STATUTORY INSTRUMENTS

2014 No. 2336

PUBLIC SERVICE PENSIONS

The Armed Forces Pension Regulations 2014

Made - - - -	*31st August 2014*
Laid before Parliament	*4th September 2014*
Coming into force - -	*1st April 2015*

CONTENTS

PART 1
Preliminary

1. Citation and commencement 6
2. Establishment of scheme 6
3. Interpretation 7

PART 2
Governance
CHAPTER 1
Scheme Manager and Scheme Pension Board

4. Scheme manager 13
5. Establishment of pensions board 13
6. Membership of the pensions board 13
7. Terms of appointment to pensions board 14
8. Conflict of interest: pensions board 14

CHAPTER 2
Scheme Advisory Board

9. Establishment of scheme advisory board 14
10. Membership of the scheme advisory board 14
11. Terms of appointment to the scheme advisory board 14
12. Conflict of interest: scheme advisory board 15

PART 3
Scheme membership
CHAPTER 1
Scheme employment

13. Description of persons in scheme employment 15

CHAPTER 2
Membership
14. Dual capacity membership 15
15. Payments of benefits to dual capacity members 15
16. Eligibility for active membership 16
17. Deferred membership 16

CHAPTER 3
Membership options
18. Option not to join scheme 16
19. Option to leave the scheme 16
20. Option to join the scheme 17

CHAPTER 4
Pensionable service
21. Pensionable service 17
22. Qualifying service 17
23. Pensionable earnings 18
24. Meaning of "assumed pay" 18

PART 4
Pension accounts
CHAPTER 1
Preliminary
25. Calculation of amount of accrued pension for the purposes of Parts 4 and 5 19
26. Calculation of "retirement index adjustment" 19

CHAPTER 2
Pension accounts: general
27. Establishment of pension accounts: general 20
28. Closure and adjustment of pension accounts on transfer out 20

CHAPTER 3
Active member's account
29. Establishment of an active member's account 21
30. Receipt of transfer values 21
31. Receipt of club transfer values 21
32. Account to specify amount of pension for a scheme year 21
33. Account to specify opening balance and index adjustment 21

CHAPTER 4
Deferred member's account
34. Establishment of a deferred member's account 22
35. Account to specify provisional amount of deferred pension 22
36. Adjustment of provisional amount of deferred pension on retirement 22
37. Treatment of deferred member's account on return to pensionable service 22

CHAPTER 5
Pensioner member's account
38. Establishment of a pensioner member's account 23
39. Determination of "in-service late payment supplement" 23

40. Account to specify amount of retirement pension 23

CHAPTER 6
Pension credit member's account
41. Establishment of a pension credit member's account 24
42. Separate accounts for dual capacity pension credit member 24

PART 5
Retirement benefits
CHAPTER 1
Retired member benefits
43. Retirement on or after reaching normal pension age – active members 25
44. Retirement before reaching normal pension age – deferred members 25
45. Annual rate of pension payable to active member who becomes pensioner member 26
46. Annual rate of pension payable to deferred member who becomes pensioner member 26

CHAPTER 2
Benefits for pension credit and pension debit members
47. Pension credit member's pension 27
48. Annual rate of pension credit member's pension 28
49. Pension credit member's rights 28
50. Reduction in pension debit member's benefits 28

CHAPTER 3
Ill-health benefits
51. Entitlement to ill-health pension: active member with permanent serious ill-heath 28
52. Entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment 29
53. Deferment of accrued earned pension attributable to a transfer payment 29
54. Annual rate of ill-health pension: active members with permanent serious ill-health 30
55. Annual rate of ill-health pension: active members with significant impairment of capacity for gainful employment 31
56. Entitlement to ill-health pension: deferred member with permanent serious ill-health 32
57. Scheme manager's review of ill-health awards 32
58. Member's request for review of ill-health awards 33

CHAPTER 4
Options
59. General option to exchange part of the pension for lump sum 35
60. Option for members in serious ill-health to exchange whole pension for lump sum 35

CHAPTER 5
Allocation
61. Election to allocate pension 36
62. Procedure for allocation election 36
63. Effect of allocation 37
64. Adjustment of allocated benefits for the Finance Act 2004 where member dies over 75 37

PART 6
Death benefits
CHAPTER 1
Pensions for adult dependants
65. Surviving spouses' and civil partners' pensions 38
66. Guaranteed minimum pension for surviving spouses and civil partners 38
67. Other adult dependants' pensions 39
68. Annual rate of adult dependants' pensions payable on death of pensioner member 39
69. Annual rate of adult dependants' pensions payable on death of deferred member 40
70. Annual rate of adult dependants' pensions payable on death of active member 41
71. Reduction in pensions in case of wide age disparity 41

CHAPTER 2
Pensions for eligible children
72. Surviving children's pensions 42
73. Meaning of "eligible child" 42
74. Annual rate of children's pensions 43
75. Children born after the member's death 45

CHAPTER 3
Lump sum death benefits
76. Meaning of "final pensionable earnings" 45
77. Earnings adjustments in determining final pensionable earnings 45
78. Death of a member: lump sum benefit 46
79. Lump sum amount payable on death of active member 46
80. Lump sum amount payable on death of deferred member 47
81. Lump sum amount payable on death of pensioner member 47
82. Lump sum amount payable on death of pension credit member 47
83. Members affected by court orders to former spouses and civil partners on death 48
84. Nominations for lump sum death benefits 48

CHAPTER 4
General provisions
85. Pension debit members 49
86. Dependants' pensions and children's pensions: suspension and recovery 49
87. Recovery of lump sum payments made to nominees 50
88. Provisional awards of children's pensions: later adjustments 50
89. Payments under this Part 50
90. Payment of death benefits to dual capacity member 51

PART 7
Contributions to purchase added pension
CHAPTER 1
Contributions
91. Member's option to make periodical contributions to purchase added pension 51
92. Member's option to pay lump sum contributions to purchase pension 52
93. Cancellation of options to made periodical contributions 53
94. Periodical contributions: special cases 53
95. Crediting of added pension: death in service or medical discharge 54
96. Repayment of contributions 54

CHAPTER 2
Secondment
97. Members seconded to NATO or the UN etc 54

PART 8
Transfers
CHAPTER 1
Preliminary
98. Interpretation 55

CHAPTER 2
Transfers out
99. Right to require payment of a transfer value 55
100. Applications for statements of entitlement 56
101. Applications for a transfer value payment 56
102. Calculating amount of the transfer value 56
103. Ways in which a transfer value payment may be used 56
104. Effect of transfers out 57

CHAPTER 3
Transfers in
105. Interpretation 57
106. Rights to request acceptance of transfer value payment 57
107. Procedure for making a request 57
108. Transfer statement 58
109. Amount of transferred pension 58
110. Club transfer value statement 58
111. Amount of club transfer earned pension 59

CHAPTER 4
Miscellaneous provisions
112. EU and overseas transfers 59

PART 9
Actuarial valuations and employer cost cap
113. Appointment of scheme actuary and actuarial valuations 59
114. Employer cost cap 60

PART 10
Supplementary
CHAPTER 1
Payment of pensions
115. Late payment of retirement index adjustment 60
116. Commutation of small pensions 60

CHAPTER 2
Payment and deduction of tax
117. Scheme administrator for purposes of the Finance Act 2004 61
118. Reduction of benefits where lifetime allowance charge payable 61

119. Payment on behalf of members of annual allowance charge 61
120. Reduction of benefits where annual allowance charge paid by scheme manager 62

CHAPTER 3
Forfeiture

121. Forfeiture of benefits 62
122. Events enabling forfeiture 63
123. Procedure, references etc 63

CHAPTER 4
General

124. Pension ceases to be payable 64
125. Re-employment after ill health awards 64
126. Payment of benefits 64
127. False statements etc about ill-health 64
128. Non assignability 65
129. General prohibition on unauthorised payments 65
130. Calculation of periods of membership and service 65
131. Determination of questions 65
132. Information and evidence 65
133. Provision of benefit information statements to members 66

The Secretary of State for Defence makes these Regulations in exercise of the powers conferred by sections 1(1), (2)(h), (3) and (4), 2, 3(1),(2),(3)(a) and (c) and (4), 4(1) to (3) and (5), 5(1) to (6) and (8), 7(1), (2)(a) and (3) to (6), 8(1)(a), (2)(a) and (4), 11(1) and (2), 12(1) to (3), (6) and (7), 13(1) to (3), 14, 18(1), (2), (4)(b) and (5) to (9), 25, paragraph (c) of the definition of "employer" in section 37, paragraph 1 of Schedules 1 and 2, Schedule 3, paragraph 1 of Schedules 5 and 6, and paragraphs 1(2) and 2(2) of Schedule 7 to the Public Service Pensions Act 2013(**a**). In accordance with section 21 of that Act, the Secretary of State for Defence has consulted the representatives of such persons as appear to the Secretary of State 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 Armed Forces Pension Regulations 2014.

(2) They come into force on 1st April 2015.

Establishment of scheme

2. These Regulations establish a scheme for the payment of pensions and other benefits in respect of a person's service in the armed forces.

(**a**) 2013 c. 25

Interpretation

3.—(1) In these Regulations, unless the context otherwise requires,—

"the Act" means the Public Service Pensions Act 2013;

"EDP 2014" means the Armed Forces Early Departure Payment Scheme Regulations 2014(**a**);

"FA 2004" means the Finance Act 2004(**b**);

"PIA 1971" means the Pensions (Increase) Act 1971(**c**);

"PSA 1993" means the Pension Schemes Act 1993(**d**);

"WRPA 1999" means the Welfare Reform and Pension Act 1999(**e**);

"accrual rate", in relation to a member's pensionable earnings, means 1/47th;

"accrued added pension" means—

(a) accrued added pension (member), or

(b) accrued added pension (member and dependants);

"accrued added pension (member)" has the meaning given in regulation 25 (calculation of amount of accrued pension for the purposes of Parts 4 and 5);

"accrued added pension (member and dependants)" has the meaning given in regulation 25 (calculation of amount of accrued pension for the purposes of Parts 4 and 5);

"accrued club transfer earned pension" has the meaning given in regulation 25 (calculation of amount of accrued pension for the purposes of Parts 4 and 5);

"accrued earned pension" has the meaning given in regulation 25 (calculation of amount of accrued pension for the purposes of Parts 4 and 5);

"accrued pension" has the meaning given in regulation 25 (calculation of amount of accrued pension for the purposes of Parts 4 and 5);

"active member" has the meaning given in section 124(1) of the Pensions Act 1995 and refers to membership of this scheme(**f**);

"active member's account" has the meaning given in regulation 29 (establishment of an active member's account);

"actuarial" means determined by the scheme manager after consultation with the scheme actuary;

"added pension (member and dependants)", in relation to a scheme year, means an amount calculated in accordance with regulation 32 (account to specify amount of pension for a scheme year);

"added pension" means—

(a) added pension (member and dependants); and

(b) added pension (member);

"added pension (member)", in relation to a scheme year, means an amount calculated in accordance with regulation 32 (account to specify amount of pension for a scheme year);

"additional paternity leave" means leave which, in the opinion of the Secretary of State, corresponds to additional paternity leave within the meaning given in regulation 2(1) of the Additional Paternity Leave Regulations 2010(**g**);

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

(**a**) 2014/2328
(**b**) 2004 c. 12.
(**c**) 1971 c. 56.
(**d**) 1993 c. 48.
(**e**) 1999 c. 30.
(**f**) 1995 c. 26.
(**g**) S.I. 2010/1055

"allocation election" means an election under regulation 61 (election to allocate pension);

"amount of credited pension" has the meaning given in regulation 41 (establishment of a pension credit member's account);

"assumed pay" has the meaning given in regulation 24 (meaning of assumed pay);

"beginning date" means the date of which the pension is treated as beginning for the purpose of section 8(2) or 8(2A) of the PIA 1971;

"cash transfer sum" has the meaning given in section 101AB of the PSA 1993;

"club scheme" means a registered occupational pension scheme that has agreed to make and receive club transfer value payments under the club transfer arrangements;

"club transfer" means a transfer to or from this scheme under the club transfer arrangements;

"club transfer arrangements" means arrangements approved by the scheme manager as providing reciprocal arrangements between this scheme, any connected scheme and other registered occupational pension schemes for making and receiving club transfer value payments;

"club transfer earned pension" means pension attributable to receipt of a club transfer value payment;

"club transfer value payment" means payment of a club transfer value;

"club transfer value", in relation to an amount of accrued earned pension under this scheme or under another club scheme, means an amount calculated by the scheme manager—

(a) in accordance with the club transfer arrangements; and

(b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

"connected scheme" means another statutory pension scheme that is connected with this scheme within the meaning of section 4(6) of the Act;

"commanding officer" is to be read in accordance with section 360 of the Armed Forces Act 2006(**a**);

"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 59 (general option to exchange part of pension for lump sum) to commute an amount of pension to a lump sum;

"continuous period of pensionable service" has the meaning given in regulation 21 ("pensionable service");

"deferred added pension" means—

(a) deferred added pension (member), or

(b) deferred added pension (member and dependants);

"deferred added pension (member)" means an amount calculated in accordance with regulation 35 (account to specify provisional amount of deferred pension);

"deferred added pension (member and dependants)" means an amount calculated in accordance with regulation 35 (account to specify provisional amount of deferred pension);

"deferred club transfer earned pension" means an amount calculated in accordance with regulation 35 (account to specify provisional amount of deferred pension);

"deferred earned pension" means an amount calculated in accordance with regulation 35 (account to specify provisional amount of deferred pension);

"deferred member" has the meaning given in section 124(1) of the Pensions Act 1995(**b**) and refers to membership of this scheme;

(**a**) 2006 c.52.
(**b**) 1995 c. 26.

