

SCHEDULE 1

Regulation 2

INTERPRETATION

“the Act of 1922” means the Local Government and other Officers' Superannuation Act 1922⁽¹⁾;

“the Act of 1937” means the Local Government Superannuation (Scotland) Act 1937⁽²⁾;

“the Act of 1953” means the Local Government Superannuation Act 1953⁽³⁾;

“the Acts of 1937 to 1953” means the Local Government Superannuation Acts 1937 to 1953⁽⁴⁾;

“the 1974 Regulations” means the Local Government Superannuation (Scotland) Regulations 1974⁽⁵⁾;

“the 1987 Regulations” means the Local Government Superannuation (Scotland) Regulations 1987⁽⁶⁾;

“active member” has the same meaning as in section 124(1) of the Pensions Act 1995;

“actuary” means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries;

“added years” means an additional period which a person has become entitled to count as membership by virtue of—

- (a) regulation D6(2) of the 1987 Regulations;
- (b) regulation D10 of the 1974 Regulations;
- (c) regulation 12 of the Benefits Regulations;
- (d) regulation 5 of the Local Government Superannuation (Scotland) (Reckoning of Service on Transfer) Regulations 1954;
- (e) regulation 15(2)(b) of the Local Government Superannuation (England and Scotland) Regulations 1948 to 1954; or
- (f) any similar provision of a local Act scheme;

“additional voluntary contributions provision” means a provision of an occupational pension scheme approved under section 591 of the Taxes Act which provides for the payment by employees of voluntary contributions;

“additional voluntary contributions scheme” means a scheme approved under section 591 of the Taxes Act, to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme;

“administering authority” means a body required to maintain a pension fund under these Regulations;

“admission agreement” has the meaning given in regulation 4(2);

“admission agreement employee” means such an employee as is mentioned in regulation 4(10);

“admission body” has the meaning given in regulation 4(8);

“appropriate administering authority” means the body maintaining the appropriate fund;

“appropriate fund”, in relation to a member, has the meaning given in regulation 73;

(1) 1922 c. 59.

(2) 1937 c. 69.

(3) 1953 c. 25.

(4) 1937 c. 68, 1939 c. 18 and 1953 c. 25.

(5) S.I.1974/812, amended by S.I. 1975/638, 1978/425, 1378, 1794 and 1926, 1980/198, 342 and 1885, 1981/1892, 1982/385 and 1303, 1983/1421, 1984/254 and 1232 and 1986/214 and 1449.

(6) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220, 1597 and 3025, 1993/1593, 2013 and 3044, 1994/531, 1995/214, 750, 2865 and 3294, 1996/414 and 1241 and 1997/674, 1143, 1373, 1435 and 3048.

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“appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with regulations made under section 7 of the Pension Schemes Act 1993;

“appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under section 95(2)(c) of the Pension Schemes Act 1993;

“approved AVC body” means a building society or a person operating an approved scheme which provides benefits in respect of persons who have paid contributions in addition to those provided in relation to them under an occupational pension scheme;

“approved non-local government employment” means employment in which a person participates in an approved non-local government scheme;

“approved non-local government scheme” means a non-local government scheme which is—

- (a) approved under Part XIV of the Taxes Act; or
- (b) approved by the Commissioners of Inland Revenue for the purposes of these Regulations;

“approved scheme” has the meaning given in section 612 of the Taxes Act;

“AVCs” means contributions made under regulation 60;

“AVC insurance company” means—

- (a) a body authorised under section 3 or 4 of the Insurance Companies Act 1982(7) to carry on long term business;
- (b) an EC company which is lawfully carrying on long term business, or providing long term insurance, in the United Kingdom; or
- (c) a friendly society within the meaning of the Friendly Societies Act 1992(8) (including any society which is to be treated as a registered friendly society by virtue of section 96(2) of that Act),

and paragraphs (a) and (b) of this definition must be interpreted as if they were contained in the Insurance Companies Act 1982;

“AVC pension policy” means a contract entered into on behalf of a member by the appropriate administering authority with an AVC insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Part II and Chapters II and III of Part III of these Regulations;

“away on jury service”, in relation to a person, means being away from work with permission given so that he could serve on a jury before any court in Scotland.

“base rate” means the base rate for the time being quoted by the reference banks 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 seven, is fourth in the sequence;

“the Benefits Regulations” means the Local Government Superannuation (Scotland) (Benefits) Regulations 1954 and 1955(9);

“building society” has the meaning given in the Building Societies Act 1986(10);

“cancelling notice”, in relation to a person’s relevant reserve forces service, means—

- (a) the agreement (by a member who has not waived his right to receive a return of contributions under regulation 86) to receive them; or

(7) 1982 c. 50.

(8) 1992 c. 40.

(9) S.I. 1954/1059 and 1955/1226.

(10) 1986 c. 53.

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- (b) a notice in writing given by him to the appropriate administering authority not later than 12 months after the end of the period of service to which the notice relates (or within such longer period as they may allow) that the service should not be treated as reserve forces service;

“Class A member”, “Class B member” and “Class C member” have the meanings given in paragraph 1(1) of Schedule 4 and “Class B membership” and “Class C membership” must be construed accordingly;

“club scheme” means an occupational pension scheme which—

- (a) provides benefits calculated by reference to final pay;
- (b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is approved by the Commissioners of Inland Revenue under Chapter I of Part XIV of the Taxes Act;
- (c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and
- (d) complies with reciprocal arrangements for the payment and receipt of transfer values with the schemes made under section 7 of the Superannuation Act 1972;

“commencement date” means 1st April 1998;

“the Communities' scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities;

“Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme;

“continuity conditions” has the meaning given in paragraph 1(1) of Schedule 4;

“contracted-out employment” has the same meaning as in the Pension Schemes Act 1993 and “contracted-out”, in relation to a scheme, must be construed in accordance with that Act;

“contractual hours”—

- (a) in relation to an employee (other than an employee with non-cyclical fluctuating hours), means the number of hours specified in his contract of employment as his contractual hours for the purposes of the Scheme; and
- (b) in relation to an employee with non-cyclical fluctuating hours, means the number of hours calculated as his contractual hours for the purposes of the Scheme in accordance with the provisions of his contract of employment;

