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STATUTORY INSTRUMENTS

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**2014 No. 525**

**PUBLIC SERVICE PENSIONS,  
ENGLAND AND WALES**

**The Local Government Pension Scheme (Transitional  
Provisions, Savings and Amendment) Regulations 2014**

<i>Made</i>	- - - -	<i>5th March 2014</i>
<i>Laid before Parliament</i>		<i>10th March 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2014</i>

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of, and Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup>.

In accordance with section 7(5) of that Act, the Secretary of State consulted such associations of local authorities as appeared to the Secretary of State to be concerned; the local authorities with whom consultation appeared to the Secretary of State to be desirable; and such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

**Citation, extent, commencement and interpretation**

1. (1) These Regulations may be cited as the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

(2) These Regulations extend to England and Wales.

(3) These Regulations come into force on 1st April 2014.

(4) In these Regulations, where an expression is used in relation to provisions in the 1997 Regulations, the 1997 Transitional Regulations, the Benefits Regulations, the Administration Regulations, the 2008 Scheme Transitional Regulations, or the 2013 Regulations, those expressions are to be construed in accordance with the meaning given to those expressions in the provisions referred to, unless the context indicates otherwise.

(5) In these Regulations, where final pay is to be calculated in accordance with regulations 8 to 11 of the Benefits Regulations (calculation of final pay) if a certificate has been issued under

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(1) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

regulation 23 of the 1997 Regulations (permanent reductions in pay: certificates of protection of pension benefits), that certificate continues to have effect as if regulation 23 were still in force.

(6) In these Regulations—

- “the 1974 Regulations” means the Local Government Superannuation Regulations 1974(2);
- “the 1974 Scheme” means the occupational pension scheme constituted by the 1974 Regulations;
- “the 1986 Regulations” means the Local Government Superannuation Regulations 1986(3);
- “the 1986 Scheme” means the occupational pension scheme constituted by the 1986 Regulations;
- “the 1995 Regulations” means the Local Government Pension Scheme Regulations 1995(4);
- “the 1995 Scheme” means the occupational pension scheme constituted by the 1995 Regulations;
- “the 1997 Regulations” means the Local Government Pension Scheme Regulations 1997(5);
- “the 1997 Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) Regulations 1997(6)
- “the 1998 Scheme” means the occupational pension scheme constituted by the 1997 Regulations and the 1997 Transitional Regulations;
- “the 2008 Scheme Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) Regulations 2008(7);
- “the 2008 Scheme” means the occupational pension scheme constituted by the Administration Regulations, the Benefits Regulations and the 2008 Scheme Transitional Regulations;
- “the 2013 Regulations” means the Local Government Pension Scheme Regulations 2013(8);
- “the 2014 Scheme” means the occupational pension scheme constituted by these Regulations and the 2013 Regulations;
- “the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations 2008(9);
- “the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007(10);
- “the Earlier Schemes” means the 1974, the 1986, the 1995, the 1998 and the 2008 Schemes collectively;
- “the Earlier Regulations” means the regulations by which the Earlier Schemes were constituted;
- “public service pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993(11).

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(2) S.I. 1974/520; these regulations were revoked by S.I. 1986/24.

(3) S.I. 1986/24; the 1986 Regulations were revoked by S.I. 95/1019 and 96/1680.

(4) S.I. 1995/1019; these regulations are varied by and applied by virtue of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (S.I. 1997/1613).

(5) S.I. 1997/1612; these regulations are varied and applied by virtue of the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (S.I. 2008/238).

(6) S.I. 1997/1613.

(7) S.I. 2008/238.

(8) S.I. 2013/2356

(9) SI 2008/239.

(10) S.I. 2007/1166.

(11) 1993 c. 48; section 1 has amendments which are not relevant to this instrument.

## **Revocation of Regulations**

2. (1) Except where these Regulations provide otherwise, the Regulations listed in Schedule 1 are revoked.

(2) Accordingly, no person may become a member of the 2008 Scheme after 31st March 2014 or accrue benefits under the 2008 Scheme in respect of any service after that date.

## **Membership before 1st April 2014**

3. (1) Notwithstanding the revocations effected by regulation 2 of these Regulations, and subject to this Regulation, the regulations listed in Schedule 1 continue to have effect so far as is necessary—

(a) so that membership accrued in the Earlier Schemes in respect of service before 1st April 2014, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2014, are preserved; and

(b) so that benefits are payable in accordance with these Regulations.

(2) In paragraph (1)(a) the expression “pension rights accrued” includes any right to any pension, lump sum, grant or other benefit due to or in respect of a member.

(3) A scheme manager responsible under regulation 2(2) of the 2013 Regulations (introductory) for the local administration of pensions and other benefits payable under those Regulations is also responsible for the administration of benefits pursuant to paragraph (1) of this regulation.

(4) Where a person has been an active member of the 2014 Scheme, and retirement benefits under paragraph (1) are payable to a member in accordance with regulation 11 of these Regulations (retirement benefits), the benefits paid from Earlier Schemes and the 2014 Scheme are, for all purposes, to be regarded as constituting a single pension scheme.

(5) But a retirement pension and any retirement grant payable to a member under paragraph (4) is subject to actuarial adjustment if it would have been subject to actuarial adjustment under the 2008 Scheme, irrespective of whether retirement pension under the 2014 Scheme payable at the same time is subject to actuarial adjustment.

(6) Where a member who has not had a disqualifying break aggregates benefits from Earlier Schemes with benefits from the 2014 Scheme, the benefits from the Earlier Schemes are payable as final salary benefits.

(7) A disqualifying break for the purposes of paragraph (6) is a continuous break in active membership of a public service pension scheme of more than five years.

(8) Where a person has not been an active member of the 2014 Scheme and has benefits under the Earlier Schemes, or has been an active member of the 2014 Scheme and has benefits under the Earlier Schemes which have not been aggregated with the benefits in the 2014 Scheme, the benefits payable as a consequence of paragraph (1) are payable in accordance with the Earlier Schemes as applied by this regulation.

(9) Any pensionable pay received or contribution paid by a member on or after 1st April 2014 which relates to work carried out before that date shall be dealt with in accordance with the 2008 Scheme.

(10) An increase in membership may be awarded to a member under regulation 12(4) of the Benefits Regulations (power of employing authority to increase total membership of active members) after 31st March 2014 if the member’s relevant date for the purposes of that regulation is before 1st April 2014 and that increase shall be an increase in membership of the 2008 Scheme notwithstanding the fact that the award may occur after 31st March 2014.

(11) Where an employing authority grants an increase in membership under regulation 12A (duty of employing authority to increase total membership: enhanced protection) of the Benefits

Regulations(12) following a notice served by a member before 6th April 2009, that increase shall be an increase in membership of the 2008 Scheme notwithstanding the fact that the grant may occur after 31st March 2014.

(12) Any guidance issued by the Government Actuary in accordance with any provision in the Earlier Regulations is to be treated as actuarial guidance issued by the Secretary of State as defined in Schedule 1 to the 2013 Regulations and any reference to guidance issued by the Government Actuary in the Earlier Regulations is to be construed as a reference to actuarial guidance issued by the Secretary of State.

(13) Regulations 70 and 71 of the Administration Regulations (abatment) continue to have effect in relation to pensions in payment deriving from the Earlier Schemes regardless of when payment of those pensions commenced.

