

2014 No.

PUBLIC SERVICE PENSIONS, ENGLAND

**The Public Service (Firefighters) Pensions (England)
Regulations 2014**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	<i>1st April 2015</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1), (2)(f), (3) and (4), 2, 3(1), (2), (3)(a) and (c), 4(1), (2) and (5), 8(1)(a), (2)(a) and (4), 14, 18(1), (2), (4)(b) and (5) to (9), paragraph 6(a) of Schedules 1 and 2, Schedule 3, paragraphs 20 and 21 of Schedule 5 to the Public Service Pensions Act 2013(a).

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appear to the Minister likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Public Service (Firefighters) Pensions (England) Regulations 2014.

(2) These Regulations come into force on [1st April 2015].

Establishment of scheme

2. These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of fire and rescue workers(b) who are firefighters in England.

(a) 2013 c.25.

(b) defined in schedule 1 to the Public Service Pensions Act 2013.

Interpretation

3. In these Regulations—

“1992 Scheme” means the Firefighters’ Pension Scheme 1992(**a**);

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

“FA 2004” means the Finance Act 2004(**b**);

“NFPS” means the New Firefighters’ Pension Scheme (England)(**c**);

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

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

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

“active member” means a person who is in pensionable service under this scheme and also a member who is not pensionable service whilst on unpaid sick leave or on unpaid child related leave or on a trade dispute or where the scheme manager permits the member to be treated as an active member whilst on unpaid authorised absence and a member who is a member of the Armed Forces Pension Scheme 2015 whilst on reserve forces service leave;

“active member’s account” has the meaning given in regulation 25;

“actuarial” means determined by the Secretary of State after consultation with the scheme actuary;

“added pension contributions” means contributions for an added pension;

“actuarial guidance” means actuarial guidance issued by the Secretary of State on the basis of advice from the scheme actuary;

“additional adoption leave” means leave under section 75B of the Employment Rights Act 1996(**g**);

“additional maternity leave” means leave under section 73 of the Employment Rights Act 1996(**h**);

“additional paternity leave” means leave under the Additional Paternity Leave Regulations 2010(**i**);

“age addition” has the meaning given in regulation 21;

“allocation amount” in relation to a pension means the amount of the pension allocated as a result of the exercise of an allocation election;

“allocation election” means an election under regulation 69;

“amount of accrued added pension” has the meaning given in paragraph 1 of Schedule 1;

“annual allowance” has the meaning given in section 228 (annual allowance) of FA 2004(**j**);

“assumed pensionable pay” has the meaning given in regulation 18;

“authority” means a fire and rescue authority for an area in England determined in accordance with section 1 of the Fire and Rescue Services Act 2004(**k**);

“the beginning date”, in relation to a pension not attributable to a pension credit, means the date on which the pension is treated as beginning for the purpose of section 8(2) of the PIA 1971(**a**);

-
- (a) The scheme is in Schedule 2 to S.I. 1992/129; Schedule 2 is the subject of amendments not relevant to these Regulations. The name of the scheme was changed to the Firefighters’ Pension Scheme by article 4(1) of S.I. 2004/2306.
- (b) 2004 c.12.
- (c) The scheme is in Schedule 1 to S.I. 2006/3432; Schedule 1 is the subject of amendments not relevant to these Regulations.
- (d) 1971 c.56.
- (e) 1993 c.48.
- (f) 1999 c. 30.
- (g) 1996 c.18; section 75B was inserted by the Employment Act 2002.
- (h) section 73 was substituted by the Employment Relations Act 1999.
- (i) S.I. 2010/1055.
- (j) Section 228 was substituted by the Finance Act 2011, Schedule 17, paragraph 4 and was amended by the Finance Act 2013, section 49.
- (k) 2004 c.21.

“child-related leave” means—

- (a) ordinary adoption leave under section 75A of the Employment Rights Act 1996;
- (b) ordinary maternity leave;
- (c) additional maternity or adoption leave during which the member receives some pensionable pay;
- (d) paternity leave;
- (e) additional paternity leave; or
- (f) a period of parental leave;

“closing date” has the meaning given in Schedule 2;

“the commutation amount” in relation to a pension means the amount of the pension exchanged for a lump sum as a result of the exercise of the option under regulation 67;

“connected scheme”, in relation to this scheme, means another statutory pension scheme that is connected, within the meaning of section 4(6) of the 2013 Act, with this scheme;

“continuity of service”, in relation to a transition member, has the meaning given in Schedule 2;

“continuous period of pensionable service” means a period of pensionable service disregarding any gap in service not exceeding 5 years;

“death benefits” means—

- (a) a surviving adult’s pension’
- (b) an eligible child’s pension’
- (c) a lump sum death benefit;

“deferred member” in relation to this scheme, has the meaning given in section 124(1) of the Pensions Act 1995**(b)**;

“deferred member’s account” has the meaning given in regulation 34;

“deferred pension age”, in relation to this scheme, has the meaning given in section 10(3) of the 2013 Act;

“early payment reduction” has the meaning given in regulation 46;

“eligible child” has the meaning given in regulation 81;

“eligible child’s pension” has the meaning given in regulation 80;

“eligible person” in relation to a scheme employment, means a person who is eligible to be an active member of this scheme in relation to that scheme employment;

“existing scheme “ means the 1992 scheme or the NFPS as the case may be;

“full retirement account” has the meaning given in regulation 38;

“full retirement added pension” has the meaning given in regulation 39(3);

“full retirement earned pension” has the meaning given in regulation 39(2);

“full retirement pension” means—

- (a) a full retirement earned pension; and
- (b) a full retirement added pension (if any);

“the guarantee date” has the meaning given in Part 9 (transfers);

“higher tier ill-health pension” has the meaning given in regulation 50(2);

“ill-health award” means—

- (a) a lower tier ill-health pension; and
- (b) a higher tier ill-health pension where this has also been awarded;

(a) See section 8(2) of that Act.
(b) 1995 c.26.

“independent qualified medical practitioner” (“IQMP”) means a medical practitioner holding a diploma in occupational medicine or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State; and for the purposes of this definition “a competent authority” has the meaning given by section 55(1) of the Medical Act 1983(a);

“index adjustment”, in relation to an opening balance, has the meaning given in regulation 27(3) (account to specify index adjustment);

“last active scheme year” means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme ;

“last day of pensionable service”, in relation to a member of this scheme, means the last day of the service in respect of which the member’s pension under this scheme is payable;

“leaving year” has the meaning given in regulation 20(3) (calculation of “retirement index adjustment”);

“lower tier ill-health pension” has the meaning given in regulation 50(1);

“member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member of this scheme;

“normal pension age”—

(c) in relation to this scheme, is determined in accordance with section 10 of the 2013 Act; and

(d) in relation to an existing scheme, has the meaning given in that scheme;

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

“opening balance”, in relation to a description of pension for a scheme year other than added pension, has the meaning given in regulation 27 and in relation to added pension, has the meaning given in regulation 31;

“ordinary maternity leave” means leave under section 71 of the Employment Rights Act 1996(b);

“parental leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations 1999(c);

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

“pay period”, in relation to the payment of a member’s pensionable pay, means the period in respect of which the payment is made;

“partial retirement option” means the option exercisable under regulation 48;

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

“pension credit member”, in relation to this scheme, means a person who has rights under this scheme which are attributable, directly or indirectly, to a pension credit under a pension sharing order following divorce or nullity of marriage;

“pension credit member’s account” has the meaning given in regulation 41;

“pension credit member’s pension” means a pension payable under regulation 101;

“pension credit rights” has the meaning given in section 124(1) of the Pensions Act 1995;

“pension debit” means a debit under section 29(1)(a) of WRPA 1999;

“pension debit member”, in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under section 31 of WRPA 1999 (reduction under pension sharing order following divorce or nullity of marriage);

(a) 1983 c.54; the definition of “competent authority” was inserted by S.I.2007/3101.

(b) section 71 was substituted by the Employment Relations Act 1999.

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

(d) S.I. 2002/2788.

“pensioner member” in relation to this scheme, means a person who is being paid a pension in respect of previous pensionable service under this scheme and may include a person who is also an active member in pensionable service under this scheme;

“pensionable pay” has the meaning given in regulation 17 but if the circumstances specified in regulation 18(2) apply, references in these Regulations to a member’s pensionable pay are references to that member’s assumed pensionable pay;

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

“personal pension scheme” means a personal pension scheme as defined in section 1 of PSA 1993 that is registered under Chapter 2 of Part 4 of FA 2004;

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

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

“qualifying service” has the meaning given in regulation 43;

“reference pay”, in relation to the pay of a retained or volunteer firefighter for any period, means the whole-time equivalent pensionable pay for that period of a regular firefighter employed in a similar role and equivalent qualifying service;

“regular employment” means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person’s capacity for employment arises;

“regular firefighter” means a person (P) employed (whether whole-time or part-time) by an authority—

- (a) as a firefighter, but not as a retained or volunteer firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting); and
- (c) otherwise than in a temporary capacity;

“the relevant last day” has the meaning given in regulation 20(2) (calculation of “retirement index adjustment”);

“reserve forces” has the meaning given in section 1(2) of the Reserve Forces Act 1996(a);

“reserve forces service leave” means absence from duty because of being called out or recalled for permanent service in Her Majesty’s armed forces pursuant to a call-out notice served, or a call-out or recall order made, under Reserve Forces Act 1996 or absence during training required under section 22 or permitted under 27 of that Act;

“retained firefighter” means a person (P) employed by an authority—

- (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting)
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives;

“retirement index adjustment”, in relation to an amount of accrued pension, has the meaning given in regulation 20;

“retirement benefits” means benefits payable under Part 5 (retirement benefits);

(a) 1996 c.14.

“retirement pension” means—

- (a) a full retirement pension;
- (b) an ill-health award;

“role”, in relation to a firefighter, means the role in which he is for the time being employed, being a role set out in “Fire and Rescue Services Rolemaps” issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005;

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

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

“scheme employment” means employment by virtue of which a person is eligible to be an active member of this scheme;

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

“scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“standard earned pension” means earned pension payable without actuarial reduction;

“statutory pay” means—

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

“surviving adult’s pension” has the meaning given in Part 6;

“surviving partner” has the meaning given in regulation 73 (meaning of “surviving partner”);

“transfer value payment” has the meaning given in regulation 112(interpretation);

“transferred pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 122(amount of transferred pension);

“transition member” has the meaning given in Part 1 of Schedule 2;

“the Treasury order”, in relation to a given period, means the Treasury order made under section 9(2) of the 2013 Act that specifies a percentage increase or decrease in earnings in relation to that period;

“volunteer firefighter” means a person (P) who carries out operational firefighting for an authority—

- (a) as a volunteer firefighter, but not as a regular firefighter or a retained firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to P’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting)
- (c) otherwise in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives;

PART 2

Scheme manager

Scheme manager

4.—(1) An authority is responsible for managing and administering the Scheme and any connected scheme in relation to any person for which it is the appropriate authority under these Regulations.

- (2) The appropriate authority in relation to a person who—
 - (a) is or has been a member of the Scheme; or
 - (b) is entitled to any benefit in respect of a person who is or has been a member of the Scheme,

is the authority by whom the member was last employed whilst an active member of this Scheme in relation to each of the member's pension accounts.

- (3) The appropriate authority is referred to in these Regulations as the scheme manager.

Delegation

5.—(1) The Secretary of State may delegate any functions under these Regulations, including this power to delegate.

(2) The scheme manager may delegate any functions under these Regulations, including this power to delegate, to such persons (if any) or employees of such person as may be authorised in that behalf by the scheme manager.

PART 3

Scheme membership

CHAPTER 1

Scheme employment

Description of person in scheme employment

6.—(1) For the purposes of these Regulations, a person is in scheme employment if they are employed as a firefighter by an authority and satisfy the requirement in paragraph (2) or paragraph (3).

(2) A person who took up employment on or after 1st April 2015 satisfies the requirement in this paragraph where their role on taking up employment includes—

- (a) resolving operational incidents, or
- (b) leading and supporting others in the resolution of operational incidents.

(3) A person who is a transition member, or a person who has ceased to be a full protection member or a tapered protection member of an existing scheme, satisfies the requirement.

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

- 7.**—(1) For the purposes of these Regulations—
- (a) an employment is “full-time” if the contract of employment describes it as full time (whether in those terms or otherwise); and
 - (b) an employment is “part-time” if the contract of employment describes it as part-time (whether in those terms or otherwise).

CHAPTER 2

Membership

Eligibility for active membership

8.—(1) Subject to paragraph (2), a person (P) is eligible to be an active member of this scheme in relation to a scheme employment unless in relation to that employment—

- (a) P is a full protection member or a tapered protection member of an existing scheme;

- (b) P is a member of any other pension scheme and the authority employing P pays contributions to that scheme in respect of P.

(2) P is only eligible to be an active member of this scheme whilst on reserve forces service leave and a member of the Armed Forces Pension Scheme if P has made an election to the Scheme employer to remain a member of this Scheme.

More than one employment

9.—(1) A person may be an active member of this scheme in relation to more than one employment (whether or not the employment is with the same authority).

(2) If a person is employed in more than one scheme employment, regulation 13 applies in relation to each employment (whether or not the employment is with the same authority).

Deferred membership

10. A person (P) becomes a deferred member of this scheme in relation to a scheme employment if—

- (a) P ceases to be an active member of this scheme in relation to that employment and P does not become a pensioner member of this scheme in respect of service in that employment; and
- (b) P has at least 3 months qualifying service or a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to P under Part 9 (transfers).

CHAPTER 3

Pensionable service

Interpretation

11.—(1) For the purpose of these Regulations—

- (a) a person opts out of this scheme in relation to a scheme employment if the person opts not to be an active member of this scheme in relation to that employment; and
- (b) a person opts into this scheme in relation to a scheme employment if the person opts to become an active member of this scheme in relation to that employment.

(2) In these Regulations—

“opt-in notice” has the meaning given in regulation 16;

“opt-out notice”—

- (a) in relation to this scheme, has the meaning given in regulation 13; and
- (b) in relation to an existing scheme, means an election under rule G3 (election not to pay pension contributions) of the FPS 1992 or an election under rule 5 (election not to make pension contributions) of Part 2 of the NFPS; and

“P’s automatic enrolment date” means the date on which section 3 of the Pensions Act 2008(a) applies to a person (P) in relation to P’s scheme employment;

“P’s automatic re-enrolment date” is a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations(b) in relation to P’s scheme employment.

(a) 2008 c.8.
(b) S.I. 2010/772.

Pensionable service

12.—(1) An eligible person (P) is in pensionable service^(a) under this scheme in relation to a scheme employment from P’s first day of service in that employment unless an election to opt out has effect in relation to service in that employment under regulations 14 and 15;

(2) For the purposes of Part 4 (pension accounts), a person is treated as being in pensionable service during any gap in pensionable service not exceeding 5 years.

Opting out of this scheme

13.—(1) An eligible person (P) may opt out of this scheme in relation to any scheme employment.

(2) The option may only be exercised by notice to the scheme manager in such form as the scheme manager requires (“opt-out notice”).

Opting out within the first 3 months

14.—(1) If an eligible person (P) opts out of this scheme in relation to a scheme employment within one month after P’s first day of service in that employment, P is taken never to have been an active member of this scheme in relation to that employment.

(2) If P opts out of this scheme in relation to an employment more than one month after, but before the end of 3 months after, P’s first day of service in an employment—

- (a) the option is taken to be exercised on P’s first day; and
- (b) the scheme manager must refund any member contributions.

(3) Paragraph (2)(b) does not require the scheme manager to pay P any additional amount which becomes payable by P in respect of national insurance contributions because P has not after all been a member of this scheme during any period.

Opting out after the first 3 months

15.—(1) If an eligible person (P) opts out of this scheme in relation to an employment on P’s automatic re-enrolment date or within 3 months of that date, the option is taken to be exercised on P’s automatic re-enrolment date.

(2) If paragraph (1) applies, the scheme manager must refund any pension contributions which P has paid since P’s automatic re-enrolment date.

