—
  - (a) if he became entitled to payment of retirement benefits on ceasing to hold his employment, on or after applying for them and before receiving a retirement lump sum, or
  - (b) in any other case, within 3 months after the end of his employment,

by giving written notice to the Secretary of State make an election under paragraph 8 or 9.

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(3) If the payment referred to in paragraph 8, or, as the case may be, paragraph 9 is not made within the period allowed in sub-paragraph (2) for making the election the election shall cease to have effect.

**8.—(1)** An election under this paragraph may be made when the person has been in full-time pensionable employment throughout the contribution period.

(2) An election under this paragraph is an election to complete the payment of additional contributions (so that paragraph 2 of Schedule 7 shall apply) by making a lump sum payment which shall be determined in accordance with sub-paragraphs (3), (4) or (6) as the case may be.

(3) Where he had not attained the age of 60 when he ceased to hold his employment, the amount of the payment is, subject to sub-paragraph (4) and to paragraph 3 of Schedule 3, the actuarial equivalent, when the employment ended, of the additional contributions that would have been payable for the remainder of the contribution period.

(4) Subject to sub-paragraph (5) where—

- (a) when the person ceased to hold his employment he had become incapacitated and had not attained the age of 60, and
- (b) he would have attained that age before the end of the contribution period,

the amount of the payment is, subject to paragraph 3 of Schedule 3, the actuarial equivalent, when the employment ended, of the additional contributions that would have been payable after he attained that age.

(5) Sub-paragraph (4) does not apply in a case where the declaration required by regulation C4(7) (d) was not made in good faith.

(6) Where the person had attained the age of 60 when he ceased to hold his employment, the amount of the payment is, subject to paragraph 3 of Schedule 3,

**E x F,**

where—

E is the amount of the additional contributions for one year at the rate at which they were last payable, and

F is the multiplier ascertained from, or where the remainder of the contribution period is not an exact number of years, by extrapolation from, Table 2 below.

**TABLE 2**

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
1	0.989
2	1.956
3	2.902
4	3.827
5	4.732
6	5.617
7	6.482
8	7.328
9	8.156
10	8.965

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**9.—(1)** An election under this paragraph may be made where the person has been in part-time pensionable employment at any time during the contribution period.

(2) An election under this paragraph may be—

- (a) an election to make a payment such that the person will be entitled to count as reckonable service the number of years which he would have been entitled to count if he had been in full-time pensionable employment throughout such of the contribution period as had elapsed before he ceased to be in pensionable employment (so that paragraph 3 of Schedule 7 will apply accordingly);
- (b) an election to complete payment of additional contributions as if he had been in full-time pensionable employment from the date on which he ceased to be in pensionable employment to the end of the contribution period (so that paragraph 3 of Schedule 7 will apply accordingly); or
- (c) an election to complete payment of additional contributions as if he had been in full-time pensionable employment throughout the contribution period (so that paragraph 2 of Schedule 7 will apply accordingly);

in each case by making a lump sum payment.

(3) Where the election is made under sub-paragraph (2)(a), the amount of the lump sum payment shall be such amount as would be payable under Part II of this Schedule in order to count as reckonable service the difference between the length of reckonable service arising from such of the contribution period as had elapsed before the person ceased to be in pensionable employment and the length of such service if the person had been in full-time pensionable employment throughout that period.

(4) Where an election is made under sub-paragraph (2)(b), the amount of the lump sum payment is one of the following amounts as appropriate—

- (a) the amount referred to in paragraph 8(3) on the assumption that the person would have been in full-time pensionable employment for the remainder of the contribution period;
- (b) the amount referred to in paragraph 8(4) on the assumption that the person would have been in full-time employment during such part of the contribution period as would have fallen after he attained the age of 60; or
- (c) the amount referred to in paragraph 8(6) modified (in a case where the person was employed in part-time employment immediately before he ceased to be in pensionable employment) such that in place of the definition of E there is substituted the following definition—

“E is the amount of the additional contributions for one year at the rate at which they would have been last payable on the assumption that the person would have been in full-time pensionable employment”.

(5) Where an election is made under sub-paragraph (2)(c), the amount of the lump sum payment is the aggregate of the amounts referred to in sub-paragraphs (3) and (4).

(6) An election under this paragraph shall state whether it is an election under paragraph (a) under paragraph (b) or under paragraph (c) of sub-paragraph (2).

**10.** Where paragraph 7 has become applicable and the person is entitled to a retirement lump sum which is smaller than the payment he could elect to make under that paragraph, he may instead elect, in the same way and during the same period, to make a payment under this paragraph of a lump sum equal to the retirement lump sum (so that paragraph 7 of Schedule 7 will apply accordingly).

**11.** Any retirement lump sum to which the person is entitled may, subject to paragraph 12(2)(d), be set off in whole or in part against any payment to be made under paragraph 8, 9 or 10.

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12.—(1) This paragraph applies—

- (a) where paragraph 7 has become applicable because the person died while in pensionable employment, or
- (b) where he dies within 3 months after ceasing to be in pensionable employment without having made an election under paragraph 8 or 9,

and another person (“the pensioner”) is entitled under regulation E26 to a long-term pension in respect of him.

(2) Where this paragraph applies—

- (a) the person is to be treated as having ceased to hold the employment when incapacitated,
- (b) any election that could have been made under paragraph 8 or 9 may, within 3 months after the death, be made by the pensioner, or in the case of a child by a person acting on his behalf,
- (c) if any payment due by virtue of such an election is not made within 3 months after the death the election ceases to have effect, and
- (d) a terminal sum may be set off against such a payment only to the extent that the person entitled to it consents.

## PART II

### METHOD B

13.—(1) Subject to paragraphs 14 to 16, the additional contributions consist of a lump sum of  $A \times B \times C$ ,

where—

A is the length of the past period (that is to say, the period specified under regulation C4 (7) (a) or (8)(b)), expressed in years and any fraction of a year,

B is the annual rate of the person’s contributable salary at the date on which notice of the election was given, and

C is the percentage ascertained from Table 3 below.

**TABLE 3**

<i>Age at date of election</i>	<i>Percentage</i>
under 23	21.08
23	20.71
24	20.38
25	20.08
26	19.71
27	19.38
28	18.93
29	18.52
30	18.14

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<i>Age at date of election</i>	<i>Percentage</i>
31	17.79
32	17.47
33	17.44
34	17.41
35	17.38
36	17.45
37	17.52
38	17.66
39	17.81
40	17.96
41	18.11
42	18.27
43	18.48
44	18.69
45	18.91
46	19.12
47	19.34
48	19.64
49	19.94
50	20.24
51	20.54
52	20.85
53	21.22
54	21.61
55	22.01
56	22.45
57	22.92
58	23.45
59	24.03
60	24.73
61	24.29
62	23.85
63	23.39
64	22.93

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<i>Age at date of election</i>	<i>Percentage</i>
65	22.46
66	21.99
67	21.49
68	21.00
69	20.51

(2) If the lump sum is not paid within one month after the date on which the election was accepted the election ceases to have effect.

**14.**—(1) Subject to paragraphs 15 and 16 below and paragraph 16(3) of Schedule 10, this paragraph applies where the person’s contributable salary was reduced (whether in consequence of a change of post or otherwise) within—

(a) the year, or

(b) if when notice of the election was given he had attained the age of 57, the period of 3 years, ending immediately before the date on which notice of the election was given.

(2) Where this paragraph applies, paragraph 13 has effect with the substitution as “B” of the annual rate of the contributable salary that would have been payable at that date if he had continued to be employed in the same post and on the same terms.

**15.** Where notice of the election was given on or after applying for payment of retirement benefits, paragraph 13 has effect with the substitution as “B” of the person’s average salary.

**16.** Where notice of the election was given when the person was in part-time employment, the references in paragraphs 13 and 14 to contributable salary are to be construed as references to that which would have been payable if the person had at all material times been in comparable full-time employment.

## SCHEDULE 5

Regulation C6

### ADDITIONAL CONTRIBUTIONS FOR PAST PERIOD UNDER EARLIER PROVISIONS

**1.**—(1) Subject to sub-paragraphs (2) to (5) and paragraphs 2, 3 and 4, where immediately before 3rd February 1998 contributions remained to be paid under regulation 26 of the 1976 Regulations (contributions payable by “Method I”), they are to continue to be paid at the rate at which, and until the end of the period during which, they were then payable; and during any period of contribution for a current period under regulation C9 or C10 they are to be paid direct to the Secretary of State.

(2) Subject to sub-paragraphs (3) to (5), the person paying the contributions may at any time elect to pay them at a higher rate.

(3) The higher rate must be an integral percentage, not in any case exceeding 9, of the person’s contributable salary.

(4) If he is paying other additional contributions under Part C, or towards the provision of a pension otherwise than under these Regulations, sub-paragraph (3) has effect with the substitution for “9” of the number obtained by deducting from 9 the percentage rate of those other contributions.

(5) An election under this paragraph—

(a) must be made by giving written notice to the Secretary of State, and

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(b) has effect only if the Secretary of State notifies the person in writing that it has been accepted and, if the Secretary of State does so, has effect from the beginning of the month following the month in which he gives such notification.

2. Where an election has been made under paragraph 1, the period during which the contributions are to be paid is shortened to the same extent as it would have been if they had continued to be payable under regulation 26 of the 1976 Regulations.

3. If, before all the contributions payable under paragraph 1 or 2 have been paid, the person ceases to be in full-time pensionable employment or dies in such employment, paragraphs 7, 8 (except subparagraph (5)), and 10 to 12 of Schedule 4 (election to pay a lump sum etc.) and paragraphs 2(b), 3(b), 4 and 7 of Schedule 7 (reckonable service) apply as if the contributions had been payable under regulation C4, but with the substitution for Table 2 in paragraph 8(6) of Schedule 4 of the Table below.

TABLE

<i>Years remaining in contribution period</i>	<i>Multiplier</i>
1	0.990
2	1.961
3	2.913
4	3.846
5	4.760
6	5.657
7	6.536
8	7.398
9	8.244
10	9.072
11	9.884
12	10.681
13	11.461
14	12.227
15	12.977
16	13.713
17	14.434
18	15.141
19	15.835
20	16.514

4.—(1) A person may elect, by giving written notice to the Secretary of State, to cease to pay contributions payable by Method 1 but, in the case of such election being made, any additional contributions paid up to that time are not to be refunded.



(2) An election under this paragraph has effect only if the Secretary of State notifies the person in writing that it has been accepted.

**5.—**(1) Subject to sub-paragraph (2) and paragraph 6, where immediately before 3rd February 1998 contributions remained to be paid under regulation 28 of the 1976 Regulations (contributions payable by “Method 3”), they are to continue to be paid until the end of the period for which they were then payable (“the contribution period”).

- (2) The contributions are to be paid only while the person—
- (a) is in full-time pensionable employment, or
  - (b) is paying additional contributions for a current period under regulation C9 or C10.

**6.—**(1) If before the end of the contribution period the contributions payable under paragraph 5 cease to be payable otherwise than by reason of the person's—

- (a) dying, or
- (b) becoming incapacitated before attaining the age of 60,

he may by giving written notice to the Secretary of State within 3 months after the cessation elect to complete payment of the additional contributions by making a lump sum payment under this paragraph.

(2) Subject to paragraph 3 of Schedule 3, the amount of the payment is the total of the contributions that would have been payable for the remainder of the contribution period.

(3) A lump sum payable under this paragraph may, if he agrees, be set off against any retirement lump sum to which the person is entitled.

**7.** Where immediately before 3rd February 1998 contributions remained to be paid by virtue of regulation 29 of the 1976 Regulations (certain contributions first paid before 1973), they are to continue to be paid as if the 1976 Regulations had not been revoked by the 1988 Regulations.

**8.** Where immediately before 3rd February 1998 contributions remained to be paid under Part III of Schedule 4 to the 1988 Regulations (contributions payable by Method C) pursuant to an election under regulation C3(2)(c) of the 1988 Regulations made before 1st October 1996 they are to continue to be paid until the end of the period for which they were then payable.

**9.—**(1) Subject to sub-paragraphs (2) and (3), if a person who has made an election under regulation C3(2)(c) of the 1988 Regulations—

- (a) before the end of the contribution period ceases to be in full-time pensionable employment, and
- (b) does not again enter such employment within one month and before becoming entitled to payment of retirement benefits,

the election under regulation C3(2)(c) of the 1988 Regulations ceases to have effect.

(2) Unless he received a repayment of contributions under regulation C12, the person may by giving written notice to the Secretary of State within 3 months after the end of his employment elect to complete payment of the additional contributions so that paragraph 2 of Schedule 7 shall apply by making a lump sum payment under this paragraph.

(3) The amount of the payment is, subject to paragraph 3 of Schedule 3, the actuarial equivalent, when the employment ended, of the additional contributions that would have been payable for the remainder of the contribution period.

(4) If the payment is not made within 3 months after the end of the person's employment the election ceases to have effect.