### **Statutory underpin**

4. (1) This regulation applies to a person who—
- (a) was an active member of the 2008 Scheme on 31st March 2012 and who on 1st April 2012 was 10 years or less from the normal retirement age applicable to the member under the 2008 Scheme;
  - (b) was an active member immediately before the underpin date and who receives payment of benefits under the 2014 Scheme on or after the underpin date;
  - (c) does not have a disqualifying break in service; and
  - (d) has not, prior to the underpin date, drawn benefits under the 2013 Regulations in relation to an employment.
- (2) The underpin date for the purposes of this regulation is the earlier of—
- (a) the date the member attained the normal retirement age applicable to the member under the 2008 Scheme; or
  - (b) the date the member ceased to be an active member of the 2014 Scheme with an immediate entitlement to a pension, including a member who may elect to receive immediate payment of a pension under regulation 30(5) of the 2013 Regulations (early retirement) and a member who, with the Scheme employer's consent, elects to receive immediate payment under regulation 30(6) of the 2013 Regulations (flexible retirement).
- (3) A disqualifying break in service for the purposes of paragraph 1(c) is a continuous break after 31st March 2012 of more than five years in active membership of a public service pension scheme.
- (4) The active member's pension account is to be increased at the underpin date by the amount by which the underpin amount exceeds the assumed benefits on the underpin date.
- (5) The assumed benefits are calculated by assessing the benefits the member would have been entitled to under the 2014 Scheme if—
- (a) the member had paid contributions under regulation 9 of the 2013 Regulations (contributions) from 1st April 2014 to the underpin date but excluding—
    - (i) any period when the member was not an active member,
    - (ii) any period of absence from work with no pensionable pay in consequence of a trade dispute which the member has not covered by additional pension under regulation 16 of the 2013 Regulations (additional pension), and
    - (iii) any period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave

- which the member has not covered by additional pension under regulation 16 of the 2013 Regulations (additional pension);
- (b) the member had in the period between 1st April 2014 and the underpin date paid no additional contributions under—
- (i) regulation 16 (additional pension contributions) of the 2013 Regulations, other than additional contributions paid under that regulation to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave, or
  - (ii) regulation 17 (additional voluntary contributions) of the 2013 Regulations;
- (c) the member had not been awarded additional annual pension under regulation 31 of the 2013 Regulations (award of additional pension) during that period;
- (d) the Scheme had received no transfer value payment in respect of the member relating to rights accrued under a registered pension scheme or a European pensions institution;
- (e) the revaluation adjustment<sup>(13)</sup> made to the active member's pension account had been made up to and including the beginning of the scheme year in which the member's underpin date fell; and
- (f) the balance in the active member's account at the member's underpin date had been adjusted on account of any pension debit or Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Secretary of State.
- (6) The underpin amount is calculated by assessing the benefits the member would have had an immediate entitlement to payment of under the 2008 Scheme if—
- (a) the member had continued to accrue membership under the 2008 Scheme rather than benefits in the 2014 Scheme from 1st April 2014 to the underpin date;
  - (b) the period of membership taken into account for the purposes of sub-paragraph (a) were—
    - (i) the period during which the member has paid, or is treated as having paid, contributions under regulations 9 or 10 of the 2013 Regulations, plus
    - (ii) any period of unpaid absence due to industrial action, or absence from work with permission otherwise than because of illness or injury, child related leave or reserve forces service leave, if that period was covered by additional pension purchased under regulation 16 of the 2013 Regulations (additional contributions), plus
    - (iii) where the member's assumed benefits include an adjustment under regulation 39 of the 2013 Regulations (calculation of ill health pension amounts), any additional period of membership that would have been added to the member's total membership under regulation 20 of the Benefits Regulations (early leavers: ill-health) had that regulation applied at the underpin date;
  - (c) the final pay was calculated in accordance with regulations 8 to 11 of the Benefits Regulations (calculation of final pay), as if those Regulations were still in force at the underpin date; and
  - (d) the member's benefits at the member's underpin date had been adjusted on account of any pension debit or a Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Secretary of State.

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<sup>(13)</sup> Revaluation adjustment is defined in Schedule 1 to the 2013 Regulations.

## Membership of the 2014 Scheme

5. (1) A person who is an active member of the 2008 Scheme in an employment immediately before 1st April 2014 becomes an active member of the 2014 Scheme on 1st April 2014 in that employment provided the person is eligible for membership of the 2014 Scheme on that date.

(2) Paragraph (1) does not apply to a person who ceases to be an active member on 31st March 2014 by virtue of regulation 14 of the Administration Regulations (ending of membership) and these Regulations apply to any such person as if that person is not an active member immediately before 1st April 2014.

(3) Notwithstanding regulation 3(3) of the 2013 Regulations (active membership), a person who is eligible to be an active member of the 2008 Scheme immediately before 1st April 2014 who is not a member of the 2008 Scheme, does not become a member of the 2014 Scheme on 1st April 2014 unless that date is the automatic enrolment date for that member.

(4) If any person has notified an employer under regulation 14(2) of the Administration Regulations before 1st April 2014 of a wish to leave the 2008 Scheme, but would not (apart from this paragraph) have ceased to be an active member immediately before 1st April 2014—

- (a) paragraph (1) does not apply to that person;
- (b) the person's active membership ceases on 31st March 2014; and
- (c) these Regulations apply to that person as if that person is not an active member immediately before 1st April 2014.

(5) A person who was a deferred member of one of the Earlier Schemes whose benefits under those Schemes have not come into payment and who becomes an active member of the 2014 Scheme by virtue of regulation 3(1) of the 2013 Regulations (active membership) without a disqualifying break, may choose, by notice in writing to the appropriate administering authority within 12 months of becoming a member of the 2014 Scheme, to be treated as if he or she had become an active member of the 2014 Scheme by virtue of paragraph (1).

(6) A disqualifying break for the purposes of paragraph (5) is a continuous break of more than five years in active membership of a public service pension scheme.

(7) A designation by a body of an employee or class of employees as being eligible for membership of the 2008 Scheme pursuant to regulations 4 (general eligibility for membership), 7 (admission agreements: further provisions), 8 (eligibility for membership of employees of other bodies not listed in Schedule 2), 8B (eligibility for membership: employees of Newcastle International Airport Limited)(14) or 12(6) (further restrictions on eligibility: admission agreements with certain NHS bodies) of the Administration Regulations has effect as a designation as being eligible for membership of the 2014 Scheme.

## Admission agreements

6. (1) Any admission agreement entered into before 1st April 2014 continues to have effect after 31st March 2014 and employees of admission bodies designated before that date in accordance with an admission agreement as eligible for membership of the Local Government Pension Scheme are from 1st April 2014, subject to regulations 5(2) to (4) of these Regulations, members of the 2014 Scheme by virtue of the agreement.

(2) Any indemnity, bond or guarantee provided in respect of an admission agreement entered into before 1st April 2014 has effect in relation to any liabilities whether incurred before or after that date.

(3) Any condition imposed before 1st April 2014 by the Secretary of State on an approval for the admission of a body to the Earlier Schemes continues to have effect and withdrawal of the approval

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(14) Regulation 8B was inserted by S.I. 2012/1989.

by the Secretary of State where the condition is not met has effect as if approval for admission to the 2014 Scheme had been withdrawn.

(4) Regulation 8B of the Administration Regulations (eligibility for membership: employees of Newcastle International Airport Limited) continues to have effect notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

### **Qualifying service for the 2014 Scheme**

7. (1) Any period of active membership in the Earlier Schemes which the member has at 31st March 2014 counts as qualifying service in the 2014 Scheme for the purposes of regulation 3(7)(a) and (c) of the 2013 Regulations (active membership).

(2) Any transfer value payment accepted into the Earlier Schemes counts as a transfer value payment into the 2014 Scheme for the purposes of regulation 3(7)(b), (c) and (d) of the 2013 Regulations (active membership).

(3) A transfer value payment made under the Earlier Schemes to a qualifying recognised overseas pension scheme counts as qualifying service in the 2014 Scheme for the purpose of regulation 3(7)(g) of the 2013 Regulations (active membership).

(4) A member of the 2014 Scheme who has a deferred benefit or a pension in payment under the Earlier Schemes is treated as having qualifying service for a period of 2 years for the purposes of regulation 3(7) of the 2013 Regulations (active membership), but if a deferred benefit—

- (a) is in respect of less than 2 year's membership; and
- (b) is aggregated with any 2014 Scheme benefits,

and the aggregate of that membership and the service in the 2014 Scheme is less than 2 years, the member may, upon ceasing to be an active member, elect instead of having a deferred benefit under the 2014 Scheme, to have regulation 18 of the 2013 Regulations (rights to return of contributions) deemed to apply to all the contributions made by the member.