(3) If paragraph (1) does not apply and P opts out of this scheme in relation to an employment more than 3 months after P’s first day of service in that employment, the option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.

(4) If paragraph (2) applies, P ceases to be in pensionable service in relation to that employment at the beginning of—

- (a) the first pay period beginning on or after the date on which the option is exercised; or
- (b) if the scheme manager considers that period inappropriate such later pay period as the scheme manager considers appropriate.

Opting into this scheme

16.—(1) An eligible person (P) may opt to become an active member of this scheme in relation to any scheme employment.

(2) This option may only be exercised by notice to the scheme manager in such form as the scheme manager requires (“opt-in notice”).

(3) The option is taken to be exercised on the date on which the opt-in notice is received by the scheme manager.

(a) See section 37 of the Act for the meaning of “pensionable service”.

(4) If P opts into this scheme in relation to an employment, P becomes an active member of this scheme in relation to that employment at the beginning of the first pay period beginning after the date on which the option is exercised or at such other time as the scheme manager considers appropriate.

CHAPTER 4

Pensionable pay

Pensionable pay

17.—(1) For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable pay is—

- (a) the member’s pay received for the performance of the duties of the member’s role except any allowance or emoluments paid to that member on a temporary basis,
- (b) the member’s permanent emoluments (including, in the case of a retained firefighter, any retaining allowance);
- (c) the amount foregone where a member has agreed to surrender the right to receive any part of that member’s pensionable pay in exchange for the provision by the authority of any non-cash benefit;
- (d) the amount paid to the member for continued professional development which the authority determines is pensionable.

(2) The payments in paragraph (1) do not include any payment made by an authority to a member who is on reserve forces service leave.

Meaning of “assumed pensionable pay”

18.—(1) For any period in which the circumstances specified in paragraph (2) apply to an active member of this scheme, the member is treated as receiving pay (“assumed pensionable pay”) equal to the pensionable pay that the member would have received if those circumstances had not applied.

(2) The circumstances are that the member—

- (a) is on secondment to a different employer under an arrangement providing for the member to continue to be an active member of this scheme in respect of the member’s service although the member is paid for it by the other employer;
- (b) is on sick leave or injury leave on reduced pay or is not receiving pay and has elected to pay the contributions required by regulation 108(2);
- (c) is receiving pay or statutory pay whilst on adoption leave, additional adoption leave, additional maternity leave, parental leave, paternity leave or additional paternity leave;
- (d) is on ordinary adoption leave, ordinary maternity leave or paternity leave;
- (e) is not receiving pay or statutory pay during part or all of the duration of the period of additional adoption leave, additional maternity leave or additional paternity leave and has elected to pay standard pension contributions in respect of that period;
- (f) is on unpaid leave in circumstances that the authority has agreed can count for the purposes of this paragraph;
- (g) is absent on reserve forces special leave.

(3) Paragraph (2)(g) does not apply in respect of any period of service which qualifies the member for benefits under any occupational pension scheme in respect of that service.

(4) Where the circumstances in paragraph (2) apply to a member (P) who was employed as a retained firefighter or volunteer firefighter immediately before those circumstances applied, the amount of P’s assumed pensionable pay is calculated by dividing the total amount of P’s pensionable pay received for that service during the period of 365 days ending with the last day of

continuous pensionable service before those circumstances applied, by 365 and multiplying by the number of days in which the circumstances in paragraph (2) applied.

PART 4

Pension accounts

CHAPTER 1

Preliminary

Calculation of amount of accrued pension for purposes of chapters 5 and 6

19.—(1) For the purpose of Chapters 5 and 6, the amount of accrued pension is calculated in accordance with this regulation.

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

- (a) the sum of the opening balance of standard earned pension for the last active scheme year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the last active scheme year;
- (c) the sum of the opening balance of transferred pension for the last active scheme year and the index adjustment for that opening balance; and
- (d) the amount of transferred pension for the last active scheme year.

(3) The amount of accrued added pension is the total of the following amounts specified in the added pension account as at the end of the last day of pensionable service—

- (a) the sum of the opening balance of accrued added pension for the last active scheme year and the PIA index adjustment for that opening balance; and
- (b) the amount of accrued added pension for the last active scheme year.

Calculation of “retirement index adjustment”

20.—(1) For the purpose of this Part, the retirement index adjustment for an amount of accrued pension is an amount calculated as follows:

Step 1

Multiply A/B by the percentage specified in the Treasury order in relation to the leaving year, where—

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

B is 12.

The resulting percentage is the retirement index percentage.

Step 2

Multiply the amount of accrued pension by the retirement index percentage.

The resulting amount is the retirement index adjustment.

(2) In this regulation—

“complete month” includes an incomplete month that consists of at least 16 days;

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

“the relevant last day” means—

- (a) for a partially retired member, the day before the day on which the partial retirement option is exercised, and
- (b) otherwise, the last day of pensionable service;

“the Treasury order”, in relation to a given period, means the Treasury order under section 9(2) of the Act 2013 that specifies a percentage increase or decrease in earnings in relation to that period.

Determination of “the age addition”

21.—(1) This regulation applies to every scheme year in which an active member’s account and an active member’s added pension account, if any, is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme; and that is not—

- (a) the scheme year in which the account is established; or
- (b) the scheme year immediately following that.

(2) At the beginning of the scheme year, for each description of pension, the scheme manager having regard to actuarial guidance must determine the age addition in relation to the previous year’s opening balance.

(3) In these Regulations, “the age addition” means an additional amount of pension determined by reference to the proportion of the previous scheme year for which a member had reached normal pension age under this scheme.

Determination of “the assumed age addition”

22.—(1) This regulation applies on the establishment of a deferred member’s account or full retirement account or to an added pension account of a member who has become a deferred member in that year and does not have an active member’s account in connection with another employment.

(2) The scheme manager having regard to actuarial guidance must determine the assumed age addition for each amount of accrued pension specified in the account.

(3) In these Regulations “the assumed age addition” means—

- (a) for an amount of accrued standard earned pension not attributable to a transferred pension, means the age addition that would have been awarded at the beginning of the scheme year following the leaving year having regard to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (b) for an amount of accrued standard earned pension attributable to a transferred pension, means the age addition that would have been awarded in respect of the opening balance of transferred pension for the scheme year following the leaving year having regard to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (c) for an amount of accrued added pension, means the age addition that would have been awarded in respect of the opening balance of added pension for the scheme year following the leaving year having regard to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

CHAPTER 2

Pension accounts: general

Establishment of pension accounts: general

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

(2) A pension account—

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

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

Closure and adjustment of pension accounts on transfer out or repayment of balance of contributions

24.—(1) Except as otherwise provided in this regulation, all pension accounts relating to a member of this scheme must be closed if—

- (a) a transfer value payment is made in respect of the member's accrued rights under this scheme; or
- (b) the member's contributions are refunded under regulations 14 (opting out within the first 3 months) and 15 (opting out after the first 3 months).

(2) Nothing in paragraph (1) requires the closure of an account that includes amounts to which the transfer value payment does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted in such manner as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme.

(4) Paragraph (1)(a) does not require the closure of a pension credit member's account if the transfer value payment is made in respect of a member who is both—

- (a) a pension credit member of this scheme; and
- (b) an active member, deferred member or pensioner member of this scheme.

CHAPTER 3

Active member's account

Establishment of active member's account

25.—(1) A pension account must be established for each active member ("the active member's account") from the first day of pensionable service in an employment.

(2) If a person is an active member of this scheme in relation to 2 or more employments, an active member's account must be established in respect of each employment.

Account to specify amount of pension for a scheme year

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

(2) The active member's account must specify, in relation to each description of pension, the amount of that pension for the scheme year.

(3) The amount of standard earned pension for a scheme year is 1/58.7th of the member's pensionable pay for that year for the employment in respect of which that member's account is established.

(4) The amount of transferred pension for a scheme year is the amount which the member is entitled to count under regulation 122 (amount of transferred pension).

Account to specify opening balance, index adjustment and age addition

27.—(1) This regulation applies in relation to every scheme year in which an active member's account is open other than the scheme year in which that account is established.

(2) The active member's account must specify for each description of pension—

- (a) the opening balance for the scheme year and the index adjustment for the opening balance; and
- (b) if applicable, the age addition awarded at the beginning of the scheme year.

(3) In these Regulations—

“opening balance” in relation to a description of pension—

- (a) for the scheme year immediately following the scheme year in which the active member’s account is established, means the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
- (b) for any subsequent scheme year, means the sum of the following amounts—
 - (i) the opening balance of that pension for the previous scheme year and the index adjustment for that opening balance;
 - (ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
 - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year; and

“index adjustment”, in relation to an opening balance, means the percentage increase or decrease in earnings specified in the Treasury order in relation to the previous scheme year.

Ill-health award ceases to be payable

28. If an ill-health award ceases to be payable to a person (P) under regulation 54 (consequences of review) and P re-enters pensionable service—

- (a) the pensioner member’s account must be closed;
- (b) the active member’s account must be re-established and credited with an amount equal to the annual rate of lower tier ill-health pension payable when the ill-health award was first made;
- (c) entries must be made in the active member’s account as if, during the gap in pensionable service, the member—
 - (i) was in pensionable service under this scheme; but
 - (ii) received no pensionable pay.

CHAPTER 4

Added pension account

Added pension

29. Schedule 1 (contributions for added pension) has effect.

Establishment of added pension account

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

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

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

- (a) an added pension is paid in respect of P;
- (b) a transfer value payment is made in respect of P’s rights to the accrued added pension.

Account to specify amount of added pension

31.—(1) This regulation applies in relation to every scheme year in which an added pension election is made.

(2) The added pension account must specify in relation to any added pension election made in that scheme year the amount of added pension determined by the scheme manager to be credited in respect of that scheme year.

Account to specify opening balance and PIA index adjustment

32.—(1) This regulation applies in relation to every scheme year in which an added pension account is open other than the scheme year in which the account is established.

- (2) The account must specify—
 - (a) the opening balance of added pension for the scheme year and the PIA index adjustment for that opening balance;
 - (b) if applicable, the age addition awarded at the beginning of the scheme year.
- (3) The “opening balance” of added pension—
 - (a) for the scheme year immediately following the scheme year in which the added pension account is established, means the amount of added pension specified in the account as at the end of the previous scheme year; and
 - (b) for any subsequent scheme year, means the sum of the following amounts—
 - (i) the opening balance of added pension for the previous scheme year; and
 - (ii) the PIA index adjustment (if any) for that opening balance;
 - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

Ill-health pension ceases to be payable

- 33.**—(1) This regulation applies if—
- (a) an added pension is payable with an ill-health award; and
 - (b) the ill-health award ceases to be payable under regulation 54(consequences of review).
- (2) The added pension account must be re-established and credited with an amount equal to the annual rate of added pension.

CHAPTER 5

Deferred member’s account

Establishment of deferred member’s account

34. When an active member of this scheme ceases to be in pensionable service under this scheme in relation to an employment and becomes a deferred member of this scheme in relation to rights accrued in that employment—

- (a) the active member’s account for that service must be closed; and
- (b) a pension account for the deferred member must be established (“the deferred member’s account”).

Account to specify provisional amount of deferred pension

- 35.**—(1) The deferred member’s account must specify—
- (a) the amount of accrued earned pension; and
 - (b) the retirement index adjustment for the accrued amount; and
 - (c) the assumed age addition (if any) for the accrued amount.
- (2) The retirement index adjustment is not applied in relation to the amount of accrued pension derived from a transfer value payment which is specified in the deferred member’s account before the end of the last active scheme year.
- (3) In this regulation, the assumed age addition applies in relation to a member who reaches normal pension age under this scheme at least one month before the last day of pensionable service.

Account established after ill-health award ceases to be payable

36. If an ill-health award ceases to be payable to a person (P) under regulation 54 (consequences of review) and P does not re-enter pensionable service—

- (a) a deferred member's account must be established; and
- (b) that account must be credited with an amount equal to the annual rate of pension payable immediately before the ill-health award ceased to be payable.

Closure of deferred member's account on re-entering pensionable service

37.—(1) When a deferred member of this scheme re-enters pensionable service after a gap in pensionable service not exceeding 5 years—

- (a) the deferred member's account must be closed and it must be treated as if it were never established;
- (b) the active member's account must be re-established; and
- (c) entries must be made in the active member's account as if, during the gap in pensionable service, the member—
 - (i) was in pensionable service under this scheme; but
 - (ii) received no pensionable pay.

(2) Where a deferred member had more than one deferred member's account—

- (a) if the new employer was the scheme manager in relation to a former employment, the deferred member's account in relation to that employment should be closed and the active member's account re-established;
- (b) if the new employer has not previously employed that member, the member may select which deferred member's account should be closed.

CHAPTER 6

Full retirement account

Establishment of full retirement account

38.—(1) When an active member of this scheme becomes entitled to the immediate payment of a full retirement pension or an ill-health award—

- (a) the active member's account and any added pension account must be closed; and
- (b) a pension account for the pensioner member must be established ("the full retirement account").

(2) When an active member of this scheme exercises the partial retirement option and becomes entitled under regulation 49(1) (annual rate of full retirement pension) to the immediate payment of a full retirement pension —

- (a) the active member's account in respect of the member's earlier period of service must be closed;
- (b) a full retirement account must be established in respect of that earlier period of service;
- (c) any added pension account must be closed and the amount transferred to the full retirement account; and
- (d) a new active member's account must be established in respect of the member's continuing service as if the date on which the partial retirement option is exercised is the first day of pensionable service.

(3) When a deferred member becomes entitled to the immediate payment of a full retirement pension or an ill-health award—

- (a) the deferred member's account and any added pension account must be closed; and

(b) a pension account for the pensioner member must be established (“the full retirement account”).

(4) In this regulation—

“earlier period of service” means a period of continuous pensionable service taken to end on the day on which the partial retirement option is exercised; and

“continuing service” means pensionable service that continues in accordance with regulation 38(2)(d)(establishment of full retirement account) from the day after the day on which the partial retirement option is exercised.

Account to specify amount of full retirement pension

39.—(1) The full retirement account must specify, for each description of accrued pension, the amount of the relevant full retirement pension.

(2) The amount of each description of full retirement earned pension is the sum of—

- (a) the amount of the relevant accrued earned pension (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) The amount of any full retirement added pension is the sum of—

- (a) the amount of the accrued added pension (“accrued amount”);
- (b) the PIA index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(4) The full retirement account must specify for each amount of full retirement pension—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the allocation amount (if any).

(5) In this regulation, the assumed age addition applies in relation to a member who reaches normal pension age under this scheme at least one month before the last day of pensionable service.

CHAPTER 7

Pension accounts for surviving members

Pension accounts for surviving members

40. If an active member, deferred member or pensioner member dies and a person is entitled to a pension under this scheme as a surviving partner or eligible child (“surviving member”)—

- (a) the active member’s account, deferred member’s account or pensioner member’s account and any added pension account must be closed; and
- (b) a pension account for each surviving member must be established (“the surviving member’s account”);
- (c) that account must be credited with an amount equal to the annual rate of pension payable to the surviving member calculated in accordance with the appropriate regulation in Chapter 2 (pensions for surviving partners) or Chapter 3 (pensions for eligible children) as the case may be which confers the pension on the surviving member.

CHAPTER 8

Pension accounts for pension credit members

Pension accounts for pension credit members

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

(2) If a pension credit is derived from more than one pension debit member, a pension credit member’s account must be established in respect of each pension credit.

(3) The pension credit member’s account must specify the amount of credited pension, and for that amount, the commutation amount (if any).

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

Other pension accounts

42. If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the pension credit member’s account is in addition to any other account established in respect of the member.