"deferred member's account" has the meaning given in regulation 34 (establishment of a deferred member's account);

"deferred pension age" in relation to this scheme is determined in accordance with section 10 of the Act;

"dual capacity member" means a member who falls within regulation 14 (dual capacity membership);

"early payment reduction" means the actuarial reduction that is applied when calculating the annual rate of pension payable to a member of this scheme who has not reached their normal pension age and applies to receive their pension before their deferred pension age;

"earned pension" means the amount of earned pension calculated in accordance with regulation 32 (account to specify amount of pension for a scheme year) by applying the accrual rate to the member's pensionable earnings for that year;

"earnings adjustments in determining final pensionable earnings" has the meaning given in regulation 77 (earnings adjustments in determining final pensionable earnings);

"eligible child" has the meaning given in regulation 73 (meaning of "eligible child");

"employment" includes an office or appointment, and related expressions are to be read accordingly;

"final pensionable earnings" has the meaning given in regulation 76 (meaning of 'final pensionable earnings');

"full protection" in relation to a person, means a person who remains an active member of a connected scheme by virtue of provisions being made under section 18(5) of the Act;

"guarantee date" has the meaning given in regulation 98 (Interpretation);

"guaranteed minimum" means the guaranteed minimum as defined in sections 14 and 17 of the PSA 1993 (minimum pension for earners, widows and widowers)—

(a) as increased in accordance with the requirements of section 109 of that Act (annual increase of minimum pensions); and

(b) if a reduction has been made under section 15A of that Act (reduction of guaranteed minimum in consequence of pension debit), as reduced in accordance with that section;

"ill-health pension" means an ill health pension payable under regulation 51, 52 or 56 (entitlement to ill-health pension: active member with permanent serious ill-health, entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment and entitlement to ill-health pension: deferred member with permanent serious ill-health);

"index adjustment", in relation to an opening balance, means—

(a) for any scheme year (other than the opening balance of club transfer earned pension) the percentage increase or decrease for prices or earnings as the scheme manager, after consulting the scheme actuary, may determine to be applicable for any description of pension specified in a Treasury order under section 9(2) of the Act in relation to the previous scheme year; and

(b) in relation to the opening balance of club transfer earned pension for any scheme year, means the adjustment that would apply to the opening balance of that amount of earned pension under the sending scheme for the previous scheme year;

"in-service late payment supplement" has the meaning given in regulation 39 (determination of "in-service late payment supplement");

"last active scheme year" means the scheme year in which an active member ceases to be in pensionable service;

"last day of pensionable service", in relation to a member, means the last day of the service in respect of which the member's pensionable earnings are payable;

"late payment supplement" means an additional amount of pension that the scheme manager determines to be appropriate, after consulting the scheme actuary, because—

(a) an active member leaves service at or after normal pension age but delays receipt of their pension; or

(b) a deferred member or a pension credit member delays receipt of their pension beyond their deferred pension age;

"leaving year" has the meaning given in regulation 26 (calculation of "retirement index adjustment");

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

"non regular permanent staff" means permanent staff of the reserve forces within the meaning of section 6 of the Reserve Forces Act 1996;

"normal pension age", in relation to this scheme, is determined in accordance with section 10 of the Act;

"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, has the meaning given in regulation 33 (account to specify opening balance and index adjustment);

"ordinary adoption leave" means leave which, in the opinion of the Secretary of State, corresponds to ordinary adoption leave within the meaning given in regulation 2(1) of the Paternity and Adoption Leave Regulations 2002(**a**);

"ordinary maternity leave" means leave which, in the opinion of the Secretary of State, corresponds to ordinary maternity leave within the meaning of the Maternity and Parental Leave etc. Regulations 1999(**b**);

"ordinary paternity leave" means leave which, in the opinion of the Secretary of State, corresponds to paternity leave within the meaning of the Paternity and Adoption Leave Regulations 2002;

"pay period" means a period in respect of which a member's pensionable earnings are payable;

"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 dissolution of marriage or civil partnership;

"pension credit member's account" has the meaning given in regulation 41 (establishment of a pension credit member's account);

"pension credit member's pension" means a pension payable under regulation 47 (pension credit member's pension);

"pension credit rights" has the meaning given in section 124(1) of the Pension Act 1995;

"pension debit" means a debit under section 29(1)(a) of the WRPA 1999;

"pension debit member" 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 the WRPA 1999;

"pensionable earnings" has the meaning given in regulation 23 (pensionable earnings);

"pensionable public service" means pensionable service under—

(a) another public service scheme, or

(b) a new public body pension scheme;

"pensionable service", in relation to this scheme, has the meaning given in regulation 21 (pensionable service);

"pensioner member" has the meaning given in section 124(1) of the Pensions Act 1995 and refers to membership of this scheme;

(**a**) S.I. 2002/2788.
(**b**) S.I. 1999/3312.

"pensioner member's account" has the meaning given in regulation 38 (establishment of a pensioner member's account);

"pension sharing order" means any provision or order specified in section 28 of the WRPA 1999;

"pensions board" has the meaning given in regulation 5 (establishment of pensions board);

"period of earlier service" means a previous continuous period of pensionable service under this scheme;

"person's first day", in relation to any scheme employment, has the meaning given in regulation 16(3) (eligibility for active membership);

"personal pension scheme" means a personal pension scheme within the meaning of section 1 of the PSA 1993 which is registered under Chapter 2 of Part 4 of the FA 2004 (registration of pension schemes);

"provisional amount", in relation to a description of deferred pension, has the meaning given in regulation 35 (account to specify provisional amount of deferred pension);

"public service scheme" means a scheme under section 1 of the Act;

"qualifying scheme" has the meaning given by regulation 22 (qualifying service);

"regular forces" has the same meaning as in the Armed Forces Act 2006(**a**) (see section 374 of that Act);

"reserve forces" has the same meaning as in the Reserve Forces Act 1996(**b**) (see section 1(2) of that Act);

"retirement added pension (member)" means an amount calculated in accordance with regulation 40 (account to specify amount of retirement pension);

"retirement added pension (member and dependants)" means an amount calculated in accordance with regulation 40 (account to specify amount of retirement pension);

"retirement added pension" means—

(a) retirement added pension (member), and

(b) retirement added pension (member and dependants);

"retirement benefits" means retirement benefits payable under Part 5 (Retirement benefits);

"retirement club transfer earned pension" means an amount calculated in accordance with regulation 40 (account to specify amount of retirement pension);

"retirement earned pension" means an amount calculated in accordance with regulation 40 (account to specify amount of retirement pension);

"retirement index adjustment", in relation to an amount of accrued pension, has the meaning given in regulation 26 (calculation of 'retirement index adjustment');

"retirement pension" means—

(a) a retirement earned pension;

(b) a retirement added pension; and

(c) a retirement club transfer earned pension.

"this scheme" means the scheme established by these Regulations;

"scheme actuary" has the meaning given in regulation 113 (appointment of scheme actuary and actuarial valuations);

"scheme administrator" except under regulation 117 (scheme administrator for the purpose of the FA 2004), in relation to a member or a function, means the person responsible for the day to day administration of the scheme in relation to the member or in respect of the function;

(**a**) 2006 c.52.
(**b**) 1996 c.14.

"scheme advisory board" has the meaning given in regulation 9 (establishment of scheme advisory board);

"scheme employment" has the meaning given in regulation 13 (description of persons in scheme employment);

"scheme manager" has the meaning given in regulation 4 (scheme manager);

"scheme medical adviser" means the medical adviser appointed by the scheme manager for the time being to provide a consulting service on medical matters relevant to this scheme;

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

"service detention" has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act);

"sending scheme" means a club scheme which pays a club transfer value;

"statutory maternity pay" means statutory maternity pay with the meaning of the Social Security Contributions and Benefits Act 1992;

"transfer payment" means a transfer value payment or a club transfer value payment;

"transfer value" has the meaning given in Part 8 (Transfers);

"transfer value payment" has the meaning given in regulation 98 (Interpretation);

"transferred pension" means pension attributable to receipt of a transfer value payment calculated in accordance with regulation 32(5) (account to specify amount of pension for a scheme year);

"transition member" means a person—

(a) who is a member of a connected scheme by virtue of pensionable service under the connected scheme before 1st April 2015; and

(b) who is also a member of this scheme by virtue of pensionable service under this scheme;

"Treasury directions" has the meaning given in regulation 113 (appointment of scheme actuary and actuarial valuation);

"weekly rate", in relation to a guaranteed minimum pension, has the same meaning as in regulation 55(1) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**a**).

(2) In these Regulations—

"each description of deferred pension" means—

(a) deferred earned pension,

(b) deferred club transfer earned pension,

(c) deferred added pension (member and dependants),

(d) deferred added pension (member);

"each description of pension" means—

(a) an earned pension,

(b) a club transfer earned pension,

(c) an added pension (member and dependants),

(d) an added pension (member),

(e) a transferred pension;

"relevant accrued pension" means—

(a) for an earned pension or transferred pension, the accrued earned pension,

(b) for a club transfer earned pension, the accrued club transfer earned pension,

(c) for an added pension (member and dependants), the accrued added pension (member and dependants), and

---

(**a**) S.I. 1996/1172

(d) for an added pension (member), the accrued added pension (member);

"relevant deferred pension" means—

(a) for an earned pension or transferred pension, the deferred earned pension,

(b) for a club transfer earned pension, the deferred club transfer earned pension,

(c) for an added pension (member and dependants), the deferred added pension (member and dependants), and

(d) for an added pension (member), the deferred added pension (member);

"relevant retirement pension" means—

(e) for an earned pension or transferred pension, the retirement earned pension,

(f) for a club transfer earned pension, the retirement club transfer earned pension,

(g) for an added pension (member and dependants), the retirement added pension (member and dependants), and

(h) for an added pension (member), the retirement added pension (member).

PART 2

Governance

CHAPTER 1

Scheme Manager and Scheme Pension Board

Scheme manager

4.—(1) The Secretary of State is the scheme manager for this scheme.

(2) The scheme manager is responsible for managing this scheme and any connected scheme.

(3) The scheme manager may delegate any functions under these Regulations, including the power to delegate.

(4) The Secretary of State, as the responsible authority, may delegate any functions under these Regulations including the power to delegate.

Establishment of pensions board

5.—(1) A pensions board ("the pensions board") is established.

(2) The pensions board is responsible for assisting the scheme manager in relation to securing compliance with—

(a) these Regulations;

(b) any other legislation relating to the governance and administration of this scheme and any connected scheme; and

(c) requirements imposed by the Pensions Regulator in relation to this scheme or any connected scheme.

(3) The pensions board may determine its own proceedings, subject to the approval of the scheme manager.

Membership of the pensions board

6.—(1) The pensions board is to consist of the following who are entitled to vote in its proceedings ("voting members")—

(a) a chair appointed by the scheme manager; and

(b) at least 6 and no more than 20 persons appointed by the chair with the agreement of the scheme manager.

(2) The voting members must include—

(a) a departmental finance director or similar representative; and

(b) equal numbers of members representing the employer and scheme members.

(3) The chair may appoint up to 4 persons who are not to be entitled to vote in the pensions board proceedings.

(4) The appointment of a person to the pensions board is subject to regulation 8 (conflict of interest: pensions board).

Terms of appointment to pensions board

7. A member of the pensions board is to hold and vacate office in accordance with the terms of appointment as determined by the scheme manager.

Conflict of interest: pensions board

8.—(1) The scheme manager must be satisfied that any person to be appointed as a member of the pensions board does not have a conflict of interest.

(2) The scheme manager must be satisfied from time to time that none of the members of the pensions board has a conflict of interest.

(3) If the scheme manager determines that a member of the pensions board has a conflict of interest, the scheme manager must terminate the appointment of the member.

(4) A member of the pensions board or a person proposed to be appointed as such a member must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1) or (2).

CHAPTER 2

Scheme Advisory Board

Establishment of scheme advisory board

9.—(1) A scheme advisory board ("the scheme advisory board") is established.

(2) The scheme advisory board is responsible for advising, at the Secretary of State's request, the Secretary of State in relation to the desirability of changes to this scheme.

(3) The scheme advisory board may determine its own proceedings, subject to the approval of the Secretary of State.

Membership of the scheme advisory board

10.—(1) The scheme advisory board is to consist of the following—

(a) a chair appointed by the Secretary of State; and

(b) at least 6 and no more than 20 persons appointed by the chair subject to the approval of the Secretary of State.

(2) The appointment of a person to the scheme advisory board is subject to regulation 12 (conflict of interest: scheme advisory board).

(3) The members of the scheme advisory board may be the same as the members of the scheme pension board.

Terms of appointment to the scheme advisory board

11. A member of the scheme advisory board must hold and vacate office in accordance with the terms of appointment as determined by the Secretary of State.

Conflict of interest: scheme advisory board

12.—(1) The Secretary of State must be satisfied that any person to be appointed as a member of the scheme advisory board does not have a conflict of interest.

(2) The Secretary of State must be satisfied from time to time that none of the members of the scheme advisory board has a conflict of interest.

(3) If the Secretary of State determines that a member of the scheme advisory board has a conflict of interest, the Secretary of State must terminate the appointment of the member.

(4) A member of the scheme advisory board or a person proposed to be appointed as such a member must provide the Secretary of State with such information as the Secretary of State reasonably requires for the purposes of paragraph (1) or (2).

PART 3

Scheme membership

CHAPTER 1

Scheme employment

Description of persons in scheme employment

13.—(1) For the purpose of these Regulations, a person who is in service as specified in paragraph (2), is in scheme employment.

(2) The service referred to in paragraph (1) is as a part of the—

(a) regular forces;

(b) reserve forces;

(c) non-regular permanent staff.

CHAPTER 2

Membership

Dual capacity membership

14.—(1) For the purpose of these Regulations, a person is a dual capacity member if the person is a member in more than one of the following capacities—

(a) an active member;

(b) a deferred member;

(c) a pensioner member;

(d) a pension credit member.

(2) In determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member, and the person's rights in that capacity, are to be disregarded.

(3) In determining whether a person who is an active member or a pensioner member is also a deferred member, the fact that the person is an active member or a pensioner member, and the person's rights in that capacity, are to be disregarded.

Payments of benefits to dual capacity members

15.—(1) This paragraph applies if the member is a dual capacity member.

(2) The general rule is that—

(a) benefits are payable to the member under this scheme as if the member were 2 or more members (so that 2 or more pensions or lump sums are payable in respect of the one member); and

(b) the amounts payable are determined accordingly.

(3) If a person who is a pension credit member is entitled to 2 or more pension credits—

(a) benefits are payable to the person under this scheme as if the person were 2 or more persons, each being entitled to one of the pension credits (so that 2 or more pensions or lump sums are payable to the one pension credit member); and

(b) the amounts of those benefits are determined accordingly.