(5) A person who became a member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme), and who has at least 3 months qualifying service in the 2014 Scheme (which expression includes for this purpose any of the period of active membership in the Earlier Schemes if aggregated with membership of the 2014 Scheme) who ceases to be an active member of the 2014 Scheme before achieving qualifying service for a period of two years may elect—

- (a) to have regulation 18 of the 2013 Regulations (rights to return of contributions) deemed to apply to the contributions paid both into the Earlier Schemes and the 2014 Scheme (where the period in respect of which contributions to the Earlier Schemes were paid has been aggregated with membership of the 2014 Scheme); or
- (b) to be a deferred member of the 2014 Scheme notwithstanding regulation 6(1) of the 2013 Regulations (deferred and deferred pensioner members); or
- (c) if the member has reached the normal retirement age applicable to that member under the 2008 Scheme, to draw retirement pension immediately upon cessation of local government service, notwithstanding regulation 6(1) (deferred and deferred pensioner members) of the 2013 Regulations.

(6) An election under paragraphs (4) or (5)(a) or (b) must be made in writing to the member's administering authority within the period of six months beginning with the date on which the active membership ceased and an election under paragraph (5)(c) must be made to that authority within the period of six months beginning with the date of the cessation of local government service, and in default of any election being made the member shall—

- (a) in the case of a member satisfying the conditions in paragraph (4), be awarded a deferred benefit under the 2014 Scheme;

- (b) in the case of a member satisfying the conditions in paragraph (5), be awarded a deferred benefit in the 2014 Scheme, or an immediate pension, as appropriate.

### **Pensionable pay**

**8.** (1) For the purposes of regulation 20(1) of the 2013 Regulations (meaning of pensionable pay) no account is to be taken of any supplement paid—

- (a) to an employee whose employment transferred on 1st April 1996 to the Environment Agency or to such an employee who subsequently transferred on 1st April 2013 to the Natural Resources Body for Wales; or
- (b) to an employee whose employment transferred on 1st April 2010 from the Learning and Skills Council for England to a local authority or to London Councils Limited,

in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the 2008 or 2014 Schemes.

(2) Notwithstanding regulation 20(2)(f) of the 2013 Regulations (meaning of pensionable pay: exclusions), a member's pensionable pay for the purposes of regulation 20(1) of those Regulations, includes an amount in respect of a sum treated as the money value to the member of the provision of a motor vehicle or an amount paid in lieu of such provision, if the condition specified in regulation 13(8) of the 1997 Regulations (meaning of "pay": money value of provision of motor vehicle) is satisfied in relation to the member, unless the condition specified in regulation 13(9) of those Regulations is satisfied in relation to the member.

(3) For the purposes of calculating assumed pensionable pay under regulation 21 of the 2013 Regulations (assumed pensionable pay), if all or part of the periods referred to in paragraph (4) of that regulation fall before 1st April 2014, the calculation must include the pensionable pay the member received before 1st April 2014 in relation to that period.

(4) Where these Regulations provide for final pay received after 31st March 2014 to be calculated under regulations 8 to 11 of the Benefits Regulations (calculation of final pay), if a member has a period of absence from work of the description in regulation 11(4)(b) or (c) of the 2013 Regulations (contributions during absence from work with permission or due to a trade dispute) and, on or after the commencement of that period of absence, has purchased additional pension under regulation 16 of the 2013 Regulations (additional pension contributions) equivalent to the pension that the member would have accrued but for the absence—

- (a) the member is treated as entitled to count the period of absence as a period of membership; and
- (b) is treated as receiving the pay that would have been received but for the absence.

### **Transfers**

**9.** (1) Where a transfer payment is received into the 2014 Scheme in respect of a person from a different public service pension scheme which includes a payment in respect of service before 1st April 2015 which would have entitled the person to final salary benefits in that scheme, such payment shall entitle that person to benefits under the 2014 Scheme as if they were payable as final salary benefits under the 2008 Scheme so long as the person in respect of whom the transfer payment is received has had no continuous break in active membership of any public service pension scheme of more than five years.

(2) Where a transfer payment is to be made to a registered pension scheme or qualifying recognised overseas pension scheme in respect of a member of the 2014 Scheme, that transfer payment shall include any benefits accrued by that member under the Earlier Schemes that are aggregated with the service under the 2014 Scheme.



(3) Where a transfer payment is received from a registered pension scheme which is not a public service pension scheme, or from a European Pensions Institution in respect of a member of the 2014 Scheme, if the relevant date in either case was before 1st April 2014, that transfer payment shall be dealt by the appropriate administering authority as if it had been received in respect of membership of the 2008 Scheme.

(4) The relevant date for the purposes of paragraph (3) is the date on which the person first became an active member in the employment, or the date the transfer payment is received if more than 12 months later.

**Interfund adjustments etc.**

10. (1) Paragraph (2) applies to a member in a fund—

- (a) who became an active member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme),
- (b) who subsequently became a deferred member or deferred refund member of the 2014 Scheme,
- (c) who becomes again an active member of the 2014 Scheme with no continuous break in active membership of any public service pension scheme of more than five years, and
- (d) where the deferred benefits or deferred refund benefits pursuant to sub-paragraph (b) are aggregated with the benefits accruing pursuant to sub-paragraph (c).

(2) A member falling within the description in paragraph (1) is entitled, notwithstanding the revocations effected by regulation 2 (revocation of regulations)—

- (a) to have the pension rights accrued in respect of service before 1st April 2014 preserved by regulation 3 of these Regulations (membership before 1st April 2014) calculated as final salary benefits with final pay calculated under regulations 8 to 11 of the Benefits Regulations (calculation of final pay) as if they were still in force; and
- (b) where the new period of active membership under paragraph (1)(c) is in a different fund, to have a payment made by the first administering authority to the subsequent administering authority in respect of those pension rights, calculated in accordance with actuarial guidance issued by the Secretary of State.

(3) Paragraph (4) applies to a member in a fund—

- (a) who became an active member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme),
- (b) who subsequently became a deferred member of the 2014 Scheme,
- (c) who becomes again an active member of the 2014 Scheme with a continuous break in active membership of any public service pension scheme of more than five years, and
- (d) where the deferred benefits pursuant to paragraph (3)(b) are aggregated with the benefits accruing pursuant to paragraph (3)(c).

(4) A member falling within the description in paragraph (3) is entitled to a transfer value payment in relation to the deferred benefits to be credited to the member's active member account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Secretary of State and, where the new period of active membership under paragraph (3)(c) is in a different fund, the administering authority within whose fund the deferred benefits are held must make the transfer value payment to the administering authority within whose fund the benefits which are being aggregated are held.

(5) A member entitled to a refund of contributions from the Earlier Schemes, who becomes an active member of the 2014 Scheme, is entitled to a transfer value payment in relation to the benefits in respect of that membership, which is to be credited to the member's active member

account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Secretary of State and, where the new period of active membership is in a different fund, the authority which has ceased to be the member's appropriate administering authority must make the transfer value payment to the authority that has become the member's appropriate administering authority.

(6) A member with deferred benefits relating to the Earlier Schemes, who did not become a member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme), but who subsequently becomes an active member of the 2014 Scheme, may elect to receive a transfer value payment in relation to the deferred benefits to be credited to the member's active member account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Secretary of State, and where the new period of active membership is in a different fund, the authority which has ceased to be the member's appropriate administering authority must make the transfer value payment to the authority that has become the member's appropriate administering authority.

(7) Where earned pension is purchased by a transfer value payment under paragraphs (4) to (6), regulation 3(1)(a) of these Regulations (membership before 1st April 2014) ceases to apply to the membership to which that transfer value payment relates.

(8) Where deferred benefits or a deferred refund under paragraph (1) arise from the cessation of a concurrent employment and the member continues as an active member in a continuing employment in which the member became an active member by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme), the formula in regulation 17(3) (concurrent employments) or, as the case may be, regulation 46(4) (rights to return of contributions) of the Administration Regulations must be applied in order to determine the rights the member is entitled to for the purposes of paragraph (2).

(9) Where there is more than one continuing employment to which paragraph (8) applies, the member may, within 12 months of the date active membership in the concurrent employment ceased, make an election to the appropriate administering authority specifying which of the continuing employments the rights from the concurrent employment that has ceased are to be aggregated and, in the absence of an election from the member, the administering authority must make the determination on the member's behalf.