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(5) A lump sum payable under this paragraph may be set off against any retirement lump sum to which the person is entitled.

10. During any period for which a person is paying additional contributions for a current period under regulation C9 or C10, for the purposes of paragraphs 8 and 9—

- (a) he is to be treated as being in full-time pensionable employment, and
- (b) his contributable salary is the notional salary described in regulation C9(7) or, as the case may be, regulation C10(4).

SCHEDULE 6

Regulations C11, E28

FAMILY BENEFITS

PART I

CONTRIBUTIONS: MEN AND UNMARRIED WOMEN

1.—(1) In this Part—

“the Fund” means the Teachers' Family Benefits Fund established by regulation 15 of the 1966 Regulations and continued by regulation 15 of the 1970 Regulations;

“member” means a man who—

- (a) has been in pensionable employment at any time after 31st March 1972, and
- (b) immediately before 1st April 1972 had service counting for benefit within the meaning of regulation 40 of the 1970 Regulations, and
- (c) has not received a repayment of contributions paid by him under the 1966 Regulations or the 1970 Regulations; and

“non-member” means a man, other than a member, who—

- (a) has been in pensionable employment at any time after 31st March 1972, and
- (b) is entitled to count a period that ended before 1st April 1972 as reckonable service.

(2) A member’s normal contributions are the contributions paid by him under regulation 27 of the 1966 Regulations or under regulation 27 of the 1970 Regulations, and his normal service is the period in respect of which he paid them.

(3) A member’s additional contributions are any contributions paid by him under regulation 28 of the 1966 Regulations or under regulation 28 or 29 of the 1970 Regulations, and the additional period is the period in respect of which he elected to pay them.

(4) A member’s deemed normal service is two thirds of any service before 1st April 1972 in respect of which the full amount of normal contributions was held in the Fund immediately before that date.

(5) A member’s deemed additional service is

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

where—

A is the factor ascertained from Table 1 below,

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B is the amount of the additional contributions held in the Fund immediately before 1st April 1972, and

C is the annual rate of the member’s salary at that time.

TABLE

<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>	<i>Age at last birthday before 1st April 1972</i>	<i>Factor</i>
18	23.8	40	55.9
19	26.5	41	55.8
20	29.1	42	55.6
21	31.6	43	55.3
22	34.0	44	55.1
23	36.2	45	54.9
24	38.3	46	54.8
25	40.3	47	54.7
26	42.2	48	54.6
27	44.0	49	54.5
28	45.7	50	54.5
29	47.3	51	54.4
30	48.8	52	54.4
31	50.2	53	54.3
32	51.5	54	54.3
33	52.7	55	54.2
34	53.8	56	54.2
35	54.7	57	54.1
36	55.3	58	54.1
37	55.6	59	54.0
38	55.8	60 and over	54.0
39	55.9		

(6) A member’s credited service is 165.6% of the total of his deemed normal service and any deemed additional service.

(7) References in this Part to “Method I”, “Method II” and “Method III” are references to the Methods so designated in the 1966 Regulations and the 1970 Regulations.

2. Paragraphs 3 and 4 have effect subject to paragraph 5.

3.—(1) Subject to sub-paragraph (3), a member who elected to pay additional contributions by Method I or Method II may elect to pay family benefit contributions in respect of all or part of

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a period not exceeding in length the difference between his credited service and the total of the additional period and his normal service.

(2) Subject to sub-paragraph (3), a member who elected to pay additional contributions by Method III may by an election under this paragraph—

- (a) revoke the earlier election, or
- (b) revoke the earlier election and elect to pay family benefit contributions in respect of the additional period, or part of it, or
- (c) vary the earlier election so as to relate to part only of the additional period and elect to pay family benefit contributions in respect of the remaining part.

(3) The period in respect of which a member elects to pay family benefit contributions as mentioned in sub-paragraph (1) or (2) is not to exceed—

$$A - \left( B - \frac{5 \times (C - B)}{6} \right),$$

where

A is the length of reckonable service attributable to any period that ended before 1st April 1972,

B is the total length of his normal service and the additional period, and

C is the length of his credited service.

(4) A member may elect to pay family benefit contributions in respect of all or part of any period in respect of which he could have elected, but did not elect, to pay additional contributions.

**4.** A non-member or an unmarried woman may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period that ended before 1st April 1972.

**5.—(1)** A man who has become entitled to payment of retirement benefits may not make an election under paragraph 3 or 4.

(2) An election under paragraph 3 or 4—

- (a) must be made by giving written notice to the Secretary of State within the period specified in sub-paragraphs (3) to (5),
- (b) must specify the period in respect of which it is made,
- (c) must specify the rate at which family benefit contributions are to be paid, which must comply with paragraph 14(2) and (3),
- (d) has effect from the date on which the notice is received, and,
- (e) except as provided in paragraph 14(4), is irrevocable.

(3) Subject to sub-paragraph (4), a man may only make an election under paragraph 3 or 4 within 6 months after—

- (a) his marriage while in pensionable employment, or
- (b) his returning to pensionable employment after becoming married while not in such employment, or
- (c) where sub-paragraph (4) had become applicable, his returning to pensionable employment after ceasing to be in such employment within 6 months after the previous return, or
- (d) his nomination of a beneficiary under regulation E23,

whichever occurs first.

(4) An election under paragraph 3 or 4 may be made by—

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- (a) a member who was not continuously in pensionable employment for 6 months or more after 30th April 1974 and before 1st January 1977, or
  - (b) a non-member who was not continuously in pensionable employment for 6 months or more after 26th June 1973 and before 1st January 1977,
- only within 6 months after returning to pensionable employment.
- (5) A woman may only make an election under paragraph 4 within 6 months after nominating a beneficiary.

6.—(1) Where a person has made an election under paragraph 3(2) or (4) or paragraph 4, the period during which, subject to paragraph 14(7) to (10), the family benefit contributions are to be paid (“the payment period”) is to be ascertained from, or where the period in respect of which the election was made is not an exact number of years by extrapolation from, Table 2 below.

**TABLE 2**

<i>Age on date from which contributions are payable</i>	<i>Period in years for which contributions are to be paid in respect of each year of election period</i>								
	<i>Rate of contributions</i>								
	1%	2%	3%	4%	5%	6%	7%	8%	9%
27 and under	2.90	1.45	0.97	0.73	0.58	0.48	0.41	0.36	0.32
28—37	2.95	1.48	0.98	0.74	0.59	0.49	0.42	0.37	0.33
38—42	3.00	1.50	1.00	0.75	0.60	0.50	0.43	0.375	0.335
43—47	3.05	1.52	1.02	0.76	0.61	0.51	0.435	0.38	0.34
48 and over	3.10	1.55	1.03	0.77	0.62	0.52	0.44	0.39	0.345

(2) Where a man has made an election under paragraph 3(1) the payment period is, subject to paragraph 14(7) to (10), 5/6ths of the period ascertained in accordance with sub-paragraph (1).

7.—(1) This paragraph applies where a member who elected to pay additional contributions by Method III has not revoked that election, and he—

- (a) dies in pensionable employment leaving a widow or having nominated a beneficiary under regulation E23, or
- (b) becomes qualified for retirement benefits while married or after nominating a beneficiary.

(2) Where this paragraph applies, there is to be deducted from the appropriate terminal sum an amount of

$$\frac{A \times B}{100} \times \frac{5 \times C}{6},$$

where—

A is the member’s average salary,

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B is the factor ascertained from Table 3 below, and  
 C is the period calculated in accordance with sub-paragraph (3).

**TABLE 3**

<i>Age</i>	<i>Factor</i>
39 or under	3.5
40 to 49	3.4
50	3.3
51	3.3
52	3.3
53	3.2
54	3.2
55	3.2
56	3.1
57	3.1
58	3.1
59	3.0
60	3.0
61	3.0
62	3.0
63 and over	2.9

(3) The period is  
 $(D + E) - (F + G + H)$ ,

where—

D is the additional period in respect of which the member elected to pay contributions by Method III, together with any additional period for which he elected to pay contributions by Method I or II,

E is his normal service,

F is his credited service,

G is any period or periods for which he has elected to pay family benefit contributions under paragraph 3, and

H is any additional period in respect of which he elected to pay contributions by Method I or II, less his credited service in respect of deemed additional service attributable to contributions so paid, and less any period for which he has elected under paragraph 3(1) to pay family benefit contributions.

8.—(1) Subject to sub-paragraphs (2) and (3), a member or non-member who—

(a) is not in pensionable employment and has become entitled to payment of retirement benefits, and

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(b) would otherwise have been able to make an election under paragraph 3 or 4, may make a corresponding election under this paragraph.

(2) An election under this paragraph—

- (a) must be made by giving written notice to the Secretary of State within 6 months after the date on which the man became entitled to payment of retirement benefits,
- (b) must specify the period in respect of which it is made, and
- (c) is irrevocable.

(3) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum of—

$$\frac{A}{100} \times (B \times C)$$

where—

A is the annual rate at which the man’s contributable salary was last payable,

B is the length, expressed in years and any fraction of a year, of the period in respect of which the election was made, and

C is the factor ascertained from Table 4 below,

but where the election made corresponds to one that could have been made under paragraph 3(1), B is reduced by 1/6th.

**TABLE 4**

<i>Age on date of election</i>	<i>Factor</i>
27 and under	2.90
28—37	2.95
38—42	3.00
43—47	3.05
48 and over	3.10

9.—(1) This paragraph applies where—

- (a) a member or non-member dies before becoming entitled to payment of retirement benefits, and
- (b) he has not made an election under paragraph 3 or 4, but could still have done so if he had not died, and
- (c) he leaves a widow.

(2) Where this paragraph applies the widow may, subject to sub-paragraph (3), elect to pay family benefit contributions in respect of a period comprising all or part of so much of the deceased’s reckonable service as would otherwise not count in the calculation of family benefits.

(3) An election under this paragraph—

- (a) must be made by giving written notice to the Secretary of State within 3 months after the death,
- (b) must specify the period in respect of which it is made,
- (c) must result in a total of not less than 5 years’ reckonable service counting in the calculation of family benefits, and

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- (d) ceases to have effect if the family benefit contributions are not paid within 3 months after its date.
- (4) The family benefit contributions payable as a result of an election under this paragraph consist of a lump sum which is the actuarial equivalent of the contributions that would have been payable by the deceased if—
  - (a) he had made an election under paragraph 3, or, as the case may be, paragraph 4, in respect of the same period, and
  - (b) notice of that election had been given on the day before his death and had specified as the rate at which family benefit contributions were to be paid the maximum allowed by paragraph 14(2) and (3).

## PART II

### CONTRIBUTIONS: MARRIED WOMEN

**10.**—(1) Subject to sub-paragraph (3) and paragraph 11, a woman in relation to whom the election conditions are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service attributable to a period—

- (a) that ended before 1st April 1972, or
- (b) for which contributions have been paid under regulation C4, C6, C9 or C10,

or attributable to the acceptance before 6th April 1988 of a transfer value.

(2) Subject to sub-paragraph (3) and paragraph 11, a woman in relation to whom the election conditions are satisfied may elect to pay family benefit contributions in respect of the whole or a part of any reckonable service not falling within sub-paragraph (1) which is attributable to a period that—

- (a) began after 31st March 1972 and ended before 6th April 1988, and
- (b) would otherwise not count in calculating any pension becoming payable to her widower.

(3) Where an election is made in respect of a part only of any service, the part must consist of one or more whole years.

(4) The election conditions are that she is married, and either—

- (a) is in pensionable employment, or
- (b) ceased after 5th April 1988 and before 1st April 1989 to be in such employment and immediately became entitled to payment of retirement benefits.

**11.**—(1) An election under paragraph 10(1) or (2)—

- (a) must be made by giving written notice to the Secretary of State within the period specified in sub-paragraphs (2) to (4),
- (b) must specify the period in respect of which it is made,
- (c) must state whether the contributions are to be paid by Method A (periodical payments) or by Method B (lump sum),
- (d) if the contributions are to be paid by Method A, must specify the rate at which they are to be paid, which must comply with paragraph 14(2) and (3),
- (e) has effect from the date on which the notice is received by the Secretary of State, and
- (f) except as provided in paragraph 14(4), is irrevocable.



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(2) Where a woman’s pensionable employment is part-time, the reference in sub-paragraph (1) (d) to the rate at which contributions are to be paid is a reference to the rate as a percentage of the woman’s full-time equivalent salary.

(3) The period within which an election may be made is one of 6 months beginning on the relevant date.

(4) Where paragraph 10(4)(b) applies, the relevant date is 1st October 1988; in any other case, subject to sub-paragraph (5), the relevant date is the first date after 30th September 1988 on which the election conditions were or are satisfied.

(5) If during the period of 6 months beginning on that first date the election conditions ceased or cease to be satisfied, the relevant date becomes the first date on which they were or are again satisfied.