“contractual weeks”, in relation to an employee, means the number of weeks in every period of 12 months for which, assuming he is not away on unpaid leave, pay is payable to him;

“contract of employment” includes terms of office;

“contributory employee” means a person who was entitled to participate in the benefits of a pension fund maintained under Part I of the Act of 1937;

“deferred member” has the same meaning as in section 124(1) of the Pensions Act 1995, except as provided in regulation 31(3) and (5);

“earnings factors” means the earnings factors referred to in section 14 of the Pension Schemes Act 1993;

“eligible child” has the meaning given in regulation 43;

“employee” includes a permanent, temporary or casual employee;

“employing authority” means a body employing an employee who is eligible to be a member;

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“employment” includes office;

“enactment” includes an instrument made under an Act;

“equivalent pension benefits” has the meaning given by section 57(1) of the National Insurance Act 1965⁽¹¹⁾ and “EPB pension” must be construed accordingly;

“fees” includes other payments in the nature of fees;

“final pay” must be construed in accordance with regulation 20;

“final pay period” must be construed in accordance with regulations 20 and 21;

“former local authority” means a body, other than a Scheme employer, who were a local authority within the meaning of the Act of 1937 as originally enacted;

“the former Regulations” are—

- (a) those of the enactments and instruments referred to in paragraph 5(1) of Schedule 7 to the Superannuation Act 1972 and applying to Scotland that were in force immediately before 1st April 1974;
- (b) the Local Government Superannuation (Miscellaneous Provisions) Regulations 1973⁽¹²⁾; and
- (c) the Local Government Superannuation (Miscellaneous Provisions) (No.2) Regulations 1973⁽¹³⁾;

“FSAVC scheme” means a scheme approved by virtue of section 591(2)(h) of the Taxes Act;

“guaranteed minimum” means the guaranteed minimum as defined in sections 14 and 17 of the Pension Schemes Act 1993 (minimum pensions for earners, widows and widowers) so far as it is attributable to earnings factors for the tax year 1988-89 or for subsequent tax years, increased in accordance with the requirements of section 109 of that Act (annual increase of guaranteed minimum pensions));

“ill-health pension” and “ill-health grant” must be construed in accordance with regulation 26;

“the Insurance Acts” means the National Insurance Acts 1965 to 1973⁽¹⁴⁾;

“local Act contributor” means a person who was entitled to participate in the benefits of a pension fund maintained under a local Act scheme;

“local Act member” means a member of a local Act scheme;

“local Act scheme” has the meaning given in section 8 of the Superannuation Act 1972, except that where it refers to any time before 25th March 1972 it has the same meaning as in the Act of 1937;

“local authority” has the same meaning as in the Local Government (Scotland) Act 1973⁽¹⁵⁾;

“local government area” must be construed in accordance with section 1 of the Local Government etc. (Scotland) Act 1994⁽¹⁶⁾;

“local government employment” means—

- (a) in relation to any time before 1st April 1974, employment by virtue of which the person employed was, or is deemed to have been, a contributory employee or a local Act contributor; and

(11) 1965 c. 51.

(12) S.I. 1973/313.

(13) S.I. 1973/1996.

(14) 1965 c. 51, 1966 c. 6, 1969 c. 44, 1971 c. 50, 1972 c. 57, 1973 c. 42.

(15) 1973 c. 65.

(16) 1994 c. 39.

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(b) in relation to any time after 31st March 1974, means employment by virtue of which the person employed is or has been, or is or has been deemed to be a member or a pensionable employee (within the meaning of the 1987 Regulations) or a local Act contributor;

“lower earnings limit” has the same meaning as in the Pension Schemes Act 1993;

“maternity rights returner” means a woman who exercises a right to return to work after being away from work wholly or partly because of pregnancy or confinement;

“member” has the same meaning as in section 124(1) of the Pensions Act 1995;

“money purchase benefits” has the same meaning as in the Pension Schemes Act 1993(17);

“non-cyclical fluctuating hours” means hours which the employing authority are entitled to require the employee to work in a contractual week in any case where those hours vary in a way which is not cyclical;

“non-local government scheme” means an occupational pension scheme or other arrangements for superannuation, not being—

(a) a local Act scheme; or

(b) an occupational pension scheme provided—

(i) in the Acts of 1937 to 1953 and the regulations made under those Acts; or

(ii) in the Local Government Superannuation (Scotland) Acts 1937 to 1953 and the regulations made under those Acts; or

(iii) in regulations under section 7 of the Superannuation Act 1972;

“normal retirement age” has the meaning given in regulation 24(5);

“NRD” has the meaning given in regulation 24(3);

“occupational pension scheme” mean an occupational pension scheme within the meaning of section 1 of the Pension Schemes Act 1993 other than—

(a) a retirement benefits scheme (as defined in section 611 of the Taxes Act) which is not of a description mentioned in section 596(1)(a), (b) or (c) of that Act;

(b) an additional voluntary contributions scheme;

(c) an appropriate policy;

(d) a personal pension scheme; or

(e) a self-employed pension arrangement;

“official pension” has the meaning given in the Pensions (Increase) Act 1971(18);

“part-time employee” means an employee—

(a) whose contract of employment provides that he is such an employee for the purposes of the Scheme; or

(b) who is neither a whole-time employee nor a variable-time employee;

“passenger transport executive” means the Executive for a designated area within section 9(1) of the Transport Act 1968(19);

“pay” must be construed in accordance with regulation 12;

“payment in lieu of contributions” means a payment made in lieu of contributions under Part III of the National Insurance Act 1965;

(17) 1993 c. 48.

(18) 1971 c. 56.

(19) 1968 c. 73; section 9(1) was substituted by the Transport Act 1985 (c. 67), section 57(1)(a) and amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 80(2).