(10) Where the deferred benefits or deferred refund under paragraph (1) arise from the cessation of variable-time employment and the new active membership is not variable-time employment, the formula in regulation 87(2) (changes of fund and variable-time employees) of the Administration Regulations must be applied in order to determine the rights to which the member is entitled for the purposes of paragraph (2).

## **Retirement benefits**

**11.** (1) A member who became an active member of the Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme) must, upon drawing a retirement pension under regulation 30 (retirement pension), 35 (early payment of retirement pension on ill-health grounds: active members) or 38 (early payment of retirement pension on ill-health grounds: deferred and deferred pensioner members) of the 2013 Regulations, draw any aggregated benefits accrued in the 1998 Scheme and 2008 Scheme at the same time as those benefits accrued under the 2014 Scheme are drawn.

(2) A member who became an active member of the Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme) must, if exercising the option in regulation 30(6) of the 2013 Regulations (flexible retirement), make a request to receive the benefits mentioned in paragraph (3) and such benefits may, with the member's employer's consent be paid to the member notwithstanding that the member has not retired.

(3) The benefits referred to in paragraph (2) are—

- (a) all of the aggregated benefits from the 1998 Scheme;
  - (b) all, part or none of the aggregated benefits accrued under the 2008 Scheme;
  - (c) all, part or none of the aggregated benefits accrued under the 2014 Scheme; and
  - (d) any additional benefits, in accordance with actuarial guidance issued by the Secretary of State.
- (4) For the purposes of paragraph (3) additional benefits are—
- (a) benefits from added years contracts entered into under regulation 55 of the 1997 Regulations (payments to increase total membership) or equivalent provisions in the other Earlier Schemes;
  - (b) benefits under regulation 17(7) of the 2013 Regulations (additional voluntary contributions) or equivalent provisions in the Earlier Schemes;
  - (c) additional pension purchased under regulation 16 of the 2013 Regulations (additional pension contributions) or regulation 23 of the Administration Regulations (payment of additional regular contributions) and regulation 14 of the Benefits Regulations (election in respect of additional pension);
  - (d) additional pension awarded under regulation 31 of the 2013 Regulations (award of additional pension) or regulation 13 of the Benefits Regulations (power of employing authority to award additional pension).

### III-health retirement

12. (1) A member who qualifies for Tier 1 or Tier 2 benefits under the 2013 Regulations who would have benefited from the protection in regulation 20(13) of the Benefits Regulations (transitional protection for those aged 45 before 1st April 2008)(15) if those Regulations had applied on the date the member's employment was terminated, is entitled to benefits equalling the higher of—

- (a) the Tier 1 or Tier 2 benefits, as the case may be, calculated under the 2013 Regulations and these Regulations; or
- (b) the benefits the member would have received under sub-paragraph (a) if the amount to be added under regulation 39(1) or (2) of the 2013 Regulations (calculation of ill-health pension amounts) were calculated by reference to the period that would have been added had regulation 28 of the 1997 Regulations (amounts of ill-health pension and grant) applied and if—
  - (i) the period of membership the member had accrued under the Earlier Schemes and the 2014 Scheme had counted as a period of membership of the 1998 Scheme,
  - (ii) the amount added under regulation 39(1) or (2) of the 2013 Regulations were calculated by reference to a 1/60th accrual rate.

(2) The 2013 Regulations apply to a person in respect of whom benefits are paid under regulation 20(2)(16) of the Benefits Regulations (early leavers: ill-health) as if that person were in receipt of Tier 1 Benefits under the 2013 Regulations.

(3) The 2013 Regulations apply to a person in respect of whom benefits are paid under regulation 20(3)(17) of the Benefits Regulations as if that person were in receipt of Tier 2 Benefits under the 2013 Regulations.

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(15) Regulation 20 was substituted by [S.I. 2008/1083](#); paragraph (13) was subsequently substituted by [S.I. 2010/2090](#).

(16) Paragraph (2) was amended by [S.I. 2010/2090](#).

(17) Paragraph (3) was amended by [S.I. 2010/2090](#).

(4) A person in respect of whom benefits are, or have been paid under regulation 20(4)(18) of the Benefits Regulations is not entitled to Tier 3 benefits under the 2013 Regulations.

(5) Where a member is in receipt of benefits under regulation 20(4) of the Benefits Regulations on or before 31st March 2014, notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations), regulations 20(6) to (11) of the Benefits Regulations(19) continue to have effect in relation to those benefits and regulation 37 of the 2013 Regulations (special provision in respect of members receiving Tier 3 benefits) does not apply.

(6) A certificate produced by an IRMP under the 2008 Scheme may be used for the purposes of making determinations under the 2014 Scheme.

(7) A person who has received an ill-health pension and grant under the Earlier Schemes, which for the purposes of this paragraph does not include the 2008 Scheme, is to be treated as if that person were in receipt of Tier 1 Benefits under the 2013 Regulations.

### **Lump sum commutation**

**13.** (1) Where a member elects to commute pension under regulation 33 of the 2013 Regulations (election for lump sum instead of pension) the member's benefits under the Earlier Schemes which are aggregated with the member's benefits under the 2014 Scheme are taken into account for the purposes of regulation 33(1) and (2) of the 2013 Regulations.

(2) In the case of a pensioner member of the 2014 Scheme with benefits under the Earlier Schemes and the 2014 Scheme which have been aggregated as is described in paragraph (1) and who commuted pension under regulation 33 of the 2013 Regulations, for the purposes of working out any entitlement to death grant, the pension the member received is treated as having been reduced in the proportions described in paragraphs (3) and (4).

(3) Pension accrued under the 2014 Scheme is treated as reduced by that percentage of the amount of pension commuted which the amount of pre-commutation pension under the 2014 Scheme bears to the total pre-commutation pension, and

(4) Pension accrued under the Earlier Schemes is treated as reduced by that percentage of the amount of the pension commuted which the amount of pre-commutation pension under the Earlier Schemes bears to the total pre-commutation pension.

### **Contributions**

**14.** (1) Notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations), the Administration Regulations and the Benefits Regulations continue to have effect so far as is necessary to ensure that where—

- (a) a member has a period of absence from work which begins before 1st April 2014 and ends after that date, the period falling before 1st April 2014 is to be dealt with in accordance with those Regulations and the period falling after 31st March 2014 is to be dealt with in accordance with the 2013 Regulations; and
- (b) a member receives pensionable pay after 31st March 2014 which relates to a period prior to 1st April 2014, the member's contributions are payable on the pensionable pay as defined in regulation 4 of the Benefits Regulations (meaning of pensionable pay) at the rate payable under those Regulations, and

any contributions that the member makes after 1st April 2014 in respect of the absence or that pay must be allocated according to the period to which they relate and benefits are accrued accordingly.

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(18) Paragraph (4) was substituted by [S.I. 2011/561](#).

(19) Paragraphs (7), (8) and (11) were amended by [S.I. 2010/2090](#); paragraph (11) was also amended by [S.I. 2011/561](#).

(2) A member entitled to a refund of contributions under regulation 18 of the 2013 Regulations (rights to return of contributions) who has paid contributions under the Earlier Schemes and has aggregated the periods in which those contributions were paid with membership of the 2014 Scheme, is entitled to a refund of the contributions paid to the Earlier Schemes in respect of that aggregated membership.

### **Additional contributions**

**15.** (1) Notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations) the following regulations continue to have effect—

- (a) regulation 55 of the 1997 Regulations (payments to increase total membership) as it applies to a member who has elected before 1st April 2008 to make additional contributions to increase total membership by an additional period;
- (b) regulation 66(8) of the 1997 Regulations (elections as to use of accumulated value of AVCs prior to 13th November 2001) in respect of a person who made an election under regulation 60(7) of those Regulations (elections to pay AVCs) before 13th November 2001;
- (c) regulation 83 of the 1997 Regulations (discontinuance of additional contributions) in respect of a person to whom sub-paragraph (a) applies; and,
- (d) regulations 14 (election in respect of additional pension)(**20**), 14A (election to pay additional contributions: survivor benefits)(**21**) and 15 (elections to pay AVCs)(**22**) of the Benefits Regulations and regulations 23, 24, 24A, 24B, 25, 26, 27 and 28 of the Administration Regulations (payment, discontinuance and use etc of additional contributions and AVCs)(**23**) as they apply to a member who has elected before 1st April 2014 to pay additional contributions or additional voluntary contributions under those regulations.