Eligibility for active membership

16.—(1) A person is eligible to be an active member of this scheme if the person is in scheme employment under regulation 13 (descriptions of persons in scheme employment) on or after 1st April 2015 and the terms of the person's employment do not exclude the person from being an active member of this scheme.

This is subject to paragraph (2).

(2) A person is not eligible to be an active member of this scheme in relation to any scheme employment while the person—

(a) is a member with full protection in a connected scheme in relation to that employment; or

(b) is a member of another pension scheme in relation to that employment and the employer pays contributions to that scheme in respect of a member.

(3) A person who is so eligible becomes an active member of this scheme on the person's first day of service on or after 1st April 2015 in scheme employment ("the person's first day") unless an option to the contrary is exercised.

Deferred membership

17. A person who, on ceasing to be in pensionable service under this scheme, has not reached normal pension age and does not become a pensioner member in respect of that service, becomes a deferred member in respect of that service if—

(a) the person has at least 2 years' qualifying service; or

(b) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the person under Part 8 (Transfers).

CHAPTER 3

Membership options

Option not to join scheme

18.—(1) A person may, before the end of the period of 3 months beginning with the person's first day (or such longer period, if any, as the scheme manager considers appropriate), opt not to belong to this scheme.

(2) The option is to be exercised by notice in writing to the person's commanding officer in such form as the scheme manager requires.

(3) The option has effect from the person's first day.

Option to leave the scheme

19.—(1) A person, who is an active member of this scheme, may opt to cease to be such a member.

(2) The option may only be exercised by notice in writing to the person's commanding officer in such form as the scheme manager requires.

(3) For the purposes of this regulation, the option is treated as having been exercised on the date on which it is received by the commanding officer.

(4) A member who exercised the option ceases to be an active member 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 other pay period as the scheme manager considers appropriate.

Option to join the scheme

20.—(1) A person, who is eligible to be an active member of this scheme but is not in pensionable service under this scheme, may opt at any time to become an active member, subject to the following provisions of this regulation.

(2) Unless the scheme manager specifies, a person may only exercise the option under paragraph (1) once during any period of 12 months.

(3) The option may only be exercised by notice in writing to the person's commanding officer in such form as the scheme manager requires.

(4) For the purposes of this regulation, the option is treated as having been exercised on the date on which it is received by the person's commanding officer.

(5) A person who exercises the option becomes an active member on the date on which the option is exercised or at such other time as the scheme manager considers appropriate.

CHAPTER 4

Pensionable service

Pensionable service

21.—(1) A member is in pensionable service under this scheme in any period in respect of which the scheme member is—

(a) employed in scheme employment; and

(b) receiving pensionable earnings or assumed pay.

(2) For the purpose of Part 4 (Pensions Accounts), a member is treated as being in a continuous period of pensionable service under this scheme if—

(a) there is no gap in pensionable service; or

(b) any gap in pensionable service does not exceed 5 years.

Qualifying service

22.—(1) In these Regulations, a period of qualifying service is the aggregate of the following periods—

(a) any period on or after 1st April 2015, where the individual is an active member under regulation 16 (eligibility for active membership);

(b) if a transfer value payment or a cash transfer sum has been accepted under Part 8 (Transfers) in respect of rights accrued under another occupational pension scheme, a period equal to the person's period as an active member in that scheme; and

(c) for a transition member with continuity of service, the person's continuous period of pensionable service under a connected scheme on or before 31st March 2015.

(2) In paragraph (1)—

(a) a transition member has continuity of service unless the person has a gap in pensionable service exceeding 5 years which—

(i) begins on or before 31st March 2015; and

(ii) ends on the day the person becomes an active member of this scheme;

(b) a period of pensionable public service does not constitute a gap in service.

This is subject to paragraph (4).

(3) The following are not qualifying service—

(a) any pensionable service in respect of which a person's rights under this scheme are extinguished;

(b) any pensionable service by a person under any connected scheme in respect of which the person's rights under that scheme are extinguished;

(c) any period of service during which a person opts not to join this scheme;

(d) any service from the point when an active member opts out from this scheme until any future point when the member opts back in;

(e) any period of unauthorised absence from scheme employment;

(f) any period of unpaid leave in respect of which the person is not treated as receiving assumed pay;

(g) any period of service detention; and

(h) any period of imprisonment.

(4) Where a person ceases to be eligible for active membership under regulation 16 (eligibility for active membership) for a period of more than 5 years and subsequently rejoins, qualifying service re-starts from the first day of new service in scheme employment.

(5) In determining the period for which an individual ceases to be eligible under paragraph (4) any period where the member was in pensionable public service is to be disregarded.

Pensionable earnings

23.—(1) For the purpose of calculating a member's pension or other benefits, the member's pensionable earnings are—

(a) basic pay in the service by virtue of which the person is a member for a person of the member's rank and seniority; and

(b) an other amount if, and to the extent that, the Secretary of State has determined that it is to be treated as pensionable earnings.

This is subject to paragraph (3).

(2) Accordingly, subject to paragraph (1)(b), "pensionable earnings" does not include—

(a) any allowances,

(b) any additional amounts payable in respect of particular qualifications or duties, the location of service or the conditions in which service is temporarily performed, or

(c) any additional amounts payable to medical or dental officers as such.

(3) "Pensionable earnings" does not include any description of payments that the Secretary of State has determined is not to be treated as pensionable earnings, unless it is expressly provided to the member on the basis that it is pensionable.

Meaning of "assumed pay"

24.—(1) For any period in which the circumstances specified in paragraph (2) apply to an active member of this scheme, a member is treated as receiving pay ("assumed pay") equal to the pensionable earnings that the member would have received if those circumstances had not applied, with such increase, if any, as the scheme manager considers appropriate.

(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 that service by that employer;

(b) is on ordinary adoption leave, ordinary maternity leave, ordinary paternity leave or on paid additional paternity leave;

(c) is receiving statutory maternity pay; or

(d) is on unpaid leave for a period which the scheme manager has agreed can count for the purpose of this paragraph.

PART 4

Pension accounts

CHAPTER 1

Preliminary

Calculation of amount of accrued pension for the purposes of Parts 4 and 5

25.—(1) For the purposes of Parts 4 and 5, the amount of accrued pension is calculated in accordance with this regulation.

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

(a) the opening balance of earned pension for the last active scheme year and the index adjustment for that opening balance;

(b) the amount of earned pension for the last active scheme year;

(c) 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 the accrued added pension (member) is the sum of the following amounts specified in the active member's account as at the end of the last day of pensionable service—

(a) the opening balance of the accrued added pension (member) for the last active scheme year and the index adjustment for that opening balance; and

(b) the amount of accrued added pension (member) for the last active scheme year.

(4) The amount of the accrued added pension (member and dependants) is the sum of the following amounts specified in the active member's account as at the end of the last day of pensionable service—

(a) the opening balance of accrued added pension (member and dependants) for the last active scheme year and the index adjustment for that opening balance; and

(b) the amount of accrued added pension (member and dependants) for the last active scheme year.

(5) The amount of the accrued club transfer 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) for each sending scheme, the sum of the opening balance of the club transfer earned pension for the last active scheme year and the index adjustment for that opening balance; and

(b) for each sending scheme, the amount of club transfer earned pension for the last active scheme year.

Calculation of "retirement index adjustment"

26.—(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 increase

where—

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

B is 12.

The resulting percentage is the retirement index percentage.

Step 2

Apply the retirement index percentage to the amount of accrued pension.

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 last day of pensionable service falls;

"percentage increase" means—

(a) for this scheme an increase or decrease in prices or earnings (as the scheme manager may determine to be applicable to a description of pension) specified in the Treasury order for that year; and

(b) for a sending scheme, the increase or decrease that applies under that scheme to the revaluation of earned pension in that year as published by the Treasury;

"the Treasury order" means an order under section 9(2) of the Act.

CHAPTER 2

Pension accounts: general

Establishment of pension accounts: general

27.—(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 contain such matters as are required by these Regulations.

(3) References in these Regulations to an 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, the amount actually so specified.

Closure and adjustment of pension accounts on transfer out

28.—(1) Except as otherwise provided in this regulation, all pension accounts relating to a member must be closed if a transfer payment is made or a cash transfer sum is paid out in respect of a member's accrued rights under this scheme.

(2) Nothing in paragraph (1) requires the closure of an account that includes amounts to which the transfer payment or cash transfer sum 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 extinguishing of rights under this scheme.

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

(a) a pension credit member; and

(b) an active member, deferred member or pensioner member.

CHAPTER 3

Active member's account

Establishment of an active member's account

29. A pension account must be established for each active member ("the active member's account") from the person's first day.

Receipt of transfer values

30.—(1) This regulation applies if a transfer value payment is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receipt of the transfer value payment, the active member's account must be credited with the amount of transferred pension calculated under regulation 109 (amount of transferred pension).

Receipt of club transfer values

31.—(1) This regulation applies if a club transfer value payment is received from another club scheme in relation to an active member of this scheme.

(2) On receipt of the club transfer value payment, the active member's account must be credited with an amount of club transfer earned pension calculated under regulation 111 (amount of club transfer earned pension).

Account to specify amount of pension for a scheme year

32.—(1) This regulation applies 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 club transfer earned pension for a scheme year must be specified separately in relation to each sending scheme;

(4) The amount of earned pension for a scheme year is $1/47^{th}$ of the member's pensionable earnings for that year.

(5) The amount of transferred pension for a scheme year is the amount which the member is entitled to count under regulation 109 (amount of transferred pension).

(6) The amount of club transfer earned pension for a scheme year is the amount which member is entitled to count under regulation 111 (amount of club transfer earned pension).

(7) The added pension (member) for a scheme year is the sum of the amounts a member is entitled to count under Chapter 1 of Part 7 (Contributions) after exercising an option under regulation 91(1)(a) (member's option to make periodical contributions to purchase added pension).

(8) The added pension (member and dependants) for a scheme year is the sum of the amounts a member is entitled to count under Chapter 1 of Part 7 (Contributions) after exercising an option under regulation 91(1)(b) (member's option to make periodical contributions to purchase added pension).

Account to specify opening balance and index adjustment

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

(2) The active member's account must specify, for each description of pension, the opening balance for the scheme year and the index adjustment for the opening balance.

(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; and

(ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year.

CHAPTER 4

Deferred member's account

Establishment of a deferred member's account

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

(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, for each description of pension, the provisional amount of the relevant deferred pension.

(2) The provisional amount of deferred earned pension is the sum of the amount of accrued earned pension and the retirement index adjustment for that amount.

(3) The provisional amount of the deferred club transfer earned pension is the sum of the amount of accrued club transfer earned pension and the retirement index adjustment for that amount.

(4) The provisional amount of deferred added pension (member) is the sum of the amount of accrued added pension (member) and the retirement index adjustment for that amount.

(5) The provisional amount of deferred added pension (member and dependants) is the sum of the amount of accrued added pension (member and dependants) and the retirement index adjustment for that amount.

(6) The retirement index adjustment is not to be applied to an amount of accrued pension if a transfer value payment is made or a cash transfer sum is paid out in respect of the member's right to that accrued pension before the end of the last active scheme year.

Adjustment of provisional amount of deferred pension on retirement

36. When a deferred member becomes entitled under regulation 44 (retirement before reaching normal pension age – deferred members) to the payment of a retirement pension, the deferred member's account must specify for the provisional amount of each description of deferred pension—

(a) the early payment reduction (if any);

(b) the late payment supplement (if any);

(c) the commutation amount (if any); and

(d) the allocation amount (if any).

Treatment of deferred member's account on return to pensionable service

37.—(1) When a deferred member re-enters pensionable service not later than 5 years after the date on which a period of earlier service ceased—

(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 period in which the deferred member's account was open, the member—

(i) was in pensionable service; but

(ii) received no pensionable earnings.

(2) When a deferred member re-enters pensionable service more than 5 years after the date on which a period of earlier service ceased—

(a) the deferred member's account must remain open; and

(b) an active member's account must be established from the first day for the new period of pensionable service.

CHAPTER 5

Pensioner member's account

Establishment of a pensioner member's account

38.—(1) When an active member becomes entitled to the immediate payment of a retirement earned pension under regulation 43 (retirement on or after reaching normal pension age – active members) or an ill-health pension under regulation 51 or 52 (entitlement to ill-health pension: active member with permanent serious ill-health and entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment)—

(a) the active member's account must be closed; and

(b) a pension account for the pensioner member must be established (the pensioner member's account).

(2) When a deferred member becomes entitled to the payment of a retirement earned pension under regulation 44 (retirement before reaching normal pension age – deferred members) or an ill-health pension under regulation 56 (entitlement to ill-health pension: deferred member with permanent serious ill-health)—

(a) the deferred member's account must be closed; and

(b) a pension account for the pensioner member must be established ("the pensioner member's account").

Determination of "in-service late payment supplement"

39.—(1) This regulation applies for any period an active member remains in service subsequent to the scheme year in which the member reaches normal pension age.

(2) The scheme manager, having regard to the guidance from the scheme actuary, must determine the in-service late payment supplement for each amount of accrued pension specified in the pensioner member's account.

(3) In these Regulations, "in-service late payment supplement" means an additional amount of pension determined by reference to the period in service after an active member has reached normal pension age.

Account to specify amount of retirement pension

40.—(1) The pensioner member's account must specify, for each description of pension, the amount of the relevant retirement pension.

(2) The retirement earned pension is the sum of the amount of accrued earned pension and the retirement index adjustment for that amount.

(3) The retirement club transfer earned pension is the sum of the amount of accrued club transfer pension and the retirement index adjustment for that amount.

(4) The retirement added pension (member) is the sum of the amount of accrued added pension (member) and the retirement index adjustment for that amount.

(5) The retirement added pension (member and dependants) is the sum of the amount of accrued added pension (member and dependants) and the retirement index adjustment for that amount.

(6) The pension member's account must specify for each amount of retirement pension—

(a) the early payment reduction (if any) specified in that account in relation to the relevant accrued pension;

(b) the in-service late payment supplement (if any);

(c) the late payment supplement (if any);

(d) the commutation amount (if any); and

(e) the allocation amount (if any).

(7) When a pensioner member re-enters pensionable service—

(a) the pensioner member's account must remain open; and

(b) an active member's account must be established for the new period of service.