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“payment period” has the meaning given in regulation 6(4);

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

“personal pension scheme” means a personal pension scheme (within the meaning of section 1 of the Pensions Schemes Act 1993) which has been approved under Chapter IV of Part XIV of the Taxes Act or provisionally approved under section 655(5) of that Act;

“period of maternity absence” means any period throughout which a woman—

- (a) is absent from duty by reason of pregnancy or confinement; and
- (b) may exercise the right under her contract of employment to return to work;

“preserved benefits” means benefits to which a person—

- (a) becomes entitled under regulation 30;
- (b) was entitled immediately before 21st December 1987 by virtue of regulation E2(1)(c) of the 1974 Regulations;
- (c) was entitled immediately before the commencement date by virtue of regulation E2(1)(c) of the 1987 Regulations,

and which have not yet become payable;

“principal civil service pension scheme” has the meaning given in section 2(10) of the Superannuation Act 1972(20);

“prospective member” means a person who under his contract of employment or these Regulations—

- (a) may, if he wishes or his employer consents, become a member or will be able to do so if he continues in the same employment sufficiently long; or
- (b) will become a member unless he chooses not to do so;

“the Reference banks” means the seven largest institutions for the time being which—

- (a) are authorised by the Bank of England under the Banking Act 1987(21);
- (b) 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
- (c) quote a base rate in sterling,

and for this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in section 736 of the Companies Act 1985(22)), as shown in the audited end-of-year accounts last published before that time;

“registration officer” means a person holding, or deemed to be holding, an appointment under section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(23);

“relevant reserve forces service” means service (other than service for the purposes of training only or service for a period in respect of which a cancelling notice has been served)—

- (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
- (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or

(20) 1972 c. 11.

(21) 1987 c. 22.

(22) 1985 c. 6.

(23) 1965 c. 49; section 7 was amended by the Superannuation Act 1972, Schedule 6, paragraph 51 and S.I. 1974/812.

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(c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980⁽²⁴⁾, and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking to accept a permanent commission or a commission for a fixed term or to serve for the purposes of periodical training;

“reserve forces pay”, in relation to any person, is the total of–

- (a) his pay for performing relevant reserve forces service (including marriage, family and similar allowances); and
- (b) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽²⁵⁾;

“reserve forces service leave”, in relation to a person, means being away from work–

- (a) after–
 - (i) he has left the employment in which he is an active member; or
 - (ii) he has been granted leave of absence from such an employment, in order to perform reserve forces service,
- (b) without having agreed to receive a return of contributions under regulation 86; and
- (c) without having elected that the absence is not to count as such by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of reserve forces service to which the notice relates (or within such longer period as they may allow);

“reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the Royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve, the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force;

“revenue agreement”, in relation to a member, means agreement in writing by the Commissioners of Inland Revenue given after an application to them by the member’s appropriate administering authority that he may be treated as a Class B member or a Class C member by virtue of his membership before 1st June 1989 or, as the case may be, 17th March 1987 of a scheme approved under Chapter I of Part XIV of the Taxes Act;

“revenue permitted maximum” means the permitted maximum, within the meaning of section 590C(2) of the Taxes Act;

“SCAVCs” means contributions under arrangements made under regulation 66;

“the Scheme” means the occupational pension scheme constituted by these Regulations, the Transitional Regulations and the 1987 Regulations (so far as they continue to operate);

“Scheme employer” means a body listed in Schedule 2 (but see regulation 4(10) and Chapter I of Part V);

“Scheme managers” means–

- (a) in relation to a statutory scheme, the Minister of the Crown or police or fire authority administering the scheme; and
- (b) in any other case, the person responsible for the management of a non-local government scheme;

“self-employed pension arrangement” has the same meaning as in the Pension Schemes Act 1993;

“service”–

(24) 1980 c. 9.

(25) 1951 c. 65.

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- (a) in Chapter VI of Part IV means service or employment with any employer; and
 - (b) elsewhere, means service with a Scheme employer,
- and service rendered by an employee of a Scheme employer whose services are placed at the disposal of a Minister of the Crown or a government department in pursuance of any enactment is to be treated as service with the Scheme employer;
- “service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—
- (a) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied; or
 - (b) in respect of that and other service;
- “standard contribution rate” must be construed in accordance with regulation 11;
- “State pensionable age” means pensionable age within the meaning of section 122 of the Social Security Contributions and Benefits Act 1992**(26)**;
- “superannuable membership” has the meaning given in regulation 9(2);
- “the Taxes Act” means the Income and Corporation Taxes Act 1988**(27)**;
- “tax year” means the 12 months beginning with 6th April in any year;
- “teachers scheme” is an occupational pension scheme made under section 9 of the Superannuation Act 1972 (superannuation of teachers);
- “total membership” must be construed in accordance with regulation 8(2);
- “trade dispute” has the meaning given in section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992**(28)**;
- “trade dispute absence” means absence from duty, otherwise than with leave, for a period of one or more days during and because of a trade dispute;
- “the Transitional Regulations” means the Local Government (Transitional Provisions) (Scotland) Regulations 1998**(29)**;
- “unaggregated period”, in relation to a period of membership, has the meaning given in regulation 32(6) and “aggregated” must be construed accordingly;
- “upper earnings limit” has the meaning given in the Pension Schemes Act 1993;
- “variable-time employee” means an employee whose contract of employment provides that he is such an employee for the purposes of the Scheme and—
- (a) whose pay is calculated by reference to his duties (rather than necessarily by reference to the number of hours he has worked); or
 - (b) whose duties have to be performed only on an occasional basis;
- “whole-time employee” means an employee whose contract of employment provides—
- (a) that he is such an employee for the purpose of the Scheme; or
 - (b) that his contractual hours are not less than the number of contractual hours for a person employed in that employment on a whole-time basis.

(26) 1992 c. 4.

(27) 1988 c. 1.

(28) 1992 c. 52.

(29) S.I. 1998/364.