PART 5

Retirement benefits

CHAPTER 1

Interpretation

Qualifying service

43. In these Regulations, a period of qualifying service is the aggregate of the following periods—

- (a) any period of pensionable service under this scheme in relation to the same pension account;
 - (b) if the transfer value payment or a cash transfer sum has been accepted under Part 9 (transfers) in respect of rights accrued under another occupational pension scheme, a period equal to the person’s period of pensionable service under that scheme; and
 - (c) for a transition member with continuity of service, the period of pensionable service reckonable under rule F1 (reckoning of and certificates as to pensionable service) of the 1992 scheme (if any) and the period of qualifying service under the NFPS (if any).
- (2) None of the following counts as qualifying service—
- (a) any pensionable service under this scheme in respect of which a person’s rights under this scheme are extinguished;
 - (b) any pensionable service under an existing scheme in respect of which a person’s rights under that scheme are extinguished;
 - (c) any unauthorised absence from scheme employment.

CHAPTER 2

Full retirement benefits

Entitlement to full retirement pension (members aged at least 55)

44.—(1) A member of this scheme (P) is entitled to the immediate payment for life of a full retirement earned pension under this scheme if—

- (a) P has reached the age of 55;
- (b) P has ceased to be in pensionable service under this scheme;
- (c) P has claimed payment of a full retirement pension; and
- (d) P has at least 3 months qualifying service.

(2) On becoming entitled to the immediate payment for life of a full retirement earned pension, P is entitled to immediate payment for life of a full retirement added pension if P had an added pension account in this scheme before becoming so entitled and the full retirement account specifies an amount of full retirement added pension.

(3) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in such form as the scheme manager requires.

Annual rate of full retirement pension (active members and deferred members)

45.—(1) This regulation applies when an active member or a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of a full retirement pension of any description payable to the member is found by—

- (a) taking the amount of that description of full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any), specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

Early payment reduction

46.—(1) This regulation applies when an actuarial reduction is to be applied when calculating the annual rate of pension payable to a member who has not reached normal pension age or deferred pension age, as the case may be.

(2) An active member (P) may claim a full retirement pension to be paid after P has reached the age of 55 and before P has reached the age of 57.

(3) The actuarial reduction to be applied in a case falling in paragraph (2) is in accordance with actuarial guidance which reduces the pension from P's deferred pension age.

(4) An active member (P) may claim a full retirement pension to be paid after P has reached the age of 57 and before P has reached normal pension age.

(5) The actuarial reduction to be applied in a case falling in paragraph (4) is in accordance with actuarial guidance which reduces the pension from P's normal pension age.

(6) A deferred member (P) may claim a full retirement pension to be paid after P has reached the age of 55 and before P has reached deferred pension age.

(7) The actuarial reduction to be applied in a case falling in paragraph (6) is in accordance with actuarial guidance which reduces the pension from the deferred pension age.

Authority initiated retirement

47.—(1) Where an active member who has attained the age of 55 or over is dismissed by an authority from an employment by reason of business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency before the member attains normal pension age and the authority makes the determination in paragraph (2), that member's pension is calculated in accordance with regulation 45 (annual rate of full retirement pension(active members and deferred members) without the early payment reduction.

(2) An authority may only pay a retirement pension of the amount mentioned in paragraph (1) in the circumstances mentioned in that paragraph where the authority determines that this assists the economical, effective and efficient management of their functions having taken account of the costs likely to be incurred in the particular case.

CHAPTER 3

Partial retirement benefits

Exercise of partial retirement option (members aged at least 55)

48.—(1)This regulation applies to an active member of this scheme (P) who—

- (a) is aged at least 55; and
- (b) would be entitled to the immediate payment of a full retirement pension if P had left that pensionable service and had claimed payment of the pension.

(2) P may opt to continue in pensionable service under this scheme but claim payment of the whole of P's accrued pensions in relation to that pensionable service ("partial retirement option").

(3) The partial retirement option may only be exercised by notice to the scheme manager in such form as the scheme manager requires ("option notice").

(4) For the purpose of these Regulations, the partial retirement option is taken to be exercised on such date as the member and the scheme manager agree.

(5) An option notice must specify that P claims the whole of P's pensions.

Annual rate of full retirement pension

49.—(1) An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of a full retirement pension.

(2) The annual rate of a full retirement pension of any description is calculated under regulation 45 (annual rate of full retirement pension (active members and deferred members) by reference to the amount of that description of full retirement pension specified in the full retirement account.

(3) This regulation applies as if the last day of pensionable service were the day on which the member exercised the partial retirement option.

CHAPTER 4

Ill-health benefits

Entitlement to lower tier ill-health pension and higher tier ill-health pension

50.—(1) An active member who has not reached normal pension age is entitled to immediate payment of a lower tier ill-health pension if the following conditions are met—

- (a) in the opinion of the IQMP the member is incapable of performing any duties of the role in which the member was last employed because of incapacity of mind or body which will continue until normal pension age;
- (b) the member has 3 months qualifying service;
- (c) consequent on the incapacity in sub-paragraph (a), the member has been dismissed or retired from scheme employment;

- (d) the scheme manager has accepted that the member is entitled to a lower tier ill-health pension.

(2) An active member is entitled to a higher tier ill-health pension in addition to the lower tier ill-health pension if the following conditions are met—

- (a) in the opinion of the IQMP the member is incapable of undertaking regular employment because of incapacity of mind or body and this incapacity will continue until normal pension age;
- (b) the member has at least 5 years of qualifying service;
- (c) the member is entitled to a lower tier ill-health pension;
- (d) the scheme manager has accepted that the member is entitled to a higher tier ill-health pension.

Annual rate of ill-health awards

51.—(1) The annual rate of a lower tier ill-health pension and of a higher rate ill-health pension is calculated as follows.

(2) The annual rate of a lower tier ill-health pension is calculated in the same way as the annual rate of a full retirement pension is calculated, but without subtracting the early payment reduction.

(3) The annual rate of a higher tier ill-health pension is calculated by multiplying the annual amount of the adjusted lower tier ill-health pension by the member's assumed period of pensionable service and by 2%;

(4) In this regulation—

“the adjusted lower tier ill-health pension” means the lower tier ill-health pension payable under paragraph (2) calculated without the inclusion of an amount equal to the amount of any added pension which had been included in the calculation of the lower tier ill-health pension;

“the member's assumed period of pensionable service” means the period expressed in years—

- (i) beginning with the day after the member's continuous period of pensionable service ceased; and
- (ii) ending with the day before the day on which the member will reach normal pension age (assuming that the member lives until that age).

Early payment of pension to deferred member

52.—(1) A deferred member who has not reached deferred pension age is entitled to immediate payment of a full retirement pension if the following conditions are satisfied—

- (a) the member has given written notice requesting payment of the pension before deferred pension age to the scheme manager;
- (b) in the opinion of the IQMP the member is incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age; and
- (c) the scheme manager has agreed to early payment of the pension.

(2) The pension should be paid from the date on which the deferred member became incapable of undertaking regular employment because of infirmity of body or mind, or if that date cannot be ascertained, from the date of the member's request to the scheme manager for early payment.

(3) The annual rate of the pension is calculated in the same way as the annual rate of a full retirement pension is calculated, but without subtracting the early payment reduction.

Review of ill-health award

53.—(1) Where a member (P)—

- (a) has been in receipt of an ill-health award for less than 10 years, and

(b) is under state pensionable age,

the scheme manager shall consider, at such intervals as they consider appropriate, whether P has become capable—

- (i) of performing any duty appropriate to the role from which P retired on grounds of ill-health, and
- (ii) of undertaking regular employment.

(2) The scheme manager shall consider, at such intervals as they consider appropriate, in relation to a pensioner member who was a deferred member and whose pension is being paid early by virtue of regulation 52(1)(early payment of pension to a deferred member), whether the member has become capable of undertaking regular employment.

Consequences of review

54.—(1) If, on such consideration as is mentioned in regulation 53(1), it is found that a member (H) who is in receipt of a higher tier ill-health pension has become capable of undertaking regular employment, H's entitlement to that pension shall cease with immediate effect.

(2) Subject to paragraph (3), a lower tier ill-health provision shall continue to be paid to a member who ceases to be entitled to a higher tier ill-health pension.

(3) If—

- (a) on such consideration as is mentioned in regulation 1(1), it is found that a member ('L') who is in receipt of a lower tier ill-health pension has become capable of performing the duties appropriate to the role from which L retired on grounds of ill-health, and
- (b) the authority make L an offer of employment in that role ("a paragraph (3)(b) offer"), L's entitlement to a lower tier ill-health pension shall cease whether L accepts or declines the offer.

(4) The scheme manager shall by written notice when making a paragraph (3)(b) offer specify a date by which, if the member has not accepted the offer, the member shall be taken to have declined it.

(5) An ill-health award ceases to be payable on the earlier of the following dates—

- (a) the date on which a member re-enters Scheme employment pursuant to a paragraph (3)(b) offer; or
- (b) such date after the paragraph (3)(b) offer is made as the scheme manager specifies by notice under paragraph (4).

(6) Where a member declines a paragraph (3)(b) offer, a deferred member's account must be established under regulation 36 (account established after ill-health award ceases to be payable) from the date on which that member's ill-health award ceases to be payable in accordance with paragraph (5).

(7) If, on such consideration as is mentioned in regulation 53(2), it is found that a pensioner member (P) whose pension is being paid early has become capable of undertaking regular employment, P's entitlement to early payment of the pension shall cease with immediate effect.

Role of IQMP in determinations by the scheme manager

55.—(1) The question of whether a member (P) is entitled to any and, if so, which ill-health awards, shall be determined in the first instance by the scheme manager.

(2) Subject to paragraph (6), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether P is incapable of performing any duties of the role in which P was last employed because of incapacity of mind or body,
- (b) whether the incapacity in sub-paragraph (a) above is likely to continue until normal pension age or deferred pension age,

- (c) whether P has become capable of performing any duties of the role from which P retired on grounds of ill-health,
- (d) whether P is or has become capable of undertaking regular employment, or
- (e) any other issue wholly or partly of a medical nature,

the scheme manager shall obtain the written opinion of an IQMP selected by them.

(3) The IQMP must certify under paragraph (2) that—

- (a) the IQMP has not previously advised, or given an opinion on, or otherwise been involved in, P's case for which the opinion has been requested, and
- (b) the IQMP is not acting, and has not at any time acted, as the representative of the P, the scheme manager, or any other party in relation to the same case.

(4) An IQMP's opinion under paragraph (2) shall be binding on the scheme manager unless it is superseded by the IQMP's response under regulation 56(2) (review of medical opinion) or the outcome of an appeal under regulation 57 (appeals against decisions based on medical evidence).

(5) Where, in consequence of an opinion given under paragraph (2), P has retired on grounds of ill-health, the IQMP who gave the opinion may, if so requested by the scheme manager for the purposes of a review under regulation 53(1) (review of ill-health award), give a further opinion.

(6) If—

- (a) P wilfully or negligently fails to submit to medical examination by the IQMP selected by the scheme manager, and
- (b) the IQMP is unable to give an opinion on the basis of the medical evidence available,

the scheme manager may make a decision on the issue—

- (i) on such other medical evidence as they think fit, or
- (ii) without medical evidence.

(7) Within 14 days of making a decision under regulation 50 (entitlement to lower-tier ill-health pension and higher-tier ill-health pension), regulation 52 (early payment of pension to deferred member) or regulation 54 (consequences of review), the scheme manager shall—

- (a) give written notice of it to P, and
- (b) in the case of a decision on an issue wholly or partly of a medical nature, unless paragraph (6) applies, supply P with a copy of the opinion obtained under paragraph (2).

Review of medical opinion

56.—(1) Where—

- (a) new evidence on an issue wholly or partly of a medical nature is presented to the scheme manager by a member (P) in respect of whom a decision has been made under regulations 50, 52 or 54,
- (b) the scheme manager receives that evidence—
 - (i) where a copy of an opinion was supplied in accordance with paragraph (7) of regulation 55 (role of IQMP in determinations by the scheme manager), within 28 days of the receipt by P of that copy, and
 - (ii) in any other case, within 28 days of the receipt by P of notice of the scheme manager's decision, and
- (c) the scheme manager and P agree that the IQMP should be given the opportunity of reviewing that opinion in the light of the new evidence,

the scheme manager shall send a copy of the new evidence to the IQMP and invite the IQMP to reconsider that opinion.

(2) An IQMP's response to an invitation under paragraph (1) shall be in writing.

(3) An IQMP's response under paragraph (2) shall be binding on the scheme manager unless it is superseded by the outcome of an appeal under regulation 57 (appeals against decisions based on medical evidence).

(4) As soon as reasonably practicable after receiving a response under paragraph (2), the scheme manager shall reconsider their decision.

(5) Within 14 days of that reconsideration, the scheme manager shall—

- (a) give written notice to P that they have confirmed their decision or revised their decision (as the case may be),
- (b) if they have revised their decision, supply P with written notice of the revised decision, and
- (c) supply P with a copy of the response under paragraph (2).

Appeals against decisions based on medical evidence

57.—(1) A member (P) who wishes to appeal against a scheme manager's decision on an issue of a medical nature may do so to a board of medical referees in accordance with the provisions of regulations 59 to 61.

(2) Subject to paragraph (3), where a decision—

- (a) is made with regard to an opinion obtained under regulation 55(2) (role of IQMP in determinations by the scheme manager) or medical evidence relied on as mentioned in regulation 55(6), or
- (b) is reconsidered under regulation 56(4) (review of medical opinion) with regard to a response under paragraph (2) of regulation 56,

the scheme manager shall, within 14 days of making, confirming or revising the decision (as the case may be), send to P the documents mentioned in paragraph (4).

(3) Nothing in paragraph (2) requires the supply of documents that have already been supplied under regulation 55(7) or 56(5).

(4) The documents are—

- (a) a copy of the opinion, response or evidence (as the case may be);
- (b) an explanation of the procedure for appeals under this rule; and
- (c) a statement that, if P wishes to appeal against the scheme manager's decision on an issue of a medical nature, P must give written notice to the scheme manager, stating P's name and address and the grounds of appeal, not later than 28 days after P receives the last of the documents required to be supplied under this paragraph, or within such longer period as the scheme manager may allow.

Appeals on other issues

58. Where—

- (a) a member (P) disagrees with an a scheme manager's determination under regulation 55(1) (role of IQMP in determinations by scheme manager), and
- (b) the disagreement does not involve an issue of a medical nature,

P may, by written notice given to the scheme manager within 28 days of receipt of the determination, require the scheme manager to deal with the disagreement by means of the arrangements implemented by them pursuant to the requirements of section 50 of the Pensions Act 1995(a) (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008(b).

(a) 1995 c.26.
(b) S.I. 2008/649.

Appeals to Board of Medical Referees

Notice of appeal

59.—(1) Subject to paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

- (a) the appellant (P)'s name and address, and
- (b) the grounds of the appeal,

must be given to the scheme manager within 28 days of the date on which P receives the documents referred to in regulation 57(4) (appeals against decisions based on medical evidence); and where P receives those documents on different dates, they shall be treated for this purpose as received on the later or latest of those dates.

(2) Where—

- (a) notice of appeal is not given within the period specified in paragraph (1), but
- (b) the scheme manager is of the opinion that P's failure to give it within that period was not due to P's own default,

the scheme manager may extend the period for giving notice to such length, not exceeding six months from the date mentioned in paragraph (1), as the scheme manager considers appropriate.

Reference of appeal to the board

60.—(1) On receiving a notice of appeal, the scheme manager shall supply the Secretary of State with three copies of—

- (a) the notice of appeal,
- (b) the notice of the relevant decision,
- (c) the opinion, response or evidence (as the case may be) supplied to the appellant (P), and
- (d) every other document in their possession or under their control which appears to them to be relevant to the issue that is the subject of the appeal.

(2) The Secretary of State shall refer an appeal to a board of medical referees ("the board").

(3) The board shall consist of not less than three medical practitioners appointed by, or in accordance with arrangements made by, the Secretary of State.

(4) One member of the board shall be a specialist in a medical condition relevant to the appeal.

(5) One member of the board shall be appointed as chairman.

(6) Where there is an equality of votes among the members of the board, the chairman shall have a second or casting vote.

(7) As soon as reasonably practicable after referring an appeal to the board, the Secretary of State shall supply the board's administrator with three copies of every document supplied under paragraph (1).