CHAPTER 6

Pension credit member's account

Establishment of a pension credit member's account

41.—(1) A pension account must be established for each pension credit member ("the pension credit member's account").

(2) When a pension credit member becomes entitled to the payment of a pension under regulation 47 (pension credit member's pension), the pension credit member's account must specify the amount of credited pension, and for that amount—

(a) the early payment reduction (if any); and

(b) the commutation amount (if any).

(3) In this regulation, "amount of credited pension" means an amount such that the value of the pension credit member's right under this scheme (as calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 to the WRPA 1999) equals the member's pension credit under section 29(1)(b) of that Act.

Separate accounts for dual capacity pension credit member

42.—(1) If a pension credit member is also an active member, a deferred member or a pensioner member, the pension credit member's account is in addition to the other account or accounts to be established under this Part in respect of the member in the other capacity.

(2) If a pension credit member has rights under this scheme which are attributable, directly or indirectly, to pension credit derived from the rights of more than one pension debit member of this scheme, a separate account is to be established under this regulation in respect of the pension credit attributable to the rights of each such pension debit member.

PART 5

Retirement benefits

CHAPTER 1

Retired member benefits

Retirement on or after reaching normal pension age – active members

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

(a) the member ceases to be in pensionable service under this scheme at or after reaching normal pension age; and

(b) the member has not made a claim for a pension under regulation 44 (retirement before reaching normal pension age – deferred members) in respect of that service.

(2) But a member is not so entitled unless—

(a) the member has claimed payment of the pension; and

(b) (i) the member has at least 2 years' qualifying service; or

(ii) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).

(3) A member, who is entitled to a retirement earned pension under this regulation, is entitled to immediate payment for life of—

(a) a retirement added pension, if the retirement account specifies an amount of retirement added pension; and

(b) a retirement club transfer earned pension, if the retirement account specifies an amount of club transfer earned pension.

(4) The claim for payment of a pension under this regulation must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.

(5) In the event that the member delays making a claim under this regulation after reaching the normal pension age the in-service late payment supplement or the late payment supplement (as applicable) will apply to the account of the member.

Retirement before reaching normal pension age – deferred members

44.—(1) A member, who is not entitled to immediate payment of a pension under regulation 43 (retirement on or after reaching normal pension age – active members), is entitled to the immediate payment for life of a retirement earned pension under this scheme if the member—

(a) has reached the age of 55;

(b) has ceased to be in pensionable service under this scheme; and

(c) has claimed payment of pension.

(2) But a member is not so entitled unless—

(a) the member has at least 2 years' qualifying service; or

(b) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).

(3) A member, who is entitled to a retirement earned pension under this regulation, is entitled to immediate payment for life of—

(a) a retirement added pension, if the deferred member's account specifies a provisional amount of deferred added pension; and

(b) a retirement club transfer earned pension, if the retirement account specifies a provisional amount of deferred club transfer earned pension.

(4) The claim for payment of a pension under this regulation must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.

(5) The early payment reduction is to apply to the pension amount of the member in the event that the pension is to come into payment before the member's deferred pension age.

(6) The late payment supplement is to apply to the pension amount of the member in the event that the pension is to come into payment after the member's deferred pension age.

Annual rate of pension payable to active member who becomes pensioner member

45.—(1) This regulation applies when an active member becomes entitled under regulation 43 (retirement on or after reaching normal pension age – active members) to the immediate payment of a retirement earned pension.

(2) The annual rate of the retirement earned pension payable to the retired member is determined by—

(a) taking the amount of retirement earned pension specified in the retirement account;

(b) adding the in-service late payment supplement (if any) specified in that account in relation to that amount;

(c) adding the late payment supplement (if any) specified in that account in relation to that amount;

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and

(e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(3) If a retirement added pension (member and dependants) is payable to the member, the annual rate of that pension is determined by—

(a) taking the amount of retirement added pension (member and dependants) specified in the retirement account;

(b) adding the late payment supplement (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 allocation amount (if any) specified in that account in relation to that amount.

(4) If a retirement added pension (member) is payable to the member, the annual rate of that pension is determined by—

(a) taking the amount of retirement added pension (member) specified in the retirement account;

(b) adding the late payment supplement (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.

(5) If a retirement club transfer earned pension is payable to the member, the annual rate of the pension is determined by—

(a) taking the amount of club transfer earned pension specified in the retirement account; and

(b) applying the provisions of regulation 45(2)(b) to (e) to that amount.

Annual rate of pension payable to deferred member who becomes pensioner member

46.—(1) This regulation applies when a deferred member becomes entitled under regulation 44 (retirement before reaching normal pension age – deferred members) to the immediate payment of a retirement pension.

(2) The annual rate of the retirement earned pension payable to the member is determined by—

(a) taking the provisional amount of the member's deferred earned pension specified in the deferred member's account;

(b) adding the late payment supplement(if any) specified in that account in relation to that amount;

(c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and

(e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(3) If a retirement added pension (member and dependants) is payable to the member, the annual rate of this pension is determined by—

(a) taking the provisional amount of the member's deferred added pension (member and dependants) specified in the deferred member's account;

(b) adding the late payment supplement (if any) specified in that account in relation to that amount;

(c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and

(e) subtracting the allocation amount (if any) specified in that account in relation to that amount.

(4) If a retirement added pension (member) is payable to the member, the annual rate of that pension is determined by—

(a) taking the provisional amount of the member's deferred added pension (member) specified in the deferred member's account;

(b) adding the late payment supplement (if any) specified in that account in relation to that amount;

(c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(5) If a retirement club transfer pension is payable to the member the annual rate of that pension is determined by—

(a) taking the provisional amount of the member's deferred club transfer earned pension specified in the deferred member's account; and

(b) applying the provisions of regulation 46(2)(b) to (e) to that amount.

CHAPTER 2

Benefits for pension credit and pension debit members

Pension credit member's pension

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

(a) (i) when a pension credit member reaches deferred pension age; or

(ii) if it is later, when the pension sharing order under which the member is entitled to the pension credit takes effect; and

(b) the pension credit member has claimed payment of the pension.

(2) The claim for payment of a pension must be made by notice in writing to the scheme administrator in such form as the scheme manager requires.

(3) A pension credit member who has reached 55, but has not reached deferred pension age, may claim early payment of the pension credit member's pension by written notice to the scheme administrator.

(4) The notice must—

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

(b) specify the date on which the pension is to become payable ("payable date").

(5) A pension credit member who claims early payment of a pension credit member's pension is entitled to the immediate payment for life of that pension on that payable date.

(6) The early payment reduction is to apply to the pension account of a pension credit member in the event that the pension comes into payment before the pension credit member's deferred pension age.

(7) The late payment supplement is to apply to the pension account of a pension credit member in the event that the pension comes into payment after the pension credit member's deferred pension age.

Annual rate of pension credit member's pension

48. The annual rate of the pension credit member's pension is determined by—

(a) taking the amount of credited pension specified in the pension credit member's account;

(b) adding the late payment supplement (if any) specified in that account in relation to that amount;

(c) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and

(d) subtracting the commutation amount (if any) specified in that account in relation to that amount.

Pension credit member's rights

49.—(1) If regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(**a**) (early or deferred retirement) applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.

(2) Benefits that are attributable to a pension credit are not to be aggregated with any other benefits to which the pension credit member is entitled under this scheme.

Reduction in pension debit member's benefits

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

CHAPTER 3

Ill-health benefits

Entitlement to ill-health pension: active member with permanent serious ill-heath

51.—(1) An active member who has not reached normal pension age is entitled to immediate payment of an ill-health pension if—

(a) in the opinion of the scheme manager, the member has suffered a permanent breakdown in health involving incapacity for any gainful full time employment;

(**a**) S.I. 2000/1054

(b) the scheme manager has received evidence from a registered medical practitioner that the member is, and will continue to be, incapable of carrying on their occupation because of physical or mental impairment;

(c) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers);

(d) the member is not entitled to an ill-health pension under regulation 52(1) (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment); and

(e) the scheme manager has agreed to the member becoming so entitled.

(2) For the purpose of these Regulations, a member's breakdown in health is "permanent" if the scheme manager is of the opinion that the breakdown will continue until the member reaches normal pension age.

(3) A member entitled to immediate payment of an ill-health pension is entitled to an added pension of any description if the retirement account specifies an accrued added pension of that description.

(4) The annual rate of an ill-health pension and any added pension payable under this regulation is calculated in accordance with regulation 54 (annual rate of ill-health pension: active members with permanent serious ill-health).

Entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment

52.—(1) An active member who has not reached normal pension age is entitled to the immediate payment of an ill-health pension if—

(a) in the opinion of the scheme manager—

(i) the member has suffered a breakdown in health, as a result of which, their capacity for any gainful employment is significantly impaired; and

(ii) the breakdown will continue until the member reaches normal pension age;

(b) the scheme manager has received evidence from a registered medical practitioner that the member is, and will continue to be, incapable of any gainful employment because of physical or mental impairment;

(c) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers);

(d) the member is not entitled to an ill-health pension under regulation 51(1) (entitlement to ill-health pension: active member with permanent serious ill-health); and

(e) the scheme manager has agreed to the member becoming so entitled.

(2) A member entitled to immediate payment of an ill-health pension is entitled to—

(a) an added pension of any description if the retirement account specifies an accrued added pension of that description; and

(b) a retirement club transfer earned pension, if the retirement account specifies a club transfer earned pension.

(3) The annual rate of an ill-health pension and any added pension payable under this regulation is to be calculated in accordance with regulation 55 (annual rate of ill-health pension: active members with significant impairment of capacity for gainful employment).

Deferment of accrued earned pension attributable to a transfer payment

53.—(1) In respect of any amount of accrued pension specified in the active member's account as at the end of the last day of pensionable service which is attributable to a transfer value payment or cash transfer sum ("payment") accepted in relation to the member under Part 8

(Transfers) in the 24 months before the relevant day and the scheme manager so directs, these Regulations apply as if the member had become a deferred member in respect of the rights that accrued in that service by virtue of that payment.

(2) Accordingly where paragraph (1) applies—

(a) for the purpose of calculating the provisional amount of deferred added earned pension under regulation 35 (account to specify provisional amount of deferred pension), the amount of accrued earned pension is only the amount attributable to that transferred payment; and

(b) for the purpose of calculating the amount of retirement earned pension or any club transfer earned pension under regulation 40 (account to specify amount of retirement pension), the amount of accrued pension is—

(i) the amount specified in the active member's account as at the end of the last day of pensionable service, less

(ii) the amount attributable to that payment.

(3) In paragraph (1), "the relevant day" means the day on which the scheme manager provided their opinion, mentioned in either regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health) or regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment), by virtue of which the member is entitled to the ill-health pension.

Annual rate of ill-health pension: active members with permanent serious ill-health

54.—(1) The annual rate of an ill-health pension payable under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member), in the same way as the annual rate of retirement earned pension is calculated, but—

(a) the references to the member's retirement earned pension are taken to be references to the enhancement value of the earnings-related part of that pension; and

(b) the early payment reduction is not subtracted.

(2) In this regulation—

"the earnings-related part", in relation to the member's retirement earned pension, means the proportion of that pension not attributable to a transferred pension;

"the enhancement value" means multiplying A by B where—

(a) A is the member's retirement earned pension divided by the sum of—

(i) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and

(ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and

(b) B is the greater of—

(i) the number of years (or parts of years) up to a maximum of 25 years which would have remained, if the active member had continued in scheme employment up to normal pension age; or

(ii) X plus N (both expressed as a number of years), where

(aa) X is the sum of—

(i) for all years up to the last active year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and

(ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and

(bb) N is half of the number of years (or parts of years) from the last day of pensionable service until normal pension age.

(3) The annual rate of any added pension payable under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member) in the same way as the annual rate of retirement added pension is calculated, but any early payment reduction is not subtracted.

(4) The annual rate of any club transfer pension payable under regulation 51 is calculated in accordance with regulation 45 in the same way as the annual rate of club transfer pension is calculated.

Annual rate of ill-health pension: active members with significant impairment of capacity for gainful employment

55.—(1) The annual rate of an ill-health pension payable under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member), in the same way as the annual rate of retirement earned pension is calculated, but—

(a) the references to the member's retirement earned pension are taken to be references to the enhancement value of the earnings-related part of that pension; and

(b) the early payment reduction is not subtracted.

(2) In this regulation—

"the earnings-related part", in relation to the member's retirement earned pension, means the proportion of that pension not attributable to a transferred pension;

"the enhancement value" means the value arrived at by multiplying A by B, where—

(a) A is the member's retirement earned pension divided by the sum of—

(i) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and

(ii) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and

(b) B is X plus N, where—

(i) X is the sum of—

(aa) for all years up to the last active scheme year, the number of scheme years (or parts of scheme years) for which amounts of earned pension were specified in the active member's account; and

(bb) in the last active scheme year, the number of calendar days (expressed as a proportion of a year), where the member was eligible for active membership; and

(ii) N is one-third of the number of years (or part of years) from the last day of pensionable service until normal pension age (both X and N to be expressed as a number of years).

(3) The annual rate of any added pension payable under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) is calculated in accordance with regulation 45 (annual rate of pension payable to active member who becomes pensioner member) in the same way as the annual rate of retirement added pension is calculated.

(4) The annual rate of any club transfer pension payable under regulation 52 is calculated in accordance with regulation 45 in the same way as the annual rate of retirement club transfer pension is calculated.

Entitlement to ill-health pension: deferred member with permanent serious ill-health

56.—(1) A deferred member, who has not reached deferred pension age, is entitled to immediate payment of an ill-health pension if—

(a) the member makes a claim to the scheme administrator for immediate payment of the pension;

(b) the member has at least 2 years' qualifying service or a transfer value payment otherwise than from another occupation pension scheme has been accepted in relation to the member under Part 8 (Transfers);

(c) in the opinion of the scheme manager, after consulting the scheme medical adviser, the member has suffered a permanent breakdown in health involving incapacity for any gainful full-time employment; and

(d) the scheme manager has agreed to the member becoming so entitled.

(2) For the purpose of these Regulations, a member's breakdown in health is "permanent" if the scheme manager is of the opinion that the breakdown will continue until the member reaches deferred pension age.