SCHEDULE 2

Regulation 3(3)

SCHEME EMPLOYERS

1. A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.
2. A joint board or joint committee appointed under any enactment, order or scheme, all the constituent authorities of which are local authorities as aforesaid.
3. A body established under section 62(1) of the Local Government etc. (Scotland) Act 1994 (new water and sewerage authorities).
4. The Scottish Children's Reporter established under section 128 of the Local Government etc. (Scotland) Act 1994.
5. The Scottish Environment Protection Agency established under section 20 of the Environment Act 1995.
6. A board of management of a college of further education established in terms of Part I of the Further and Higher Education (Scotland) Act 1992.
7. A board of management of a self-governing school constituted and incorporated under section 19(2) of the Self-governing Schools etc. (Scotland) Act 1989.
8. The Strathclyde Passenger Transport Authority established under section 40(1) of the Local Government etc. (Scotland) Act 1994.
9. The Strathclyde Passenger Transport Executive established under section 9(1) of the Transport Act 1968(30).
10. An area tourist board established by virtue of an order made or, as the case may be, approved under section 172, 173 or 174 of the Local Government etc. (Scotland) Act 1994.

SCHEDULE 3

Regulation 9(3)

EXCLUDED MEMBERSHIP
TABLE

<i>Description of membership</i>	<i>Purposes for which membership does not count</i>	<i>Relevant Notes</i>
1. A credited period which is counted as a period of membership under regulation 122(1) or was counted under any corresponding earlier provision and is counted under regulation 8(1)(d).	Calculating total membership for regulation 5(3) and (5) or paragraph 2, 4, 5 or 6(1) of Schedule 4 (and see regulation 14(4)).	
2. A period credited by virtue of regulation 65(5) (including that regulation as it applies by virtue of	Calculating the amount of the member's retirement grant.	

(30) 1968 c. 73; section 9(1) was substituted by the Transport Act 1985 (c. 67), section 57(1)(a) and amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 80(2).

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<i>Description of membership</i>	<i>Purposes for which membership does not count</i>	<i>Relevant Notes</i>
regulation 71) or credited under regulation 122 as respects a transfer value representing accrued rights to benefits arising out of contributions made under any additional voluntary contributions scheme, where the payments began on or after 8th April 1987.		
3. Any period which has already been counted to determine whether a relevant member was entitled to the relevant benefit or has been or may be used to calculate its amount.	All regulations.	(1) and (2)
4. So much of a Class A member's total membership as exceeds 40 years.	Calculating the amount of any benefit under the Regulations.	(3) to (5)
5. So much of the total membership of a Class B or Class C member as—	Calculating the amount of any benefit under the Regulations.	(3) to (5)
(a) is membership before he attains the age of 60 and exceeds 40 years, or		
(b) exceeds 45 years.		
6. So much of the membership of a member as respects whom an amount is recovered or retained under regulation 113 (misconduct obligation) as requires to be excluded to reduce the value referred to in regulation 113(2) (b) by that amount.	Calculating the amount of any benefit under regulations 18 to 32.	

Notes

1. For paragraph 3, a relevant member is a member who—
 - (a) has entered the employment of a Scheme employer or former local authority after becoming entitled to payment of a pension benefit (other than a benefit under the National Insurance Act 1965(31));
 - (b) has entered such employment after becoming entitled to a benefit under regulation 30 and has not made an election under regulation 31(1) (or, in a case where he was able to do so, gave notice under regulation E2(9)(c) of the 1987 Regulations (retention of entitlement to preserved benefit), and the relevant benefit for a relevant member is the benefit mentioned in paragraph (a) or, as the case may be, paragraph (b).
2. Paragraph 3 applies to a maternity rights returner—

(31) 1965 c. 51.

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- (a) unless she has made an election under regulation 31(1); or
 - (b) in a case where she was able to give notice under regulation E2(9)(c) of the 1987 Regulations (retention of entitlement to preserved benefits), if she did so.
3. Any membership, which is excluded by paragraph 4 or 5(a) for calculating the amount of a death grant under regulation 37 in a case where a pension is reduced under regulation 41, is taken from the beginning of the period of membership.
4. A period which—
- (a) is the excess of any enhanced membership period counted under regulation 27 (ill-health) over the total membership otherwise; or
 - (b) is counted by virtue of F6(1)(a) or (b) of the 1987 Regulations (war service), counts as membership before attaining the age of 60 for calculating the amount of any benefit under regulations 18 to 32.
5. For paragraphs 4 and 5 the total membership includes—
- (a) any earlier period which was taken into account in the calculation of a retirement pension, an annual pension under the former Regulations, or a superannuation allowance under Part I of the Act of 1937, or in respect of which any pension was granted under a local Act scheme; and
 - (b) any period by reference to which an additional benefit has been granted under regulation E13 of the 1987 Regulations (discretionary additional benefits for certain female nursing staff) or under regulation 13 of the Benefits Regulations.

SCHEDULE 4

Regulations 23, 50, 52 and 54

REVENUE RESTRICTIONS

Preliminary

1.—(1) In these Regulations—

“Class A member” is a member who—

- (a) became a member on or after 1st June 1989 and is not to be treated as a Class B member or Class C member by virtue of a Revenue agreement; or
- (b) was a Class B member or a Class C member immediately before that date and is deemed to have become a Class A member by virtue of making a Class A election;

“Class A election” means an election duly made by a Class B member or a Class C member by notice in writing to the administering authority, before the date on which he ceases to be an active member for any reason (including death), that he wishes to be treated as a Class A member for the Scheme, as from 1st June 1989;

“Class B member” is a member who—

- (a) became a member on or after 17th March 1987 and before 1st June 1989 or is to be treated as a Class B member by virtue of a Revenue agreement;
- (b) has continued to be a member since before 1st June 1989 or satisfies one of the continuity conditions in relation to any period when he was not a member;
- (c) is not to be treated as a Class C member by virtue of a Revenue agreement, and
- (d) is not deemed to have become a Class A member by virtue of making a Class A election;

“Class C member” is a member who—

- (a) became a member before 17th March 1987 or is to be treated as a Class C member by virtue of a Revenue agreement;
- (b) has continued to be a member since before that date or satisfies one of the continuity conditions in relation to any period when he was not a member; and
- (c) is not deemed to have become a Class A member by virtue of a Class A election;

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“continuity conditions”, in relation to a Class B member or a Class C member, are—

- (a) that his active membership ceased on his secondment or posting to another employer, at the time of the secondment or posting he had a definite expectation that he would become an active member again when it ended, and he again became an active member at the end of his secondment or posting;
- (b) that his active membership ceased by reason of his unpaid absence and he began paying contributions again under regulation 11 within one month of returning to work;
- (c) that the member’s active membership ceased wholly or partly because of her pregnancy or confinement and she began paying contributions again under that regulation within one month of returning to work as a maternity rights returner;
- (d) that the member’s active membership ceased otherwise than as mentioned in paragraph (a), (b) or (c) and within one month he rejoined the Scheme as an active member and began paying contributions again under that regulation; or
- (e) that his membership ceased by reason of the member leaving the Scheme as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986.