(2) Benefits accrued under the regulations preserved by paragraph (1) must be calculated using the normal retirement age under the 2008 Scheme and treated as benefits under that Scheme.

(3) Notwithstanding regulation 17(11) of the 2013 Regulations (additional voluntary contributions), a person to whom regulation 5(1) applies (membership of the 2014 Scheme) who has had no continuous break in active membership of a public service pension scheme of more than five years, may elect not to transfer the realisable value in any deferred AVC account to an arrangement under regulation 17 of the 2013 Regulations.

(4) Regulation 33(2) of the 2013 Regulations (election for lump sum instead of pension) is modified as regards any AVC arrangement entered into by a member before 1st April 2014 by the substitution of the words “including those under regulation 17(7)(a)” for the words “excluding those under regulation 17(7)(a)”.

(5) For the purposes of paragraph (4), an AVC arrangement is to be regarded as having been entered into on whichever is the earlier of the date the AVC election form was received by the administering authority or the date the AVC election form was received by the Scheme employer.

### **Annual allowance**

**16.** If a member gives the administering authority notice of joint and several liability under section 237B of the Finance Act 2004(**24**) (liability of scheme administrator) in respect of the

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(20) Regulation 14 was amended by [S.I. 2010/2090](#).

(21) Regulation 14A was inserted by [S.I. 2009/3050](#); it has been amended by [S.I. 2010/2090](#) and [2012/1989](#).

(22) Regulation 15 was amended by [S.I. 2010/2090](#).

(23) Regulations 24A and 24B were inserted by [S.I. 2009/3150](#); regulation 26 has been amended by [S.I. 2010/2090](#).

(24) [2004 c. 12](#). Section 237B was inserted by the Finance Act [2011 \(c. 11\)](#).

member's annual allowance charge after 1st April 2014, the administering authority may adjust the member's benefits accrued within the Earlier Schemes in accordance with actuarial guidance issued by the Secretary of State.

### **Survivor benefits**

17. (1) Except where regulation 10(4) of these Regulations (interfund adjustments etc: deferred members rejoining after five year break in membership) applies, survivor pensions in the case of a survivor of a person who became an active member of the 2014 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2014 Scheme) are calculated by adding together the 2008 Scheme survivor pension and the 2014 Scheme survivor pension.

(2) Subject to paragraphs (9) to (16), 2008 Scheme survivor pensions for the purposes of paragraph (1) are calculated under the 2008 Scheme, notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations), taking account of the deceased member's membership up to 31st March 2014 but—

- (a) in the case of a death in service where a survivor benefit is payable under regulations 41 or 42 of the 2013 Regulations (survivor benefits for partners and children of active members), excluding any augmentation under regulation 20(2) of the Benefits Regulations (early leavers: ill-health) and
- (b) using final pay calculated in accordance with regulations 8 to 11 of the Benefits Regulations (calculation of final pay) as if those Regulations were still in force.

(3) 2014 Scheme survivor pensions for the purposes of paragraph (1) are calculated in accordance with the 2013 Regulations.

(4) Subject to paragraphs (9) to (16), where—

- (a) a member did not accrue any membership in the 2014 Scheme but had pension rights under the Earlier Schemes, or
- (b) a member did accrue membership in the 2014 Scheme and has pension rights under the Earlier Schemes that have not been aggregated with the rights in the 2014 Scheme,

the survivor pension in respect of the rights under the Earlier Schemes are calculated under the Earlier Schemes notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

(5) Death grants in the case of a member who did not accrue any membership of the 2014 Scheme are calculated under the Earlier Schemes notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

(6) Subject to paragraph (7), death grants in the case of an active member who accrued any membership of the 2014 Scheme are calculated under regulation 40 of the 2013 Regulations (death grants: active members) regardless of whether the member had accrued any membership of the Earlier Schemes (excluding membership deriving from a pension credit).

(7) In the case of an active member of the 2014 Scheme who is also a deferred, deferred pensioner or pensioner member of the Earlier Schemes, if the amount of death grant that would have been payable if regulations 32 and 35 of the Benefits Regulations, or the corresponding provisions under any of the other Earlier Regulations, (death grants: deferred and pensioner members) still applied is higher than the amount that would be payable under paragraph (6), the death grant payable is that higher amount.

(8) Death grants in the case of a deferred, deferred pensioner or pensioner member of the 2014 Scheme who has membership accrued before 1st April 2014 are calculated by adding together the death grant calculated under the Earlier Schemes based on the membership accrued before 1st April 2014, and the death grant calculated under the 2014 Scheme based on membership after 31st March 2014.

(9) For the purposes of calculating eligibility of a person to survivor benefits under the 2008 Scheme and the other Earlier Schemes—

- (a) the definition of “eligible child” contained in Schedule 1 to the 2013 Regulations (interpretation) is substituted for the definition contained in regulation 26 of the Benefits Regulations (meaning of “eligible child”) and the corresponding provisions in the other Earlier Regulations; and
- (b) the definition of “cohabiting partner” contained in Schedule 1 to the 2013 Regulations (interpretation) is substituted for the definition of “nominated cohabiting partner” contained in regulation 25 of the Benefits Regulations (meaning of “nominated cohabiting partner”).

(10) Any calculation of the survivor pension payable under the Earlier Regulations to a person specified in paragraph (11) is only to take account of membership accrued by a member after 5th April 1988.

(11) The persons referred to in paragraph (10) are—

- (a) the surviving civil partner of a member where the civil partnership took place after the member’s active membership ceased;
- (b) the survivor of a female married—
  - (i) deferred member,
  - (ii) deferred pensioner member, or
  - (iii) pensioner member,where the marriage took place after the member’s active membership ceased;
- (c) the male survivor of a married same sex couple where the marriage took place after the member’s active membership ceased;
- (d) a cohabiting partner.

(12) Where a male deferred, deferred pensioner member or pensioner member marries and dies, any calculation of any survivor pension payable under the Earlier Regulations to a female survivor of the member is only to take account of membership accrued by the member after 5th April 1978.

(13) Membership for the purposes of paragraphs (10) and (12) includes any relevant additional membership that would have counted as membership for the purposes of regulation 42 of the 1997 Regulations (reduction of some surviving spouses’ pensions).

(14) Paragraph (15) applies in relation to persons entitled to pensions which are being paid or may become payable under a Scheme to, or in respect of, persons who, having served in an employment, service in which qualifies persons to participate in the benefits for which the Scheme provides, have ceased to serve therein before 1st April 2014 (whether or not they subsequently recommenced any such service).

(15) Any person to whom this paragraph applies who is placed in a worse position than he or she would have been if the provision in paragraph (11)(a) had not been made in relation to any pension which is being paid or may become payable to or in respect of that person may elect that the provision in paragraph (11)(a) shall not apply in relation to that pension.

(16) Any such election must be made by giving written notice to the appropriate administering authority before 1st April 2015.

### **The 85 year rule**

**18.** Schedule 2 (which makes transitional provision relating to the so-called “85 year rule”) has effect.

### **Appropriate funds**

**19.** (1) The pension funds which are the appropriate funds for members of the 1998 Scheme or the 2008 Scheme who do not become members of the 2014 Scheme continue to be the appropriate funds for those members unless changed in accordance with the 2013 Regulations.

(2) Any direction given by the Secretary of State under paragraphs 2B or 3 of Part 1 of Schedule 4 to the Administration Regulations (appropriate funds)(**25**) before 1st April 2014 continues to have effect notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations).

### **Pension sharing**

**20.** (1) A valuation of benefits of a person who is a member of the 2014 Scheme shall, for the purposes of a pension sharing order which has an effective date on or after 1st April 2014, take account of any benefits the member has accrued in the Earlier Schemes.

(2) The beneficiary of an order of the type described in paragraph (1) is not to be credited with any benefits under the Earlier Schemes, but is entitled to a pension credit under the 2014 Scheme in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Secretary of State.

(3) Where a pension sharing order requires a pension debit in respect of a percentage of a member's pension benefits, any benefits accrued in the Earlier Schemes or 2014 Scheme shall be debited by the same percentage unless the order specifies otherwise, with the debit being calculated in accordance with actuarial guidance issued by the Secretary of State.