(8) The board shall arrange for one of their number to review those documents ('the reviewing member').

(9) As soon as reasonably practicable after concluding the review, the reviewing member shall give written notice to the Secretary of State—

- (a) of any other information which the reviewing member considers would be desirable so as to provide the board with sufficient information for the purpose of enabling the board to determine the appeal, and
- (b) if it be the case, that it is the reviewing member's opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded.

(10) On receipt of the reviewing member's notice the Secretary of State shall—

- (a) where the reviewing member has notified the Secretary of State of the desirability of obtaining other information, require the scheme manager to use their best endeavours to obtain that information, and
- (b) where the notice contains an opinion of the description mentioned in paragraph (9)(b), send a copy of it to the scheme manager.

(11) A scheme manager which receives a copy of a reviewing member's opinion shall, as soon as reasonably practicable—

- (a) send a copy of it to P, and
- (b) by written notice to P—
 - (i) advise P that, if P's appeal is unsuccessful, P may be required to pay the scheme manager's costs, and
 - (ii) require P to notify them, within 14 days of the date of their notice, whether P intends to pursue or withdraw the appeal.

(12) A scheme manager which notifies P under paragraph (11)(b) shall inform the Secretary of State of P's response to their request under sub-paragraph (b)(ii); and the Secretary of State shall notify the board accordingly.

Procedure where appeal to be pursued

61.—(1) Where an appeal is to be pursued, the board shall secure that the appellant (P) and the scheme manager ("the parties") have been informed—

- (a) that the appeal is to be determined by the board, and
- (b) of an address to which communications relating to the appeal may be delivered to the board.

(2) Subject to paragraph (5), the board—

- (a) shall interview and medically examine P at least once, and
- (b) may interview or medically examine P or cause P to be interviewed or medically examined on such further occasions as the board thinks necessary for the purpose of determining the appeal.

(3) The board shall appoint, and give the parties not less than two months' notice of, the time and place for every interview and medical examination; and if the board is satisfied that P is unable to travel, the place shall be P's place of residence.

(4) P shall attend at the time and place appointed for any interview and medical examination by the board or any member of the board or any person appointed by the board for that purpose.

(5) If—

- (a) P fails to comply with paragraph (4), and
- (b) the board is not satisfied that there was a reasonable cause for the failure,

the board may dispense with the interview and medical examination, and may determine the appeal on such information as is then available.

(6) Any interview under this regulation may be attended by persons appointed for the purpose by the scheme manager or by P or by each of them.

(7) Where either party intends to submit written evidence or a written statement at an interview held under paragraph (2), the party shall, subject to paragraph (8), submit the evidence or statement to the board and to the other party not less than 28 days before the date appointed for the interview.

(8) Where any written evidence or statement has been submitted under paragraph (7) less than 28 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the board and the party submitting the first-mentioned evidence or statement at any time up to, and including, that date.

(9) Where any written evidence or statement is submitted in contravention of paragraph (7), the board may postpone the date appointed for the interview and require the party who submitted the evidence or statement to pay such reasonable costs of the board and of the other party as arise from the postponement.

The board's report

62.—(1) The board shall supply the Secretary of State with—

- (a) a written report of its decision on the relevant medical issues, and
- (b) if the board is of the opinion that the appeal was frivolous, vexatious or manifestly ill-founded, a statement to that effect (which may form part of the report).

(2) The Secretary of State shall supply the parties with a copy of the report and of any separate statement under paragraph (1)(b).

Reconsideration by the board

63.—(1) Where the parties have received a copy of the report supplied under regulation 62 (the board's report) and—

- (a) the parties agree that the board has made an error of fact which materially affects the board's decision;
- (b) the scheme manager shall within 28 days of receipt of the report, supply the Secretary of State with two copies of a statement agreed between the parties setting out—
 - (i) the error of fact;
 - (ii) the correct fact, andinvite the board to reconsider its decision.

(2) The Secretary of State shall within 14 days of receipt of the statement supply a copy of it to the board.

(3) As soon as reasonably practicable after receiving the statement, the board shall reconsider its decision.

(4) Within 14 days of that reconsideration the board shall—

- (a) give written notice to the Secretary of State that it has confirmed its decision, or revised its decision (as the case may be), and
- (b) if it has revised its decision, supply the Secretary of State with a written report of its revised decision.

(5) The Secretary of State shall supply to the appellant and the scheme manager a copy of the written notice confirming the board's decision, or a copy of the written report of the board's revised decision (as the case may be).

Fees and allowances payable to the board

64.—(1) There shall be paid to the board and the reviewing member—

- (a) such fees and allowances (including those payable to the reviewing member for work undertaken on the review of documents under regulation 60(8) (reference of appeal to the board)) as are determined in accordance with arrangements made by the Secretary of State, or
- (b) where no such arrangements have been made, such fees and allowances as the Secretary of State may from time to time determine.

(2) The fees and allowances payable under paragraph (1) shall—

- (a) be paid by the scheme manager, and
- (b) be treated for the purposes of regulation 65 (expenses of each party) as part of the scheme manager's expenses.

Expenses of each party

65.—(1) Subject to regulation 61(9) (procedure where appeal to be pursued) and paragraphs (2) to (5) below, the expenses of each party to the appeal shall be borne by that party.

(2) Where the board—

- (a) determines an appeal in favour of the scheme manager, and
- (b) states that, in its opinion, the appeal was frivolous, vexatious or manifestly ill-founded,

the scheme manager may require the appellant (P) to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under regulation 10(1), as the scheme manager considers appropriate.

(3) Where—

(a) P gives notice to the board—

- (i) withdrawing the appeal;
- (ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under regulation 61(3) (procedure where appeal to be pursued), and

the notice is given less than 22 working days before the date appointed under regulation 7(3); or

- (b) P's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed under regulation 61(3) less than 22 working days before the date appointed,

the scheme manager may require P to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under regulation 64(1) (fees and allowances payable to the board), as the scheme manager considers appropriate.

(4) Where the board—

- (a) determines an appeal in favour of P, and
- (b) does not otherwise direct,

the scheme manager shall refund to P the amount specified in paragraph (5).

(5) The amount is the total of—

- (a) any personal expenses actually and reasonably incurred by P in respect of any interview under regulation 61(2) (procedure where appeal to be pursued), and
- (b) if any such interview was attended by a qualified medical practitioner appointed by P, any fees and expenses reasonably paid by P in respect of such attendance.

(6) For the purposes of paragraphs (2) and (4) any question arising as to whether the board's determination is in favour of the scheme manager or of P shall be decided by the board or, in default, by the Secretary of State.

Notices etc

66. Any notice, information or document which an appellant (P) is entitled to receive for any purpose of regulations 54 to 65 shall, unless the contrary is proved, be treated as having been received by P if it was posted in a letter addressed to P at P's last known place of residence.

CHAPTER 5

Payment of retirement benefits

Commutation of part of pension

67.A member may opt to exchange part of a retirement pension to which the member would otherwise be entitled for a lump sum.

(1) The option may only be exercised—

- (a) by written notice to the scheme manager which sets out the amount to be commuted; and

(b) before the first payment of the pension is made.

(2) If a member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member is to be paid a lump sum of £12.

(3) A member may not exchange more than 25% of the pension for a lump sum under this regulation or if less the proportion of the pension to the extent that it would result in a scheme chargeable payment^(a) for the purposes of Part 4 of the FA 2004.

(4) This regulation does not apply to a pension derived from pension credit rights if the pension debit member from whose rights the pension is derived has received a lump sum under this regulation before the date on which the pension sharing order takes effect.

(5) This regulation does not apply to a higher tier ill-health pension.

CHAPTER 6

Allocation of part of pension

Meaning of "beneficiary"

68.In this Chapter, "beneficiary", in relation to a member who makes an allocation election (P) means a person who—

- (a) on P becoming entitled to immediate payment of a retirement pension, would be the beneficiary of an allocated pension; or
- (b) on P's death, would be the beneficiary of a surviving adult's pension.

Election to allocate pension

69.—(1) An active member or deferred member may elect to allocate up to a third of the amount of the annual rate of any of the member's full retirement pensions under this scheme to a beneficiary ("allocation election").

(2) The persons in whose favour an allocation election may be made are—

- (a) the spouse, civil partner or nominated partner of the active member or the deferred member, or
- (b) with the consent of the scheme manager, any other person who is substantially dependent on the active member or deferred member and would have been a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to FA 2004 if the member had died when the election was made.

(3) The scheme manager may withhold consent under paragraph (2)(b) if they are not satisfied that the person is substantially dependent on the active member or deferred member.

(4) If a member wishes to allocate pension to more than one person, a separate election must be made in respect of each person.

(5) An allocation election may not be made in respect of an ill-health award.

(6) Where more than one portion of a particular pension is allocated, the total of the allocated portions of that pension must not exceed the portion of that pension retained by the active or deferred member.

Procedure for allocation election

70.—(1) The active or deferred member must—

- (a) satisfy the scheme manager that that member is in good health and has a normal life expectancy; and
- (b) give the scheme manager written notice of an allocation election specifying—
 - (i) the portion,

(a) definition of "scheme chargeable payment" in section 241 of Finance Act 2004.

- (ii) the name and address of the intended beneficiary, and
 - (iii) the sex of the beneficiary.
- (2) The notice of allocation, which may be sent by post, must be given—
- (a) if the pension is a deferred pension, not earlier than two months before the pension comes into payment;
 - (b) in any other case, not earlier than two months before the active member's intended retirement.
- (3) Where the requirements in paragraphs (1) and (2) have been satisfied, the scheme manager must notify the member that they have accepted the allocation election.
- (4) An election has no effect if the member or the beneficiary dies before the notice of allocation takes effect.

Effect of allocation

71.—(1) If an allocation election takes effect, the member's full retirement pension is reduced accordingly.

(2) If a notice of allocation takes effect, it does so on the day on which the retirement pension comes into payment or, as the case may be, on the day on which the member retires.

(3) Where—

- (a) a notice of allocation has taken effect,
- (b) the retirement pension to which it relates has become payable, and
- (c) the beneficiary survives the pensioner,

the scheme manager shall, from the date of the pensioner's death, pay the beneficiary a pension which is the actuarial equivalent of the allocated portion.

(4) Where more than one portion of a member's full retirement pension has been allocated, a separate calculation shall be made under paragraph (3) in respect of each allocation.

(5) The actuarial equivalent of an allocated portion shall be calculated in accordance with actuarial guidance in force when the notice of allocation takes effect; and the calculation shall be made by reference to the ages of the pensioner and the beneficiary at the date on which the notice of allocation was given.

(6) Where—

- (a) a notice of allocation has taken effect, and
- (b) the beneficiary pre-deceases the pensioner,

the scheme manager shall pay to the pensioner (distinguishing it from any other pension payable to that pensioner) the portion of pension that had been allocated ("the failed allocation pension").

(7) Where paragraph (6) applies, the pensioner is not entitled to recover from the scheme manager the amount of any deduction made in respect of the failed allocation pension.

(8) An allocation ceases to have effect for the purposes of this regulation if it would result in a pension being paid under this regulation to a beneficiary who is neither—

- (a) the member's spouse or civil partner on—
 - (i) the date on which the member becomes entitled to the pension; or
 - (ii) when the member dies; nor
- (b) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to the FA 2004 when the member dies.

Adjustment of allocated benefit (members who have reached 75)

72. The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in such manner as is determined by the scheme manager if—

- (a) a member who made the allocation election dies after reaching 75, and
- (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants' scheme pension under section 167 of FA 2004 (the pension death benefit rules)(a).

PART 6

Death benefits

CHAPTER 1

Interpretation

Meaning of “surviving partner”

73.—(1) For the purposes of these Regulations, a person is a surviving partner in relation to a member if, at the date of the member's death, that person is—

- (a) the spouse or civil partner of the member;
- (b) the person nominated by the member who—
 - (i) has been living with the member but is not married or in a civil partnership with that member; and
 - (ii) at the date of the member's death—
 - (aa) is not the spouse or civil partner of any other person,
 - (bb) is registered with the scheme manager as the scheme member's nominated partner,
 - (cc) could enter into a marriage or civil partnership under the law of England and Wales with the member but has not done so;
 - (dd) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and
 - (ee) is in a long-term relationship with the scheme member.

(2) In paragraph (1)—

- (a) “long-term relationship” means a relationship that has continued, to the exclusion of any other relationship, for a period of at least two years ending with the date on which the question of the person's status in relation to the member falls to be considered, or such shorter period as the scheme manager may in any particular case think fit; and
- (b) “nominated partner” means a person who satisfies the requirements in paragraph (1)(b);

(3) A nomination for the purposes of paragraph (1)(b) (“the nomination”) may be revoked at any time by the member by signed notice to the scheme manager in such form as the scheme manager requires or is willing to accept.

(4) The nomination ends if the member marries or enters into a civil partnership with the nominated partner.

Meaning of “initial period”

74. For the purposes of this Part, the “initial period” is the period of 13 weeks following the death of the member during which a bereavement pension may be payable to any surviving partner or eligible child.

(a) See paragraphs 16 to 16C of Schedule 28 to that Act.

CHAPTER 2

Pensions for surviving partners

Surviving partner's pension payable on death of active member

75.—(1) This regulation applies in relation to the surviving partner of a member who dies if, at the date of death, the member is an active member and has qualifying service of more than 3 months.

(2) The surviving partner is entitled to a pension for life of an amount equal to half the pension which the member would have been entitled to draw if the member had been retired on the grounds of ill-health with the award of a higher tier ill-health pension on the date of the member's death.

Surviving partner's pension payable on death of deferred member

76.—(1) This regulation applies on the death of a deferred member.

(2) The annual rate of surviving partner's pension is an amount equal to half of the sum of the provisional amount of deferred standard earned pension specified in the deferred member's account and the amount of the added pension (if any) specified in the added pension account.

Surviving partner's pension payable on death of pensioner member

77.—(1) This regulation applies on the death of a pensioner member (P).

(2) The annual rate of a surviving partner's earned pension is an amount equal to 50% of the amount of full retirement standard earned pension specified in P's full retirement account.

(3) Where an early payment reduction had been made on P's retirement, the amount in (2) is 50% of the amount of the full retirement standard earned pension that would have been payable if that reduction had not been made.

(4) The annual rate of a surviving partner's added pension is an amount equal to 50% of the amount of full retirement added pension specified in P's full retirement account.

(5) Where an early payment reduction had been made on P's retirement, the amount in (4) is 50% of the amount of the full retirement added pension that would have been payable if that reduction had not been made.

Bereavement pension: surviving partner

78.—(1) The surviving partner of an active member, or a pensioner member, is entitled to a bereavement pension for 13 weeks following the death of the member.

(2) If the member was an active member at the date of the member's death, the weekly amount of the bereavement pension is equal to the weekly amount of pensionable pay which the member was paid at the date of the member's death.

(3) If the member was a pensioner member at the date of the member's death, the weekly amount of the bereavement pension is equal to the weekly amount of the pension to which the member was entitled at the date of the member's death.

Reduction in pensions in cases of wide age disparity

79.—(1) If on the death of a member a surviving partner's pension is payable to a person ("the surviving partner") who is more than 12 years younger than the member, the annual rate of that pension is reduced by the appropriate amount.

(2) The appropriate amount is the lower of—

- (a) 50% of the amount of the annual rate of the pension so calculated; or
- (b) $2.5 \times (N-12)\%$ of that amount,

where N is the number of whole years by which the surviving partner is younger than the member.

CHAPTER 3

Pensions for eligible children

Eligible child's pension

80.—(1) If a member dies leaving an eligible child, an eligible child's pension and, depending on the deceased member's circumstances, a bereavement pension are payable in respect of the child.

(2) If the child ceases to be an eligible child after the date of the member's death, the pension ceases to be payable unless and until the child becomes an eligible child again, but, if the child does not cease to be an eligible child, the pension is payable for life.

(3) This regulation is subject to regulation 89 (children born after the member's death).