(6) A woman who could make an election under paragraph 10(2) may only make one under paragraph 10(1) if, and at the same time as, she elects under paragraph 10(2) to pay family benefit contributions in respect of the whole of the reckonable service there mentioned.

(7) Where elections are made both under paragraph 10(1) and under paragraph 10(2) they must specify the same method of payment.

(8) Payment may not in any case be made by Method A if—

- (a) the payment period would be less than one year, or
- (b) the woman is not in pensionable employment.

**12.**—(1) Subject to sub-paragraph (2), where payment is to be made by Method A the payment period is to be ascertained from, or, where the period in respect of which the election was made is not an exact number of years, by extrapolation from, Table 5 below.

**TABLE 5**

<i>Rate of Contributions</i>	<i>Period in years for which contributions are to be paid in respect of each year of period specified in election</i>	
	<i>Election under paragraph 10(1)</i>	<i>Election under paragraph 10(2)</i>
1%	1.45	0.42
2%	0.69	0.20
3%	0.46	0.14
4%	0.33	0.10
5%	0.27	0.08
6%	0.22	0.07
7%	0.18	0.06
8%	0.16	0.05
9%	0.14	0.04

(2) If the period ascertained in accordance with sub-paragraph (1) (“the Table period”) does not end with the last day of a month, the payment period ends with the last day of the month in which the Table period ends.

(3) Where payment is to be made by Method B, the lump sum payable, which must be paid within 3 months after its amount is notified by the Secretary of State, is—

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- (a) for each year of service in respect of which an election was made under paragraph 10(1), 1.25%, and
- (b) for each year of service in respect of which an election was made under paragraph 10(2), 0.4%,

of the appropriate amount, and pro rata for any period of less than a year.

- (4) The appropriate amount is—
  - (a) where the woman was in pensionable employment when the election took effect, the annual rate of her contributable salary at that time, and
  - (b) in any other case, her average salary.

**13.**—(1) The widower of a woman who—

- (a) died during the period beginning on 6th April 1988 and ending with 31st March 1989 without having made an election under paragraph 10, and
- (b) either was in pensionable employment when she died or had ceased during that period to be in such employment,

may make a corresponding election under this paragraph.

- (2) A married woman who—
  - (a) ceased to be in pensionable employment during the period mentioned in sub-paragraph (1), and
  - (b) on ceasing to be in such employment did not immediately become entitled to payment of retirement benefits,

may make a corresponding election under this paragraph if the conditions in sub-paragraph (3) are satisfied.

- (3) The conditions referred to in sub-paragraph (2) are that—
  - (a) the woman did not again enter pensionable employment, and
  - (b) she has become entitled to payment of retirement benefits.

(4) Where a woman to whom sub-paragraphs (2) and (3) would otherwise have applied dies before becoming entitled to payment of retirement benefits, her widower may make a corresponding election under this paragraph.

- (5) An election under this paragraph—
  - (a) must be made by giving written notice to the Secretary of State within the appropriate period,
  - (b) must specify the period in respect of which it is made, and
  - (c) is to be treated as an election to make payment by Method B.

- (6) The appropriate period referred to in sub-paragraph (5)(a) is—
  - (a) where sub-paragraph (1) applies, the period beginning on 1st October 1988 and ending with 31st March 1989,
  - (b) where sub-paragraphs (2) and (3) apply, 6 months from the date on which the woman became entitled to payment of retirement benefits, and
  - (c) where sub-paragraph (4) applies, 3 months from the date of her death.

## PART III

### CONTRIBUTIONS: COMMON PROVISIONS

14.—(1) This paragraph applies where—

- (a) an election is made under paragraph 3 or 4, or
- (b) an election is made under paragraph 10 to pay family benefit contributions by Method A.

(2) The rate at which family benefit contributions are to be paid, and any higher rate substituted by an election under sub-paragraph (4), must be an integral percentage, not in any case exceeding 9, of the person's contributable salary.

(3) In the case of a person who is paying additional contributions under regulation C4 or C6, or towards the provision of a pension otherwise than under these Regulations, sub-paragraph (2) has effect with the substitution for "9" of the number obtained by deducting from 9 the percentage rate of those contributions.

(4) The election may at any time be varied by an election to pay the family benefit contributions at a specified higher rate.

(5) An election under sub-paragraph (4) must be made by giving written notice to the Secretary of State, and has effect from the first day of the month following that in which the notice is received by him.

(6) The payment period begins on the first day of the month following that in which it is notified to the person by the Secretary of State.

(7) If after the start of the payment period there is an interval of more than 30 days during which the person is not in pensionable employment or paying additional contributions under regulation C9 or C10—

- (a) the interval is not part of the payment period, but
- (b) the end of the payment period is postponed by the length of the interval.

(8) If after the start of the payment period the person becomes employed in part-time pensionable employment, the length of the payment period is increased by so much of the period of part-time employment as does not count as reckonable service.

(9) If the original election is varied by one made under sub-paragraph (4) ("the further election") a new payment period begins on the effective date of the further election and the length of the new payment period is

$$A - \left( \frac{B}{C} \times D \right),$$

where—

A is what the length of the payment period would have been if the increased rate had been specified in the original election,

B is the rate specified in the original election,

C is the increased rate, and

D is the period from the start of the payment period to the effective date of the further election.

(10) The contributions—

- (a) are payable from the start of the payment period,
- (b) continue to be payable while the person is in pensionable employment or paying additional contributions under regulation C9 or C10, and

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- (c) cease to be payable if he dies or becomes entitled to retirement benefits before the end of the payment period.

**15.—(1)** This paragraph—

- (a) applies where family benefit contributions to which paragraph 14 applies cease to be payable before the end of the payment period, and
- (b) has effect subject to paragraph 16.

(2) Where the person paying the contributions dies before attaining the age of 60, or (whether or not he later re-enters pensionable employment) becomes entitled to payment of retirement benefits by virtue of regulation E4(4) (incapacity)—

- (a) contributions are to be treated as having been paid in respect of the whole of the period in respect of which the election was made, but
- (b) if part of the payment period falls after his 60th birthday, the actuarial equivalent of the contributions that would have been payable during that part is to be deducted from the appropriate terminal sum.

(3) Where the person dies, or becomes entitled to payment of retirement benefits, after attaining the age of 60—

- (a) contributions are to be treated as having been paid in respect of the whole of the period in respect of which the election was made, but
- (b) there is to be deducted from the appropriate terminal sum an amount of

$$\left( A \times \frac{B}{100} \right) \times C,$$

where—

A is the annual rate at which his contributable salary was last payable,

B is the rate at which the contributions were last payable, and

C is the multiplier ascertained from, or, if the remainder of the payment period is not an exact number of years, by extrapolation from, Table 6 below.

**TABLE 6**

<i>Years in remainder of payment period</i>	<i>Multiplier</i>
1	0.990
2	1.961
3	2.913
4	3.846
5	4.760
6	5.657
7	6.536
8	7.398
9	8.244
10	9.072
11	9.884

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<i>Years in remainder of payment period</i>	<i>Multiplier</i>
12	10.681
13	11.461
14	12.227
15	12.977
16	13.713
17	14.434
18	15.141
19	15.835
20	16.514

(4) Where the person becomes entitled to payment of retirement benefits by virtue of regulation E4(5) (redundancy, etc.)—

- (a) he may, by giving written notice to the Secretary of State within 3 months after the end of his pensionable employment, elect to pay a lump sum which is the actuarial equivalent of the contributions that would have been payable during the remainder of the payment period,
- (b) if he does so elect, on payment of the lump sum, contributions are to be treated as having been paid in respect of the whole of the period in respect of which the original election was made, and
- (c) if he does not so elect, contributions are to be treated as having been paid in respect of

$$D \times \frac{E}{F},$$

where—

- D is the period in respect of which the original election was made,
- E is the period during which contributions were paid, and
- F is the payment period.

16. Where—

- (a) a deduction has fallen to be made under paragraph 15(2) or (3) or an election has been made under paragraph 15(4), and
- (b) there is then a retrospective increase in the person's contributable salary, and
- (c) the consequent recalculation of the amount of the deduction or lump sum and of the appropriate terminal sum results in a greater increase in the amount of the deduction or lump sum than in the terminal sum,

the person, or, as the case may be, his widow or widower or a beneficiary nominated under regulation E23, may notify the Secretary of State in writing that the amount of the deduction made or lump sum payable is not to be increased.

## PART IV

### FAMILY BENEFITS AND WAR SERVICE

17.—(1) In this Part—

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- (a) any reference to regulations D5 or D6 is a reference to regulation D5 or D6 of the 1988 Regulations which continue to have effect for certain purposes by virtue of paragraph 12 of Schedule 15; and
  - (b) “war service period” means a period which a person is entitled to count as reckonable service by virtue of regulation D5 or D6, and references to a person’s being notified are references to his being notified of the Secretary of State’s determination of a claim made under regulation D5 or D6.
- (2) This Part does not apply—
- (a) if the person’s family benefit service does not include all periods counting as reckonable service otherwise than by virtue of regulation D5 or D6, or
  - (b) if his war service period counts by virtue of regulation D5, his qualifying service for the purposes of that regulation was fire service or police service or Northern Ireland fire service or police service, and he died before 1st April 1975, or
  - (c) if his war service period counts by virtue of regulation D5, his qualifying service was National Health service or service in health and personal social services in Northern Ireland, and he died before 17th July 1975, or
  - (d) if his war service period counts by virtue of regulation D5, his qualifying service was local government service or Northern Ireland local government service, and he died before 1st April 1978.

**18.**—(1) Subject to paragraph 21, a person who was notified before becoming entitled to payment of retirement benefits may, by giving written notice to the Secretary of State within 3 months after the relevant date, elect that his war service period is to be included in his family benefit service.

- (2) The relevant date—
- (a) if he applied for payment of retirement benefits before becoming entitled to payment of them and before being notified, is the date on which he was notified, and
  - (b) in any other case, is the date on which he applied for payment of retirement benefits.

**19.** Subject to paragraph 21, a person who was notified after becoming entitled to payment of retirement benefits may, by giving written notice to the Secretary of State within 6 months after the date on which he was notified, elect that his war service period is to be included in his family benefit service.

**20.**—(1) If an election is made under paragraph 18 or 19 an additional contribution equal to the actuarial value of the war service period at 1st April 1978 becomes payable.

(2) In the case of an election under paragraph 18 the additional contribution is to be deducted from the appropriate terminal sum.

(3) In the case of an election under paragraph 19 the additional contribution may, without prejudice to any other method of recovery, be deducted from any death grant under regulation E20.

- 21.**—(1) If the person—
- (a) died before 15th February 1982, or
  - (b) has died before being notified, or
  - (c) has died after being notified and without having made an election under paragraph 18 or 19 but while still entitled to do so,

paragraphs 18 to 20 do not apply but 2/3rds of his war service period is included in his family benefit service.

(2) If the person died before 15th February 1982 this paragraph does not apply so as to reduce the amount of any family benefit.

## SCHEDULE 7

Regulation D3

### RECKONABLE SERVICE ARISING FROM PAYMENT OF ADDITIONAL CONTRIBUTIONS IN RESPECT OF PAST PERIODS

1.—(1) In paragraphs 1 to 7 of this Schedule—

“the principal election” means the election under regulation C4(2);

“the past period” means the period specified under regulation C4(7)(a);

“the contribution period” means the period specified under regulation C4(7)(c);

“full-time contributor” means a person who has paid or is paying additional contributions for a past period under Part I of Schedule 4 and has not been in part-time pensionable employment during any part of the contribution period;

“part-time contributor” means a person who has paid or is paying additional contributions for a past period under Part I of Schedule 4 and has been in part-time pensionable employment at some time during the contribution period;

(2) Any reference in this Schedule, in relation to a part-time contributor to a period which a person is entitled to count as reckonable service arising from the contribution period or any part of it is a reference to a period calculated by applying the formula in regulation D1(2) to the contribution period or part of it.

2. Where a person—

- (a) is a full-time contributor who has completed payment of additional contributions;
- (b) is a full-time contributor who ceased to be in pensionable employment before the end of the contribution period and has made a payment under paragraph 8(3) or 8(4) of Schedule 4, or
- (c) is a part-time contributor who was in pensionable employment at the end of the contribution period, whose principal election has not ceased to have effect under paragraph 7 of Schedule 4 and who has made a payment under paragraph 6(1) of Schedule 4, or
- (d) is a part-time contributor who ceased to be in pensionable employment before the end of the contribution period and has made a payment under paragraph 9(5) of Schedule 4, or
- (e) has completed payment of additional contributions in accordance with Schedule 5,

he shall be entitled to count the past period as reckonable service.

3.—(1) This paragraph applies when a person—

- (a) is a part-time contributor who was in pensionable employment at the end of the contribution period, whose principal election has not ceased to have effect under paragraph 7 of Schedule 4 and who has not made a payment under paragraph 6 of Schedule 4,
- (b) is a full-time or part-time contributor who ceases to be in pensionable employment before the end of the contribution period, does not again enter such employment within one month and before becoming entitled to payment of retirement benefits and does not make any payment under paragraph 8, 9, 10 or 12 of Schedule 4, or
- (c) is a part-time contributor who ceases to be in pensionable employment before the end of the contribution period and makes a payment under paragraph 9(3) or 9(4) of Schedule 4,

and where neither paragraphs 4 nor 5 apply.