(3) A member entitled to immediate payment of an ill-health pension is entitled to—

(a) an added pension of any description if the retirement account specifies an accrued pension of that description; and

(b) a retirement club transfer earned pension, if the retirement account specifies a club transfer earned pension.

(4) The annual rate of an ill-health pension, any added pension and any club transfer pension payable under this regulation is calculated in accordance with regulation 46 (annual rate of pension payable to deferred member who becomes a pensioner member) but without subtracting the early payment reduction.

Scheme manager's review of ill-health awards

57.—(1) This regulation applies if—

(a) a member is entitled to a pension under regulation 51, 52 or 56 (entitlement to ill-health pension: active member with permanent serious ill-health; entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment; or entitlement to ill-health pension: deferred member with permanent serious ill-health); and

(b) it appears to the scheme manager, after consulting the scheme medical adviser, that there is evidence that the scheme manager would not be of the same opinion as to the member's condition if the scheme manger reconsidered the question, as the opinion by virtue of which the entitlement arose.

(2) The scheme manager may review the member's condition under this regulation.

(3) No review is to be made under paragraph (2) after—

(a) the member, in receipt of a pension under regulation 51 or 52 (entitlement to ill health pension: active member with permanent serious ill-health; or entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment) has reached normal pension age; or

(b) the member, in receipt of a pension under regulation 56 (entitlement to ill-health pension deferred member with permanent serious ill-health) has reached deferred pension age.

(4) If on any such review, in the case of a member who is entitled to a pension under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health), the scheme manager is of the opinion that—

(a) the member has not suffered such a breakdown as is mentioned in regulation 51, but

(b) the member meets the condition in regulation 52,

the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 51 and to become entitled to a pension under regulation 52 at the end of the period of 3 months beginning with the date on which that determination is made.

(5) If on any review under paragraph (2), in the case of a member who is entitled to a pension under regulation 52, the scheme manager is of the opinion that the member has not suffered such a breakdown as is mentioned in regulation 52, the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 52 at the end of the period of 3 months beginning with the date on which that determination is made.

(6) If on any review under paragraph (2), in the case of a member who is entitled to a pension under regulation 56 (entitlement to ill-health pension: deferred member with permanent serious ill-health), the scheme manager is of the opinion that the member has not suffered such a breakdown as is mentioned in regulation 56, the scheme manager may determine that the member is to cease to be entitled to a pension under regulation 56 at the end of the period of 3 months beginning with the date on which that determination is made.

(7) If on any review under paragraph (2), the scheme manager proposes a change of pension payments, the scheme manager must—

(a) notify the member in writing that the scheme manager proposes to make such a change;

(b) include the reason for the scheme manger's decision; and

(c) give the member information about rights under—

(i) the arrangements established by the scheme manager for the resolution of disputes relating to this scheme that are in force at the time the notification is given; and

(ii) Part 10 of the PSA 1993 (investigations: the Pensions Ombudsman).

Member's request for review of ill-health awards

58.—(1) This regulation applies if a member—

(a) is entitled to a pension under regulation 52 (entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment); or

(b) has received a lump sum under regulation 19 of the EDP 2014 (lump sum awards: incapacity for armed forces service).

(2) The member may request a review of the member's condition under this regulation—

(a) at any time before the fifth anniversary of the day on which the member became entitled to the pension or lump sum; or

(b) after that time if, in the opinion of the scheme manager, the circumstances are exceptional.

(3) The request must be made by notice in writing to the scheme administrator in such form as the scheme manager requires, including reasons for the review.

(4) If a member requests a review of their condition under this regulation, the scheme manager must—

(a) review the question whether the member has suffered a permanent breakdown in health involving incapacity for any gainful employment in relation to regulation 51 (entitlement to ill-health pension: active member with permanent serious ill-health); and

(b) if the scheme manager is of the opinion that the member has suffered such a breakdown, determine whether—

(i) the member had suffered such a breakdown at the time when the member became entitled to the pension under regulation 52; or

(ii) the condition, by virtue of which the member became so entitled, has deteriorated so that the member suffered such a breakdown later.

(5) If on any review under paragraph (4), the scheme manager is of the opinion that the member—

(a) has suffered such a breakdown as is mentioned in paragraph (4)(a); and

(b) had done so at the time when the member became entitled to the pension under regulation 52,

then the member's entitlement under regulation 52 ceases and regulation 51 applies as if the conditions mentioned in that regulation were met at the time the member ceased to be in service by virtue of which the member was eligible to be an active member of this scheme, and accordingly the member immediately becomes entitled to payment of such an amount as is specified in paragraph (6).

(6) The amount referred to in paragraph (5) is such an amount as represents the difference between the pension payments that have been made to the member under regulation 52 and those to which the member was actually entitled under regulation 51.

(7) If on any review under paragraph (4), the scheme manager is of the opinion that—

(a) the member has suffered such a breakdown as is mentioned in paragraph (4)(a), but

(b) the condition by virtue of which the member became entitled to the pension under regulation 52 has deteriorated so that the member suffered such a breakdown later,

then the member's entitlement to a pension under regulation 52 ceases and the member is entitled to a pension calculated under regulation 51 from the date on which the review was requested.

(8) If a member within paragraph (1)(b) requests a review of the member's condition under this rule, the Secretary of State must—

(a) review the question whether the member has suffered a breakdown in health as a result of which the member's capacity for gainful employment is significantly impaired; and

(b) if, the Secretary of State is of the opinion that the member has suffered such a breakdown, determine whether—

(i) the member had suffered such a breakdown at the time when the member became entitled to payment of the lump sum under EDP 2014 regulation 19, or

(ii) the condition by virtue of which the member became so entitled has deteriorated so that the member suffered such a breakdown later.

(9) If—

(a) on any review under paragraph (8), the Secretary of State is of the opinion that the member—

(i) has suffered such a breakdown as is mentioned in paragraph (8)(a); and

(ii) had done so at the time when the member became entitled to payment of the lump sum under EDP 2014 regulation 19; and

(b) the conditions in regulation 52(1)(b) and (c) are met then regulation 52 applies from the time when the conditions in 52(1)(a) are first met, and accordingly the member is entitled to a pension under that regulation payable from that time and the scheme manager may set off against such entitlement the amount of the lump sum paid under EDP 2014 regulation 19.

(10) If—

(a) on any review under paragraph (8), the Secretary of State is of the opinion that—

(i) the member has suffered such a breakdown as is mentioned in paragraph (8)(a), but

(ii) the condition by virtue of which the member became entitled to payment of the lump sum under EDP 2014 regulation 19 has deteriorated so that the member suffered such a breakdown later, and

(b) the conditions in regulation 52(1)(b) and (c) are met,

then regulation 52 applies from the date when the ill-health condition (as defined in paragraph 1 of Schedule 28 to the FA 2004) is first met, and accordingly the member is entitled to a pension under that regulation payable from that date.

CHAPTER 4

Options

General option to exchange part of the pension for lump sum

59.—(1) A member may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum.

(2) If a member so opts, 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 pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purpose of Part 4 of the FA 2004 (see section 241 of that Act).

(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 exercised the option before the date on which the pension sharing order takes effect.

(5) The option under this regulation must be exercised by notice in writing to the scheme administrator in such form as the scheme manager requires no earlier than 6 months and no later than 1 month before the first pension payment is made.

(6) An option exercised under paragraph (1) must apply to added pension and earned pension to which a member is entitled in equal proportions.

Option for members in serious ill-health to exchange whole pension for lump sum

60.—(1) An active member, deferred member or pension credit member may opt to exchange the whole of the member's pension under this Part for a lump sum if the scheme manager—

(a) is satisfied that the member is expected to live for less than 12 months; and

(b) has received evidence from a registered medical practitioner that this is the case.

(2) The option must be exercised before the pension becomes payable.

(3) A member who exercises the option is to be paid as soon as is reasonably practicable.

(4) Where an active member exercises the option, the amount of the lump sum is equal to the total annual amount of an ill-health pension under regulation 51 (entitlement to ill-health pension: active member with permanent serious ill health), multiplied by 5.

(5) Where a deferred member exercises the option, the amount of the lump sum is equal to the total amount of ill health pension under regulation 56 (entitlement to ill health pension: deferred member with permanent serious ill health), multiplied by 5.

(6) Where a pension credit member exercises the option, the amount of the lump sum is equivalent, in the opinion of the scheme manager, having regard to guidance from the scheme actuary, to the value of their pension credit rights.

(7) In paragraph (4) and (5), "annual amount" in relation to a pension means the sum of the following amounts—

(a) the amount of the annual rate of the pension to which the member would be entitled under this Part apart from the option; and

(b) the amount of any increase in the annual rate of pension payable under the PIA 1971, calculated—

(i) as at the time payment would otherwise first be due; but

(ii) disregarding any service that the member might have accrued if the member had continued in service until that time.

(8) An option under this regulation is to be exercised by notice in writing to the scheme administrator in such form as the scheme manager requires.

CHAPTER 5

Allocation

Election to allocate pension

61.—(1) An active member or deferred member may elect to allocate a part of the amount of the annual rate of any of the member's pensions under this scheme to another person.

(2) No election may be made in respect of an ill-health pension payable under regulations 51, 52 or 56 (entitlement to ill-health pension: active member with permanent serious ill-health; entitlement to ill-health pension: active member with significant impairment of capacity for gainful employment; or entitlement to ill-health pension: deferred member with permanent serious ill-health) or an added pension (member).

(3) The member may not elect to allocate more than the permitted percentage of the member's annual pension under this scheme.

(4) In paragraph (3) "the permitted percentage" means 37.5%, or such lower percentage as appears to the scheme manager, after consultation with the scheme actuary, to be capable of being allocated under this rule without risking that a part of the pension to which any person becomes entitled on the death of the member after age 75 does not qualify as a dependants' scheme pension for the purpose of section 167 of the FA 2004 (the pension death benefit rules) (see paragraphs 16 to 16B of Schedule 28 to that Act).

(5) If a member wishes to allocate pension to more than one person—

(a) a separate election must be made in respect of each of them; and

(b) the limit under paragraph (4) applies to the total amount allocated.

(6) If—

(a) an election does not comply with paragraph (4), or

(b) taken together the member's elections do not so comply,

the scheme administrator may treat the election or, as the case may be, each of the elections, as then allocating such smaller amount as would result in the election, or the elections taken together so complying.

Procedure for allocation election

62.—(1) An allocation election must be made not earlier than 6 months before the pension becoming payable or any other date advised to the member by the scheme administrator ("the closing date").

(2) A member may at any time before the closing date—

(a) revoke an election; or

(b) amend an election by altering the amount allocated by it.

(3) An election and any revocation or amendment of an election must be made in writing in such form as the scheme manager requires and be lodged with the scheme administrator.

(4) Subject to paragraphs (5) and (7), an election takes effect on the closing date.

(5) An election has no effect if—

(a) the member dies before the closing date; or

(b) the person in whose favour it is made ("the beneficiary") dies before that date; or

(c) the scheme manager is not satisfied that at the time the election is made the beneficiary is the member's spouse or civil partner or a person who in the opinion of the scheme manager meets one of the conditions specified in paragraph (6).

(6) The conditions are—

(a) that the person is financially wholly or mainly dependent on the member; or

(b) that the member and the person are financially interdependent.

(7) An election has no effect unless—

(a) before the closing date, the member has—

(i) made a declaration about the member's state of health in such form as the scheme manager may request; and

(ii) if requested by the scheme manager, provided evidence relating to the member's health in accordance with that request; and

(b) the scheme manager is satisfied that at the date on which the member makes the declaration the member is in good health.

Effect of allocation

63.—(1) If an allocation election for the allocation of a member's pension to another person ("the beneficiary") has taken effect—

(a) the member's pension is reduced accordingly (even if the beneficiary predeceases the member); and

(b) if the beneficiary survives the member, on the member's death the beneficiary becomes entitled to the payment of a pension for life of such amount as the scheme manager may determine, after consultation with the scheme actuary, having regard to—

(i) the amount of the allocation to the beneficiary; and

(ii) the beneficiary's and member's age and gender.

(2) But the scheme manager may withhold payment from the beneficiary if—

(a) (i) the member dies before the expiry of the period of 2 years beginning with the date on which the election takes effect; and

(ii) the scheme manager is satisfied that the member made a false declaration about the member's state of health in connection with making the election; or

(b) the scheme manager is of the opinion that—

(i) the member made the election under duress, or

(ii) the member was mentally impaired at the time when the member made the election and would not have made the election apart from the impairment.

(3) An allocation election is to be disregarded for the purpose 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.

(4) If the scheme manager proposes to withhold payment under paragraph (3), the scheme manager must notify the person in writing that the scheme manager proposes to do so and include the reason for the scheme manager's decision.

(5) Such a notification must give the person information about rights under—

(a) the arrangements established by the scheme manager for the resolution of disputes relating to this scheme that are in force at the time the notification is given; and

(b) Part 10 of the PSA 1993 (Investigations: the Pensions Ombudsman), in respect of any decision made under paragraph (3).

Adjustment of allocated benefits for the Finance Act 2004 where member dies over 75

64.—(1) This regulation applies if—

(a) a member dies after reaching the age of 75; and

(b) but for this regulation, any part of a pension to which a person otherwise becomes entitled under this Chapter on the member's death would not qualify as a dependants' scheme pension for the purposes of section 167 of the 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 6

Death benefits

CHAPTER 1

Pensions for adult dependants

Surviving spouses' and civil partners' pensions

65.—(1) If an active member, deferred member or pensioner member dies leaving a surviving spouse or civil partner, the surviving spouse or civil partner—

(a) is entitled to a dependant's earned pension that is payable for life; and

(b) depending on the deceased member's circumstances, may be entitled to one or more other pensions payable under this scheme.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under—

(a) regulation 43 (retirement on or after reaching normal pension age – active members) by virtue of regulation 43(2)(a); or

(b) regulation 44 (retirement before reaching normal pension age – deferred members) by virtue of regulation 44(1)(b) or (c),

if the member's service had ceased on the date of death otherwise than by reason of death.

(3) A person entitled to a dependant's earned pension under this regulation is entitled to a dependant's added pension if the member was entitled to immediate payment of a retirement added pension (member and dependants) as at the date of the member's death or would have become entitled to such a pension had the member not died.