Meaning of "eligible child"

81.—(1) In these Regulations, "child", in relation to a deceased member, means—

- (a) a natural child, step-child or adopted child of the member; or
- (b) the natural child, step-child or adopted child of the member's spouse, civil partner or nominated partner; or
- (c) any natural child of the member who was born after the member's death and with whom the child's mother was pregnant at the date of the member's death.

(2) A child of the deceased member is an "eligible child" if—

- (a) the child was at the date of the deceased member's death financially dependent on the deceased member;
- (b) the child is not married or in a civil partnership; and
- (c) the child satisfies any of the conditions A to D.

(3) Condition A is that the person has not reached the age of 18.

(4) Condition B is that the person is in full-time education and has not taken up paid employment or reached the age of 18.

(5) Condition C is that the person is in full-time education or on a course of at least 1 year's duration and has not reached the age of 23.

(6) Condition D is that the person is unable to engage in gainful employment because of incapacity of mind or body and for this reason the child is dependent on the member at the date of the deceased's death.

Eligible child's pension on death of active member

82.—(1) This regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is an active member and has qualifying service of more than 3 months.

(2) The eligible child is entitled to an annual pension of an amount equal to the specified proportion of the pension which the member would have been entitled to draw if the member had been retired on the grounds of ill-health with the award of a higher tier ill-health pension on the date of the member's death.

Eligible child's pension payable on death of deferred member

83.—(1) This regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is a deferred member.

(2) The eligible child is entitled to an annual pension of an amount equal to the specified proportion of the sum of the provisional amount of deferred standard earned pension specified in

the deferred member's account and the amount of the added pension (if any) specified in the added pension account.

Eligible child's pension payable on death of pensioner member

84.—(1) The regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is a pensioner member (P).

(2) The annual rate of an eligible child's earned pension is an amount equal to the specified proportion of the amount of full retirement standard earned pension specified in P's full retirement account.

(3) If an early payment reduction had been made on P's retirement, the amount in (2) is the specified proportion of the amount of the full retirement standard earned pension that would have been payable if that reduction had not been made.

(4) The annual rate of an eligible child's added pension is an amount equal to the specified proportion of the amount of full retirement added pension specified in P's full retirement account.

(5) If an early payment reduction had been made on P's retirement, the amount in (4) is the specified proportion of the amount of the full retirement added pension would have been payable if that reduction had not been made.

Specified proportion

85.—(1) The specified proportion is 25% where there is one eligible child at the date of the member's death.

(2) If there is more than one eligible child at the date of the member's death the specified proportion is 50% of the pension mentioned in regulations 82, 83 and 84 divided by the number of eligible children so that each eligible child receives an equal share.

(3) If a person ceases to be an eligible child, that person's pension will cease to be paid and where there is still more than one eligible child, the amount of that pension will be distributed between the remaining eligible children (if any).

Increase in eligible child's pension where there is no surviving partner

86.—(1) The amount of an eligible child's pension is increased if at the date of the member's death there was no person who was entitled to a surviving partner's pension.

(2) An eligible child is also entitled to the amount of pension which the surviving partner would have received—

(a) under regulation 75 if the member (P) was an active member at the date of P's death;

(b) under regulation 76 if P was a deferred member at the date of P's death;

(c) under regulation 77 if P was a pensioner member at the date of P's death.

(3) If there is more than one eligible child at the date of P's death, the amount ascertained in accordance with paragraph (2) is divided between the number of eligible children so that each eligible child receives an equal share.

(4) If a person ceases to be an eligible child, that person's share of the amount ascertained in accordance with paragraph (2) will cease to be paid and if there is still more than one eligible child that share will be distributed between the remaining eligible children.

Increase in eligible child's pension where member was pension debit member

87. If the member's benefits were at the date of death subject to a reduction under section 31 of the WRPA, any eligible child's pension payable under regulations 82, 83 and 84 shall be calculated as though that reduction had not been made.

Bereavement pension: eligible child

88.—(1) If a surviving partner's pension is not payable on the death of the member, a bereavement pension is payable to an eligible child on the death of an active member or a pensioner member.

(2) If the surviving partner dies before the end of the initial period, the bereavement pension will be paid to any eligible child for the remaining part of the initial period or if earlier, until the child ceases to be eligible for an eligible child's pension.

(3) If the member was an active member at the date of the member's death, the weekly amount of the bereavement pension payable under paragraph (1) is equal to the weekly amount of the pensionable pay which the member was paid at the date of the member's death.

(4) If the member was a pensioner member, the weekly amount of the bereavement pension payable under paragraph (1) is equal to the weekly amount of the pension to which the member was entitled at the date of the member's death.

(5) If there is more than one eligible child, the weekly amount of the bereavement pension is divided by the number of eligible children so that each receives an equal share.

(6) If a person ceases to be an eligible child before the end of the initial period, that person's share of the bereavement pension will cease to be paid and the share will be distributed between the remaining eligible children (if any).

Children born after the member's death

89.—(1) For the purposes of regulation 85 (specified proportion), a member is only treated as leaving a child who is born after the member's death if the child's mother is pregnant with the child as at the date of the member's death.

(2) No pension is payable under that regulation in respect of any period before the child's birth.

(3) But in determining the number of pensions payable to eligible children immediately after the date of the member's death for the purposes of regulation 85, a pension in respect of a child born after the member's death is treated as so payable.

CHAPTER 4

Lump sum death benefits

Meaning of "final pay"

90.—(1) In this Chapter, "final pay" means the greater of the following amounts—

- (a) the amount of the member's pensionable pay during the member's continuous period of pensionable service in the period of 365 days ending with the last day of pensionable service; and
- (b) the amount of the member's pensionable pay during the member's continuous period of pensionable service in the period of 3 years ending with the last day of pensionable service divided by 3.

(2) If the member's continuous period of pensionable service was less than 365 days, the amount in paragraph (1)(a) is an amount equal to the member's annualised final pay;

(3) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater—

- (a) if the member's continuous period of pensionable service was less than 3 years the amount in paragraph (1)(b) is the total pensionable pay received for that service divided by the number of years in pensionable service calculated in accordance with regulation 144 (calculation of periods of membership and service); and
- (b) if a member is treated as receiving assumed pensionable pay under regulation 18(2)(meaning of "assumed pensionable pay") for any period included in paragraph

(1)(a) or (1)(b), pensionable pay in this regulation includes that assumed pensionable pay.

(4) But if the continuous period of pensionable service includes the day 29 February, paragraph (1)(a) and (2) have effect with the substitution for “365” of “366”.

Meaning of “annualised final pay”

91.—(1) For the purpose of this Chapter, a member’s annualised final pay is $FP \times 365/N$ where—

- (a) FP is the member’s pensionable pay during the member’s continuous period of pensionable service; and
- (b) N is the number of days in that period.

(2) But if the continuous period of pensionable service includes the day 29 February, paragraph (1) has effect with the substitution for “365” of “366”.

Person to whom lump sum death benefit payable

92.The scheme manager may, at its absolute discretion, pay the lump sum death benefit to or for the benefit of the member’s nominee, personal representatives or any person appearing to the scheme manager to have been a relative or dependent of the member.

Lump sum payable on death of active member

93. If an active member dies, the amount of the lump sum death benefit is an amount equal to three times the amount of the member’s final pay.

Lump sum payable on death of pensioner member (death out of service)

94.—(1) This regulation applies if a pensioner member dies within 5 years of the pension coming into payment and the member is not also an active member in relation to another scheme employment.

(2) The amount of the lump sum death benefit is equal to—

- (a) the total annual amount of the member’s pensions, multiplied by 5; less
- (b) the total amount of any pension payments made to the member under this scheme.

(3) In paragraph (2)(a), “total annual amount of the member’s pensions” means the total of the annual rate of each description of full retirement pension shown in the member’s pension accounts calculated as if the beginning date for that pension were the date of the member’s death after subtracting the amount of any commutation or allocation made at the time of retirement but without subtracting any early payment reduction made at that time.

(4) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are disregarded.

Lump sum payable on death of pension credit member

95.—(1) Paragraph (2) applies if a pension credit member dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death benefit is equal to the product of 2.25 and the annual rate of the pension credit member’s pension to which that member would have been entitled if that member had been entitled to the immediate payment of a pension at the date of death.

(3) Paragraph (4) applies if a pension credit member dies after the pension credit member’s pension becomes payable and before attaining the age of 75.

(4) The amount of the lump sum death benefit is equal to the amount of pension credit member’s pension that would have been payable to the member during so much of the period of 5 years

beginning with the date on which the pension became payable as falls after the date of the member's death.

(5) In paragraph (4), "amount of pension credit member's pension" means the annual amount of that pension at the date of the pension credit member's death.

CHAPTER 5

Payment of death benefits

Payment of pensions under this Part

96.—(1) A surviving partner's pension or eligible child's pension is payable from the day after the date of the member's death.

(2) An eligible child's pension payable in respect of an eligible child aged under 18 must be paid to such other person as the scheme manager determines and that person shall apply it for the minor's benefit in accordance with the scheme manager's directions.

Payment in respect of pension credit member

97. If the deceased member was a pension credit member entitled to 2 or more pension credits—

- (a) benefits under this scheme are payable in respect of the member as if the member were 2 or more members, each being entitled to one of the pension credits(a); and
- (b) the amounts payable are determined accordingly.

Dependants' pensions and eligible child's pensions: suspension and recovery

98.—(1) This regulation applies if—

- (a) on a member's death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) cease paying the pension; and
- (b) recover any payment made under the award.

(3) Paragraph (2) does not affect the scheme manager's right to recover a payment or overpayment in any case where the scheme manager considers it appropriate to do so.

Provisional awards of eligible child's pensions: later adjustments

99.—(1) This regulation applies where after the death of an active member, deferred member or pensioner member—

- (a) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children as at the date of the member's death and that there were then no other eligible children; and
- (b) subsequently it appears—
 - (i) that a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
 - (ii) that on that date a further person was an eligible child; or
 - (iii) that a child who was born after the member's death is an eligible child.

(2) The scheme manager may make such adjustments in the amount of the pensions payable in respect of the children in question as are required in view of the facts as they subsequently appear.

(a) The result is that 2 or more pensions or lumps sums may be payable to the one pension credit member.

(3) Paragraph (2) does not affect the scheme manager's right to recover a payment or overpayment in any case where the scheme manager considers it appropriate to do so.

Adjustment of benefits to comply with the Finance Act 2004 where members die over 75

100.—(1) This regulation applies if—

- (a) a member dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 of FA 2004 (the pension death benefit rules)(see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) The benefit payable to the person may be adjusted in such manner as is determined by the scheme manager.

PART 7

Benefits for pension credit members

Entitlement to pension credit members' pension

101. A pension credit member (P) of this scheme is entitled to the immediate payment for life of a pension credit member's pension under this scheme if—

- (a) P has reached deferred pension age;
- (b) the pension sharing order under which P is entitled to the pension credit has taken effect; and
- (c) P has claimed payment of the pension.

Annual rate of pension credit member's pension

102. The annual rate of a pension credit member's pension is found by—

- (a) taking the amount of credited pension specified in the pension credit member's account;
- (b) subtracting the commutation amount (if any) specified in that account in relation to that amount.

More than one pension credit

103.If a pension credit member is entitled to 2 or more pension credits—

- (a) benefits are payable to the member under this scheme as if the member were 2 or more members, each being entitled to one of the pension credits(a); and
- (b) the amounts payable are determined accordingly.

Reduction in pension debit member's benefits

104. The benefits to which a pension debit member is entitled under this Scheme are subject to the reduction to be made under section 31 WRPA 1999.

Pension credit member's rights

105. Benefits that are attributable to a pension credit may not be aggregated with any other benefit to which the pension credit member is entitled under this scheme.

(a) The result is that 2 or more pensions or lump sums may be payable to the one pension credit member.

Commutation of part of pension

106.—(1) A pension credit member who becomes entitled to payment of a pension credit member's pension under this scheme may opt to exchange part of the pension for a lump sum.

(2) The option may only be exercised by notice —

(a) to the scheme manager not earlier than 4 months before—

(i) the date on which the pension sharing order comes into effect; or

(ii) the date on which the person attains deferred pension age;

whichever date is later; and

(b) in such form as the scheme manager requires; and

(c) before the first payment of the pension is made.

(3) If a pension credit member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member is to be paid a lump sum of £12.

(4) The commuted portion must not exceed one quarter of the amount of the pension.

(5) A pension credit member may not exchange pension for a lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the FA 2004 (see section 241 of that Act).

(6) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under Part 5 before the date on which the pension sharing order takes effect.

PART 8

Contributions

CHAPTER 1

Members' and employers' contributions

Members' contributions

107.—(1) An active member of this scheme must pay contributions to the scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which April 1st falls for that employment (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement of that membership).

(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate specified in the appropriate column for the year to be considered applicable to the band of pensionable pay specified in the first column into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2015-31st March 2016</i>	<i>Contribution rate 1st April 2016-31st March 2017</i>	<i>Contribution rate 1st April 2017-31st March 2018</i>	<i>Contribution rate 1st April 2018-31st March 2019</i>
£0-£xk	Tbc	Tbc	Tbc	Tbc
£xk-£yk	Tbc	Tbc	Tbc	Tbc
£yk-£zk	Tbc	Tbc	Tbc	Tbc
£zk+	Tbc	Tbc	Tbc	Tbc

(3) The amount of pensionable pay of a retained or volunteer firefighter for the purposes of the first column of the table shall be that firefighter's reference pay.

(4) The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the table shall be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

(5) Where there is a change in employment, or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount of the pensionable pay falls into a different contribution rate band the scheme manager must determine that this rate should be applied and the scheme manager must inform the member of the contribution rate applicable and the date from which it is to be applied.

(6) On the first day of the pay period in which 1st April 2016 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the first column of the table in paragraph (2) are increased by applying the appropriate increase, rounding the result down to the nearest £100 and adding £1 to the first figure in each band apart from band 1.

(7) In paragraph (6) "the appropriate increase" means the amount (where it is greater than zero) by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year [to be uprated in accordance with the method selected after a further consultation]

(8) For the purposes of identifying which is the applicable contribution rate under this regulation, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave;
- (g) absence due to a trade dispute;
- (h) circumstances specified by the scheme manager in a particular case.

Contributions during absence from work other than child-related leave and reserve forces service leave

108.—(1) An active member away from employment by reason of illness or injury must pay contributions in accordance with regulation 107 on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period that member may pay contributions at the contribution rate ascertained in accordance with regulation 107 multiplied by the amount of pay received immediately before the cessation of pay and if required, the appropriate amount of employer contribution.

(3) A member is treated as being an active member during any absence due to a trade dispute or where the scheme manager permits the member is to be treated as an active member during a period of authorised unpaid absence.

(4) Where paragraph (3) applies, the member may elect to pay the contributions at the contribution rate ascertained in accordance with regulation 107 multiplied by the assumed pensionable pay which the member is treated as receiving [and if required, the appropriate amount of employer contribution.]

(5) Where paragraph (3) applies and the member decides to pay the contributions mentioned in paragraph (4), the contributions must be paid before the end of the period of 6 months starting with the date on which the member is treated as receiving assumed pensionable pay.

Contributions during absence from work on reserve forces service leave

109.—(1) An active member (P), who is on reserve forces service leave and who is treated as receiving assumed pensionable pay, must pay contributions at the contribution rate ascertained in accordance with regulation 107 (“members’ contributions”).

(2) The amount of the contributions paid is calculated by multiplying the contribution rate by the assumed pensionable pay, or if the total of the actual pay received and any payment made by the authority is less by the total amount received.

Contributions during child-related leave

110.—(1) An active member on child-related leave must pay contributions in accordance with regulation 107 on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the member’s actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that member is treated for the purposes of these Regulations as if that member had paid contributions for that unpaid period under paragraph (1).

(3) An active member on additional maternity leave, additional paternity leave, additional adoption leave or parental leave who is not entitled to receive any pensionable pay (including statutory pay) for any of the period of child-related leave, may elect to pay contributions at the contribution rate ascertained in accordance with regulation 107 multiplied by the amount of assumed pensionable pay which the member is treated as receiving.