(4) Where a pension sharing order requires a pension debit in terms other than a percentage of a member's pension benefits, the debit is to apply in proportion to the cash equivalent transfer value of the benefits accrued within the Earlier Schemes and the 2014 Scheme unless the order specifies otherwise.

### **Mis-sold personal pensions**

**21.** Regulations 108A (provision of information, charging and prescribed persons)(**26**) and 122A of the 1997 Regulations (credited periods for transferring members with mis-sold pension rights) are preserved so far as is necessary to ensure that administering authorities are under a duty to provide information requested to a prescribed person as to the restitution payment applicable to an individual, but no membership may be granted under the 1998 Scheme or the 2008 Scheme in relation to a restitution payment.

### **Scheme employers' obligations**

**22.** (1) Scheme employers must provide administering authorities with such information as administering authorities reasonably require to enable them to discharge their functions under these Regulations and any outstanding functions under the Earlier Regulations.

(2) An administering authority may give a written notice under regulation 70 of the 2013 Regulations (additional costs arising from Scheme employer's level of performance) where the additional costs incurred were as a result of the employer's level of performance in carrying out functions under the Administration or Benefits Regulations.

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(25) Paragraph 2B was inserted by [S.I. 2012/1989](#); paragraph 3 was amended by [S.I. 2010/1172](#).

(26) Regulations 108A and 122A were inserted by [S.I. 1997/594](#) as amended by [S.I. 1997/1613](#).



## Decisions and adjudications of disagreements

**23.** Regulations 72 to 80 (decisions and adjudications) of the 2013 Regulations apply in respect of questions not finally determined by 1st April 2014 concerning the rights and liabilities of a person under the Earlier Schemes as they apply to questions under the 2014 Scheme.

## Special cases

**24.** (1) A person who was an active member of the 2008 Scheme on 31st March 2014 by virtue of or subject to the terms of any statutory provision which varied the application of the generality of any of the Earlier Regulations continues to be an active member in the 2014 Scheme from 1st April 2014, provided that person is eligible for membership on that date and, subject to this regulation, any variation of the application of any of those regulations to that person applies in respect of the application of the 2013 Regulations to that person, with any necessary modifications.

(2) Subject to paragraph (4), the normal pension age in the 2014 Scheme for a person to whom paragraph (1) applies is the pensionable age of that person as specified from time to time in Schedule 4 to the Pensions Act 1995<sup>(27)</sup> or if higher, 65, and any provisions in the Earlier Regulations which provide for references to normal pension age, or to a person's 65th birthday, to be construed as references to age 60, cease to have effect.

(3) Notwithstanding the revocations effected by regulation 2 of these Regulations (revocation of regulations), regulation 38(7) (pension increases under the Pensions (Increase) Acts) of the Benefits Regulations, regulation 40A of the Administration Regulations (Water Act Company pensions: Environment Agency payments)<sup>(28)</sup> and, to the extent necessary for the purposes of those regulations, regulation 40 of the Administration Regulations (employer's payment following resolution to increase membership or award additional pension), continue to have effect.

(4) For a person to whom regulation 15 of the 2008 Scheme Transitional Regulations (civil servants transferred to the Environment Agency)<sup>(29)</sup> applies—

- (a) the normal pension age for the purposes of regulation 4 of these Regulations (statutory underpin) is age 60; and
- (b) regulation 18 of and Schedule 2 to these Regulations (the 85 year rule) do not apply.

(5) Notwithstanding the revocation of regulation 23 of the 1997 Transitional Regulations (former NHS scheme members)<sup>(30)</sup> and regulations 129 (miscellaneous transport employees) and 130 (miscellaneous airport employees) of the 1997 Regulations by the 2008 Scheme Transitional Regulations, those regulation have effect as if they had never been revoked.

## Pension increases under the Pensions (Increase) Acts

**25.** (1) This regulation applies—

- (a) where an increase under the Pensions (Increase) Act 1971<sup>(31)</sup> (“the 1971 Act”) or the Pensions (Increase) Act 1974 (“the 1974 Act”)<sup>(32)</sup> would have effect in relation to an increase payable by a Scheme employer before 1st April 1990;
- (b) where the last employer was a Water Act Company; or
- (c) where the last Scheme employer was a relevant body.

(2) Where paragraph (1)(a) applies, Schedule 3 to the 1971 Act has effect in relation to the increase under the 1971 or 1974 Act.

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<sup>(27)</sup> 1995 c.26.

<sup>(28)</sup> Regulation 40A was inserted by S.I. 2009/3150.

<sup>(29)</sup> Regulation 15 was inserted by S.I. 2010/2090.

<sup>(30)</sup> S.I. 1997/1613; regulation 23 was amended by S.I. 1998/2118.

<sup>(31)</sup> 1971 c. 56.

<sup>(32)</sup> 1974 c.9.

- (3) Where paragraph (1)(b) applies, the Environment Agency—
- (a) must reimburse the appropriate administering authority the cost of any increase payable under the 1971 Act or the 1974 Act arising on or after 1st April 1990 from the Closed Water Authorities Fund; and
  - (b) may discharge all future liabilities by way of a lump sum payment from the Closed Water Authorities Fund.
- (4) The Closed Water Authorities Fund is the Closed Fund vested in the Environment Agency by regulation 2(1) of the Local Government Pension Scheme (Environment Agency) Regulations 1996<sup>(33)</sup>.
- (5) The amounts due where paragraph (3)(a) applies not paid by way of a lump sum under paragraph (3)(b) must be paid on or before such dates falling at intervals of not more than 12 months as the appropriate administering authority may determine.
- (6) Where a lump sum is to be paid under paragraph (3)(b), such sum must be calculated by reference to—
- (a) an actuary appointed by the Environment Agency working in agreement with an actuary appointed by the appropriate administering authority; but
  - (b) where the respective actuaries cannot agree the calculation of the lump sum, the amounts due shall be paid in accordance with paragraph (3)(a).
- (7) A “Water Act Company” is—
- (a) a company nominated in accordance with section 4 of the Water Act 1989<sup>(34)</sup> as the successor company of a water authority, or
  - (b) a company nominated by order under section 83(1) of that Act.
- (8) Where paragraph (1)(c) applies, the reference to “the last employing authority” in paragraph 1(2) of Schedule 3 to the 1971 Act is a reference to a relevant body where pension has become payable by reason of service with a relevant body.
- (9) “Relevant body” in this regulation means—
- (a) an admission body which has made an admission agreement;
  - (b) a body employing persons deemed to be in employment under—
    - (i) regulation 129 (miscellaneous transport employees),
    - (ii) regulation 130 (miscellaneous airport employees), or
    - (iii) regulation 130C (employees in the Rent Service Agency)<sup>(35)</sup> of the 1997 Regulations; or
  - (c) a company under the control of a Scheme employer.

### Councillor pensions

**26.** (1) Notwithstanding the revocation of the 1997 Regulations, they continue to have effect in respect of councillor members and their councillor membership, with the modifications set out in Schedule 8 to those Regulations<sup>(36)</sup>—

- (a) in respect of a councillor member who is a member of a local authority in Wales;

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<sup>(33)</sup> S.I. 1996/711; regulation 2 was amended by S.I. 1997/1613.

<sup>(34)</sup> 1989 c.15.

<sup>(35)</sup> Regulation 130C was inserted by S.I. 2001/770.

<sup>(36)</sup> Schedule 8 was inserted by S.I. 2003/1022 and has been amended by S.I. 2004/573, S.I. 2004/928, S.I. 2005/3069, S.I. 2006/966, and S.I. 2006/2008; regulation 137A of the 1997 Regulations introducing Schedule 8 and Schedule 8 itself were saved by regulation 13 of S.I. 2008/238.