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(2) The person is entitled to count as reckonable service

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

where—

A is the past period,

B is the contribution period, and

C is determined in accordance with sub-paragraph (3).

(3) The value of C is as follows—

(a) where the person falls within sub-paragraph (1)(a), C is the period which the person is entitled to count as reckonable service which arises from the contribution period,

(b) where the person falls within sub-paragraph (1)(b) and is a full-time contributor, C is so much of the contribution period as has elapsed when the pensionable employment ended;

(c) where the person falls within sub-paragraph (1)(b) and is a part-time contributor, C is the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as has elapsed when the pensionable employment ended;

(d) where the person falls within sub-paragraph (1)(c) and makes a payment under paragraph 9(3) of Schedule 4, C is so much of the contribution period as has elapsed when the pensionable employment ended; and

(e) where the person falls within sub-paragraph (1)(c) and makes a payment under paragraph 9(4) of Schedule 4, C is the aggregate of—

(i) the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as has elapsed when the pensionable employment ended, and

(ii) the period from the date when the pensionable employment ended to the end of the contribution period.

4.—(1) This paragraph applies to a full-time or part-time contributor who falls within paragraph 3(1)(b) and who, when his pensionable employment ended, was incapacitated and had not attained the age of 60.

(2) In this paragraph A and B have the same meanings as in paragraph 3.

(3) If the person was a full-time contributor he is entitled to count as reckonable service—

(a) where the contribution period would not have expired before he attained the age of 60—

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

where

D is the period from the start of B to his 60th birthday, or

(b) in any other case, A.

(4) If the person was a part-time contributor he is entitled to count as reckonable service—

(a) where the contribution period would not have expired before he attained the age of 60—

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

where

D is the aggregate of—



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- (i) the period which he is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed when the pensionable employment ended, and
- (ii) the period from the date when the pensionable employment ended to his 60th birthday, or
- (b) in any other case

$$A \times \frac{E}{F}$$

where—

E is the period which he is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed when the pensionable employment ended,

F is so much of the contribution period as elapsed when the pensionable employment ended.

**5.** If a person had elected under paragraph 4 of Schedule 4 to shorten the contribution period—

- (a) he is in any case entitled to count as reckonable service

$$\frac{A \times H}{G}$$

where

G is the original contribution period and H is so much of it as had elapsed by the effective date of the election, and

- (b) paragraphs 3 and 4 have effect with the substitution;

- (i) as A, of

$$A - \left( \frac{A \times H}{G} \right),$$

- (ii) as B, of the shortened contribution period,

- (iii) as D, of the period from the effective date of the election to his 60th birthday, and

- (c) the definition of C in paragraph 3(3) shall have effect with the substitution for the words “the contribution period” of the words “the shortened contribution period”.

**6.—(1)** This paragraph applies where a full-time or part-time contributor revokes his election made under regulation C4 in accordance with paragraph (10) of that regulation.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—

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

where

A is the past period

B is the contribution period, and

C is—

- (a) where the person is a full-time contributor, so much of B as had elapsed by the first day of the month following the date on which the revocation of that election has effect in accordance with regulation C4(11), and

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- (b) where the person is a part-time contributor, the period which the person is entitled to count as reckonable service which arises from so much of the contribution period as had elapsed by the date referred to in (a) above.

7.—(1) This paragraph applies where a lump sum equal to the retirement lump sum that would otherwise have been receivable is paid under paragraphs 10 to 12 of Schedule 4.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—
  - (a) the period he would have been entitled to count under paragraph 3 if the lump sum had not been paid, and
  - (b) a period of

$$\frac{\frac{A}{B} - \frac{3 \times D}{C}}{80}$$

years, where

- A is the retirement lump sum,
- B is the lump sum that would have been payable under paragraph 8 or 9(5) of Schedule 4,
- C is so much of the past period as he is not entitled to count under (a) above, and
- D is his average salary.

8.—(1) This paragraph applies where a person paying additional contributions in accordance with Method 1, as described in paragraph 1 of Schedule 5, elects to cease to pay such contributions in accordance with paragraph 4 of that Schedule.

- (2) Where this paragraph applies, the person is entitled to count as reckonable service—

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

where—

- A is the number of years (or part thereof) elected to be purchased,
- B is the period for which contributions were payable, and
- C is so much of B as had elapsed by the date on which the election has effect in accordance with paragraph 4(2) of Schedule 5.

9.—(1) This paragraph applies where a person is continuing to pay contributions in accordance with Method 3 as described in paragraph 5 of Schedule 5 and—

- (a) before the end of the contribution period they cease to be payable, and
- (b) he does not make a lump sum payment under paragraph 6 of Schedule 5.
- (2) Subject to sub-paragraph (3), the person is entitled to count as reckonable service

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

where—

- A is the period in respect of which the contributions were being paid,
- B is the number of instalments he has paid, and
- C is the number of instalments he would have paid if the contributions had not ceased to be payable.

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(3) Where the contributions cease to be payable by reason of his—

- (a) dying, or
- (b) becoming incapacitated before attaining the age of 60,

he is entitled to count as reckonable service the whole of the period in respect of which the contributions were being paid.

**10.**—(1) This paragraph applies where a person who is, in accordance with paragraph 7 of Schedule 5, continuing to pay contributions which he began to pay before 1973—

- (a) before attaining the age of 60 ceases to be in pensionable employment, and
- (b) does not then become entitled to payment of retirement benefits under regulation E4(4) (incapacity) or to a short-service incapacity grant under regulation E17.

(2) The person is entitled to count as reckonable service

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

where—

- A is the period in respect of which the contributions were being paid,
- B is the period during which they were paid, and
- C is the period from the start of B to his 60th birthday.

**11.**—(1) This paragraph applies where a person is continuing to pay contributions in accordance with paragraph 8 of Schedule 5 and—

- (a) ceases to be in full-time employment before the end of the period for which the contributions were payable (“the contribution period”); and
- (b) does not again enter such employment within one month and before becoming entitled to payment of retirement benefits, and no lump sum payment is made under paragraph 9(3) of Schedule 5.

(2) Subject to sub-paragraph (4), the person is entitled to count as reckonable service—

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

where—

- A is the past period,
- B is the contribution period, and
- C is so much of B as had elapsed when the pensionable employment ended.

(3) This sub-paragraph applies where—

- (a) when the pensionable employment ended the person was incapacitated and had not attained the age of 60, or
- (b) he died while in pensionable employment, or
- (c) he dies within 3 months after the end of the pensionable employment without having made an election under paragraph 9(3) of Schedule 5.

(4) Where sub-paragraph (3) applies—

- (a) if, when the pensionable employment ended, at least one year of the contribution period had elapsed he is entitled to count the whole of the past period as reckonable service, and

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- (b) in any other case, he is not entitled to count any period as reckonable service and the additional contributions paid are to be refunded.

SCHEDULE 8

Regulation E3

PERIODS MAKING UP QUALIFYING PERIOD

1. A period of pensionable employment.
2. A period counting as reckonable service by virtue of regulation D3 (which applies where additional contributions have been paid for a past period) or regulation D4 (which applies where additional contributions have been paid for a current period).
3. A period counting as admitted service or specified country service.
4. A period of service or employment in respect of transfer value which has been accepted by the Secretary of State.
5. A period of comparable British service.
6. A period of employment which is pensionable for the purposes of the Universities Superannuation Scheme.

SCHEDULE 9

Schedule 1 (meaning of ‘appropriate factor’)

TABLE 1

EARLY RETIREMENT FACTORS—PENSIONS

Age	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
Complete years												
50	0.561	0.563	0.566	0.568	0.570	0.572	0.575	0.577	0.579	0.581	0.584	0.586
51	0.588	0.591	0.593	0.596	0.598	0.601	0.603	0.606	0.608	0.611	0.613	0.616
52	0.618	0.621	0.624	0.626	0.629	0.632	0.635	0.637	0.640	0.643	0.646	0.648
53	0.651	0.654	0.657	0.660	0.663	0.666	0.669	0.672	0.675	0.678	0.681	0.684
54	0.687	0.690	0.694	0.697	0.701	0.704	0.708	0.711	0.714	0.718	0.721	0.725
55	0.728	0.732	0.736	0.740	0.743	0.747	0.751	0.755	0.759	0.763	0.766	0.770
56	0.774	0.778	0.782	0.786	0.790	0.794	0.799	0.803	0.807	0.811	0.815	0.819
57	0.823	0.828	0.832	0.837	0.841	0.846	0.850	0.855	0.859	0.864	0.868	0.873
58	0.877	0.882	0.887	0.892	0.897	0.902	0.907	0.911	0.916	0.921	0.926	0.931
59	0.936	0.941	0.947	0.952	0.957	0.963	0.968	0.973	0.979	0.984	0.989	0.995

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**TABLE 2**

## EARLY RETIREMENT FACTORS—LUMP SUMS

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.695	0.697	0.699	0.702	0.704	0.706	0.708	0.710	0.712	0.715	0.717	0.719
51	0.721	0.723	0.725	0.728	0.730	0.732	0.734	0.736	0.738	0.741	0.743	0.745
52	0.747	0.749	0.752	0.754	0.756	0.759	0.761	0.763	0.766	0.768	0.770	0.773
53	0.775	0.777	0.780	0.782	0.784	0.787	0.789	0.791	0.794	0.796	0.798	0.801
54	0.803	0.806	0.808	0.811	0.813	0.816	0.818	0.821	0.823	0.826	0.828	0.831
55	0.833	0.836	0.838	0.841	0.843	0.846	0.849	0.851	0.854	0.856	0.859	0.861
56	0.864	0.867	0.869	0.872	0.875	0.877	0.880	0.883	0.885	0.888	0.891	0.893
57	0.896	0.899	0.902	0.904	0.907	0.910	0.913	0.915	0.918	0.921	0.924	0.926
58	0.929	0.932	0.935	0.938	0.941	0.944	0.947	0.949	0.952	0.955	0.958	0.961
59	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997

**TABLE 3**

## EARLY RETIREMENT FACTORS—PENSIONS: CERTAIN NHS TRANSFEREES

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.773	0.776	0.779	0.782	0.785	0.788	0.791	0.794	0.797	0.801	0.804	0.807
51	0.810	0.813	0.816	0.820	0.823	0.826	0.830	0.833	0.837	0.840	0.843	0.847
52	0.850	0.854	0.857	0.861	0.865	0.869	0.872	0.876	0.880	0.883	0.887	0.891
53	0.895	0.899	0.903	0.907	0.911	0.915	0.919	0.924	0.928	0.932	0.936	0.940
54	0.944	0.949	0.954	0.958	0.963	0.967	0.972	0.977	0.981	0.986	0.991	0.995

**TABLE 4**

## EARLY RETIREMENT FACTORS—LUMP SUMS: CERTAIN NHS TRANSFEREES

Age Complete years	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
50	0.833	0.835	0.838	0.840	0.843	0.845	0.848	0.851	0.853	0.856	0.858	0.861
51	0.863	0.866	0.869	0.872	0.874	0.877	0.880	0.882	0.885	0.888	0.890	0.893

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Age	Complete months											
	0	1	2	3	4	5	6	7	8	9	10	11
52	0.896	0.898	0.901	0.904	0.907	0.910	0.912	0.915	0.918	0.921	0.924	0.926
53	0.929	0.932	0.935	0.938	0.941	0.944	0.946	0.949	0.952	0.955	0.958	0.961
54	0.964	0.967	0.970	0.973	0.976	0.979	0.982	0.985	0.988	0.991	0.994	0.997

SCHEDULE 10

Regulations E10, H1, H2

MODIFIED APPLICATION IN CERTAIN CASES

PART I

NATIONAL INSURANCE MODIFICATION OF PENSIONS

1. In this Part, unless the context otherwise requires—

“the Act” means the National Insurance Act 1965(69);

“non-participating employment” has the meaning assigned to it by section 56(1) of the Act;

“part-time teacher” means a person who has elected under regulation B1 that his part-time employment is to be pensionable employment;

“retired teacher” means a person who has ceased to be in pensionable employment and has attained state pensionable age.

2.—(1) A retirement pension payable in the case of a retired teacher who—

(a) by virtue of the Modification Regulations or of interchange rules was subject to the modifications of the Acts of 1918 to 1956 made by those Regulations and applicable to new entrants within the meaning of those Regulations, or

(b) not being an existing teacher within the meaning of the Modification Regulations or a teacher in whose case by virtue of interchange rules those Regulations applied as they applied in the case of such an existing teacher, entered pensionable employment after 31st March 1967 and before 1st April 1980,

is reduced by an amount calculated by multiplying £1.70 by his reckonable service on or after 1st July 1948 but before 1st April 1980, expressed in years and any fraction of a year.