“existing rights member” means a member to whom regulation 5(2) of the Retirement Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(32) applies;

“relevant benefits” has the meaning given in section 612(1) of the Taxes Act.

(2) Where a member who was eligible to become a member at a time when he would have become a Class B member or a Class C member, as the case may be, applies for membership after that date by virtue of being a person in respect of whom regulation 124 applies, he must be treated as a Class B or a Class C member, as the case may be, at any time if—

- (a) he continues to be a member throughout the period beginning with the date on which he becomes a member of the Scheme and ending with that time; or
- (b) the continuity conditions are satisfied in relation to the part of that period when he was not a member.

(3) A person has retained benefits if he is entitled to or has received relevant benefits accrued under—

- (a) an approved scheme or a scheme seeking approval;
- (b) a relevant statutory scheme (as defined in section 611A) of the Taxes Act);
- (c) a fund to which section 608 of that Act applies (funds approved before 6th April 1980);
- (d) a retirement benefits scheme (as defined in section 611 of that Act) accepted by the Commissioners of Inland Revenue as a scheme which corresponds as mentioned in section 596(2)(b) of that Act;
- (e) a contract or trust scheme approved under section 620 or a personal pension scheme approved under section 631 of that Act; or
- (f) transfer payments from overseas schemes held in a type of arrangement defined in subparagraph (a), (b) or (e).

(4) However, retained benefits which are death benefits must be disregarded if—

- (a) the member’s pay in the first year of his employment during which he is a member does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which that first year begins; or
- (b) they do not exceed £2,500.

(32) S.I. 1990/2101, amended by S.I. 1993/3220 and 1996/3114.

(5) Retained relevant benefits may be disregarded if the member started to purchase benefits under Part III, or was given extra benefits under Part III after August 1991, and—

- (a) where the member became a member on or after 14 March 1989, his remuneration in the first year of his employment during which he is a member does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which the first year begins; or
- (b) where the member became a member before 14 March 1989, his remuneration in the first year in which he starts to accrue benefits under Part III does not exceed one quarter of the Revenue permitted maximum for the year of assessment in which that first year begins.

(6) For sub-paragraph (3) benefits accrued under the Scheme must be disregarded unless they accrued in respect of a period of membership as respects which the person is treated as a deferred member or a pensioner member by virtue of regulation 31(5).

(7) In this Schedule—

- (a) “final remuneration” means, subject as provided in sub-paragraphs (b) to (e), the greater of—
 - (i) the highest total remuneration (as defined in sub-paragraph (h)) for any period of twelve complete and consecutive months (ending on the last day of the month) falling wholly within the five years preceding the relevant date; and
 - (ii) the yearly average of the total emoluments from the employer which are assessable to income tax under Case I or II of Schedule E and upon which income tax liability has been determined in any three or more consecutive years ending at the end of any month not earlier than 10 years before the relevant date;
- (b) where final remuneration is calculated by reference to any period other than the last complete year ending on the relevant date, the member’s total remuneration or total emoluments may be increased for any year in proportion to any increase in the retail prices index from the last day of that period up to the relevant date, but for a Class C member this shall not apply to the calculation of the maximum retirement grant benefit unless the member’s aggregate retirement benefit is similarly increased beyond the maximum amount which could have been paid but for this provision and the similar provision in the definition of total remuneration and then only to the same extent;
- (c) in respect of a Class B member, final remuneration for the purpose of the calculation of the retirement grant shall not exceed £100,000 or such other sum as may be prescribed by the Treasury;
- (d) in respect of a any member whose remuneration in any tax year after 5 April 1987 used for the purpose of calculating retirement benefits has exceeded £100,000 (or such other sum as may be prescribed by the Treasury), final remuneration shall not exceed the amount ascertained in accordance with sub-paragraph (a) (ii) and sub-paragraph (a) (i) shall not apply unless the member chooses to adopt £100,000 (or such other figure as may be prescribed by the Treasury);
- (e) remuneration and total emoluments shall not include any amounts which arise from the acquisition or disposal of shares or any interest in shares or from a right to acquire shares or anything in respect of which tax is chargeable by virtue of section 148 of the Taxes Act;
- (f) “relevant date” means the last day on which the member is an active member;
- (g) “service” means service in local government employment;
- (h) “total remuneration” in relation to any member means the aggregate of—
 - (i) actual amounts received for the twelve complete and consecutive months ending on or immediately prior to the date for which total remuneration is to be calculated (in

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this definition called “the calculation date”) which correspond to the fixed annual rates of salary for the time being in respect of that member’s service; and

- (ii) that member’s average annual remuneration from the employer or otherwise in respect of service by way of commissions, fluctuating emoluments or other benefits assessed to income tax under Schedule E (but not within paragraph (i)) for the 36 complete and consecutive months ending on or immediately prior to the calculation date, provided that remuneration within the scope of this paragraph for a year prior to that ending with the calculation date may be increased in proportion to any increase in the retail price index from the last day of that year up to the calculation date.

Class A members

2.—(1) This paragraph sets out limits on benefits in respect of local government employment payable to or in respect of a Class A member under these Regulations.