(4) The scheme manager may withhold the pension or pensions—

(a) where the pension or pensions would be payable to a surviving spouse, if the member and the surviving spouse married less than 6 months before the member's death; or

(b) where the pension or pensions would be payable to a surviving civil partner, if the civil partnership was formed less than 6 months before the member's death.

(5) The annual rate of the pension or pensions payable under this regulation is calculated under regulation 68, 69 and 70 (annual rate of adult dependants' pensions payable on death) by reference to the deceased member's own pension rights.

Guaranteed minimum pension for surviving spouses and civil partners

66.—(1) If a person who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member has a guaranteed minimum under section 17 PSA 1993 in relation to benefits in respect of the deceased member under this scheme—

(a) nothing in these regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a person and such a person's rights under a scheme not to be met;

(b) nothing in these regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements; and

(c) paragraph (2) is without prejudice to the generality of this paragraph.

(2) If apart from this regulation—

(a) no pension would be payable to the surviving spouse or civil partner under this Part; or

(b) the weekly rate of the pensions payable would be less than the guaranteed minimum,

a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse or civil partner for life.

(3) Paragraph (2) does not apply to a pension that is forfeited as a result of a conviction of an offence referred to in regulation 122 (1)(a) or (b) (events enabling forfeiture).

Other adult dependants' pensions

67.—(1) If an active member, deferred member or pensioner member dies leaving a surviving adult dependant, and no benefit is payable under regulation 65 (surviving spouses' and civil partners' pensions), the scheme manager may award the surviving adult dependant—

(a) a dependant's earned pension that is payable for life; and

(b) depending on the deceased member's circumstances, one or more other pensions that are payable under this scheme.

(2) Paragraph (1) does not apply if the member is an active member who would not have qualified for a pension under—

(a) regulation 43 (retirement on or after reaching normal pension age – active members), by virtue of regulation 43(2)(b); or

(b) regulation 44 (retirement before reaching normal pension age – deferred members), by virtue of regulation 44(1)(b) or (c),

if the member's service had ceased on the date of death otherwise than by reason of death.

(3) A person entitled to a dependant's earned pension under this regulation is entitled to a dependant's added pension if the member was entitled to immediate payment of a retirement added pension (member and dependants) as at the date of the member's death or would have become entitled to such a pension had the member not died.

(4) A person is a surviving adult dependant in relation to a member for the purposes of this regulation if the person satisfied the scheme manager as at the date of the member's death—

(a) the person and the member were cohabitating as partners in an exclusive and substantial relationship;

(b) the person and the member were not prevented from marrying or entering a civil partnership; and

(c) either the person was financially dependent on the member or the person and the member were financially interdependent.

(5) The annual rate of the pension or pensions payable under this regulation is to be calculated under regulation 68, 69 and 70 (annual rate of adult dependants' pensions payable on death) by reference to the deceased member's own pension rights.

Annual rate of adult dependants' pensions payable on death of pensioner member

68.—(1) This regulation deals with the annual rate of the pensions payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) on the death of a pensioner member.

(2) The annual rate of the dependant's earned pension is determined by taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death after—

(a) subtracting the commutation amount (if any) specified in the account in relation to that amount;

(b) subtracting the pension sharing order amount (if any) specified in the account in relation to that amount; and

(c) disregarding—

(i) the early payment reduction (if any) specified in the account in relation to that amount;

(ii) the in service late payment supplement (if any) specified in the account in relation to that amount;

(iii) the late payment supplement (if any) specified in the account in relation to the amount; and

(iv) the allocation amount (if any) specified in the account in relation to that amount.

(3) Where a member was entitled to immediate payment of a retirement club transfer pension as at the date of death or would have become entitled to such a pension had the member not died, instead of the determination under paragraph (2) a determination shall be made after taking the actions specified in sub paragraphs (a) to (c) by taking an amount equal to 62.5% of the aggregate of the annual rate of the member's retirement earned pension and retirement club transfer pension.

(4) The annual rate of the dependant's added pension is found by taking an amount equal to 62.5% of the annual rate of the member's retirement added pension (members and dependants) at the point of the member's death after—

(a) subtracting the commutation amount (if any) specified in the account in relation to that amount;

(b) subtracting the pension sharing order amount (if any) specified in the account in relation to that amount; and

(c) disregarding—

(i) the early payment reduction (if any) specified in the account in relation to that amount;

(ii) the in service late payment supplement (if any) specified in the account in relation to that amount;

(iii) the late payment supplement (if any) specified in the account in relation to that amount; and

(iv) the allocation amount (if any) specified in the account in relation to that amount.

Annual rate of adult dependants' pensions payable on death of deferred member

69.—(1) This regulation deals with the annual rate of the pensions payable under regulation 65 or 67 (surviving spouses' and civil partners' pension and other adult dependants' pensions) on the death of a deferred member.

(2) The annual rate of the dependant's earned pension is an amount equal to 62.5% of the provisional amount of the member's deferred earned pension and any deferred club transfer earned pension specified in the deferred member's account at the point of the member's death after subtracting the pension sharing order amount (if any) specified in the account in relation to that amount.

(3) The annual rate of the dependant's added pension is an amount equal to 62.5% of the provisional amount of the member's deferred added pension (member and dependants) specified in the deferred member's account at the point of the member's death after subtracting the pension sharing order amount (if any) specified in the account in relation to that amount.

Annual rate of adult dependants' pensions payable on death of active member

70.—(1) This regulation deals with the annual rate of pension payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) on the death of an active member, providing—

(a) the member has at least 2 years' qualifying service; or

(b) a transfer value payment otherwise than from another occupational pension scheme has been accepted in relation to the member under Part 8 (Transfers).

(2) The annual rate of the dependant's earned pension is determined by—

(a) (subject to paragraph (b)) taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death as if they left with an ill-health pension under regulation 51 (entitlement to ill-health pension: active members with permanent serious ill-health), or

(b) for active members serving beyond normal pension age, by taking an amount equal to 62.5% of the annual rate of the member's retirement earned pension at the point of the member's death, in each case under paragraph (a) and this paragraph (b) after—

(i) subtracting the pension sharing order amount relating to that pension (if any) specified in the member's pension account; and

(ii) disregarding—

(aa) the early payment reduction (if any) specified in that account in relation to that amount;

(bb) the in service late payment supplement (if any) specified in that account in relation to that amount; and

(cc) the late payment supplement (if any) specified in that account in relation to that amount.

(3) Where a member was entitled to immediate payment of a retirement club transfer pension as at the date of death or would have become entitled to such a pension had the member not died, instead of the determination under paragraph (2)(a) and (b) a determination shall be made, after taking the actions specified in sub paragraphs (i) and (ii), by taking an amount equal to 62.5% of the aggregate of the annual rate of the member's retirement earned pension and retirement club transfer pension.

(4) The annual rate of the dependant's added pension is determined by taking an amount equal to 62.5% of the annual rate of the member's retirement added pension at the point of the member's death after—

(a) subtracting the pension sharing order amount relating to that pension (if any) specified in the member's pension account; and

(b) disregarding—

(i) the early payment reduction (if any) specified in that account in relation to that amount;

(ii) the in service late payment supplement (if any) specified in that account in relation to that amount; and

(iii) the late payment supplement (if any) specified in that account in relation to that amount.

Reduction in pensions in case of wide age disparity

71.—(1) If on the death of a member a pension is payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) to a person ("the beneficiary") who is more than 12 years younger than the member, the annual rate of the pension calculated under this Chapter 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 x (N – 12)% of the annual rate of the pension,

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

(3) This regulation does not apply in respect of a member—

(a) to whom rule K.8 or L.7 of the Armed Forces Pension Scheme Order 2005(**a**) ("2005 scheme") would apply had the member not transferred from the 2005 scheme to this scheme; or

(b) who on 31st March, 2015 was a member of a scheme listed in paragraphs 25, 26 or 27 of Schedule 5 to the Act.

CHAPTER 2

Pensions for eligible children

Surviving children's pensions

72.—(1) If an active member, deferred member or pensioner member dies leaving a surviving eligible child, the eligible child—

(a) is entitled to a child's earned pension; and

(b) depending on the deceased member's circumstances, may be entitled to one or more other pensions payable under this scheme.

(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 75 (children born after the member's death) and regulation 88 (provisional awards of children's pensions: later adjustments).

(4) A child's earned pension is payable under this regulation if—

(a) the member was entitled to immediate payment of a retirement earned pension as at the date of the member's death; or

(b) the member would have become entitled to a retirement earned pension had the member not died.

(5) If a child's earned pension is payable under this regulation, a child's added pension is payable under this regulation if the member was entitled to immediate payment of an added pension (member and dependants) as at the date of the member's death or would have become entitled to such a pension had the member not died.

(6) The annual rate of the pension or pensions payable under this regulation is calculated under regulation 74 (annual rate of children's pensions) by reference to the deceased member's own pension rights.

Meaning of "eligible child"

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

(a) a natural or adopted child of the member who meets any of conditions A to C; or

(b) any other child or young person who—

(i) meets any of those conditions; and

(ii) was financially dependent on the member as at the date of the member's death.

(2) Condition A is that the person is aged under 18.

(**a**) S.I. 2005/438

(3) Condition B is that the person is in full-time education or vocational training and has not reached the age of 23.

(4) Condition C is that the person is unable to engage in gainful employment because of physical or mental impairment and either—

(a) the person has not reached the age of 23; or

(b) that impairment is, in the opinion of the scheme medical adviser, likely to be permanent and the person was dependent on the member as at the date of the member's death because of physical or mental impairment.

(5) A person who is aged under 19 on the date on which the person ceases to be in full-time education is treated as being in such education until the first of the following dates after the person ceases to be in that education—

(a) the second Monday in January;

(b) the second Monday after Easter Monday;

(c) the second Monday in September;

(d) the date on which the person becomes engaged full-time in gainful employment;

(e) the person's 19th birthday.

(6) A person who, as at the date of the member's death, is aged under 23 and is taking a break from full-time education or vocational training for a period not exceeding 15 months is assumed to be continuing in such education or training during the break for the purpose of determining—

(a) whether the person is an eligible child at that date (but not at any later date); and

(b) the number of eligible children in respect of whom pensions are payable under regulation 72 ("surviving children's pensions") immediately after that date.

(7) A person who is prevented from continuing in full-time education or vocational training on account of ill-health is treated for the purposes of condition B and paragraph (6) as continuing to be in such education or training until the person is no longer so prevented.

(8) Paragraph (7) does not apply at any time when the person's health is such that it is reasonable to assume that they will not be capable of undertaking any further education or training.

(9) Nothing in paragraph (6) requires a pension to be paid in respect of the person during the break in the person's education or training.

Annual rate of children's pensions

74.—(1) This regulation deals with the annual rate of the pensions payable under regulation 72 ("surviving children's pensions") on the death of a member by reference to the deceased member's own pension rights.

(2) The annual rate of the child's earned pension is determined by—

(a) where an adult dependant's earned pension is payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) after taking the actions under paragraph (3)—

(i) for one eligible child only, an amount equal to 25% of the annual rate of the member's earned pension at the point of the member's death;

(ii) for two or more eligible children, an equal share of 37.5% of the annual rate of the member's earned pension at the point of the member's death.

(b) where an adult dependant's earned pension is not payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) or no longer payable under regulation 65 or 67 after taking the actions under paragraph (3)—

(i) for one eligible child only, an amount equal to 1/3rd of the annual rate of the member's earned pension at the point of the member's death;

(ii) for two or more eligible children, an equal share of the annual rate of the member's earned pension at the point of the member's death, but limited to 1/3rd per child.

(3) The actions under this paragraph are—

(a) subtracting the commutation amount (if any) specified in the deceased member's pension account in relation to the earned pension;

(b) disregarding—

(i) the early payment reduction (if any) specified in that account in relation to the earned pension;

(ii) the in service late payment supplement (if any) specified in that account in relation to that amount;

(iii) the late payment supplement (if any) specified in that account in relation to that amount;

(iv) the pension sharing order amount (if any) specified in that account in relation to the earned pension; and

(v) the allocation amount (if any) specified in that account in relation to the earned pension.

(4) Where a member was entitled to immediate payment of a retirement club transfer pension as at the date of death or would have become entitled to such a pension had the member not died, instead of the determination under paragraph (2)(a) and (b) a determination shall be made, after taking the actions specified in paragraphs (i) and (ii), by taking an amount equal to 62.5% of the aggregate of the annual rate of the member's retirement earned pension and retirement club transfer pension.

(5) The annual rate of the child's added pension is determined by—

(a) where an adult dependant's added pension is payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) after taking the actions under paragraph (5)—

(i) for one eligible child only, an amount equal to 25% of the annual rate of the member's added pension at the point of the member's death;

(ii) for two or more eligible children, an equal share of 37.5% of the annual rate of the member's added pension at the point of the member's death; or

(b) where an adult dependant's added pension is not payable under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) or no longer payable under regulation 65 or 67 after taking the actions under paragraph (6)—

(i) for one eligible child only, an amount equal to 1/3rd of the annual rate of the member's added pension at the point of the member's death;

(ii) for two or more eligible children, an equal share of 100% of the annual rate of the member's added pension at the point of the member's death, but limited to 1/3rd per child.

(6) The actions under this paragraph (6) are—

(a) subtracting the commutation amount (if any) relative to the deceased member's added pension specified in the member's pension account;

(b) disregarding—

(i) the early payment reduction (if any) specified in that account in relation to the added pension;

(ii) the in service late payment supplement (if any) specified in that account in relation to that amount;

(iii) the late payment supplement (if any) specified in that account in relation to that amount;

(iv) the pension sharing order amount (if any) specified in that account in relation to the added pension; and

(v) the allocation amount (if any) specified in that account in relation to added pension.

Children born after the member's death

75.—(1) For the purposes of regulation 74 (annual rate of children's pensions), a member is only treated as leaving a child who is born after the member's death if the child is born before the first anniversary of 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 immediately after the date of the member's death for the purposes of regulation 74, a pension in respect of a child born after the member's death is treated as so payable.

CHAPTER 3

Lump sum death benefits

Meaning of "final pensionable earnings"

76.—(1) In this Chapter, "final pensionable earnings", in relation to a member, means the greatest amount that is the member's total pensionable earnings, under regulation 23 (pensionable earnings), for 365 consecutive days falling within the period of 3 years ending with the last day of service.