(2) In the case of a retired teacher—

(a) who was last in pensionable employment before 1st April 1980, and

(b) whose retirement pension is one to which he became entitled by virtue of regulation E4(3) or (4),

any additional period of reckonable service taken into account under regulation E8(2) is deemed for the purposes of sub-paragraph (1) to be such service as is there mentioned.

(69) 1965 c. 51.

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(3) Where the retired teacher before 1st April 1980 elected for the purposes of regulation 24 of the 1976 Regulations to purchase added years, those added years are deemed for the purposes of sub-paragraph (1) to be such reckonable service as is there mentioned.

(4) Sub-paragraph (1) applies not only in the case of such a retired teacher as is there mentioned but also in the case of a retired teacher to whom paragraph 2(1) of Schedule 9 to the 1976 Regulations did not apply if the Secretary of State is satisfied that the contributions paid by him before 1st April 1980 were modified on the assumption that the said paragraph 2(1) did apply in his case.

**3.—(1)** This paragraph applies to a retired teacher who—

- (a) by virtue of the Modification Regulations or of interchange rules, was subject to the modifications of the Acts of 1918 to 1956 made by those Regulations and applicable to existing teachers within the meaning of those Regulations, or
- (b) before 1st April 1980 paid contributions at a reduced rate by virtue of an election under paragraph 2(1)(c) of Schedule 9 to the 1976 Regulations.

(2) A retirement pension payable to such a retired teacher is reduced in respect of his reckonable service after the relevant date but before 1st April 1980 by the amount calculated by multiplying by such reckonable service, expressed in years and a fraction of a year, the sum specified in column 2, in the case of a man, or column 3, in the case of a woman, of Table 1 below opposite his age at the date of modification for the purposes of the Modification Regulations.

**TABLE 1**

<i>Age at date of modification</i>	<i>Yearly reduction of retirement pension for each completed year of reckonable service after date of modification</i>	
	<i>Men</i>	<i>Women</i>
(1)	(2)	(3)
	£	£
20 or under	1.70	1.70
21	1.65	1.60
22	1.60	1.53
23	1.55	1.45
24	1.50	1.37
25	1.47	1.30
26	1.45	1.23
27	1.43	1.17
28	1.40	1.13
29	1.35	1.07
30	1.33	1.03
31	1.30	0.97
32	1.27	0.95
33	1.25	0.93
34	1.23	0.90
35	1.20	0.87

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<i>Age at date of modification</i>	<i>Yearly reduction of retirement pension for each completed year of reckonable service after date of modification</i>	
	<i>Men</i>	<i>Women</i>
(1)	(2)	(3)
36	1.17	0.85
37	1.15	0.83
38	1.13	0.80
39	1.10	0.77
40	1.07	0.75
41	1.07	0.73
42	1.05	0.73
43	1.03	0.70
44	1.00	0.70
45	0.97	0.67
46	0.95	0.65
47	0.95	0.65
48	0.93	0.63
49	0.93	0.63
50 and over	0.93	0.60

(3) The relevant date for the purposes of sub-paragraph (2) is—

- (a) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(a), the date which was in relation to him the date of modification for the purposes of the Modification Regulations, and
- (b) in relation to a retired teacher to whom this paragraph applies by virtue of sub-paragraph (1)(b), the first day of the month next following that in which the election mentioned in that sub-paragraph was made.

(4) In the case of a retired teacher—

- (a) who was last in pensionable employment before 1st April 1980, and
- (b) whose retirement pension is one to which he became entitled by virtue of regulation E4(3) or (4),

any additional period of reckonable service taken into account under regulation E8(2) is deemed for the purposes of sub-paragraph(2) to be such service as is there mentioned.

**4.** For the purposes of paragraphs 2 and 3 the reckonable service of a retired teacher is his effective reckonable service.

**5.** If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 and before 6th April 1975 which was not non-participating employment the pension is, except as provided in paragraphs 7 and 8, reduced, for each year of such period, and proportionately for part of a year, by the appropriate amount specified in Table 2 below.



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**TABLE 2**

<i>Annual rate of salary during period</i>	<i>Reduction in retirement pension for each whole year of period</i>			
	<i>From 3rd April 1961 to 5th January 1964</i>		<i>From 6th January 1964 to 5th April 1975</i>	
		<i>Men</i>	<i>Women</i>	
	£	£	£	£
Not exceeding £468	nil	nil	nil	nil
Over £468 but not exceeding £520	0.19	0.16	0.19	0.16
Over £520 but not exceeding £572	0.58	0.48	0.58	0.48
Over £572 but not exceeding £624	0.96	0.80	0.96	0.80
Over £624 but not exceeding £676	1.35	1.12	1.35	1.12
Over £676 but not exceeding £728	1.73	1.44	1.73	1.44
Over £728 but not exceeding £780	2.12	1.76	2.12	1.76
Over £780 but not exceeding £832	2.31	1.92	2.51	2.09
Over £832 but not exceeding £884	2.31	1.92	2.90	2.42
Over £884 but not exceeding £936	2.31	1.92	3.29	2.74
Over £936	2.31	1.92	3.48	2.90

6. If, in calculating the amount of a retirement pension, there is taken into account any period of employment after 2nd April 1961 in respect of which a payment in lieu of contributions has been made, the retirement pension is, except as provided in paragraphs 7 and 8, reduced—

- (a) by £2.31 in the case of a man and by £1.92 in the case of a woman for each year, and proportionately for part of a year, of any period from 3rd April 1961 to 5th January 1964, and
- (b) by £3.48 in the case of a man and by £2.90 in the case of a woman for each year, and proportionately for part of a year, of any period from 6th January 1964 to 5th April 1975.

7. Where—

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- (a) a period of employment of a retired teacher which was not non-participating employment or in respect of which a payment in lieu of contributions had been made is treated as reckonable service by virtue of interchange provisions, and
- (b) the Secretary of State is informed of the amount by which his pension under the pension scheme applicable to him before interchange provisions applied to him would have been reduced in respect of that period by reason of graduated retirement benefit payable under the Act or of the method of calculating such reduction,

the retirement pension in respect of that period is reduced by that amount or by an amount calculated in accordance with that method, as the case may be, and no reduction, is to be made under paragraph 5 or 6 in respect of that period.

**8.** No reduction in the amount of a retirement pension is to be made under paragraph 5 or 6 in respect of any period which is reckonable service by virtue of regulation D3 or D4 or of regulations under section 1 of the Superannuation (Miscellaneous Provisions) Act 1948(70) (employment in national service).

**9.** A retirement pension payable to a part-time teacher, so far as it is attributable to any part-time service which was non-participating employment within the meaning of the Act (exclusive of any period of such employment in respect of which a payment in lieu of contributions has been made), is not to be less than the amount required to constitute the benefits in respect of that service equivalent pension benefits.

**10.—(1)** An annual pension in respect of any such service as is mentioned in paragraph 9 is to be paid to a part-time teacher to whom no retirement pension is payable under regulation E4 if he is in pensionable employment on attaining state pensionable age.

(2) A pension under this paragraph is of the amount required to constitute the benefits in respect of the service equivalent pension benefits and is payable from the day following that on which the part-time teacher ceases to be in pensionable employment or in employment which would, if he had not attained the age of 70, be pensionable employment.

(3) Regulation E33(2) (application for payment) applies in relation to a pension payable under this paragraph.

**11.** A part-time teacher to whom paragraph 10 applies is entitled to be paid a sum equal to the balance of his contributions computed as at the date of repayment in accordance with regulation C13 reduced by half the actuarial value of the pension payable to him under paragraph 10.

**12.—(1)** Any person who was employed in non-participating employment and attains state pensionable age is to be paid by way of equivalent pension benefits a sum equal to the actuarial value of a retirement pension at the following rate for each year of reckonable service—

	Man	Woman
during the period from 3rd April 1961 to 5th January 1964	£2.31	£1.92
during the period from 6th January 1964 to 5th April 1975	£3.48	£2.90

but excluding any period of such employment in respect of which—

- (a) a payment in lieu of contributions has been made, or
- (b) any retirement benefits are payable under regulation E4.

(70) 1948 c. 33.

(2) If on attaining state pensionable age he is still in pensionable employment payment is to be deferred until he ceases to be in pensionable employment, or in employment which would be pensionable employment if he had not attained the age of 70.

(3) Regulation E33(2) (application for payment) applies in relation to a sum payable under this paragraph.

## PART II

### EMPLOYMENT AT REDUCED SALARY

**13.** Subject to paragraphs 14 to 19, these Regulations apply as if the person had been one person in relation to pensionable employment (“the earlier employment”) up to the end of his employment at the previous rate and a separate person in relation to pensionable employment (“new employment”) from the start of his employment at the reduced rate, and accordingly apply separately in relation to each of those employments.

**14.** For the purposes of regulation E3 (qualification for retirement benefits), periods counting towards a qualifying period in relation to one of the employments count also in relation to the other.

**15.—(1)** For the purposes of regulation E32(2) (limits on reckonable service for calculating benefits), periods counting as reckonable service in relation to one of the employments count also in relation to the other.

(2) Any period excluded by regulation E32(2) is excluded in relation to new employment only.

**16.—(1)** A period for which the person has, before the first day of new employment, elected to pay additional contributions under regulation C4 does not count as reckonable service in relation to new employment but does, subject to sub-paragraph (2), count in relation to the earlier employment.

(2) An election to pay such contributions by Method A which was made less than 12 months before the first day of new employment ceases to have effect on that day, and any contributions paid in pursuance of it are to be refunded.

(3) If an election to pay such contributions is made on or after the first day of new employment—

- (a) the period to which it relates counts as reckonable service in relation to new employment but does not count in relation to the earlier employment, and
- (b) if the contributions are to be paid by Method B paragraph 14 of Schedule 4 (calculation of lump sum where salary reduced) does not apply.

**17.—(1)** This paragraph applies if the person becomes entitled to payment of retirement benefits by virtue of regulation E4(3) or(4) (incapacity).

(2) For the purposes of regulation E8 (enhancement) the appropriate period is to be calculated by reference to the aggregate of the period counting as reckonable service in relation to the earlier employment and the period so counting in relation to new employment, and

- (a) if he becomes entitled to payment of the benefits within 3 years after the start of new employment, the period counting as reckonable service in relation to the earlier employment, or
- (b) in any other case, the period so counting in relation to new employment,

is increased by the appropriate period so calculated.

**18.—(1)** For the purpose of calculating any death grant under regulation E20 or supplementary death grant under regulation E21 that may become payable in respect of the person—

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- (a) the average salary mentioned in regulations E20(2) and E21(2)—
    - (i) if the grant becomes payable within 3 years after the start of new employment, is his average salary in respect of the earlier employment, and
    - (ii) in any other case, is his average salary in respect of new employment,
  - (b) the retirement lump sum mentioned in regulation E20(2) is the aggregate of the lump sums that would have become payable as there mentioned in respect of each of the employments, enhanced in accordance with paragraph 17, and
  - (c) the retirement pension mentioned in E21(3) is the aggregate of the retirement pensions paid in respect of each of the employments.
- (2) Only one of either kind of grant is to be paid.

19. Regulation E26(7) does not have effect so as to preclude the payment of a children's pension in respect of each of the employments.

### PART III

#### POLICY SCHEMES

20. In this Part "policy scheme service" has the meaning that was given in regulation 3(2) of the Teachers' Superannuation (Policy Schemes) Regulations 1979(71) ("the 1979 Regulations").

21. For the purposes of regulation C4(1) (case in which additional contributions may be paid for past period), if the person's policy scheme service began before he first became employed in pensionable employment he is to be treated as having first become so employed when his policy scheme service began.

22. For the purposes of regulation E3 (qualification for retirement benefits), paragraph 1 of Schedule 8 has effect as if the person's policy scheme service had been pensionable employment beginning after 5th April 1988.

23. Only 9/10ths of the person's policy scheme service is effective reckonable service.

24.—(1) For the purposes of paragraphs 1 and 2 of Schedule 3 (maximum length of additional periods), if paragraph 1(2)(a) of Schedule 3 (continuous pensionable employment) applies the person's adjusted age—

- (a) if when he made the election under regulation 4 of the 1979 Regulations he was subject to the policy scheme, is

**A – C,**

and

- (b) in any other case, is

**B – C,**

where—

A is his age when the election took effect,

B is his age when pensionable employment in continuation of his policy scheme service began, and

C is 9/10ths of his policy scheme service.

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(71) S.I. 1979/47.

(2) If paragraph 1(2)(b) of Schedule 3 applies, his adjusted age for the purposes mentioned in sub-paragraph (1) above is

$$D - (E + F),$$

where—

D is his age at the start of his most recent pensionable employment,

E is the total time spent by him in pensionable employment, and

F is 9/10ths of his policy scheme service.

**25.**—(1) For the purposes of paragraph 2 (National Insurance modifications), the person’s policy scheme service is to be treated as service after the end of June 1948.