(2) Subject to sub-paragraph (3), the aggregate pension payable on retirement must not exceed the lesser of—

- (a) one thirtieth of the member’s final remuneration multiplied by the member’s years of service or 20 years if less; and
- (b) two-thirds of the member’s final remuneration less the value of any retained benefits.

(3) If it results in a higher sum than the maximum under sub-paragraph (2), the aggregate pension payable must not exceed one sixtieth of the member’s final remuneration multiplied by his years of service.

(4) However, for a pension payable under regulation 26 (ill-health) the limit is the maximum pension payable under sub-paragraph (2) or (3) assuming the member had continued as an active member until his NRD.

(5) The aggregate pension payable to a member who has elected under regulation 7 to leave the Scheme but remains in local government employment is the greater of—

- (a) one sixtieth of the member’s final remuneration multiplied by his years of service prior to leaving the scheme or 40 years if less; and
- (b) the maximum pension that could have been payable at NRD under sub-paragraph (2) or (3) multiplied by the fraction of which
 - (i) the numerator is the member’s years of service prior to leaving the scheme or 40 years if less, and
 - (ii) the denominator is his years of service assuming he had remained an active member until his NRD or 40 years if less.

This amount may be increased by 5 per cent for each complete year, or in line with any increase in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.

(6) For sub-paragraphs (2), (3), (4) and (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) Subject to sub-paragraph (8), the aggregate benefit payable by way of lump sum must not exceed the lesser of—

- (a) three times the initial pension paid to the member under Part II and Part III excluding Chapter IV of Part III; and
- (b) one and a half times the member’s final remuneration.

(8) However, for a lump sum payable under regulation 26, the limit is the maximum retirement grant payable under sub-paragraph (6) or (7) assuming the member had continued as an active member until his NRD.

(9) However, for a lump sum payable under regulation 26 the limit is three eightieths of the member's final remuneration, multiplied by the years of service the member would have had if he had continued as an active member until his NRD.

(10) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final remuneration (ascertained disregarding paragraphs 1(7)(d) and (e) and 9(6)) less any lump sum death in service retained benefits (other than a refund of the member's contributions and any interest on such contributions) or, if greater, £5,000.

(11) The years of service under sub-paragraphs (3), (4), (8) and (9) must not exceed 40 years.

(12) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member's own pension under regulation 32) payable or prospectively payable to that surviving spouse or eligible child shall not exceed—

(a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (4), ignoring any retained benefits, if the member had retired under regulation 26 on the date of his death, and

(b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (2), (3), (4) or (5), ignoring any retained benefits.

(13) If pensions are payable to more than one of the member's surviving spouse and eligible children, the aggregate of all such pensions shall not exceed—

(a) on the death of an active member or deferred member the amount payable under sub-paragraph (4); and

(b) on the death of a pensioner member, the amount payable under sub-paragraph (2), (3), (4) or (5).

(14) The final remuneration of a Class A member must not exceed the Revenue permitted maximum.

(15) However, if a Class A member is an existing rights member sub-paragraph (14) does not apply for calculating any benefit under the Scheme in so far as it is calculated by reference to a credited period which is counted as a period of membership under regulation 122(1).

Class B members and Class C members

3. Paragraphs 4 to 6 set out limits on benefits in respect of local government employment payable to or in respect of a Class B member or Class C member under these Regulations and paragraph 7 limits additional contributions in some circumstances.

4.—(1) Subject to sub-paragraph (2), the aggregate pensions payable on retirement at NRD must not exceed the lesser of—

(a) for Class B members, one thirtieth of the member's final remuneration multiplied by his years of service, or 20 years if less;

(b) for Class C members with less than 10 years service, the member's final remuneration multiplied by the fraction specified below—

1 to 5 years	1/60th for each year
6 years	8/60ths

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7 years	16/60ths
8 years	24/60ths
9 years	32/60ths

(c) two thirds of the member's final remuneration less the value of any retained benefits.

(2) However, if it results in a higher sum than the maximum under sub-paragraph (1), the maximum aggregate pension on retirement at NRD is one sixtieth of the member's final remuneration multiplied by his years of service or 40 years if less.

(3) However, for a pension payable under regulation 26 the limit is the maximum pension payable under sub-paragraph (1) or (2), assuming the member had remained an active member until his NRD.

(4) For a pension payable under regulation 25 or 30, if it results in a higher sum, for the maximum under sub-paragraph (2) there is substituted an amount equal to the amount that would be the maximum under sub-paragraph (1) if the member had remained an active member until his NRD, multiplied by the fraction of which—

(a) the numerator is—

- (i) the member's years of service, or
- (ii) 40 years,

whichever is less; and

(b) the denominator is—

- (i) his years of service, assuming he had remained an active member until his NRD, or
- (ii) 40 years,

whichever is less.

This amount may be increased by 5 per cent for each complete year, or in line with any increase in the retail prices index if greater, between the relevant date and the date on which the pension becomes payable.

(5) The aggregate pension payable on retirement after the member's NRD must not exceed—

(a) the amount payable under sub-paragraph (1) or (2) on the basis that the actual retirement date was the member's NRD;

(b) the amount that could have been payable under sub-paragraph (1) or (2) on retirement at NRD—

- (i) with such an increase as an actuary appointed by the appropriate administering authority considers appropriate in view of the period of delay in payment between his NRD and the actual date the pension becomes payable, or
- (ii) adjusted to reflect any increase in the general level of retail prices obtaining in Great Britain during that period;

(c) one sixtieth of the member's final remuneration, multiplied by his increased period of membership,

whichever is the greatest.

(6) For sub-paragraphs (1) to (5) a member who is entitled to be paid a lump sum on retirement is treated as if he were entitled instead to be paid a pension on retirement of an annual amount equal to one twelfth of the lump sum.

(7) A member's increased period of membership is the sum of—

- (a) his total membership ending with his NRD; and
- (b) his total membership after his NRD,

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but must not exceed 45 years.