- (b) in respect of a councillor member who is a member of a local authority in England only to the extent that a councillor who is a member on 31st March 2014 may continue to accrue rights until the end of the term of office which that member is serving on 1st April 2014.
- (2) The 2013 Regulations are amended in accordance with paragraph (3).
- (3) In Part 4 of Schedule 2 (scheme employers), omit the entries relating to the Mayor of London and a member of the London Assembly.
- (4) Notwithstanding the amendment effected by paragraph (3), a member who is the Mayor of London or a member of the London Assembly on 1st April 2014 is entitled to membership of the 2014 Scheme, and may continue to accrue rights in that Scheme, until the end of the term of office which that member is serving on 1st April 2014, or age 75, whichever is the earlier.

Signed by authority of the Secretary of State for Communities and Local Government

*Brandon Lewis*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

5th March 2014

## SCHEDULES

### SCHEDULE 1

Regulation 2

The Local Government Pension Scheme Regulations 1995**(37)** in so far as they have not already been revoked;

The Local Government Pension Scheme Regulations 1997**(38)** in so far as they have not already been revoked;

The Local Government Pensions Scheme (Benefits, Membership and Contributions) Regulations 2007**(39)**;

The Local Government Pension Scheme (Administration) Regulations 2008**(40)**;

The Local Government Pension Scheme (Transitional) Regulations 2008**(41)**;

The Local Government Pension Scheme (Amendment) Regulations 2008**(42)**;

The Local Government Pension Scheme (Miscellaneous) Regulations 2008**(43)**;

The Local Government Pension Scheme (Amendment No. 2) Regulations 2008**(44)**;

The Local Government Pension Scheme (Administration) (Amendment) Regulations 2008**(45)**;

The Local Government Pension Scheme (Amendment) Regulations 2009**(46)**;

The Local Government Pension Scheme (Administration) (Amendment) Regulations 2009**(47)**;

The Local Government Pension Scheme (Miscellaneous) Regulations 2009**(48)**;

The Local Government Pension Scheme (Amendment) Regulations 2010**(49)**;

The Local Government Pension Scheme (Miscellaneous) Regulations 2010**(50)**;

The Local Government Pension Scheme (Benefits, Membership and Contributions) (Amendment) Regulations 2011**(51)**;

The Local Government Pension Scheme (Miscellaneous) Regulations 2012**(52)**.

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**(37)** S.I. 1995/1019.

**(38)** S.I. 1997/1612.

**(39)** S.I. 2007/1166.

**(40)** S.I. 2008/239.

**(41)** S.I. 2008/238.

**(42)** S.I. 2008/1083.

**(43)** S.I. 2008/2425.

**(44)** S.I. 2008/2989.

**(45)** S.I. 2008/3245.

**(46)** S.I. 2009/447.

**(47)** S.I. 2009/1025.

**(48)** S.I. 2009/3150.

**(49)** S.I. 2010/528.

**(50)** S.I. 2010/2090.

**(51)** S.I. 2011/561.

**(52)** S.I. 2012/1989.

SCHEDULE 2

Regulation 18

1. (1) Paragraph 1(3) applies where a member of the description in paragraph 3(1) or (2) makes a request to receive immediate payment of retirement benefits under—

- (a) regulations 30(1) (choice of early payment of pension) or 30A (choice of payment of pension: pensioner member with deferred benefits)(53) of the Benefits Regulations;
- (b) regulation 30(5) (retirement benefits: early retirement) of the 2013 Regulations if the member was aged 60 or over at the date of making the request;
- (c) regulation 30(5) (retirement benefits: early retirement) of the 2013 Regulations if the member is aged 55 or over but aged under 60 at the date of making the request and the Scheme employer agrees that paragraph 1(3) of this Schedule should apply; or
- (d) regulation 30(6) (retirement benefits: flexible retirement) of the 2013 Regulations.

(2) Paragraph 1(4) applies where paragraph 1(1)(c) would otherwise apply, but the member's Scheme employer does not agree that paragraph 1(3) of this Schedule should apply.

(3) Where this sub-paragraph applies—

- (a) if the member satisfies the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulations 30(4) or 30A(4) of the Benefits Regulations or regulation 30(5) or (6) of the 2013 Regulations; and
- (b) if the member does not satisfy the 85 year rule, that part of the member's retirement benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if earlier.

(4) Where this sub-paragraph applies—

- (a) if the member satisfies the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and age 60; and
- (b) if the member does not satisfy the 85 year rule, that part of the member's benefits which is calculated by reference to any period of membership before the relevant date is reduced by reference to the period between the date of the request and the date the member would satisfy the 85 year rule, or age 65 if the member would not satisfy the 85 year rule before that time, or age 60 if later.

(5) In this Schedule, references to a Scheme employer are to be read as including a former employer which is a Scheme employer, or where a member's employer or former employer has ceased to be a Scheme employer, the appropriate administering authority.

2. (1) A member's Scheme employer may determine on compassionate grounds to waive the reduction referred to in paragraph 1(3)(b), 1(4) or 9(2).

(2) Regulation 60 of the 2013 Regulations (statements of policy about exercise of discretionary functions) applies to paragraph 1(1)(c) of this Schedule and to this paragraph as if they were specified in paragraph (1) of that regulation.

(3) Where a Scheme employer agrees to the payment of benefits prior to age 60 in the circumstances described in paragraph 1(1)(a) of this Schedule, or that paragraph 1(1)(c) of this Schedule should apply to a member, or determines to waive a reduction under sub-paragraph (1), an administering authority may require the Scheme employer concerned to make additional payments to

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(53) Regulation 30A was inserted by S.I. 2010/2090.

the appropriate fund in respect of any extra charge on the fund, as calculated by an actuary appointed by the administering authority, resulting from the agreement or waiver of reduction.

3. (1) For the purposes of paragraph 1, the relevant date for a member who will be aged 60 or more on 31st March 2016 and who was a member of the 1998 Scheme before 1st October 2006, is the earlier of—

- (a) 1st April 2016, and
- (b) the date on the day after the day on which the member leaves local government employment.

(2) For the purposes of paragraph 1, the relevant date for a member who will not be aged 60 or more on 31st March 2016, but who was a member of the 1998 Scheme before 1st October 2006, is 1st April 2008.

4. (1) For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of—

- (a) the member's age in whole years on the date the request is made under paragraph 1;
- (b) the member's total membership in whole years;
- (c) in a case where the request is made after the member's local government employment ends, the period beginning with the end of that employment and ending with the date the request is made; and
- (d) in the case of a person who was a member of the 1995 Scheme immediately before 1st April 1998, any qualifying period counted by virtue of regulation 123 of the 1997 Regulations (rights as to service not matched by credited period) which was awarded before 1st April 2008,

is 85 years or more.

(2) In calculating the member's total membership—

- (a) the periods of membership taken into account are—
  - (i) the total membership the member accrued under the Earlier Schemes which counts as membership in relation to the employment in respect of which the member has made a request to receive immediate payment of retirement benefits under paragraph 1, plus
  - (ii) the period during which the member paid, or is treated as having paid, contributions under regulations 9 or 10 of the 2013 Regulations (contributions and temporary reduction in contributions), plus
  - (iii) any period after 31st March 2014 of unpaid absence due to industrial action, or absence from work with permission with no pensionable pay otherwise than because of illness or injury, child related leave or reserve forces service leave, if contributions have been paid under regulation 16 of the 2013 Regulations (additional pension contributions) to cover that period, and
- (b) no account is to be taken of—
  - (i) any increase in membership awarded under regulations 12 (power of employing authority to increase total membership of active members) or 12B (conversion of periods under Discretionary Compensation Regulations etc into membership)<sup>(54)</sup> of the Benefits Regulations,
  - (ii) any membership credited after 1st October 2012 under regulation 84 (right to count credited period) of the Administration Regulations or regulation 9 of these Regulations (transfers),

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<sup>(54)</sup> Regulation 12B was inserted by S.I. 2009/3150.

- (iii) any membership credited under regulation 40A (Water Act company pensions: Environment Agency payments)(**55**) of the Administration Regulations, or
- (iv) subject to paragraph 5, any period on or after the date specified in regulation 32(4) of the 2013 Regulations (commencement of pensions following flexible retirement) or the date benefits became payable under regulations 18(**56**) or 18A(**57**) of the Benefits Regulations or regulation 35(1A) of the 1997(**58**) Regulations (retirement benefits: flexible retirement).