(2) No reduction in the amount of his retirement pension is to be made under paragraph 5 or 6 in respect of the period of his policy scheme service.

## PART IV

### ADMITTED SERVICE

**26.**—(1) In the case of a person with admitted service who has not been in pensionable employment, regulation C12(1) (entitlement to repayment of contributions) has effect with the substitution—

(a) for “pensionable employment” of “admitted service”, and

(b) for “retirement benefits” of the benefits described in paragraph 27(1).

(2) In the case of any person with admitted service, regulation C13 (calculation of contributions to be repaid) has effect as if the amounts specified in regulation C13(3) included the contributions paid by him in respect of that service.

**27.**—(1) Subject to sub-paragraphs (2) to (5) and paragraph 29, an annual pension and a lump sum (“admitted service benefits”) are payable in respect of admitted service.

(2) A person who has not been in pensionable employment is qualified for admitted service benefits if his admitted service amounts to at least 5 years.

(3) Any other person with admitted service is qualified for admitted service benefits if he is qualified for retirement benefits.

(4) A person who has not been in pensionable employment and is qualified for admitted service benefits becomes entitled to payment of them on his 60th birthday.

(5) Any other person qualified for admitted service benefits becomes entitled to payment of them when he becomes entitled to payment of retirement benefits.

**28.**—(1) The rate of the annual pension is

$$\left( \frac{A}{100} \times B \right) + \frac{C}{5},$$

where—

A is the average annual rate of the person’s salary during his admitted service,

B is the length of the admitted service, expressed in years and any fraction of a year, and

C is so much of

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$$\left(\frac{A}{80} \times B\right)$$

as is attributable to admitted service before 1st April 1962.

(2) The amount of the lump sum is

$$\left(\frac{A}{30} \times D\right) + \left(\frac{3 \times A}{80} \times E\right),$$

where—

A is the same as in sub-paragraph (1) and—

D is the length, expressed in years and any fraction of a year, of admitted service before 1st April 1963, and

E is the length, so expressed, of admitted service after 31st March 1963.

**29.** Regulations E18 (deferment etc. of benefits), E33 (payment of benefits) and E35 (benefits not assignable) apply in relation to admitted service benefits as they apply in relation to retirement benefits.

## PART V

### SPECIFIED COUNTRY SERVICE

**30.** Regulations E4 (entitlement to payment of retirement benefits), E6 (amount of retirement lump sum), E13(3) (pension becoming payable again after cessation on pensioner ceasing to be incapacitated), E15 (retirement benefits on cessation of further employment) and E16 (short-service annuity) have effect with the substitution for references (whether direct or not) to the age of 60 of references to the age obtained by deducting from 60 years a period of 3 months in respect of each complete year of up to 20 years of specified country service.

**31.** Subject to paragraph 32—

- (a) for the purpose of calculating retirement benefits, and grants under regulations E17, E20 and E21, and
- (b) for the purposes of regulation E32(2) (restriction of effective reckonable service to 45 years, etc.),

specified country service counts as reckonable service at 1.5 times its actual length.

**32.** For the purposes of regulation E8 (enhancement of retirement benefits in case of incapacity), in calculating relevant service specified country service counts as reckonable service at its actual length.

## PART VI

### PERSONS FORMERLY MEMBERS OF THE NATIONAL HEALTH SERVICE PENSION SCHEME

**33.** In this Part—

- (a) “the 1995 Regulations” means the National Health Service Pension Scheme Regulations 1995(72); and

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(72) S.I. 1995/300.

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- (b) the expressions “member” and “scheme” shall be construed in accordance with the 1995 Regulations.

**34.** This Part applies to a person who—

- (a) immediately before he was in pensionable employment (within the meaning of these Regulations) was in pensionable employment within the meaning of the 1995 Regulations; and
- (b) who ceased to be in pensionable employment within the meaning of the 1995 Regulations and became employed in pensionable employment within the meaning of these Regulations by virtue of a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981(73).

**35.** Where a transfer value has been accepted in respect of a person to whom this Part applies pursuant to a written request made by that person within 12 months of the date of the transfer referred to in paragraph 34 he is entitled to count as reckonable service the period which, at the time of that transfer, he was entitled to count as pensionable service for the purposes of the 1995 Regulations.

**36.—**(1) If a person to whom this Part applies—

- (a) chose, while he was a member of the scheme to increase his right to benefits under the scheme by buying additional service under regulation Q1 of the 1995 Regulations by making regular additional contributions; and
- (b) at the time of the relevant transfer referred to in paragraph 34 had not completed the payment of the additional contributions

he may complete the payment of such contributions as if Part Q of the 1995 Regulations applied to him and (if he does so) shall accordingly be entitled to count as reckonable service the additional service which would have been bought under Part Q of the 1995 Regulations by the payment of such contributions.

(2) For the purposes of regulations C13, C18 and H6 the contributions referred to in this paragraph shall be treated as having been paid under regulation C4.

(3) For the purposes of any provision in these Regulations which imposes a maximum on the contributions which a person can make, the contributions referred to in this paragraph shall be treated as paid under Part C.

**37.** Where a person to whom this Part applies—

- (a) was, immediately before the relevant transfer referred to in paragraph 34, a person to whom regulation R2 of the 1995 Regulations or regulation 54 of the National Health Service (Superannuation) Regulations 1980(74) (special provision for certain nurses, physiotherapists, midwives and health visitors) or regulation R3 of the 1995 Regulations or regulation 55 of the National Health Service (Superannuation) Regulations 1980 (special provision for certain mental health officers) applied, and
- (b) has continued to be such a person after the said transfer save only that his employer was not an employing authority within the meaning of the 1995 Regulations,

regulation E4 shall apply in relation to that person as if the references to the age of 60 were references to the age of 55.

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(73) S.I. 1981/1794; amended by S.I. 1987/442, 1995/2587 and the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

(74) S.I. 1980/362; a relevant amending instrument is S.I. 1982/1765.

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**38.**—(1) Where a transfer value has not been accepted in relation to a person to whom this Part applies, the period during which the person was in pensionable employment within the meaning of the 1995 Regulations is comprised in a qualifying period for the purposes of Regulation E3.

(2) Sub-paragraph (1) above shall not be taken as precluding such a period from falling within paragraph 4 of Schedule 8 in a case where a transfer value has been accepted.

## SCHEDULE 11

Regulation E11

### ALLOCATION OF PART OF RETIREMENT PENSION

#### PART 1

##### CONTENTS OF DECLARATION

**1.**—(1) A declaration is to specify—

- (a) the part of the retirement pension allocated, and
- (b) which alternative benefit it is to provide.

(2) The part allocated, which is to be expressed as a whole number of pounds, must not exceed the lower of—

- (a) 1/3rd of the annual rate of the retirement pension, disregarding any actuarial reduction required by regulation E5(5) and any National Insurance modification under Schedule 10, and
- (b) the amount that would result in the reduction of that rate to less than the rate of, as the case may be, the annuity mentioned in regulation E11(2)(a) or the subsequent annuity mentioned in regulation E11(2)(b),

and must not be such as to affect any equivalent pension benefits.

(3) The part allocated must not be such as to cause the retirement pension payable to be less than the guaranteed minimum in relation to employment up to 6th April 1997.

#### PART II

##### PROCEDURE

**2.**—(1) A person who, with a view to making an allocation, gives the Secretary of State at least 4 months' notice of his intended retirement is referred to in this Schedule as a “retiring employee”.

(2) For the purposes of this Schedule a person's relevant birthday is—

- (a) where retirement benefits become payable by virtue of regulation E4(5) (redundancy, etc.), his 50th, and
- (b) in any other case, his 60th.

**3.**—(1) Before delivering a declaration a person must have given the Secretary of State written notice of his intention to make an allocation.

(2) The notice is to be given—



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- (a) in the case of a retiring employee, no later than his application for payment of retirement benefits, and
- (b) in any other case, no earlier than 4 months before the later of—
  - (i) the date on which the person becomes qualified for retirement benefits, and
  - (ii) his relevant birthday.

4.—(1) Before delivering a declaration a person must also at his own expense—

- (a) have satisfied the Secretary of State as to his health, and
- (b) have provided the Secretary of State with such information about the person for whose benefit the allocation is to be made, and verified it in such manner, as the Secretary of State may reasonably require.

(2) In order to satisfy the Secretary of State as to his health the person must have been examined by a medical practitioner nominated by the Secretary of State; he may if he wishes be examined by a second such practitioner if the Secretary of State is not satisfied as a result of the first examination.

5.—(1) On receiving a notice under paragraph 3 the Secretary of State is to notify the person in writing of—

- (a) the amount or estimated amount of his retirement pension,
- (b) if paragraph (3) of regulation E5 applies, the amount or estimated amount of the retirement pension to which he would be entitled if that paragraph did not apply,
- (c) the name and address of the nominated medical practitioner, and
- (d) the time within which any declaration is to be delivered.

(2) A declaration is to be delivered—

- (a) if the person is resident outside the United Kingdom, within 4 months, and
- (b) in any other case, within 3 months,

after receipt of the Secretary of State's notification under sub-paragraph (1).

(3) If he is satisfied as to the person's health, and with the information provided in accordance with paragraph 4(1)(b), the Secretary of State is to send the person a suitable form on which to make the declaration.

(4) On the delivery to him of a declaration, the Secretary of State is to provide the person making it with written particulars of the alternative benefit.

6. A declaration, and any notice or other communication under this Part, may be sent by post.

## PART III

### OTHER MATTERS

7.—(1) Subject to sub-paragraphs (2) to (6), a declaration takes effect as such on the day on which it is delivered to the Secretary of State.

(2) A declaration cannot take effect before the person's relevant birthday.

(3) A declaration has no effect if either the person making it or the person for whose benefit the allocation was to be made dies before the material time.

(4) In the case of a declaration made by a retiring employee the material time is the later of—

- (a) the day after that on which the declaration is delivered, and

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- (b) the day before that on which he becomes entitled to payment of retirement benefits.
- (5) In any other case the material time is the day on which the declaration is delivered.
- (6) A declaration may be revoked or varied by a further declaration delivered—
  - (a) in the case of a retiring employee, before the day on which he becomes entitled to payment of retirement benefits, and
  - (b) in any other case, before the day on which the original declaration is delivered.

**8.—(1)** An allocation takes effect on the day on which the person making it becomes entitled to payment of retirement benefits.

(2) For the purposes of sub-paragraph (1), if a person other than a retiring employee dies in pensionable employment after his declaration has taken effect, he is to be taken to have become entitled to payment of retirement benefits on the date of his death.

- 9.—(1)** If notice of intention has been given under paragraph 3 and by the later of—
- (a) the date of the person's becoming entitled to retirement benefits, and
  - (b) his relevant birthday,

no declaration has been delivered, then, from the later of those dates until he has either delivered a declaration or failed to satisfy the Secretary of State as mentioned in paragraph 5(3), 1/3rd of his retirement pension disregarding any actuarial reduction required by regulation E5(3) may be withheld.

- (2) Any resulting underpayment or overpayment is to be adjusted in due course.

**10.—(1)** If after a retiring employee has delivered a declaration the rate of his retirement pension is increased, otherwise than under the Pensions (Increase) Act 1971(75), the part allocated is correspondingly increased.

(2) Sub-paragraph (1) applies even if the increase in the retirement pension takes effect from a date earlier than the date of delivery of the declaration.

(3) The corresponding increase in the part allocated, which is to be rounded down to the nearest pound, takes effect from the same date as the increase in the retirement pension.

(4) If the alternative benefit is the one described in regulation E11(2)(b) (annuity for declarant followed by annuity for surviving spouse), the resulting increase in the first of those annuities takes effect from the same date as the increase in the retirement pension.

**11.** If after a person has delivered a declaration the rate of his retirement pension is reduced, the declaration continues to have effect but the part allocated is reduced to any extent necessary to secure that the restrictions in paragraph 1(2) are still complied with.

SCHEDULE 12

Regulations F2, F4

TRANSFER VALUES

PART I

OUTWARD TRANSFERS

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under section 97 of the 1993 Act for the calculation of cash equivalents.

2. Where—

- (a) a transfer value is payable to the scheme managers of a club scheme or a personal pension scheme, or
- (b) a transfer value is payable to the scheme managers of an approved pension scheme which is not a club scheme and none of the service to which it relates is service before 1st September 1988,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where—

- (a) a transfer value is payable to the scheme managers of an approved pension scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st September 1988, and
- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of

**A and the greater of B and C,**

where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 31st August 1988,

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st September 1988, and

C is a notional transfer value, calculated as if Schedule 7 to the 1976 Regulations, as in force on 31st August 1988, had continued in force, in respect his service before 1st September 1988.