(8) The aggregate pension in respect of local government employment for a surviving spouse or eligible child of a member (other than a pension provided by surrender of the member's own pension under regulation 32) payable or prospectively payable to that surviving spouse or eligible child shall not exceed—

- (a) in the case of an active or deferred member, an amount equal to two thirds of the amount which would be payable under sub-paragraph (2), ignoring any retained benefits, if the member had retired under regulation 26 on the date of his death; and
- (b) in the case of a pensioner member, an amount equal to two thirds of the amount payable at the date of death under sub-paragraph (1), (2), (3), (4) or (5) ignoring any retained benefits and increased in line with any subsequent increase in the retail prices index.

(9) If pensions are payable to more than one of the member's surviving spouse and eligible children, the aggregate of all such pensions shall not exceed—

- (a) on the death of an active member or deferred member the amount payable under sub-paragraph (3); and
- (b) on the death of a pensioner member, the amount payable under sub-paragraph (1), (2), (3), (4) or (5).

5.—(1) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant for a Class B member on retirement at or before NRD must not exceed the lesser of—

- (a) three times the initial pension paid to the member under Part II and Part III, excluding Chapter IV of Part III; and
- (b) one and a half times the member's final remuneration less the value of any retained benefits in lump sum form.

(2) Subject to sub-paragraph (3), the aggregate benefit payable by way of a retirement grant on retirement at NRD for a Class C member must not exceed the lesser of—

- (a) if the member has less than 20 years service, his final remuneration multiplied by the fraction set out in the table below—

Years of service to NRD	80ths of final remuneration for each year
1 to 8	3
9	30
10	36
11	42
12	48
13	54
14	63
15	72
16	81
17	90
18	99
19	108

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(b) one and a half times the member's final remuneration less the value of any retained benefits in lump sum form.

(3) If it results in a higher sum than the maximum under sub-paragraph (1) or (2), the maximum aggregate retirement grant is three eighths of the member's final remuneration multiplied by each year of service or 40 years if less.

(4) However for a retirement grant payable under regulation 26, the limit is the maximum retirement grant payable under sub-paragraph (1), (2) or (3) assuming the member had continued as an active member until his NRD.

(5) The aggregate benefit payable to a Class C member by way of retirement grant before NRD is the greater of—

(a) three eighths of the member's final remuneration multiplied by his years of service or 40 years if less; and

(b) the maximum lump sum that could have been payable on retirement at NRD under sub-paragraph (2) multiplied by the fraction of which—

(i) the numerator is the member's actual period of local government employment prior to leaving the scheme or 40 years if less, and

(ii) the denominator is his years of service assuming he had remained an active member until his NRD or 40 years if less.

This amount may be increased in line with any increase in the retail prices index between the relevant date and the date on which the benefit becomes payable.

(6) The aggregate benefit payable to a Class B member or a Class C member by way of a retirement grant on retirement after NRD must not exceed the greatest of—

(a) the amount payable under sub-paragraph (1), (2) or (3) on the basis that the actual retirement date was the member's NRD;

(b) the amount that could have been payable under sub-paragraph (1), (2) or (3) on retirement at NRD together with interest in respect of the period of the delay in payment between his NRD and the actual date of payment;

(c) three eighths of the member's final remuneration multiplied by his increased period of membership.

(7) A member's increased period of membership is the aggregate of

(a) his total membership ending with his NRD; and

(b) his total membership after his NRD,

but must not exceed 45 years.

(8) The benefits payable by way of lump sum on the death of an active or deferred member must not exceed four times his final remuneration (ascertained disregarding paragraphs 1(7)(d) and (e) and (6)) less any lump sum death in service retained benefits (other than a refund of the member's contributions and any interest on such contributions or, if greater, £5,000).

6.—(1) The years of service taken into account under paragraphs 4(1), (3), 4(7)(a) and 5(7)(a) must not exceed 40 years.

(2) Without prejudice to Schedule 3, a credited period which is counted as a period of membership under regulation 122(1) does not count in calculating years of service for sub-paragraph (1) or paragraph 4 or 5.

7.—(1) If adding the additional contributions payable by a Class B member or a Class C member under an agreement made by him before the commencement date (other than AVCs payable under Schedule 7A to the 1987 Regulations) to those payable by him under these Regulations and

any FSAVC scheme would cause the total of those contributions to exceed 15 per cent. of his remuneration, he may not pay that excess, but he may pay a lump sum representing it to the Scheme at a time permitted by the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990.

(2) That lump sum must be calculated in a way approved by the Government Actuary, who may issue guidance indicating how it is to be done.

Maximum additions under regulations 52 and 54

8.—(1) The maximum addition under regulation 52 or 54 is—

- (a) the period (if any) by which the person's potential period of membership falls short of 40 years; or
- (b) his potential period of membership,

whichever is the shorter.

(2) His potential period of membership is the period he would be entitled to count as a period of membership in relation to his local government employment, assuming—

- (a) if he is not an active member on the date of the resolution, that he became a member on that date; and
- (b) that he continued as an active member until his NRD.

(3) If—

- (a) the resolution under regulation 52 relates to a person who on the date of the resolution has retained benefits; or
- (b) on the date of the election under regulation 54 the member has retained benefits,

the period of 40 years mentioned in sub-paragraph (1) must be reduced by the appropriate period.

(4) The appropriate period is such period as is certified by an actuary appointed by the appropriate administering authority to be sufficient to secure—

- (a) that the aggregate of—
 - (i) the relevant income benefits, and
 - (ii) the pension equivalent of the relevant capital benefits,will not exceed two-thirds of his final remuneration; and
- (b) that for a Class C member, the aggregate of the retirement grant attributable to his period of membership before his NRD and any retained benefits in lump sum form will not exceed one and a half times his final remuneration.

(5) In this paragraph—

“pension equivalent” has the meaning given in regulation 5(5)(b) of the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993⁽³³⁾;

“the relevant income benefits”, in relation to a member, means the aggregate annual amount of—

- (a) the actuarial value, expressed as an annuity payable to him, of the retained benefits which are pension benefits; and
- (b) the part of his retirement pension attributable to his period of membership before his NRD;

“the relevant capital benefits”, in relation to a member, means the aggregate amount of—

(33) S.I. 1993/3016.