(4) An election to pay contributions may only be made before the end of the period of 30 days starting with the date on which that member returns to work after the period of child-related leave, or if the member does not return to work, the day on which the member ceases to be employed by the authority.

CHAPTER 2

Deduction and payment of contributions

111.—(1) The contributions required to be paid under regulations 108, 109, and 110 may be deducted by the authority from each instalment of pensionable pay as it becomes due unless another method of payment has been agreed between the authority and the active member.

(2) Contributions required to be paid under regulation 109(1) may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil interests) Act 1951(a), to the extent that they are payable in respect of the same period.

(3) Contributions which the active member has elected to pay under regulations 108 and 110 may be paid by a lump sum or by deductions from instalments of pensionable pay as agreed between the authority and the active member.

PART 9

Transfers

CHAPTER 1

Preliminary

Interpretation

112. In this Part—

“guarantee date” has the meaning given in section 93A(2) of PSA 1993;

(a) 1951 c.65.

“statement of entitlement” has the meaning given in section 93A(1) of PSA 1993;

“transfer value” means an amount equal to—

- (a) the guaranteed cash equivalent as defined in section 94(1A) of PSA 1993 calculated in accordance with regulations made under section 97 of that Act, or
- (b) a sum representing the total of the amount in paragraph (a) and such other amount as may be payable by virtue of regulation 116 (calculating amount of transfer value); and

“transfer value payment” means—

- (c) in Chapter 2, payment of a transfer value in respect of a member’s right to accrued benefits under this scheme; and
- (d) in Chapter 3, payment of a transfer value in respect of a member’s accrued rights under a pension scheme mentioned in regulation 120 (right to request acceptance of transfer value payment).

CHAPTER 2

Transfers out

Right to require payment of a transfer value

113.—(1) This Chapter applies to a deferred member to whom Chapter 4 of Part 4 of PSA 1993 (transfer values) applies and to a deferred member who does not satisfy the requirements of section 71(1) (Basic principle as to short service benefit).

(2) This Chapter—

- (a) supplements the rights conferred by or under that Chapter; and
- (b) is without prejudice to that Chapter.

(3) A deferred member, to whom this Chapter applies, is entitled to require payment of a transfer value in respect of the member’s right to accrued benefits under this scheme.

(4) Paragraph (3) does not apply to benefits that are attributable to a pension credit.

(5) Subject to paragraph (6) a deferred member who does not satisfy the requirements of section 71(1) may apply for the payment of a transfer value in respect of the member’s right to accrued benefits under this scheme in accordance with the procedure in Part 4 of the PSA 1993.

(6) A deferred member to whom paragraph (5) applies—

- (a) must exercise the right to apply for the payment of a transfer value on the earlier of the day before the deferred member attained the deferred pension age and the period of 12 months beginning with the date on which the deferred member ceased to be an active member of the scheme;
- (b) is not required to comply with the requirement in section 95(7) (Ways of taking right to cash equivalent) that the right to exercise the right to require a cash equivalent to be used for the payment of a transfer value is to be exercised within a certain period.

Applications for statements of entitlement

114.—(1) A deferred member who requires a transfer value payment may apply to the scheme manager under section 93A(1) of PSA 1993 for a statement of entitlement.

(2) The application must be in writing.

(3) The member may withdraw the application by notice to the scheme manager at any time before the statement is provided.

(4) If the member makes more than two applications in the period of 12 months beginning with the date of the first application without withdrawing these applications, the scheme manager may require the member to pay a reasonable fee on making a further application within this period(a).

(a) This provision overrides regulation 6(3) of SI 1996/1847.

Applications for a transfer value payment

115.—(1) A deferred member who has been provided with a statement of entitlement may apply to the scheme manager under section 95 of PSA 1993 for a transfer value payment.

(2) The application must specify the pension scheme or other pension arrangement to which the transfer value should be paid.

(3) The member may withdraw the application by notice to the scheme manager in accordance with section 100(1) of PSA 1993.

(4) Under section 100(2) of that Act, a withdrawal is of no effect if an agreement for the use of the whole or part of the transfer value has already been entered into with a third party.

Calculating amount of the transfer value

116.—(1) If a transfer value payment is made later than 6 months after the guarantee date, the amount of the transfer value must be increased in accordance with regulations made under section 97 of PSA 1993.

(2) If a transfer value is less than the minimum transfer value, the amount of the transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(3) For the purposes of paragraph (2), “the minimum transfer value” is the sum of the following amounts—

- (a) the amount of the member’s contributions under Part 8 (contributions); and
- (b) the amount of any transfer value payments and cash transfer sums accepted in relation to the member under this Part.

Ways in which a transfer value payment may be used

117.—(1) A member may only require the scheme manager to use a transfer value payment in a way specified in section 95(2) of PSA 1993.

(2) The whole of the transfer value must be applied.

(3) A transfer value payment may only be made to—

- (a) a registered pension scheme; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004 (see section 169(2) of that Act).

Effect of transfers-out

118. If a transfer value payment is made under this Chapter in respect of a member’s accrued rights under this scheme, those rights are extinguished.

CHAPTER 3

Transfers in

Interpretation

119. In this Chapter—

“transfer value request” means a request under regulation 120(2);

“transfer date” means the day on which the transfer value payment is received by the scheme manager.

Right to request acceptance of transfer value payment

120.—(1) This Chapter applies to an active member who has accrued rights under—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a personal pension scheme; or
- (c) recognised overseas pension scheme which satisfies prescribed requirements under section 150 of the Finance Act 2004.

(2) The member may request that the scheme manager accept payment of a transfer value in respect of some or all of those accrued rights.

(3) In this regulation, “accrued rights” do not include rights that are attributable to a pension credit.

Procedure for making a transfer value request

121.—(1) A transfer value request—

- (a) must be in writing;
- (b) must specify—
 - (i) the pension scheme from which the transfer value payment is requested to be made; and
 - (ii) the anticipated amount of the payment.

(2) Subject to paragraph (3), a transfer value request must be made before the beginning of the period of one year ending with the date on which the member reaches normal pension age.

(3) A request for acceptance of a transfer value payment from a non-occupational pension scheme must be made during the period of 12 months beginning with the day on which the member becomes an active member or such longer period as the scheme manager may allow.

(4) On receiving a transfer value request, the scheme manager may accept the transfer value payment.

Amount of transferred pension

122.For the scheme year in which the transfer date falls, the amount of transferred pension a member is entitled to count is an amount calculated in accordance with actuarial guidance.

CHAPTER 4

Transfer of pension account to another scheme manager

Requirement for scheme manager to provide a certificate

123.—(1) A scheme manager must provide an active member who has ceased to be employed by that authority in scheme employment and has taken up scheme employment with another authority, with a certificate stating—

- (a) the entries in the pension account, or pension accounts if more than one, at the date of the certificate;
- (b) the period of service in the scheme employment, or employments, with the authority.

(2) A scheme manager must provide a deferred member who takes up scheme employment with another authority after any gap in pensionable service not exceeding 5 years, with a certificate stating—

- (a) the entries in the pension account, or pension accounts if more than one, at the date of the certificate;
- (b) the period of service in the scheme employment, or employments, with the authority;
- (c) the date on which the member left scheme employment with that authority.

(3) The scheme manager must provide a certificate under this regulation—

- (a) within 3 months of the date on which the active member leaves employment; or
- (b) within 3 months of the date on which the deferred member notifies the scheme manager of the new scheme employment.

Request to confirm details on certificate

124. Where a member has been supplied with a certificate under regulation 123 (Requirement for scheme manager to provide a certificate) and is dissatisfied with the information specified in the certificate, that member may within the period of 3 months starting from the date on which the certificate was received, request the scheme manager who provided the certificate to confirm the accuracy of the information contained in it or to provide an amended certificate.

Appeal concerning entries on the certificate

125.—(1) Where a member (P) is not satisfied with the entries on the certificate, or amended certificate, after P has made a request under regulation 124 (Request to confirm details on certificate), P may, by written notice given to the scheme manager within 28 days of the notification date, require the scheme manager to deal with the disagreement by means of arrangements implemented by them pursuant to the requirements of section 50 of the Pensions Act(**a**) (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008(**b**).

(2) In paragraph (1) “the notification date” is the date on which P is treated as having received from the scheme manager confirmation of the certificate provided or provision of an amended certificate following P’s request under regulation 124 (request to confirm details on certificate).

Transfer of pension account

126.—(1) A member who has been provided with a certificate under paragraph (1) or (2) of regulation 123 (requirement for scheme manager to provide a certificate) may give the certificate to that member’s new employer.

(2) The new employer must request the scheme manager who gave the certificate to confirm that the member has provided certificates in respect of all pension accounts for which that authority was the scheme manager.

(3) After the confirmation has been provided by the scheme manager, the new employer must transfer the appropriate entries from the certificate(s) provided to the new active member’s pension account which has been established under regulation 25(establishment of active member’s account).

(4) When the transfer of entries has been completed under paragraph (3), the new scheme manager must inform the former scheme manager that the transfer has taken place and the former scheme manager must close all pension accounts relating to that member.

(5) If the number of certificates which have been provided by the former scheme manager is greater than the number of active member’s accounts established by the new scheme manager, the member shall decide, following consultation with the new scheme manager, from which pension accounts entries should be transferred to the new active member’s accounts and notify the former scheme manager of this.

(a) 1995 c.26.
(b) S.I. 2008/649.

PART 10
Supplementary
CHAPTER 1
Payment of pensions

Late payment of retirement index adjustment

127. Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment that is payable in respect of the last active scheme year to be paid before the end of that year.

Commutation of small pensions

128.—(1) This regulation applies in respect of a person who is entitled to the immediate payment of—

- (a) a pension under these Regulations if the entitlement does not exceed the small pensions commutation maximum; or
- (b) more than one pension under these Regulations in any of the circumstances mentioned in paragraph (2), if the total entitlement does not exceed the small pensions commutation maximum.

(2) The circumstances are—

- (a) a member is entitled to more than one pension in respect of pensionable service in any one employment;
- (b) a person is entitled to more than one pension in respect of a member's pensionable service in more than one employment; or
- (c) a pension credit member is entitled to—
 - (i) more than one pension credit member's pension; or
 - (ii) one or more pensions within sub-paragraph (a) in addition to one or more pension credit member's pensions.

(3) The scheme manager may pay the person a lump sum of such an amount as represents the capital value of the pension calculated in accordance with actuarial guidance—

- (a) the person consents to receipt of a lump sum in respect of the pensions; and
- (b) the commutation requirements that apply are met.

(4) The payment of a lump sum under this regulation in respect of a pension discharges all liabilities under these Regulations in respect of that pension.

(5) In this regulation—

“the small pensions commutation maximum” means the amount that is permitted to be commuted, having regard to all the commutation requirements that apply in the circumstances in question; and

“the commutation requirements” means requirements permitting the commutation of small pensions that are imposed by—

- (a) Regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997;
- (b) Paragraph 7 of Schedule 29 to the FA 2004 (which defines trivial commutation lump sums for the purposes of Part 4 of that Act) and, in relation to a pension payable under Part 7 (death benefits), by paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of that Part); or
- (c) Regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000.

Payments for persons incapable of managing their affairs

129. If it appears to the scheme manager that a person other than an eligible child is entitled to payment of benefits under this scheme but is, by reason of mental disorder or otherwise, incapable of managing his or her affairs—

- (a) the scheme manager may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the scheme manager may determine, to be applied for the benefit of the person entitled; and
- (b) in so far as the scheme manager does not pay the benefits in that manner, the scheme manager may apply them in such manner as the scheme manager may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.

Payments due in respect of deceased persons

130.—(1) Paragraph (2) applies if, when a person dies, the total amount due to that person's personal representatives under this scheme (including anything due at that person's death) 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^(a) and applying in relation to that person's death.

(2) A scheme manager may pay the whole or part of the amount due to—

- (a) a person's personal representatives, or
- (b) any person or persons appearing to the scheme manager to be beneficially entitled to the estate,

without the production of probate or letters of administration of the person's estate.

(3) Such a payment discharges that scheme manager from accounting for the amount paid.

Limitation on assignment of benefits

131. An assignment of, or charge on, an award is void to the extent that it is in favour of a person other than a dependant of the person entitled to the award.

CHAPTER 2

Forfeiture

Forfeiture: offences committed by members, surviving partners or eligible children

132.—(1) If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager may, to such extent and for such duration as they consider appropriate, withhold pensions payable under this scheme to—

- (a) the member;
- (b) any person in respect of the member;
- (c) surviving partner;
- (d) eligible child.

(2) In this regulation, the following are relevant offences—

- (a) offences of treason;
- (b) offences under the Official Secrets Acts 1911 to 1989^(b) for which the member has been sentenced on the same occasion—
 - (i) to a term of imprisonment of at least 10 years;
 - (ii) to two or more consecutive terms amounting in the aggregate to at least 10 years; or

(a) 1965 c.32; there are amendments to section 6 which are not relevant to this instrument.

(b) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

(c) offences—

- (i) committed in connection with the member's employment by an authority; and
- (ii) in respect of which the Secretary of State has issued a forfeiture certificate.

(3) In paragraph (2)(c)(ii), "forfeiture certificate" means a certificate stating that the Secretary of State issuing the certificate considers that the offence—

- (a) has been gravely injurious to the interests of the State; or
- (b) is liable to lead to serious loss of confidence in the public service.

(4) Where a surviving partner's or an eligible child's pensions under Part 6 (death benefits) are to be withheld under paragraph (1) as a result of a relevant offence falling under paragraph (2) (a) or (b), the offence must have been committed after the death on which the person became entitled to the survivor or child's pension, as the case may be.

(5) The scheme manager may, at any time and to such extent and for such duration as they think fit—

- (a) apply for the benefit of any dependant of the member, or
- (b) restore to the member,

so much of any pension as has been withdrawn under this regulation.

Forfeiture of pensions: offences committed by other persons

133.—(1) If a person is convicted of the murder of a member, the scheme manager must withhold all of any surviving partner or eligible child's pension payable to that person in respect of the member under Part 6 (death benefits).

(2) If a person is convicted of a relevant offence, the scheme manager may, to such extent as they consider appropriate, withhold any surviving partner or eligible child's pension payable to that person in respect of a member under Part 6 (death benefits).

(3) In paragraph (2), the following are relevant criminal offences—

- (a) the manslaughter of the member; or
- (b) any other offence of which the unlawful killing of the member is an element.

(4) If paragraph (1) applies, Part 6 applies as if that person had died before the member.

(5) Under paragraph (2), the scheme manager may only withhold such part of a person's pension as exceeds any guaranteed minimum to which that person is entitled under section 17 of the PSA 1993.**(a)**

(6) If a person is convicted of the murder of a member and their conviction is subsequently quashed on appeal, any surviving partner or eligible child's pension withheld shall be payable from the day after that on which the member died, and the scheme manager shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of the pension accrued.

(7) If a person is convicted of a relevant offence and their conviction is subsequently quashed on appeal any decision under paragraph (2) shall be treated as revoked and the scheme manager shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of the pension accrued from the day after that on which the member died.

(8) Nothing in paragraphs (6) or (7) shall affect the application of paragraphs (1) or (2) if the person whose conviction is quashed is subsequently convicted of the murder of the member or of a relevant offence.

Forfeiture of lump sum death benefit: offences committed by other persons

134.—(1) If a person is convicted of a relevant offence, the scheme manager must withhold all of any lump sum death benefit payable to that person in respect of a member under Chapter 4 of Part 6 (death benefits)].

(a) Pension Schemes Act 1993 c.48.

- (2) In paragraph (1), the following are relevant criminal offences—
 - (a) the murder of the member;
 - (b) the manslaughter of the member; or
 - (c) any other offence of which the unlawful killing of the member is an element.
- (3) If paragraph (1) applies, Part 6 applies as if that person had died before the member.
- (4) If a person is convicted of a relevant offence and their conviction is subsequently quashed on appeal the scheme manager may, to such extent and for such duration as they think fit, restore to that person so much of any benefit as has been withdrawn under this regulation.