4. Where—

- (a) a transfer value is payable to the scheme managers of an approved pension scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st September 1988, and
- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is

**D + E**

where—

D is the transfer value that would have been payable if paragraph 3 had applied, and

E is the amount of the cash equivalent,

5. Where—

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- (a) a transfer value is payable to the scheme managers of a personal pension scheme, and
- (b) a right to a part cash equivalent was acquired,

the transfer value is to be calculated on the cash equivalent basis but as if the person's pensionable employment had ended with 5th April 1988.

6.—(1) This paragraph applies where—

- (a) a transfer value falls to be calculated in accordance with paragraph 3 or 4, and
- (b) for the purposes of paragraph 3 C is greater than B.

(2) Subject to sub-paragraphs (3) and (4), if the transfer value is not paid within 6 months after the person ceased to be in pensionable employment the amount calculated in accordance with paragraph 3 or 4 is increased by adding to it interest on C at 9% per annum, compounded with 3-monthly rests, for each complete period of 3 months after the end of the employment and before the date of payment.

(3) If the employment ended before 1st April 1977 the amount calculated in accordance with paragraph 3 is increased by adding to it—

- (a) interest on C at 6% per annum, compounded with yearly rests, for each complete period of a year after the end of the employment and before 1st April 1977, and
- (b) interest on C at 9% per annum, compounded with 3 monthly rests, for the period of 3 months beginning on 1st April 1977 and for each subsequent complete period of 3 months before the date of payment.

(4) If the employment ended after 5th April 1978 and before 1st April 1979 the amount calculated in accordance with paragraph 3 is increased by adding to it interest on C at 6% per annum compounded with yearly rests, for each complete period of a year after the end of the employment and before the date of payment.

7. Where a transfer value is paid to the scheme managers of an occupational pension scheme which is not a contracted-out scheme or of a personal pension scheme, there may be deducted from it the amount of any contributions equivalent premium paid by the Secretary of State.

## PART II

### INWARD TRANSFERS

8. If the employment in which the person was subject to the previous scheme was comparable British service, he is entitled to count as reckonable service the period of service certified by the scheme managers as having stood to his credit under the scheme when he ceased to be subject to it.

9.—(1) If—

- (a) the previous scheme is a club scheme service under which is not comparable British service, or
- (b) the previous scheme is a personal pension scheme or an approved pension scheme which is not a club scheme and the person has entered pensionable employment after 31st December 1985,

he is entitled, unless paragraph 10 applies, to count as reckonable service the period specified in sub-paragraph (2).

(2) The period is one equal to the period of reckonable service that would enable the Secretary of State to pay a transfer value, calculated on an actuarial basis, of the same amount as the one accepted.

(3) In calculating the period specified in sub-paragraph (2)—

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- (a) if sub-paragraph (1)(a) applies and the request for the transfer value to be accepted was made within 12 months after the date on which the person entered pensionable employment, the calculation is to be made by reference to the age and salary notified by the scheme managers of the previous scheme as those by reference to which the transfer value accepted was calculated,
- (b) if sub-paragraph (1)(b) applies and the transfer value was received within 12 months after the date on which the person entered pensionable employment, the calculation is to be made by reference to his age, and the annual rate of his contributable salary, on that date,
- (c) in any other case, the calculation is to be made reference to his age, and the annual rate of his contributable salary, on the date on which the transfer value was received,
- (d) if sub-paragraph (1)(a) applies any sum representing interest that is included in the transfer value is not to be taken into account, and
- (e) if sub-paragraph (1)(b) applies any such sum is to be taken into account.

**10.**—(1) This paragraph applies where—

- (a) the condition specified in paragraph 9(1)(b) applies,
- (b) the person has made an election under regulation B6 (resumption of pensionable status),
- (c) the previous election under regulation B6 of the 1988 Regulations (election not to be pensionable) was made before 30 June 1994,
- (d) the person has been in excluded employment between the date of the election under regulation B6 of the 1988 Regulations and the date of the election under regulation B6 of these Regulations,
- (e) a transfer value was paid under regulation F1 of the 1988 Regulations or under Schedule 1A to the Social Security Pensions Act 1975(76) or chapter IV of Part IV of the 1993 Act in respect of the person in consequence of him ceasing to be in pensionable employment by virtue of the election under regulation B6 of the 1988 Regulations,
- (f) the person is an individual as is mentioned in section 172(1) of the 1995 Act, and
- (g) the Secretary of State accepts a transfer value under regulation F4 of the amount specified in sub-paragraph (3).

(2) In this paragraph “the period of original pensionable employment” means the period during which the person was in pensionable employment before he made his election under regulation B6 of the 1988 Regulations.

(3) The amount referred to in sub-paragraph (1)(g) is

**A + B**

where—

A is the transfer value which, calculated on the basis specified in paragraph 9(2), would enable the person to count the period of excluded employment as reckonable service as if it had been pensionable employment; and

B is the greater of—

- (a) the transfer value paid by the Secretary of State in respect of the person in consequence of his ceasing to be in pensionable employment by virtue of his election under regulation B6 of the 1988 Regulations together with—
  - (i) in a case where the transfer value was paid to the Secretary of State pursuant to regulation F4 within four weeks of the request under regulation F4(3) an

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(76) 1975 c. 60; Schedule 1A (now repealed by the 1993 Act) was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3.

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amount, determined actuarially, which represents the income which would have been received had such sum been invested during the period starting at the end of the month in which the transfer value was paid under regulation F1 of the 1988 Regulations and ending at the end of the month in which the request under regulation F4(3) was made; and

- (ii) in any other case the amount referred to in paragraph (i) above together with a further amount, determined actuarially, which represents the income which would have been received compounded with monthly rests, had such sum been invested during the period starting at the end of the month in which the request under regulation F4(3) was made and ending at the end of the month in which the transfer value was paid to the Secretary of State; and
- (b) the amount which would be paid as a transfer value by the Secretary of State in respect of the person if at the date on which he made the election under regulation B6—
  - (i) he was in pensionable employment and made an election under regulation B5 (election not to be pensionable); and
  - (ii) he had been in pensionable employment for a period equal to the period of original pensionable employment.
- (4) Where this paragraph applies the person is entitled to count as reckonable service—
  - (a) the reckonable service arising from the period of original pensionable employment; and
  - (b) such service arising from the period of excluded employment as if it had been pensionable employment.

**11.** If—

- (a) the previous scheme is an approved pension scheme which is not a club scheme; and
- (b) the person entered pensionable employment before 1st January 1986,

he is entitled to count as reckonable service a period calculated as if Schedule 7 to the 1976 Regulations, as in force on 31st August 1988, had continued in force.

SCHEDULE 13

Regulations G1, G2

TEACHERS' PENSION ACCOUNT

FORM OF ACCOUNT

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

1. The form referred to in regulation G1 is the following:

**ACCOUNT UNDER REGULATION G1 OF THE TEACHERS' PENSIONS REGULATIONS 1997 FOR THE YEAR ENDING 31 MARCH 19**

	£000's	£000's
<b>HEAD</b>		
Notional balance at 1 April 19		
<b>ADD RECEIPTS</b>		
<b>A1</b> Contributions		
i. Employees		
ii. Employers		
<b>II</b> Transfer Values		
i. Actual		
ii. Notional		
<b>III</b> Contributions equivalent premiums		
<b>IV</b> Miscellaneous receipts		
<b>V</b> Notional investment income		
	_____	_____
<b>DEDUCT PAYMENTS</b>		
<b>BI</b> Benefits		
i. Retirement pensions		
ii. Retirement lump sums		
iii. Death grants		
iv. Widows' pensions		
v. Widowers' pensions		
vi. Children's pensions		
vii. Other beneficiaries' pensions		
viii. Short-term benefits		
<b>II</b> Repayments of contributions		
<b>III</b> Transfer values		
i. Actual		
ii. Notional		
<b>IV</b> Contributions equivalent premiums to the State Pension Scheme		
<b>V</b> Increases payable under the Pensions (Increase) Act 1971		
	_____	_____
Notional balance at 31st March 19	_____	_____

SCHEDULE 14

Regulation H12

**REVOCATIONS**

The Teachers' Superannuation (Consolidation) Regulations 1988 (S.I. 1988/1652)

The Teachers' Superannuation (Amendment) Regulations 1989 (S.I. 1989/378)

The Teachers' Superannuation (Amendment) (No. 2) Regulations 1989 (S.I. 1989/811)

The Teachers' Superannuation (Amendment) Regulations 1993 (S.I. 1993/114)

The Teachers' Superannuation (Amendment) Regulations 1994 (S.I. 1994/1058)

The Teachers' Superannuation (Amendment) (No. 2) Regulations 1994 (S.I. 1994/2774)

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The Teachers' Superannuation (Amendment) (No. 3) Regulations 1994 ([S.I. 1994/2876](#))  
The Teachers' Superannuation (Amendment) Regulations 1995 ([S.I. 1995/2004](#))  
The Teachers' Superannuation (Amendment) Regulations 1996 ([S.I. 1996/2269](#))  
The Teachers' Superannuation (Amendment) Regulations 1997 ([S.I. 1997/312](#))

## SCHEDULE 15

Regulation H12

### SAVINGS AND TRANSITIONAL PROVISIONS

#### PART I—

#### GENERAL PROVISIONS

**1.** In this Schedule—

“the revoked instruments” means the statutory instruments revoked by these Regulations; and  
“the commencement date” means 3rd February 1998.

**2.—(1)** The substitution of these Regulations for the revoked instruments does not affect the continuity of the law.

(2) Anything done or having effect as if done under or for the purposes of a provision of the revoked instruments has effect, if it could have been done under or for the purposes of the corresponding provision of these Regulations, as if done under or for the purposes of that corresponding provision.

(3) Any reference, whether express or implied, in these Regulations or any other instrument or document to a provision of these regulations shall, so far as the context permits, be construed as including, in relation to the times, circumstances and purposes in relation to which the corresponding provision of the revoked instruments has effect, a reference to that corresponding provision.

(4) Any reference, whether express or implied, in any instrument or document to a provision of the revoked instruments shall be construed, so far as is required for continuing its effect, as including a reference to the corresponding provision of these Regulations.

(5) Any document made, served or issued on or after the commencement date which contains a reference to any of the revoked instruments shall be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of these Regulations.

(6) Where any provision of the revoked instruments (“the replacement provision”) re-enacted, with or without modification, a previous provision revoked by the revoked instruments (“the previous provision”), then, so far as is necessary to prevent the continuity of the law from being affected, any reference in these Regulations to the replacement provision shall, so far as the context permits, be construed as including a reference to that previous provision.

**3.** The revocation by these Regulations of a transitional provision relating to the coming into force of a provision re-enacted in these Regulations does not affect the operation of that transitional provision, so far as it remains capable of having effect, in relation to the provision as re-enacted.

**4.—(1)** The revocation by these Regulations of a provision previously revoked subject to savings does not affect the previous operation of those savings.



(2) The revocation by these Regulations of a saving made on the previous revocation of a provision does not affect the operation of the saving in so far as it remains capable of having effect.

## PART II

### SPECIFIC PROVISIONS RELATING TO PART G

5. In this Part—
- (a) references to a numbered regulation prefixed by the word “old” are references to a regulation in Part G of the 1988 Regulations before the substitution effected by the Teachers' Superannuation (Amendment) Regulations 1997(77) (“the 1997 amendment regulations”) and references to the old Part II of Schedule 13 are references to Part II of Schedule 13 to the 1988 Regulations before the substitution effected by the 1997 amendment regulations;
  - (b) references to a numbered regulation prefixed by the word “substituted” are references to a regulation in Part G of the 1988 Regulations as substituted by the 1997 amendment regulations.
6. The revocation of the 1988 Regulations shall not affect the obligation of the Secretary of State—
- (a) to prepare accounts under the provisions of old regulation G1 in the form set out in the old Part II of Schedule 13 for the financial years starting before 1st April 1996 (which obligations continue to have effect by virtue of substituted regulation G1(2));
  - (b) to prepare accounts under the provisions of substituted regulation G3(1) for the financial year ending with 31st March 1997; or
  - (c) to prepare shadow accounts in accordance with substituted regulation G3(2) for each financial year beginning in the period from 1st April 1991 to 1st April 1995;
7. The revocation of the 1988 Regulations shall not affect—
- (a) the obligation of the Government Actuary to make an actuarial inquiry in accordance with old regulation G4 at the end of the financial year ending with 31st March 1996 and to make an alternative actuarial inquiry in accordance with substituted regulation G7;
  - (b) the obligation of the Government Actuary to report on those inquiries to the Secretary of State; or
  - (c) the obligation of the Secretary of State to lay such reports before Parliament.
8. The revocation of the 1988 Regulations shall not affect the obligation to credit to the shadow account as to 1st April 1991 the initial credit in accordance with substituted regulation G5(1) and the amount referred to in regulation G5(2).
- 9.—(1) In this paragraph—
- (a) references to the 1996 report are references to the report on the actuarial inquiry under old regulation G4 at the end of the financial year ending with 31st March 1996; and
  - (b) “relevant period” has the same meaning as in old regulation G4.
- (2) For the purposes of regulation G5—
- (a) the required percentage for any period before the beginning of the relevant period starting on 1st April next following the 1996 report shall be 7.2%; and

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(77) S.I. 1997/312.