(2) If the person was required to be in service as a member of the armed forces during any period of 365 consecutive days falling within the period of 3 years mentioned in paragraph (1) but was not in such service for a period of 365 consecutive days, then the paragraph applies as if it referred to the person's annualised pensionable earnings in the period of service ending with the last day of service.

(3) The person's annualised pensionable earnings in the period of service are the amount given by the formula—

PE x (365 ÷ N)

where—

PE is the person's pensionable earnings for the period, and

N is the number of days in the period for which pensionable earnings were received.

If the period of the final pensionable earnings includes the day 29 February, for "365" substitute "366".

(4) If at any time during the period of 3 years mentioned in paragraph (1) or the period mentioned in paragraph (2), the member is treated under regulation 24 (meaning of 'assumed pay') as receiving assumed pay, or would be if they were a member of this scheme throughout that period, for the purposes of this regulation, their pensionable earnings for each day during that period when they are so treated include the assumed pay for that day.

Earnings adjustments in determining final pensionable earnings

77.—(1) For the purpose of determining which is the greatest amount mentioned in regulation 76 (meaning of 'final pensionable earnings'), the amount of pensionable earnings, as determined in accordance with regulation 76 for that part of the period of 365 days that falls 365 days or more before the last day of service is to be adjusted for inflation.

(2) Any adjustment made for the purpose of determining final pensionable earnings is to be disregarded for all other purposes of this scheme.

(3) The reference in paragraph (1) to adjusting for inflation the amount of pensionable earnings for part of the period is a reference to increasing it by the same amount as that by which an annual pension of an amount equal to those earnings would have been increased under the PIA 1971 on the day following the last day of service if the pension—

(a) were eligible to be so increased; and

(b) had come into payment on the day following the last day of that period.

Death of a member: lump sum benefit

78.—(1) On the death of a member, the scheme manager may pay a lump sum to—

(a) the person or persons nominated by the member in accordance with regulation 84 (nominations for lump sum death benefits);

(b) if there is no person within sub-paragraph (a), to any person who is entitled to a pension under regulation 65 or 67 (surviving spouses' and civil partners' pensions and other adult dependants' pensions) in respect of the member;

(c) if there is no person within sub-paragraphs (a) or (b), to any person who, but for the application of regulation 65 or 67 would be so entitled or to whom a pension may be awarded; or

(d) if there is no person within sub-paragraph (a), (b) or (c), to the member's personal representatives.

(2) If the scheme manager decides to pay all or part of the lump sum in accordance with a nomination then—

(a) the payment is to be made to them in such proportions as the member has specified in the nomination; or

(b) if no proportions are so specified, in such proportions as the scheme manager considers appropriate.

(3) This regulation does not apply if—

(a) the member is—

(i) a pensioner member, who is not also a deferred member or an active member; or

(ii) a pension credit member who dies after any benefits attributable to a pension credit have become payable and who is not also an active member, a deferred member or a pensioner member; and

(b) the death takes place—

(i) more than 5 years after the member' pension becomes payable; or

(ii) after the member's pension has been commuted under regulation 116 (commutation of small pensions) or 60 (option for members in serious ill-health to exchange whole pension for lump sum).

Lump sum amount payable on death of active member

79.—(1) In the case of a deceased active member, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to the member's final pensionable earnings, multiplied by 4. This is subject to paragraph (2).

(2) If the member was both an active member and a deferred member, and the aggregate of the amount payable under regulation 80 (lump sum amount payable on death of deferred member) and any amount payable by way of a lump sum on the death of the member as a deferred member of a connected scheme is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(3) 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 to be disregarded.

Lump sum amount payable on death of deferred member

80.—(1) In the case of a deceased deferred member, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to the annual rate of the member's provisional annual pension, multiplied by 3.

(2) The annual pension is the annual rate specified in the deferred member's account at the point of the deferred member's death but subtracting the pension sharing order amount (if any) and added pension (member) (if any).

(3) If the member was both a deferred member and an active member, and the amount payable under regulation 79 (lump sum amount payable on death of active member) is greater than the aggregate of the amount payable under paragraph (1) and any amount payable by way of lump sum on the death of the member as a deferred member of any connected scheme, the amount payable under regulation 79 is payable instead of the amount specified in paragraph (1).

(4) If the member was both a deferred member and a pensioner member, and the amount payable under regulation 81 (lump sum amount payable on death of pensioner member) is greater than the amount payable under paragraph (1), the amount payable under regulation 81 is payable instead of the amount specified in paragraph (1).

(5) 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 to be disregarded.

Lump sum amount payable on death of pensioner member

81.—(1) In the case of a pensioner member, who dies within 5 years of receipt of their pension, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to—

(a) the member's annual pension, multiplied by 5, less

(b) the total amount of any pension payments made to the member as such under this scheme.

(2) The reference in paragraph (1)(a) to the member's annual pension is to the sum of the following amounts—

(a) the amount of the annual rate of each pension as at the beginning date for that pension, but subtracting the commutation amount (if any); and

(b) the amount of increase (if any) in the annual rate of each such pension under the PIA 1971 payable as at the date of the member's death.

(3) If the member was both a pensioner member and an active member, and the amount payable under regulation 79 (lump sum amount payable on death of active member) is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(4) If the member was both a pensioner member and a deferred member, and the amount payable under regulation 80 is greater than the amount payable under paragraph (1), the amount payable under regulation 80 is payable instead of the amount specified in paragraph (1).

(5) 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 to be disregarded.

Lump sum amount payable on death of pension credit member

82.—(1) In the case of a pension credit member who dies before any benefits derived from their pension credit have become payable, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is calculated by multiplying by 3 the amount of the annual pension that would have been payable to the member under regulation 48 (annual rate of pension credit member's pension) if that pension had become payable to the member on the date of the member's death.

(2) The reference in paragraph (1) to the member's annual pension is to the sum of the following amounts—

(a) the amount of the annual rate of pension as at the beginning date for that pension, without subtracting the early payment reduction amount (if any); and

(b) the amount of increase (if any) in the annual rate of each such pension under the PIA 1971 payable as at the date of the member's death.

(3) In the case of a pension credit member who dies after the pension credit member's pension under regulation 48 (annual rate of pension credit member's pension) becomes payable, the amount of the lump sum payable under regulation 78 (death of a member: lump sum benefit) is equal to—

(a) the amount of the pension that would have been payable to the pension credit 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 death, but subtracting the commutation amount (if any), less

(b) the total amount of any pension payments made to the member as such under this scheme.

(4) In this regulation "amount of pension" means the sum of—

(a) the amount of the annual rate of the pension as at the beginning date for that pension; and

(b) the amount of increase (if any) in that annual rate of pension under the PIA 1971, payable as at the date of the member' death.

Members affected by court orders to former spouses and civil partners on death

83.—(1) This regulation applies if, on a member's death, the scheme manager is required under a court order to pay any part of any amount payable under regulation 78 (death of a member: lump sum benefit) to the member's former spouse or civil partner.

(2) The amount payable under that regulation is first determined as if no such order had been made, and then this Part applies as if the amount payable under that regulation were reduced by the amount payable under the court order.

Nominations for lump sum death benefits

84.—(1) For the purposes of regulation 78 (death of a member: lump sum benefit), a member may nominate—

(a) one or more individuals;

(b) one incorporated or unincorporated body; or

(c) one or more individuals and one incorporated or unincorporated body.

(2) A nomination may specify how payments are to be apportioned between—

(a) two or more individuals; or

(b) one or more individuals and one incorporated or unincorporated body.

(3) A nomination must be made by signed notice in writing to the scheme administrator in such form as the scheme manager may require or is willing to accept.

(4) A member may revoke or alter a nomination by a further signed notice in writing to the scheme administrator in such form as the scheme manager may require or is willing to accept.

(5) The nomination of a person is invalid—

(a) if—

(i) the person nominated is an individual who was the spouse, civil partner or other adult dependant of the member at the date the nomination was made and is not the spouse, civil partner or other adult dependant of the member immediately before the member's death; and

(ii) the member did not confirm the nomination by notice in writing to the scheme administrator after the marriage, civil partnership or adult dependency ended; or

(b) if the person nominated is an individual who predeceases the member.

(6) If a person nominated is convicted of the offence of murder of the member, the person's nomination is to be treated as invalid from the member's death.

(7) If a person nominated is convicted of manslaughter or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element, the scheme manager may determine that the nomination is to be treated as invalid from the member's death.

CHAPTER 4

General provisions

Pension debit members

85.—(1) This regulation applies where the deceased member was a pension debit member.

(2) If the member was an active member—

(a) the pensions payable under regulation 65 (surviving spouses' and civil partners' pensions) or regulation 67 (other adult dependants' pensions) are to be calculated by reference to the amount of the pension to which the member would have been entitled after any reduction under section 31 of the WRPA 1999 ("section 31");

(b) the amount payable under regulation 72 (surviving children's pensions) by virtue of regulation 74 (annual rate of children' pensions)—

(i) is first calculated as if the member were not a pension debit member; and

(ii) is then subject to any reduction required under section 31, and

(c) the amount of lump sum payable under regulation 78 (death of a member: lump sum benefit) is to be calculated under regulation 79 (lump sum amount payable on death of active member).

(3) If the member was a deferred member—

(a) the amount of the pension payable under regulation 65 or regulation 67 is to be calculated by reference to the amount of the pension to which the member would have been entitled after any reduction under section 31; and

(b) the amount payable under regulation 72 by virtue of regulation 74—

(i) is first calculated as if the member were not a pension debit member; and

(ii) is then subject to any reduction required under section 31.

(c) the lump sum payable under regulation 78 is to be calculated under regulation 80 (lump sum amount payable on death of deferred member).

(4) If the member was a pensioner member—

(a) the amount of the pension payable under regulation 65 or regulation 67 is to be calculated by reference to the amount of the pension to which the member was entitled (after the reduction under section 31);

(b) the amount payable under regulation 72 by virtue of regulation 74—

(i) is first calculated as if the member were not a pension debit member; and

(ii) is then subject to any reduction required under section 31; and

(c) the lump sum payable under regulation 78 is to be calculated under regulation 81 (lump sum amount payable on death of pensioner member).

Dependants' pensions and children's pensions: suspension and recovery

86.—(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 to deliberately suppress 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 manger's right to recover a payment or overpayment in any case where the scheme manager considers it appropriate to do so.

Recovery of lump sum payments made to nominees

87.—(1) The scheme manager may recover a lump sum death benefit paid under regulation 78 (death of a member: lump sum benefit) if—

(a) the payment is made to a person because of the person's nomination under regulation 84 (nomination for lump sum benefits); and

(b) the person's nomination is subsequently found to be invalid under that regulation.

(2) Paragraph (1) 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 children's pensions: later adjustments

88.—(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 then an eligible child;

(ii) that a further person was then 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.

(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.

Payments under this Part

89.—(1) Except where specified otherwise in this Part, a pension under this Part is payable from the day after the date of the member's death.

(2) Payments of a lump sum payable under this Part must be made before the expiry of the period of 2 years beginning with the earlier of—

(a) the day on which the scheme manager first knew of the member's death; and

(b) the day on which the scheme manager could reasonably be expected to have known of the member's death.

(3) The annual amount of pension paid to a person under this Part is to be increased by such amount as the scheme manager, after consulting with the scheme actuary, may determine, if—

(a) the scheme manager has determined that a lump sum should be paid to the person under this Part, but the lump sum is not paid within 2 years of the date of the death; or

(b) the scheme manager has determined that, but for paragraph (1), a lump sum would have been paid to the person.

(4) Unless the scheme manager directs otherwise, a pension payable under this Part in respect of an eligible child aged under 18 is to be paid—

(a) if the child is in the care of the member's surviving spouse or civil partner or a person who is the member's surviving adult dependant for the purposes of regulation 64 (other adult dependants' pensions), to the surviving spouse or civil partner or the adult dependant; and

(b) in any other case, to the child's guardian.

Payment of death benefits to dual capacity member

90.—(1) This paragraph applies if the deceased member was a dual capacity member of this scheme.

(2) The general rule is that—

(a) benefits are payable in respect of the member under this Part as if 2 or more members of the kinds in question had died (so that 2 or more pensions or lump sums are payable in respect of the one deceased member); and

(b) the amounts payable are determined accordingly.

(3) But that general rule is subject to—

(a) regulation 79 and regulation 80 (lump sum amount payable on death of active member and lump sum amount payable on death of deferred member); and

(b) regulation 81 and regulation 82 (lump sum amount payable on death of pension member and lump sum amount payable on death of pensioner credit member).

(4) If a person who is a pension credit member is entitled to 2 or more pension credits—

(a) benefits are payable in respect of the person under this scheme as if the person were 2 or more persons, each being entitled to one of the pension credits (so that 2 or more pensions or lump sums are payable in respect of the one pension credit member); and

(b) the amounts of those benefits are determined accordingly.

PART 7

Contributions to purchase added pension

CHAPTER 1

Contributions

Member's option to make periodical contributions to purchase added pension

91.—(1) An active member may opt to make periodical contributions during the contribution option period to increase—

(a) the benefits payable to the member under Part 5 (retirement benefits); or

(b) the benefits payable under Part 5 and Part 6 (death benefits).

(2) The option must be exercised by notice in writing to the scheme administrator in such form and subject to such conditions as the scheme manager requires.

(3) A member may exercise the option more than once but the option may only be exercised once in any scheme year. This is subject to paragraph (9) and regulation 94 (periodical contributions: special cases).

(4) If a member exercises an option under paragraph (1), the contributions are payable by deduction from the member's earnings for the first pay period of the scheme year beginning when the scheme administrator considers appropriate on or after the date on which the scheme administrator receives the member's application to exercise the option and for all subsequent pay periods beginning during the contribution option period. This is subject to regulation 93 (cancellation of options to make periodical payments) and regulation 94 (periodical contributions: special cases).