Forfeiture: relevant monetary obligations and relevant monetary losses

135.—(1) Subject to paragraph (4), if a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss the scheme manager may, to such extent and for such duration as they consider appropriate, withhold benefits payable to P under this scheme.

- (2) In this regulation, a “relevant monetary obligation” is a monetary obligation which—
 - (a) was incurred to P’s employer;
 - (b) was incurred after P became a member of a scheme;
 - (c) arose out of P’s criminal, negligent or fraudulent act or omission; and
 - (d) arose out of or was connected with the scheme employment in respect of which P is a member of this scheme.
- (3) In this regulation, a “relevant monetary loss” is a monetary loss which—
 - (a) was caused to the scheme; and
 - (b) arose as a result of P’s criminal, negligent or fraudulent act or omission.
- (4) Under paragraph (1), the scheme manager may only withhold such part of P’s pension as exceeds any guaranteed minimum to which P is entitled under section 14 of PSA 1993.
- (5) Under paragraph (1), the scheme manager may not withhold more than the lesser of—
 - (a) the amount of the relevant monetary obligation or relevant monetary loss; and
 - (b) the value of P’s entitlement to benefits.
- (6) Under paragraph (1), the scheme manager may only withhold benefits if—
 - (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
 - (b) the relevant monetary obligation or relevant monetary loss is enforceable—
 - (i) under an order of a competent court; or
 - (ii) in consequence of an award of an arbitrator.

Set-off

136.—(1) The scheme manager may set off a relevant monetary obligation against a member’s entitlement to benefits under this scheme.

- (2) In this regulation, a “relevant monetary obligation” is a monetary obligation owed by a member (P), which satisfies the conditions in paragraphs (3), (4) or (5).
- (3) The conditions are that the monetary obligation—
 - (a) was incurred to P’s employer;
 - (b) was incurred after P became a member of this scheme; and
 - (c) arose out of or was connected with the scheme employment in respect of which P is a member of this scheme.
- (4) The conditions are that the monetary obligation—
 - (a) was incurred to this scheme; and

(b) arose out of P's criminal, negligent or fraudulent act or omission.

(5) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against such part of P's entitlement to benefits as represents transfer credits (other than prescribed transfer credits^(a)), within the meaning of section 124(1) (interpretation of Part 1) of the Pensions Act 1995^(b).

(8) The scheme manager may only apply a set-off against such part of a member's pension as exceeds any guaranteed minimum to which that member is entitled under section 14 of PSA 1993.

(9) The value of the set-off applied must not exceed the lesser of—

(a) the amount of the relevant monetary obligation;

(b) the value of P's entitlement to benefits.

(10) The scheme manager may only set off a relevant monetary obligation against P's entitlement to benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation; or

(b) the relevant monetary obligation is enforceable—

(i) under an order of a competent court;

in consequence of an award of an arbitrator.

Forfeiture and set-off: procedure

137.—(1) If the scheme manager proposes to withhold benefits or apply a set-off against a person's entitlement to benefits, the scheme manager must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 134 (forfeiture of lump sum death benefit: offences committed by other persons) or applies a set-off against an entitlement to benefits, the scheme manager must give the member, surviving partner or eligible child (as the case may be) a certificate showing—

(a) the amount withheld or set off; and

(b) the effect of the withholding or set-off on the member, surviving partner or eligible's benefits under this scheme.

CHAPTER 3

Payment and deduction of tax

Scheme administrator for the purposes of the Finance Act 2004

138.The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on the scheme administrator by or under Part 4 of the FA 2004.

(a) See S.I. 1997/785 which prescribes the transfer credits.

(b) 1995 c.26; the definition of transfer credits in section 124(1) was amended by the Pensions Act 2004, section 319(1) and Schedule 12 paragraphs 34, 69(1) and (2).

Payment on behalf of members of lifetime allowance charge

139.—(1) A member may request the scheme administrator to pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the FA 2004 when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of FA 2004 occurs in relation to the member; and
- (b) the member and the scheme manager are jointly and severally liable in relation to that event.

(2) Such a request may only be made by notice to the scheme administrator given before the event occurs.

(3) The scheme manager may only comply with such a request if—

- (a) the member pays it the amount in question on or before the date on which the event occurs; or
- (b) the member authorises the deduction of the amount in question from a lump sum becoming payable to the member under this scheme at the same time as the event occurs.

Reduction of benefits where lifetime allowance charge payable

140.—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the FA 2004 (“the table”) occurs in relation to a member;
- (b) the member and the scheme manager are jointly and severally liable in relation to that event; and
- (c) no request has been duly made under regulation 139 (payment on behalf of members of lifetime allowance charge) in relation to the event or, if such a request has been made, the scheme manager is prevented from complying with it by paragraph (3) of that regulation.

(2) If this regulation applies—

- (a) the scheme manager must pay the tax payable on the event;
- (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and
- (c) in the case of any other event in that table, the amount or value of the benefits payable to or in respect of the member must be reduced.

(3) The amount or value of the reduction—

- (a) must be such that it fully reflects the amount of tax so paid; and
- (b) in the case of any reduction to pension benefits, must be calculated according to actuarial guidance.

Information about payment of annual allowance charge

141.—(1) If a member's pension scheme input amount for this scheme for a pension input period exceeds the amount of the annual allowance for the tax year in which the pension input period ends, paragraph (2) applies in respect of the member for that tax year.

(2) The scheme manager must, no later than October 6th after the end of the tax year, provide the member with such information as the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year and with the information required by regulation 14A of the Registered Pension Scheme (Provision of Information) Regulations 2006(a).

(a) S.I.2006/569; regulation 14A was inserted by regulations 2 and 8 of S.I.2011/1797.

(3) In this regulation—

“pension scheme input amount” has the meaning given in section 237B(2) (Liability of scheme administrator) of FA 2004(a);

“pension input period” has the meaning given in section 238 of the FA 2004.

Reduction of benefits where annual allowance charge paid by scheme manager

142.—(1) This regulation applies where—

- (a) a member gives valid notice to the scheme manager of joint and several liability for an annual allowance charge under section 237B(3) of FA 2004; and
- (b) the scheme manager satisfies the liability specified in the notice.

(2) The amount or value of the benefits payable to or in respect of the member for the tax year to which the notice relates must be reduced by the scheme manager in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount or value of the reduction of benefits—

- (a) must be such that it fully reflects the amount paid by the scheme manager; and
- (b) must be determined in accordance with actuarial guidance.

(4) Benefits may only be reduced under this regulation to the extent that the reduction would not result in the loss of any part of a guaranteed minimum pension to which a person is entitled under section 14 (earner’s guaranteed minimum) or 17 (minimum pension for surviving spouses and civil partners) of the Pension Schemes Act 1993.

CHAPTER 4

General

General prohibition on unauthorised payments

143. Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the FA 2004 (see section 160(5) of that Act).

Calculation of periods of membership and service

144.—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days or fractions of a day, and the initial aggregation of periods that require to be aggregated is done by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

- (a) the days referred to in paragraph (1); and
- (b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to 4 decimal places.

(a) 2004 c.12; section 237B was inserted by the Finance Act 2011 (c.11), Schedule 17, paragraph 15 and was amended by the Finance Act 2013 (c.29), Schedule 46, paragraphs 119 and 129.

(4) If a period of membership or service is less than one year, this regulation applies as if the words “whole years, and” were omitted from paragraph (1) and the words “in excess of the period of whole years” were omitted from paragraph (3).

Annual benefit information statements

145.—(1) The scheme manager must provide an annual benefit information statement to each of its members.

(2) The first such statements must be provided on or before 31st August 2016.

(3) Subject to paragraph (4), subsequent statements must be provided at least once per year on or before 31st August of each year that follows.

(4) If a member requests in writing that a statement is provided to them after the end of a scheme year but before 31st August of the following scheme year, the scheme manager must provide an annual benefit information statement as soon as reasonably practicable in accordance with the member’s request, unless the relevant data to enable them to do so is not available.

(5) The statement provided to active members of this scheme must be in accordance with section 14 of the Act (information about benefits).

Evidence of entitlement

146.—(1) A scheme manager may by written notice require any person who is in receipt of a pension or may have an entitlement to a pension or a lump sum under this scheme to provide them with such supporting evidence as they may reasonably require to establish—

- (a) the identity of that person; and
- (b) that person’s continuing or future entitlement to the payment of any amount under this scheme.

(2) A notice under paragraph (1) shall specify the date by which the supporting evidence is to be provided.

(3) Where a person fails to comply with the requirements of a notice given in accordance with paragraph (1), the scheme manager may withhold the whole or part of any amount that they consider to be payable under the scheme.

Information to be provided to a member before reserve forces service leave

147.The scheme manager must give a member who is about to start on a period of reserve forces service leave a statement stating—

- (a) the assumed pensionable pay for that member whilst on reserve forces service leave;
- (b) the member’s contribution rate to apply during that period;
- (c) details of any payments to be paid by the authority to the member whilst on reserve forces service leave; and
- (d) the employer contribution rate which applies during that period.

Transitional provisions

148. Schedule 2 has effect.

Signatory text

Address
Date

Name
Parliamentary Under Secretary of State
Department

SCHEDULE 1

Contributions for added pension

PART 1

Interpretation

1. In this Schedule—

“added pension election” means the election to pay added pension contributions by periodical payments or by lump sum;

“amount of added pension” has the meaning given in paragraph 2;

“appropriate pay period” means the pay period that the scheme manager considers appropriate;

“contributions payment period” means the period for which added pension contributions are payable;

“overall amount” means the overall amount of added pension as defined in paragraph 3;

“the relevant scheme year” means the scheme year in which the lump sum is paid.

Meaning of “amount of added pension”

2. The amount of added pension at any given time is the amount of accrued added pension at any time.

Meaning of “added pension limit”

3.—(1) The limit on added pension is—

(a) for any financial year ending before 1st April 2016 - £6,500; and

(b) for any financial year beginning after that date—

(i) the amount that the Treasury determines for that financial year; or

(ii) otherwise—the amount calculated under paragraph (2).

(2) If the Treasury has not determined a limit for any financial year, the limit is the amount to which the annual rate of a pension of an amount equal to the limit for the previous financial year would have been increased under PIA 1971 if—

(a) that pension were eligible to be so increased; and

(b) the beginning date for that pension were the first day of the previous financial year.

Amount of accrued added pension may not exceed limit

4.—(1) At any given time, the total amount of accrued added pension in the added pension account established in respect of a member may not exceed the limit on added pension.

(2) If a member has elected to pay added pension contributions by periodical payments, the scheme manager may, by notice to the member, cancel the election if it appears to the scheme manager that the limit on added pension will be exceeded if the member continues to pay periodical payments.

Actuarial advice

5. The scheme manager must have regard to actuarial guidance before determining any amount under this Schedule.

PART 2

Added pension contributions

CHAPTER 1

Exercising the added pension election

Election to pay contributions for added pension

6.—(1) An active member of this scheme may elect to pay added pension contributions to this scheme to increase the member's retirement benefits and death benefits.

(2) A member may make the added pension election by notice to the scheme manager in such form as the scheme manager may require ("the notice of election").

(3) The notice of election must state whether added pension contributions are to be paid by—

- (a) lump sum; or
- (b) periodical payments.

(4) The election to pay added pension contributions by lump sum may not be made unless the member gives notice to the scheme manager not later than 12 months after the date on which the person last became employed by the authority as a firefighter.

(5) The election to pay added pension contributions by periodical payments may only be made at least two years before the member's normal pension age and cannot be made once the scheme manager has agreed that the member will leave the scheme with entitlement to a pension or an ill-health award.

CHAPTER 2

Payment of added pension contributions by periodical payments

Application of Chapter

7. This Chapter applies in relation to an active member who has elected to pay added pension contributions by periodical payments.

Member's election to pay added pension contributions

8.—(1) The notice of election must specify—

- (a) the contributions payment period; and
- (b) the amount of added pension contributions payable in each pay period.

(2) The amount may be expressed as—

- (a) a percentage of the member's pensionable pay; or
- (b) a fixed sum.

(3) The amount must not be less than any minimum amount determined by the scheme manager.

Periodical payments

9.—(1) The periodical payments may be payable by deduction from the member's pensionable pay during the contributions payment period.

(2) The contributions payment period—

- (a) begins with the first appropriate pay period beginning on or after the date on which the scheme manager receives the notice of election; and

(b) ends on the earlier of—

- (i) the date on which the member ceases to be an active member; and
- (ii) the date specified in the notice of election.

(3) If the member does not want to pay the periodical payments by deduction from pensionable pay, the scheme manager may agree another method of payment.

Amount of added pension for a scheme year

10.—(1) For each scheme year during which a member pays periodical payments to increase both the member's retirement benefits and death benefits, the amount of added pension credited to the added pension account is the amount determined in accordance with sub-paragraph (2).

(2) The amount is an amount determined by the scheme manager by reference to actuarial guidance, having regard to the amount of periodical payments made and the cost in the scheme year of providing retirement benefits to—

- (a) a person of the member's age; and
- (b) dependants of a person of that age.

Discontinuance and resumption of periodical payments

11.—(1) A member ("P") may request that the scheme manager ceases to deduct the periodical payments for added pension from P's pensionable pay on the ground of P's financial circumstances.

(2) Where the member and the scheme manager agree that periodical payments should cease to be deducted for a period of not more than 6 months ("period of cessation")—

- (a) the scheme manager must resume making the deductions as soon as is practical after that period, or from an earlier date requested by the member with the scheme manager's agreement;
- (b) the member may request that the scheme manager deducts the aggregate of payments which would have been made during the period of cessation at the same time as deducting the first payment after the resumption of payments.

(3) If the member wishes to discontinue the payment of periodical payments for more than 6 months, the member must give notice to the scheme manager and the notice of election will be treated as cancelled from the next appropriate pay period.

Periodical payments during periods of assumed pensionable pay

12.—(1) The periodical payments are payable by deduction from the member's pensionable pay during the contributions payment period and whilst the member is treated as receiving assumed pensionable pay, reduced pay or no pay, the member may—

- (a) stop the periodical payments; or
- (b) continue the periodical payments as if the member were receiving pensionable pay at the full rate.

(2) During any period in which the member is receiving statutory maternity pay or is on paid ordinary maternity leave, paid ordinary adoption leave or paid paternity leave or other absence without pay ("period of reduced pay"), the member may—

- (a) stop the periodical payments; or
- (b) pay the periodical payments of an amount determined by reference to the member's actual pay during that period.

(3) If a member stops the periodical payments during a period of assumed pensionable pay or a period of reduced pay, the member may choose to resume the periodical payments in the next pay period after the period of assumed pensionable pay or period of reduced pay ends.

(4) After a period of assumed pensionable pay or a period of reduced pay, the member may give notice to the scheme manager authorising the authority to deduct the aggregate of payments which would have been made during this period from the member's pay during a period of 6 months from the end of the period of reduced pay or such longer period as the scheme manager shall allow.

(5) Notice under sub-paragraph (4) should be given to the scheme manager not later than one month after the end of the period of reduced pay.

CHAPTER 3

Payment of added pension contributions by lump sum

Application of Chapter

13. This Chapter applies in relation to an active member who has elected to pay added pension contributions by lump sum.

Member's election to pay added pension contributions by lump sum

14.—(1) The notice of election must specify the amount of lump sum which must not be less than any minimum amount determined by the scheme manager.

(2) If the lump sum is not paid within three months after the date on which the notice of election was given, then the notice of election shall be void.

Amount of added pension to be credited to added pension account

15.—(1) If a member elects to pay a lump sum to increase the member's retirement benefits and death benefits, the amount of added pension credited to the added pension account in the relevant scheme year is an amount determined in accordance with paragraph (2).

(2) The amount of added pension is an amount determined by the scheme manager by reference to actuarial guidance, having regard to the cost as at the relevant day of providing retirement benefits to—

- (a) a person of the member's age; and
- (b) dependants of a person of that age.