5. (1) This paragraph applies to a member who received immediate payment under regulation 30(6) of the 2013 Regulations, regulation 18 or 18A of the Benefits Regulations, or regulation 35(1A) of the 1997 Regulations (retirement benefits: flexible retirement) of some, but not all, of the benefits to which that member was entitled.

(2) Where this paragraph applies, this Schedule, with the exception of paragraph 4(2)(b)(iv), continues to apply to any undrawn benefits accrued by the member before the date the member started to receive payment of benefits under those regulations.

6. (1) This paragraph applies to a member to whom regulation 4 of the 2008 Scheme Transitional Regulations (membership accrued before 1st April 2008: deferred members), regulation 16 of the Administration Regulations (re-employed and rejoining deferred members), or regulation 10(1) of these Regulations (interfund adjustments) applies.

(2) Where such a member does not choose, or does not choose as respects all periods of membership, to be treated as if regulation 3 of the 2008 Scheme Transitional Regulations (membership accrued before 1st April 2008: active members) applies, or to have the member's membership aggregated under regulation 16 of the Administration Regulations (re-employed and rejoining deferred members), or under regulation 22 of the 2013 Regulations (pension accounts), as the case may be, then in applying paragraphs 1 to 5 and 9 of this Schedule as respects any later membership, the total membership excludes unaggregated periods.

7. (1) This paragraph applies to a member who was a member of the 1998 Scheme before 1st October 2006 who—

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase total membership under regulation 55(1) of the 1997 Regulations (payments to increase total membership); and
- (b) was assumed to retire from a local government employment on a date before the member's 65th birthday ("the assumed date") for the purposes of calculating additional contributions under regulation 55(6) of the 1997 Regulations.

(2) Where a member to whom this paragraph applies—

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

the member shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of the total membership for the purposes of paragraphs 1 to 5 and 9 of this Schedule.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

(55) Regulation 40A was inserted by [S.I. 2009/3150](#).

(56) Regulation 18 has been amended by [S.I. 2008/1083](#), [2010/1990](#) and [2012/1989](#).

(57) Regulation 18A was inserted by [S.I. 2010/528](#).

(58) Regulation 35(1A) was inserted by [S.I. 2006/966](#) and was amended by [S.I. 2006/2008](#); it was revoked, with savings, by [S.I. 2008/238](#).

**8.** (1) This paragraph applies to a person who was an active member of one of the Earlier Schemes before 1st October 2006 and who—

- (a) ceases to be an active member of the 1998 Scheme, the 2008 Scheme or the 2014 Scheme (whether before, on, or after that date); and
- (b) resumes active membership.

(2) If a member to whom this paragraph applies aggregates any period of membership after the resumption of employment with the period of membership accrued in the previous local government employment—

- (a) where the member resumed active membership in the 2014 Scheme and has had a disqualifying break, this Schedule does not apply to the earlier period, except in applying this Schedule to the later period of membership, for the purposes of paragraph 4 (determining whether the member satisfies the 85 year rule); or
- (b) where the member resumed active membership in an Earlier Scheme, or resumed active membership in the 2014 Scheme without a disqualifying break, this Schedule applies to the whole period of the aggregated membership.

(3) A disqualifying break for the purposes of paragraph (2) is a continuous break in active membership of a public service pension scheme of more than five years.

**9.** (1) This paragraph applies to a member who was a member before 1st October 2006, who will reach or has reached the age of 60 on or after 1st April 2016 and before 1st April 2020, and whose retirement benefits would (but for the provisions of this paragraph) have been actuarially reduced on account of the age at which they were drawn.

(2) That part of the member's retirement benefits which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with actuarial guidance issued by the Secretary of State.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set out the transitional and savings provisions relating to members of the Local Government Pension Scheme 2008 (“the 2008 Scheme”) which is to be replaced by a new Local Government Pension Scheme by the Local Government Pension Scheme Regulations 2013 ([SI 2013/2356](#)) with effect from 1st April 2014 (“the 2014 Scheme”). Their effect is to protect the benefits accrued by members of the 2008 Scheme before 1st April 2014.

Regulation 2 and Schedule 1 revoke, subject to savings, the regulations which constitute the 2008 Scheme and its predecessor Schemes.

Regulation 3 preserves the membership and benefits accrued in the previous Schemes.

Regulation 4 ensures that an active member who was within 10 years of normal pension age under the 2008 Scheme on 1st April 2012 is entitled to draw benefits on retirement which are no less than they would have been able to draw if the 2008 Scheme had continued to exist.

Regulation 5 provides for automatic transfer into the 2014 Scheme of persons who are members of the 2008 Scheme on 31st March 2014.



Regulation 6 preserves the status of admission agreements entered into before the 2014 Scheme commences, meaning that membership of the Scheme is maintained for employees who became members by virtue of an admission agreement.

Regulation 7 provides that membership of the 2008 Scheme and its predecessor Schemes, and transfers from different pension scheme into those Schemes counts as membership of the 2014 Scheme. This is relevant for identifying when members of the 2014 Scheme have reached the two year vesting period required to be entitled to benefits under the 2014 Scheme.

Regulation 8 identifies elements of remuneration which are not to count as pensionable pay under the 2014 Scheme.

Regulations 9 and 10 make provision as regards transfers into the 2014 Scheme of benefits from other public service pension schemes and between funds in the 2014 Scheme. The effect of the provisions is to enable certain members to benefit from the provisions in Schedule 7 to the Public Services Pension Act 2013 which provide for the calculation of final salary to be based on the remuneration a person receives at the date of retirement rather than the date of transfer.

Regulation 11 provides for the dates on which benefits under the 2008 Scheme and its predecessor Schemes may and must be drawn.

Regulation 12 preserves transitional protection for certain groups as regards entitlement to ill-health benefits and makes provision for how recipients of ill-health benefits under the 2008 Scheme are to be dealt with under the 2014 Scheme.

Regulation 13 provides for amounts of pension deriving from the 2008 Scheme and its predecessor Schemes taken as a lump sum to be brought into account when a member commutes pension under the 2014 Scheme into a lump sum.

Regulations 14 and 15 make provision in respect of contributions and the purchase of additional pension. Arrangements for the purchase of added membership and additional pension entered into before 1st April 2014 are preserved and purchase benefits under the 2008 Scheme.

Regulation 16 makes provision for payments to be taken from benefits accrued under the 2008 and predecessor Schemes where appropriate when a member has a tax charge to pay under the Finance Act 2004.

Regulation 17 makes provision for survivor pensions and death grants where the deceased member was entitled to benefits under both the 2008 Scheme and the 2014 Scheme.

Regulation 18 and Schedule 2 preserve the so-called “rule of 85” for qualifying members, enabling them to draw benefits without actuarial reduction when the sum of their age and the years membership of the local government pension scheme equals or exceeds 85. This protection is being phased out between 2008 and 2020.

Regulation 19 preserves any directions issued by the Secretary of State changing the appropriate administering authority for a member.

Regulation 20 makes provision in respect of pension sharing orders to ensure they have appropriate impact on pre-2014 Scheme benefits.

Regulation 21 preserves regulations entitling members to obtain information necessary to enable them to pursue claims relating to the mis-selling of pensions.

Regulation 22 requires Scheme employers to provide information to administering authorities to enable them to carry out their functions.

Regulation 23 provides for the procedures for the resolution of disputes under the 2014 Scheme to apply in respect of any unresolved disputes under the 2008 Scheme.

Regulation 24 applies to various bodies who have for historical reasons come within the local government pension scheme with modifications as to how the Scheme regulations apply to their employees. The effect of the regulation is to carry over those modifications into the 2014 Scheme

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

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with the exception of any modification of the normal retirement age of members, which is to be changed where necessary to come into line with the provisions applying to all members of the 2014 Scheme.

Regulation 25 preserves provisions relating to the application of the Pensions (Increase) Acts which can lead to a requirement on Scheme employers to make additional payments into the fund clarifying where liability for any such requirements lies in the case of certain employers.

Regulation 26 removes the entitlement of certain councillors and elected mayors in England to be members of the local government pension scheme.

No separate regulatory impact assessment has been produced for these Regulations but see the impact assessment associated with the Local Government Pension Scheme Regulations 2013 which is available at <https://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/local-government-pensions>.