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- (a) his retirement grant; and
 - (b) any lump sum comprised in the retained benefits which are pension benefits.
- (6) For the purposes of paragraphs (4) and (5)–
- (a) it is to be assumed that the person will, until his NRD, continue in the same employment and on the same terms and conditions (including, in particular, his scale of pay as at the date of the resolution or, as the case may be, the election (assuming, if he has not entered the employment of the authority at that date, that he had done so on that date on the scale of pay at which the employment was offered to him);
 - (b) any period of membership on or after that date is to be disregarded; and
 - (c) regard is to be had to any advice from the Commissioners of Inland Revenue as to the calculation of the value of the earlier benefits.

Controlling directors

9.—(1) This paragraph applies to any member who is a controlling director, as defined in paragraph 5(5) of Schedule 23 to the Taxes Act.

(2) Regulation 21(1)(a) does not apply to a controlling director.

(3) For determining whether a controlling director who is a Class A member has retained benefits, “approved scheme” includes–

- (a) a retirement annuity contract or trust scheme approved under Chapter III of Part XIV of the Taxes Act; or
- (b) any personal pension scheme approved under Chapter IV of that Part,

so far as it provides benefits secured by contributions in respect of his service with his Scheme employer or an associated employer.

(4) An employer is associated with another if one is controlled by the other or both are controlled by a third party; and control must be construed in accordance with section 840 of the Taxes Act or, in the case of a close company (as defined in section 416 of that Act) in accordance with section 416.

(5) Paragraph 1(3)(a) and (4) do not apply to controlling directors.

(6) Final remuneration shall be ascertained in accordance with paragraph 1(7)(a)(ii) and paragraph 1(7)(a)(i) shall not apply.

Overriding provisions

10. Where, by virtue of the Taxes Act or any later enactment, schemes which were approved schemes before a certain date have effect as if their rules restricted the total benefits payable under them, the rules of the Scheme have effect subject to those restrictions, notwithstanding any amendments of them by virtue of these or any earlier regulations after the date of that Act or enactment, and in so far as those restrictions would permit those total benefits to be greater than is otherwise permitted under the Scheme, those restrictions shall prevail.

SCHEDULE 5

Regulation 73

APPROPRIATE FUNDS

PART I

GENERAL RULES

1. The appropriate fund for a member is the fund specified in column 2 of the following Table for a member of his description.
2. However, where a member falls into paragraph 5 of that Table, the Secretary of State may by direction substitute another fund (“the substituted fund”).
3. Before doing so he must consult with any bodies appearing to him to be affected by the proposed direction.
4. The direction may require the making of financial adjustments between the funds, whether by way of a payment to the substituted fund or of a transfer of assets or both.
5. It may also contain provision as to the transfer of liabilities to the substituted fund and any other consequential and incidental matters.
6. Where an administering authority have established an admission agreement fund under regulation 74–
 - (a) references in this Schedule and in regulation 73 to the “fund” are to the fund maintained by that authority under regulation 72; and
 - (b) in relation to a member employed by a body specified in the notice required by regulation 74(3), the appropriate fund is the admission agreement fund.

TABLE

<i>Member</i>	<i>Appropriate fund</i>
1. An employee of an administering authority.	Fund maintained by that authority.
2. A member falling within the Table in Part II of this Schedule.	Fund specified for him in that Table.
3. An employee of a company under the control of a Scheme employer specified in Schedule 2.	Fund which is appropriate fund for employees of that Scheme employer.
4. An admission agreement employee.	Fund maintained by the administering authority with whom the admission agreement making him eligible for membership was made.
5. Members for whom no fund is specified by paragraphs 1 to 4.	Fund maintained by the administering authority within whose local government area all or most of his employing authority’s area lies.

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PART II
MISCELLANEOUS AUTHORITIES
TABLE

<i>Member</i>	<i>Appropriate fund</i>
1. Employee of East of Scotland Water Authority.	Fund maintained by City of Edinburgh Council.
2. Employee of West of Scotland Water Authority.	Fund maintained by Glasgow City Council.
3. Employee of North of Scotland Water Authority.	Fund maintained by Aberdeen City Council.
4. Employee of Scottish Children's Reporter Administration.	Fund maintained by Falkirk Council.
5. Employee of Scottish Environment Protection Agency.	Fund maintained by Falkirk Council.
6. Employee of Strathclyde Passenger Transport Authority.	Fund maintained by Glasgow City Council.
7. Employee of Strathclyde Passenger Transport Executive.	Fund maintained by Glasgow City Council.
8. Employee of Argyll, the Isles, Loch Lomond, Stirling and Trossachs Tourist Board.	Fund maintained by Falkirk Council.

SCHEDULE 6

Regulation 131

PART III
FORMER CONTRIBUTORS

1. This Schedule applies to a person—
 - (a) who immediately before 16th May 1974 was a contributory employee to whom the Acts of 1937 to 1953 and the regulations made under them applied either as modified or extended by, or together with, any local Act or scheme;
 - (b) who on that date became a pensionable employee under a scheduled body (within the meaning of the 1987 Regulations); and
 - (c) to whom immediately before the commencement date regulation G1 of the 1987 Regulations applied.
2. Where any relevant provision of the former scheme of a person to whom this Schedule applies would have been more beneficial than the corresponding provision of these Regulations, these Regulations have effect, for the appropriate period, as if the relevant provision had applied.
3. For paragraph 2 the person's former scheme is the provisions which applied as mentioned in paragraph 1(a).

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4. For paragraph 2 a provision of a former scheme is a relevant provision if it was similar to one of the following provisions of these Regulations:–

- (a) regulation 11 (members' contributions);
- (b) regulations 20 to 22 (pay);
- (c) regulation 24(3) to (5) (normal retirement age and NRD).

5. For this Schedule the appropriate period is–

- (a) the period of application specified in the relevant provision of the person's former scheme;
or
- (b) if none is specified, the period during which he continues in the employment of the body mentioned in paragraph 1(b) or of any successor body.