(3) In determining the amount of added pension, the scheme manager must have regard to any factor that relates to the member's circumstances as at the relevant day.

(4) In this paragraph, "relevant day" means the day on which the lump sum is received by the scheme manager.

SCHEDULE 2

Transitional provisions

PART 1

Interpretation

Interpretation

1. In this Schedule—

"closing date", in relation to a transition member, means—

- (a) for a member who is not a protected member, the scheme closing date; or
- (b) for a tapered protection member, the closing date for that member;

"exception" means an exception to section 18(1) of the Act;

"existing scheme" means—

- (a) the Firefighters’ Pension Scheme as it has effect in relation to England,(referred to in this Schedule as “the 1992 scheme”); or
- (b) the New Firefighters’ Pension Scheme (England), (referred to in this Schedule as “the NFPS”;

“existing scheme rules” means the rules of an existing scheme;

“full protection member”, in relation to an existing scheme, has the meaning given in Part 2;

“protected member” means a full protection or tapered protection member;

“protection period”—

- (c) for a full protection member, has the meaning given in Part 2;
- (d) for a tapered protection member, has the meaning given in Part 3;

“public service scheme “ means a scheme under section 1 of the Act;

“scheme closing date” means 31st March 2015;

“tapered protection member”, in relation to an existing scheme, has the meaning given in Part 3;

“transition date” means—

- (e) for a tapered protection member, the day after the closing date for that member; and
- (f) for a transition member who is not a protected member, the day after the scheme closing date;

“transition member” means a person—

- (g) who is a member of an existing scheme by virtue of his or her pensionable service under the existing scheme before the transition date; and
- (h) who is also a member of this scheme by virtue of his or her pensionable service under this scheme.

Meaning of “eligible to be an active member” of existing scheme

2.—(1) For the purpose of this Schedule, a person is an eligible member of an existing scheme on a given date if on that date the member—

- (a) is not in pensionable service under the 1992 scheme or the NFPS; but
- (b) is in service as a firefighter which entitles that person to be eligible to be an active member of the NFPS; or
- (c) is on a gap in pensionable service not exceeding 5 years.

(2) A person who is an eligible member of the NFPS on the scheme closing date ceases to be an eligible member of that scheme on the earlier of—

- (a) the day on which a retirement pension (other than a pension credit member’s pension) becomes payable to the member under the existing scheme; or
- (b) the day on which the person ceases to be eligible to be an active member of the NFPS.

(3) For the purposes of this paragraph, a person ceases to be eligible to be an active member of the NFPS if the person ceases, and does not resume service entitling that person to be eligible as an active member within 5 years.

Meaning of “active member” of existing scheme

3.—(1) For the purpose of this Schedule, a person is an active member of an existing scheme on a given date if on that date the member—

- (a) is in pensionable service under the 1992 scheme or the NFPS; or
- (b) is on a gap in pensionable service not exceeding 5 years.

(2) A person who is an active member of an existing scheme on the scheme closing date ceases to be an active member of that scheme on the earlier of—

- (a) the day on which a retirement pension (other than a pension credit member's pension) becomes payable to the member under the existing scheme; or
- (b) the day on which the member leaves pensionable service under the existing scheme.

(3) For the purpose of this paragraph, a person who begins a gap in service under the existing scheme leaves pensionable service under the existing scheme if the person does not re-enter pensionable service under the NFPS within 5 years.

Meaning of “continuity of service”

4. A transition member (P) has continuity of service unless P has a gap in pensionable service exceeding 5 years which—

- (a) begins on or before the closing date; and
- (b) ends on the day on which P becomes an active member of this scheme.

Gap in service after scheme closing date

5. In relation to any period after the scheme closing date, a person (P) is not on a gap in pensionable service while P is in pensionable service under—

- (a) another public service scheme; or
- (b) a new public body scheme(a).

Meaning of “closing date” for a tapered protection member

6. The closing date(b) for a person who is a tapered protection member (P) is a date between 24th May 2015 and 31st March 2022 (inclusive) determined by the scheme manager by reference to the table set out at [annex A].

PART 2

Exceptions for full protection members

Meaning of “full protection member”

7.—(1) A person (P) is a full protection member of an existing scheme on the scheme closing date if the conditions in sub-paragraph (2) are satisfied.

(2) The conditions in paragraph (1) are satisfied if—

- (a) P is an active member of the 1992 scheme or an active member, or eligible to be an active member, of the NFPS on the scheme closing date; and
- (b) on 31st March 2012, P was an active member of the 1992 scheme or an active member, or eligible to be an active member, of the NFPS; and
- (c) unless P dies, if P is an active member of the 1992 scheme, P would reach normal pension age under the 1992 scheme or if P is an active member or eligible to be an active member of the NFPS, under the NFPS as the case may be, before 2nd April 2022.

(3) P ceases to be a full protection member when P ceases—

- (a) to be an active member of the 1992 scheme; or
- (b) to be an active member of the NFPS; or
- (c) to be eligible to be an active member of the NFPS.

(a) See section 30(5) of the Act for the meaning of “new public body pension scheme”.
(b) See section 18(4) and (7) of the Act for the meaning of “closing date”.

Exception for full protection member during protection period

- 8.**—(1) The protection period for a full protection member (P) is the period which—
- (a) begins on the day after the scheme closing date; and
 - (b) ends when P ceases to be a full protection member.
- (2) Section 18(1) of the Act does not apply to P during the protection period.

Full protection member not eligible to join this scheme

9. While a person (P) is a full protection member, P is not eligible to be a member of this scheme.

PART 3

Exceptions for tapered protection members

Meaning of “tapered protection member”

10.(1) A person (P) is a tapered protection member of an existing scheme on the scheme closing date if the conditions in sub-paragraph (2) are satisfied.

- (2) The conditions in sub-paragraph (1) are satisfied if—
- (a) P is an active member of the 1992 scheme or is an active member, or eligible to be an active member, of the NFPS on the scheme closing date; and
 - (b) on 31st March 2012, P was an active member of the 1992 scheme or was an active member, or eligible to be an active member, of the NFPS; and
 - (c) unless P dies, if P is an active member of the 1992 scheme P would reach normal pension age under that scheme, or if P is an active member or eligible to be an active member of the NFPS, P would reach normal pension age under that scheme between 1st April 2022 and 31st March 2026 (inclusive).
- (3) P ceases to be a tapered protection member on whichever of the following days occurs first—
- (a) P’s closing date; or
 - (b) the day on which P ceases to be an active member of the existing scheme or eligible to be an active member of the NFPS.

Exception for tapered protection members during protection period

- 11.**—(1) The protection period for a tapered protection member is the period which—
- (a) begins on the day after the scheme closing date; and
 - (b) ends when P ceases to be a tapered protection member.
- (2) Section 18(1) of the Act does not apply to P during the protection period.

Tapered protection member not eligible to join this scheme

12. While a person (P) is a tapered protection member, P is not eligible to be a member of this scheme.

PART 4

Transition members becoming active members of this scheme

Transition members with continuity of service

13. A transition member (P) who has continuity of service becomes an active member of this scheme—

- (a) if P is in pensionable service on the transition date—on that date; or
- (b) on re-entering pensionable service after the transition date.

Transition members without continuity of service

14. A transition member (P) who does not have continuity of service becomes an active member of this scheme when P re-enters pensionable service on or after the transition date.

Annex A

Firefighters' Pension Scheme 1992

Date of Birth		Age at 1 April 2012		Days of protection	Age at end of protection				Date of end of protection
					From		To		
From	To	Year	Month		Year	Month	Year	Month	
02/04/1967	01/05/1967	44	11	2557	54	11	55	0	31/03/2022
02/05/1967	01/06/1967	44	10	2504	54	8	54	9	06/02/2022
02/06/1967	01/07/1967	44	9	2450	54	5	54	6	14/12/2021
02/07/1967	01/08/1967	44	8	2398	54	3	54	4	23/10/2021
02/08/1967	01/09/1967	44	7	2343	54	0	54	1	29/08/2021
02/09/1967	01/10/1967	44	6	2289	53	9	53	10	06/07/2021
02/10/1967	01/11/1967	44	5	2237	53	6	53	7	15/05/2021
02/11/1967	01/12/1967	44	4	2182	53	4	53	5	21/03/2021
02/12/1967	01/01/1968	44	3	2130	53	1	53	2	28/01/2021
02/01/1968	01/02/1968	44	2	2076	52	10	52	11	05/12/2020
02/02/1968	01/03/1968	44	1	2021	52	7	52	8	11/10/2020
02/03/1968	01/04/1968	44	0	1971	52	5	52	6	22/08/2020
02/04/1968	01/05/1968	43	11	1916	52	2	52	3	28/06/2020
02/05/1968	01/06/1968	43	10	1864	51	11	52	0	07/05/2020
02/06/1968	01/07/1968	43	9	1810	51	8	51	9	14/03/2020
02/07/1968	01/08/1968	43	8	1757	51	6	51	7	21/01/2020

02/08/1968	01/09/1968	43	7	1703	51	3	51	4	28/11/2019
02/09/1968	01/10/1968	43	6	1649	51	0	51	1	05/10/2019
02/10/1968	01/11/1968	43	5	1596	50	9	50	10	13/08/2019
02/11/1968	01/12/1968	43	4	1542	50	7	50	8	20/06/2019
02/12/1968	01/01/1969	43	3	1489	50	4	50	5	28/04/2019
02/01/1969	01/02/1969	43	2	1435	50	1	50	2	05/03/2019
02/02/1969	01/03/1969	43	1	1381	49	10	49	11	10/01/2019
02/03/1969	01/04/1969	43	0	1332	49	8	49	9	22/11/2018
02/04/1969	01/05/1969	42	11	1278	49	5	49	6	29/09/2018
02/05/1969	01/06/1969	42	10	1225	49	2	49	3	07/08/2018
02/06/1969	01/07/1969	42	9	1171	48	11	49	0	14/06/2018
02/07/1969	01/08/1969	42	8	1118	48	9	48	10	22/04/2018
02/08/1969	01/09/1969	42	7	1064	48	6	48	7	27/02/2018
02/09/1969	01/10/1969	42	6	1010	48	3	48	4	04/01/2018
02/10/1969	01/11/1969	42	5	957	48	0	48	1	12/11/2017
02/11/1969	01/12/1969	42	4	903	47	10	47	11	19/09/2017
02/12/1969	01/01/1970	42	3	851	47	7	47	8	29/07/2017
02/01/1970	01/02/1970	42	2	796	47	4	47	5	04/06/2017
02/02/1970	01/03/1970	42	1	742	47	1	47	2	11/04/2017
02/03/1970	01/04/1970	42	0	693	46	11	47	0	21/02/2017
02/04/1970	01/05/1970	41	11	639	46	8	46	9	29/12/2016
02/05/1970	01/06/1970	41	10	586	46	5	46	6	06/11/2016
02/06/1970	01/07/1970	41	9	532	46	2	46	3	13/09/2016
02/07/1970	01/08/1970	41	8	480	46	0	46	1	23/07/2016
02/08/1970	01/09/1970	41	7	425	45	9	45	10	29/05/2016
02/09/1970	01/10/1970	41	6	371	45	6	45	7	05/04/2016
02/10/1970	01/11/1970	41	5	319	45	3	45	4	13/02/2016
02/11/1970	01/12/1970	41	4	264	45	1	45	2	20/12/2015
02/12/1970	01/01/1971	41	3	212	44	10	44	11	29/10/2015
02/01/1971	01/02/1971	41	2	158	44	7	44	8	05/09/2015
02/02/1971	01/03/1971	41	1	103	44	4	44	5	12/07/2015
02/03/1971	01/04/1971	41	0	54	44	2	44	3	24/05/2015

New Firefighters' Pension Scheme 2006

Date of Birth		Age at 1 April 2012		Days of protection	Age at end of protection				Date of end of protection
					From		To		
From	To	Year	Month		Year	Month	Year	Month	
02/04/1962	01/05/1962	49	11	2557	59	11	60	0	31/03/2022
02/05/1962	01/06/1962	49	10	2504	59	8	59	9	06/02/2022
02/06/1962	01/07/1962	49	9	2450	59	5	59	6	14/12/2021
02/07/1962	01/08/1962	49	8	2398	59	3	59	4	23/10/2021
02/08/1962	01/09/1962	49	7	2343	59	0	59	1	29/08/2021
02/09/1962	01/10/1962	49	6	2289	58	9	58	10	06/07/2021
02/10/1962	01/11/1962	49	5	2237	58	6	58	7	15/05/2021
02/11/1962	01/12/1962	49	4	2182	58	4	58	5	21/03/2021
02/12/1962	01/01/1963	49	3	2130	58	1	58	2	28/01/2021
02/01/1963	01/02/1963	49	2	2076	57	10	57	11	05/12/2020
02/02/1963	01/03/1963	49	1	2021	57	7	57	8	11/10/2020
02/03/1963	01/04/1963	49	0	1972	57	5	57	6	23/08/2020
02/04/1963	01/05/1963	48	11	1918	57	2	57	3	30/06/2020
02/05/1963	01/06/1963	48	10	1866	56	11	57	0	09/05/2020
02/06/1963	01/07/1963	48	9	1811	56	8	56	9	15/03/2020
02/07/1963	01/08/1963	48	8	1759	56	6	56	7	23/01/2020
02/08/1963	01/09/1963	48	7	1705	56	3	56	4	30/11/2019
02/09/1963	01/10/1963	48	6	1650	56	0	56	1	06/10/2019
02/10/1963	01/11/1963	48	5	1598	55	10	55	11	15/08/2019
02/11/1963	01/12/1963	48	4	1544	55	7	55	8	22/06/2019
02/12/1963	01/01/1964	48	3	1491	55	4	55	5	30/04/2019
02/01/1964	01/02/1964	48	2	1437	55	1	55	2	07/03/2019
02/02/1964	01/03/1964	48	1	1383	54	10	54	11	12/01/2019
02/03/1964	01/04/1964	48	0	1332	54	8	54	9	22/11/2018
02/04/1964	01/05/1964	47	11	1278	54	5	54	6	29/09/2018
02/05/1964	01/06/1964	47	10	1225	54	2	54	3	07/08/2018
02/06/1964	01/07/1964	47	9	1171	53	11	54	0	14/06/2018

02/07/1964	01/08/1964	47	8	1118	53	9	53	10	22/04/2018
02/08/1964	01/09/1964	47	7	1064	53	6	53	7	27/02/2018
02/09/1964	01/10/1964	47	6	1010	53	3	53	4	04/01/2018
02/10/1964	01/11/1964	47	5	957	53	0	53	1	12/11/2017
02/11/1964	01/12/1964	47	4	903	52	10	52	11	19/09/2017
02/12/1964	01/01/1965	47	3	851	52	7	52	8	29/07/2017
02/01/1965	01/02/1965	47	2	796	52	4	52	5	04/06/2017
02/02/1965	01/03/1965	47	1	742	52	1	52	2	11/04/2017
02/03/1965	01/04/1965	47	0	693	51	11	52	0	21/02/2017
02/04/1965	01/05/1965	46	11	639	51	8	51	9	29/12/2016
02/05/1965	01/06/1965	46	10	586	51	5	51	6	06/11/2016
02/06/1965	01/07/1965	46	9	532	51	2	51	3	13/09/2016
02/07/1965	01/08/1965	46	8	480	51	0	51	1	23/07/2016
02/08/1965	01/09/1965	46	7	425	50	9	50	10	29/05/2016
02/09/1965	01/10/1965	46	6	371	50	6	50	7	05/04/2016
02/10/1965	01/11/1965	46	5	319	50	3	50	4	13/02/2016
02/11/1965	01/12/1965	46	4	264	50	1	50	2	20/12/2015
02/12/1965	01/01/1966	46	3	212	49	10	49	11	29/10/2015
02/01/1966	01/02/1966	46	2	158	49	7	49	8	05/09/2015
02/02/1966	01/03/1966	46	1	103	49	4	49	5	12/07/2015
02/03/1966	01/04/1966	46	0	54	49	2	49	3	24/05/2015