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- (b) the required percentage for the relevant period starting on 1st April next following the 1996 report shall be determined in accordance with substituted regulation G7(10).

## PART III

### OTHER SPECIFIC PROVISIONS

**10.**—(1) The revocation of regulation C1 of the 1988 Regulations shall not affect an election made under paragraph (6) of that regulation and such election continues to have effect in accordance with paragraphs (7) to (11) of that regulation.

(2) Regulation C3(3) shall not apply in relation to such an election (whether or not it would otherwise apply apart from this sub-paragraph).

**11.** The revocation of regulation D3 of the 1988 Regulations shall not affect the entitlement of a person who, before 1 May 1994, paid additional contributions for a past period in accordance with Part IV of Schedule 4 to the 1988 Regulations to count the past period as reckonable service.

**12.**—(1) The revocation by these Regulations of the 1988 Regulations does not extend to regulations D5 and D6 and Schedule 8 so far as they are required for the purposes of claims made after the commencement date in the circumstances specified in those regulations.

(2) Where however a period related to war service counted as reckonable service by virtue of regulation 4(1)(d) or regulations 7 and 72(1)(a) of the 1976 Regulations, regulations D5 and D6 of the 1988 Regulations do not apply.

**13.** The revocation of regulation E4(3) and (4) of the 1988 Regulations shall not affect the qualification for retirement benefits of any person who, before the commencement date, qualified for retirement benefits by virtue of the said regulation E4(3) or (4).

**14.** Without prejudice to the provisions of paragraph 3, in relation to a provision to or for the benefit of a child of a person who—

- (a) died, or
- (b) was employed in pensionable employment but ceased to be so employed,

before 1 May 1994, regulation E22(6) (which gives the meaning of the expression “child”) shall have effect as if in sub-paragraph (b) the words “and he has been receiving such education or attending such a course of training or both continuously since having attained that age without a break at any one time of longer than a year” were omitted.

**15.**—(1) The revocation of regulation E29(2)(c) of the 1988 Regulations shall not prevent any period referred to in regulation E29(2)(c) which had elapsed before the commencement date from comprising average salary service.

(2) The revocation of regulation E29(3) of the 1988 Regulations shall not affect the validity of any election made under that paragraph before the commencement date.

**16.**—(1) Regulation E29 of the 1988 Regulations shall continue to apply for the purposes of the calculation of the average salary of a person who became entitled to payment of retirement benefits before the commencement date (whether or not he subsequently becomes entitled to such benefits by virtue of regulation E15 after that date) and accordingly regulation E31 shall not apply in relation to such a person.

(2) Where a person who becomes entitled to payment of retirement benefits after the commencement date received an increase in salary such as is referred to in regulation E29(9) or (10) of the 1988 Regulations which took effect before the commencement date—

- (a) regulation E29(9) to (11) and (12) or (13) of the 1988 Regulations shall continue to apply for the purposes of determining the person's average salary, and
- (b) accordingly regulation E31(11) shall not apply where the material date within the meaning of regulation E31(13) fell before the commencement date.

**17.** The revocation by these Regulations of the 1988 Regulations does not extend to regulations F2 and F3(4) and Part II of Schedule 12 so far as they are required for the purposes of providing for the payment of an additional transfer value in the circumstances specified in those regulations.

**18.—(1)** Where a person made an election under regulation C3(2) of the 1988 Regulations before the commencement date—

- (a) Table 1 in paragraph 3 of Schedule 4 to the 1988 Regulations or, as the case may be, Table 3 in paragraph 9 of that Schedule shall continue to apply for the purpose of the calculation of additional contributions payable by that person (and accordingly neither Table 1 in paragraph 3 of Schedule 4 to these Regulations nor Table 3 in paragraph 13 of that Schedule shall apply);
- (b) Table 2 in paragraph 5 of Schedule 4 to the 1988 Regulations shall continue to apply in relation to a person who has made an election under paragraph 5 of Schedule 4 to the 1988 Regulations or paragraph 8 of Schedule 4 to these Regulations and accordingly Table 2 in paragraph 8 of Schedule 4 to these Regulations shall not apply; and
- (c) Table 3 in paragraph 9 of Schedule 4 to the 1988 Regulations shall continue to apply for the purposes of determining an amount payable where an election is made under paragraph 5(5B)(a) of Schedule 4 to the 1988 Regulations(**78**) (and accordingly Table 3 in paragraph 13 of these Regulations shall not apply).

(2) Table 1 in paragraph 3 of Schedule 4 to the 1988 Regulations shall continue to apply in accordance with sub-paragraph (1)(a) irrespective of whether the person elects (after the commencement date) to vary the contribution period under paragraph 4 or 5 of Schedule 4 to these Regulations.

## SCHEDULE 16

Regulation H13

### AMENDMENTS TO, AND MODIFICATIONS OF, THE TEACHERS' SUPERANNUATION (CONSOLIDATION) REGULATIONS 1988

#### PART I—

##### AMENDMENTS TO REGULATION E29

1. After paragraph (1) there shall be inserted the following paragraph—

“(1A) In determining, for the purposes of paragraph (1), what are the best consecutive 365 days of the material part of the person's average salary service, days on which the person is not in pensionable employment are disregarded.”
2. For paragraph (2)(a) there shall be substituted—

“(a) any period spent by the person in pensionable employment”
3. After paragraph (5) there shall be inserted the following paragraphs—

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(78) Paragraph 5(5B) was inserted by [S.I. 1996/2269](#).

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“(5A) In determining the material part of a person’s average salary service periods when the person was not in pensionable employment shall be disregarded and accordingly the period of 3 years referred to in paragraph (5) may be discontinuous.

(5B) For the purposes of paragraphs (1A), (2)(a) and (5A) a person who is employed under a contract whereby that person is available for work but only undertakes (and accordingly is only paid for) work when, and for periods, requested by the employer is not treated as being in pensionable employment during periods when he is not undertaking work (whether or not such a person would be so treated apart from this paragraph).”.

## PART II—

### OTHER MODIFICATIONS

4. Where an election under regulation C2(1) of these Regulations has been made, regulation C8A shall have effect as if—

- (a) the additional contribution included, as well as the amount referred to in paragraph (3), an amount equivalent to any contributions which would have been paid under regulation C3(3) of these Regulations for so much of the period as falls within the financial year in question taking the reference in that regulation to the person’s contributable salary as a reference to the notional salary disregarding the election under regulation C2(1) of these Regulations; and
- (b) in determining, for the purposes of paragraph (4) the salary that would have been payable if pensionable employment has not ceased and the person had continued to be employed in the same post and on the same terms, the election under regulation C2(1) of these Regulations shall be taken into account.

5. Regulation E7(1) shall have effect as if—

- (a) the reference to regulation C1(6) included a reference to regulation C2(1) of these Regulations; and
- (b) the reference to the notional rate included a reference to the rate specified in regulation C2(4) of these Regulations.

11th December 1997

*Kim Howells*  
Minister of State,  
Department for Education and Employment

We consent

Graham Allen  
Jim Dowd

Two of the Lords Commissioners of Her  
Majesty's Treasury

15th December 1997

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate with amendments the provisions of the Teachers' Superannuation (Consolidation) Regulations 1988 as amended. The Regulations come into force on 3rd February 1998 but certain provisions have effect from 1st September 1997.

The main changes are as follows:

- failure to pay contributions under the Teachers' Superannuation (Additional Voluntary Contributions) Regulations 1994 is a ground for withdrawing “accepted school” status from an independent school (regulation B3(7)(c)(ii));
- regulation C2 contains new provisions whereby a person aged 50 or over, whether in full-time or part-time employment, whose salary is reduced or who takes up employment with a new employer at a reduced salary may, if the person satisfies certain conditions, elect to pay contributions at the old rate of salary uprated by the retail prices index. Where such an election is made regulation C3 provides that the person must pay employers' contributions on the difference between the old rate of salary and the new unless the employer or former employer elects to pay such contributions; this provision has effect from 1st September 1997;
- the provision formerly in C3(14) of the 1988 Regulations whereby an election to pay additional contributions is treated as not having been made if a declaration as to health is not made in good faith is not re-enacted. New provision is made in Schedule 4, paragraph 8(5) so that the special provisions which would otherwise apply where a person is incapacitated do not apply if the declaration as to health is not made in good faith;
- the provisions formerly in regulation C6 of the 1988 regulations whereby a past period in respect of which additional contributions can be paid is reduced if the person becomes entitled to count war service as reckonable service apply also to a case where a person is entitled to count additional reckonable service by virtue of the acceptance of a transfer value (regulation C7);
- regulation C10 (which re-enacts with modifications provisions formerly in regulation C8A of the 1988 Regulations) and which provides for a person who is called into service in a reserve force to be able to pay additional contributions at the rate of 6% of notional salary for a current period applies to persons who are called up under a call-out notice, or call out order or recall order under the Reserve Forces Act 1996.
- regulations E4(2),(3), and (5) of the 1988 Regulations are not re-enacted. Regulation E4(2) and (3) (Cases B and C) provided for entitlement to retirement benefits for persons in certain

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- types of employment described in Schedule 9 to the 1988 Regulations. Regulation E4(5) (Case D) provided for entitlement to retirement benefits for persons who had reached 70 and were in employment;
- in regulation E6 the formula for calculating the retirement lump sum is changed so that service before 1st October 1956 is treated in the same way as service undertaken on or after that date;
  - provision is made for the extension of the provisions for deferment, suspension or reduction of benefit where a person is convicted of offences of certain types in connection with pensionable employment to cases when a person has been convicted of such offences in connection with excluded employment (Regulation E18);
  - provision is made that nominations of persons to receive death grants or supplementary death grants must be in writing (regulations E20(8) and E21(7));
  - regulation E23 (which re-enacts with modifications regulation E22 of the 1988 Regulations) and which makes provision for the nomination of beneficiaries provides that a parent or brother or sister of the appointor must be either widowed or never have been married;
  - regulations E24 and E26 provide that a short-term and long-term pension may only be paid to a nominated beneficiary if the beneficiary was wholly or mainly dependent on the deceased at the date of death;
  - in regulation E31 (which re-enacts with modifications regulation E29 of the 1988 Regulations) the provisions for determining a person's average salary are changed with the effect that for average salary purposes regular part-time employment counts in the same way as full-time employment. Average salary is to be calculated by reference to the salary for the best 365 consecutive days of pensionable employment (rather than reckonable service) during the last 3 years of pensionable employment (rather than reckonable service); effectively, by virtue of regulation H13 and Schedule 16, this provision has effect from 1st September 1997.
  - new provision is made (regulation E31(11) to (14)) in a case where in any financial year during the average salary period a person has received an increase in contributable salary which is greater than 10% more than the "standard increase" (as defined). Under such circumstances the person will be treated as having received a salary increase of 10% more than the standard increase, unless the person's employer elects to pay an additional contribution under regulation G8;
  - the rate at which interest is paid on late payment of certain benefits is changed from being 1% above base rate to base rate. Additionally, there are some minor changes in the definition of "base rate" (regulation E34);
  - regulation G7 makes provision, in a case where a person has made an election under regulation C2, for an employer or former employer to pay employers' contributions on the difference between the old rate of salary and the new. Regulation G7 also makes provision where the teacher moves to a new employer. Under such circumstances the former employer's election can continue if confirmed by the former employer or the new employer can elect to pay employers' contributions on the difference in salary; this provision has effect from 1st September 1997;
  - regulation G8 makes provision for the additional contribution referred to in regulation E31(11). It is the actuarial value of the difference between retirement benefits based on the actual contributable salary and such benefits based on the contributable salary as if the person had received a salary increase of only 10% more than the standard increase.
  - regulation H1 (which re-enacts with modifications provisions formerly in regulation H1 of the 1988 Regulations and which provides that the Regulations are modified by Schedule 10 in certain cases where a person's salary is reduced) is extended to apply in certain cases where a person leaves employment with one employer and takes up employment with a new employer at a reduced salary. This provision has effect from 1st September 1997;

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- regulation H6 provides for repayment of certain contributions where a person received an increase in salary such as is referred to in regulation E31(11) but no election under regulation G8 is made.
- regulation H9 (which provides for determination of questions) no longer provides that a determination by the Secretary of State shall be final. This is in consequence of the extension of the jurisdiction of the Pensions Ombudsman;
- in Schedule 1 “excluded employment” is defined as including part-time employment which would be pensionable if the person had so elected;
- in Schedule 3 the definition of “material benefits” in paragraph 2 is changed;
- the figures in Tables 1 to 3 in Schedule 4 (additional contributions for past period) are changed;
- the provisions formerly in Schedule 9 to the 1988 Regulations have been simplified;
- the provisions formerly in Part VI of Schedule 10 to the 1988 Regulations (which made special provision for service before 1st April 1945) are not re-enacted.