(5) If a member exercises an option under paragraph (1)—

(a) the contributions payable are to be fixed sums;

(b) in the case of an option under paragraph (1)(a), the amount that the member is entitled to count as added pension (member) for a scheme year in which those contributions are paid is such amount as is indicated as appropriate for the amount of those contributions in tables issued by the scheme manager after consultation with the scheme actuary; and

(c) in the case of an option under paragraph (1)(b), the amount that the member is entitled to count as added pension (member and dependants) for the scheme year in which those contributions are paid is such amount as is indicated as appropriate for the amount of those contributions in tables issued by the scheme manager, after consultation with the scheme actuary.

This is subject to paragraph (6).

(6) The total pension amounts included in the member's pension account regulation 29 (establishment of active member's account) as a result of contributions made under this regulation, taken together with—

(a) any pension amounts so included as a result of contributions made under regulation 91 (member's option to pay lump sum contributions to purchase pension); and

(b) any pension amounts included in any other pension account established at any time under regulation 29 (establishment of active member's account) in respect of the member as a result of—

(i) contributions made under this regulation; or

(ii) contributions made under regulation 91 (member's option to pay lump sum contributions to purchase pension),

may not exceed such amount as the scheme manager, after the consent of the Treasury has been obtained, may for the time being determine.

(7) A member may not make contributions under this regulation of less than such amount as the scheme manager may for the time being determine.

(8) In these Regulations "the contribution option period", in relation to an option under this regulation, means—

(a) a scheme year; or

(b) such shorter period as may be specified in the notice relating to the option.

(9) A member may not exercise the option under paragraph (1) and the option under regulation 92(1) (member's option to pay lump sum contributions to purchase pension) in the same scheme year.

Member's option to pay lump sum contributions to purchase pension

92.—(1) An active member may opt to make a single lump sum contribution to increase—

(a) the benefits payable to the member under Part 5 (retirement benefits); or

(b) the benefits payable under Part 5 and Part 6 (death benefits).

(2) A member may not make a contribution under this regulation of less than such amount as the scheme manager may for the time being determine.

(3) The option must be exercised by notice in writing to the scheme administrator in such form and subject to such conditions as the scheme manager requires.

(4) A member may exercise the option under paragraph (1) more than once, but it may only be exercised once in any scheme year. This is subject to regulation 91(9).

(5) If a member exercises an option under paragraph (1), the contribution is payable immediately by the member to the scheme administrator by deduction from the member's earnings or otherwise.

(6) If a member exercises an option under paragraph (1)(a), the amount that the member is entitled to count as member's added pension for the relevant scheme year is such amount as is indicated as appropriate for the amount of the contribution in tables issued by the scheme manager, after consultation with the scheme actuary.

(7) If a member exercises an option under paragraph (1)(b) or to pay a lump sum under regulation 94(c) (periodical contributions: special cases), the amount that the member is entitled to count as added pension (member and dependants) for the relevant scheme year is such amount as is indicated as appropriate for the amount of the contribution in tables issued by the scheme manager, after consultation with the scheme actuary. This is subject to paragraph (8).

(8) The total pension amounts included in the member's pension account under regulation 29 (establishment of an active member's account) as a result of contributions made under this regulation taken together with—

(a) any pension amounts so included as a result of contributions made under regulation 91 (member's option to pay periodical contributions to purchase pension); and

(b) any pension amounts included in any other pension account established at any time under regulation 29 in respect of the member as a result of—

(i) contributions made under this regulation; and

(ii) contributions made under regulation 91,

may not exceed such amount as the scheme manager, having obtained the consent of the Treasury, may for the time being determine.

(9) In this regulation—

"the relevant day" means the day on which the payment is received by the scheme administrator; and

"the relevant scheme year" means the scheme year in which the relevant day falls.

Cancellation of options to made periodical contributions

93.—(1) A member may cancel an option under regulation 91 (member's option to make periodical contributions to purchase added pension) by giving the scheme administrator notice in writing in such form as the scheme manager requires.

(2) If a member cancels such an option, the periodical contributions cease to be payable in respect of the member's pensionable earnings for all pay periods falling in the current scheme year after the pay period in which the scheme administrator receives the notice.

(3) If it appears to the scheme administrator that the requirement in regulation 91(6) will not be met if the member continues to make periodical contributions under regulation 91, the scheme administrator may cancel the option under regulation 91(1) by giving the member notice in writing.

(4) If the scheme administrator cancels such an option, the periodical contributions cease to be payable in respect of the member's pensionable earnings for all pay periods falling after the date specified in the notice.

Periodical contributions: special cases

94. If a member who has exercised an option under regulation 91(1) (member's option to make periodical contributions to purchase added pension) has a period of absence from work or the member's pay for any pay period is insufficient to meet the periodical contributions for a contribution option period, the member may—

(a) cease to pay the periodical contributions payable under the option; or

(b) pay the same amounts of contributions as would be payable if the member were receiving pensionable earnings at the full rate; or

(c) opt by giving the scheme administrator notice in writing in such form as the scheme manager may require, to pay the contributions for the contribution option period within

the scheme year after the absence has ended or when the member's pay has again become sufficient, by such instalments as the member may agree with the scheme manager or by lump sum.

Crediting of added pension: death in service or medical discharge

95. Where a member who is making periodical contributions in respect of added pension (member and dependants) dies in service or is discharged with an ill health award there may be credited to the relevant account of the member by the Secretary of State such amounts as would have been credited by the member for that scheme year but only for the death or discharge.

Repayment of contributions

96.—(1) The contributions made by a member under this Part are not repayable in any circumstances except if—

(a) paragraph (2) applies, or

(b) Chapter 5 of Part 4 of the PSA 1993 (early leavers: cash transfer sums and contribution refunds) applies, the member has elected under that part for a contribution refund and the payment is made in accordance with that Chapter.

(2) This paragraph applies if —

(a) a person who is not a pensioner member ceases to be in pensionable service; and

(b) the person is not entitled to a pension under regulation 43 or 44 because of the provisions of regulations 43(2) or 44(2).

(3) If paragraph (1)(b) applies, the person is entitled to be paid the amount to which the person is entitled under Chapter 5 of Part 4 of the PSA 1993, less an amount equal to the income tax payable under section 205 of the FA 2004 (short service refund lump sum charge) as a result of the repayment.

(4) If paragraph (2) applies, the person is entitled to be paid an amount equal to the sum of the contributions made by the person under this Part, less the sum of the amounts mentioned in paragraph (3).

(5) If a repayment is made under this regulation, the member's rights under this Part are extinguished.

CHAPTER 2

Secondment

Members seconded to NATO or the UN etc

97.—(1) This regulation applies if an active member is seconded during any period—

(a) to the United Nations or the North Atlantic Treaty Organisation; or

(b) under arrangements with any other organisation or person under which persons who are in service as a result of which they are eligible to belong to the scheme are seconded into other service.

(2) If at the end of that period the member resumes service in the armed forces in which he is an active member of the scheme, the member may opt to make a single lump sum contribution to the scheme so as to preserve the earned pension benefits to which the member would have been entitled but only for the secondment.

(3) The option is to be exercised by notice in writing to the scheme administrator in such form as the scheme manager requires.

(4) If a member exercises the option under paragraph (2) and pays to the scheme administrator a contribution equal to the aggregate amount of—

(a) any contributions returned to the member by the pension arrangement to which the member belonged in respect of his service during the secondment; and

(b) any lump sum paid to the member on leaving the organisation or to the person to whom he was seconded as a severance payment,

the member is entitled to count the amount as being equal to their earned pension benefits to which the member would have been entitled but only for the secondment.

(5) If the aggregate amount mentioned in paragraph (4) is less than the amount determined by the scheme manager after consultation with the scheme actuary to be the amount required to be paid in order to preserve the earned pension benefits under paragraph (2), the Secretary of State must make a contribution to the scheme equal to the difference.

PART 8

Transfers

CHAPTER 1

Preliminary

Interpretation

98.—(1) In this Part—

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

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

"transfer value" means an amount equal to—

(a) the guaranteed cash equivalent as defined in section 94(1A) of the PSA 1993 calculated in accordance with regulations made under section 97 of that Act; or

(b) a sum representing the aggregate of the amount in paragraph (a) and such other amount as may be payable by virtue of regulation 99 (right to require payment of a transfer value); and

"transfer value payment" means—

(a) in Chapter 2, payment of a transfer value in respect of a member's right to accrued benefits under this scheme; and

(b) in Chapter 3, payment of a transfer value in respect of a member's accrued rights under a pension scheme mentioned in regulation 106 (rights to request acceptance of transfer value payment).

(2) This Part applies in the case of a transfer to which the club transfer arrangements apply as it applies in other cases, except to the extent that—

(a) any provision in this Part provides otherwise; or

(b) the arrangements themselves made different provision.

CHAPTER 2

Transfers out

Right to require payment of a transfer value

99.—(1) This Chapter applies to a member to whom Chapter 4 of Part 4 of the PSA 1993 (transfer values) applies.

(2) This Chapter—

(a) supplements the rights conferred by or under that Chapter; and

(b) is without prejudice to that Chapter.

(3) Accordingly, the deferred member 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 (directly or indirectly) to a pension credit.

(5) Paragraph (3) does not apply if the member is entitled under regulation 96 (repayment of contributions) to repayment of the contributions the member has paid during the period of service ending with the member's ceasing to be an active member or acquires a right to a contribution refund under Chapter 5 of Part 4 of the PSA 1993.

Applications for statements of entitlement

100.—(1) A member who requires a transfer value payment must apply to the scheme administrator under section 93A(1) of the PSA 1993 for a statement of entitlement.

(2) The application must be in writing.

(3) The member may withdraw the application by notice in writing at any time before the statement is provided.

(4) The member may not make more than 2 applications in any period of 12 months.

Applications for a transfer value payment

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

(2) The application must—

(a) specify the pension scheme or other pension arrangement to which the transfer value should be paid; and

(b) meet such other conditions as the scheme manager may require.

(3) The member may withdraw the application by notice in writing to the scheme administrator in accordance with section 100(1) of the 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 cash equivalent has already been entered into with a third party.

Calculating amount of the transfer value

102.—(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 the 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 purpose of paragraph (2), "the minimum transfer value" is the sum of the following amounts—

(a) the amount of the member's contributions under Part 7 (contributions to purchase added pension); 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

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

(2) The whole of the transfer value must be applied subject to paragraph (4).

(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 the FA 2004 (see section 169(2) of that Act).

(4) If section 96(2) of the PSA 1993 applies, there may be excluded from the transfer value payment the benefits attributable to—

(a) the member's accrued rights to a guaranteed minimum pension; or

(b) the member's accrued rights attributable to service in contracted-out employment on or after 6 April 1997.

Effect of transfers out

104. 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

105. In this Chapter, "transfer date" means the day on which the transfer value payment is received by the scheme manager.

Rights to request acceptance of transfer value payment

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

(a) another occupational pension scheme that—

(i) is a registered pension scheme; and

(ii) is not a connected scheme; or

(b) a personal pension scheme.

(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" does not include rights that are attributable (directly or indirectly) to a pension credit.

Procedure for making a request

107.—(1) A request under regulation 106(2) ("a request")—

(a) must be in writing;

(b) must specify—

(i) the pension scheme or arrangement from which the transfer value payment is requested to be made; and

(ii) the anticipated amount of the payment; and

(c) must meet such other conditions as the scheme manager may require.

(2) A request must be made during the period of 12 months beginning with the day on which the member becomes an active member of this scheme.

(3) The scheme manager may direct that a transfer payment request is to be treated as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(4) On receiving a transfer payment request, the scheme manager may accept the transfer payment if any conditions required by the scheme manager are met.

(5) The scheme manager may not accept a transfer value payment if—

(a) it would be applied in whole or in part in respect of—

(i) the member's entitlement to a guaranteed minimum pension; or

(ii) the entitlement of the member's spouse to a guaranteed minimum pension; and

(b) it is less than the amount required for that purpose, as calculated in accordance with guidance and tables determined by the scheme manager for the purposes of this paragraph, after consultation with the scheme actuary.

Transfer statement

108.—(1) This regulation applies in relation to—

(a) a request for a transfer payment to be accepted from another pension scheme that is not a club scheme; and

(b) a request for a transfer payment in respect of added pension to be accepted from another club scheme.

(2) The scheme manager may require that, before making a transfer payment request, a member must ask the scheme manager to provide a statement of the amount of transferred pension that the member will be entitled to count under regulation 109 (amount of transferred pension).

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

(a) factors relating to the member's circumstances as at the end of that 2 month period; and

(b) any other factors as at the date of the statement that the scheme manager, having consulted the scheme actuary, considers should apply.

Amount of transferred pension

109.—(1) This regulation applies in relation to—

(a) Any transfer payment received in relation to a member from another pension scheme that is not a club scheme; and

(b) Any transfer payment in respect of added pension received in relation to a member from another club scheme.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension a member is entitled to count in respect of the transfer payment is—

(a) the amount specified in the transfer statement; or

(b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme manager, after consultation with the scheme actuary, considers should apply.

Club transfer value statement

110.—(1) This regulation applies in relation to a request for a club transfer value payment to be accepted from another club scheme.

(2) The scheme manager may require that, before making the transfer payment request, the member must ask the scheme manager to provide a statement of the amount of club transfer earned pension that the member will be entitled to count under regulation 111 (amount of club transfer earned pension) if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount of club transfer earned pension specified in the statement must be calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

(a) factors relating to the member's circumstances as at the end of that 2 month period; and

(b) any other factors as at the date of the statement that the scheme manager, after consultation with the scheme actuary, considers should apply.

(4) The statement must specify the basis on which an amount of accrued earned pension is revalued under the sending scheme while a member is in pensionable service under that scheme.

Amount of club transfer earned pension

111.—(1) This regulation applies in relation to a club transfer value payment received from another club scheme.

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension the member is entitled to count in respect of a club transfer value payment is—

(a) the amount specified in the club transfer value statement; or

(b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme manager, in accordance with the guidance of the scheme actuary, considers should apply.

CHAPTER 4

Miscellaneous provisions

EU and overseas transfers

112.—(1) This regulation applies in the case of a member whose transfer is subject to transfer arrangements concluded with—

(a) the Communities Pension Scheme of the Institutions of the European Communities; or

(b) any other scheme for the provision of retirement benefits established outside the United Kingdom.

(2) The scheme applies in relation to the member with such modifications as the scheme manager considers necessary to comply with—

(a) the terms of those arrangements;

(b) any applicable provision contained in or made under any enactment; and

(c) the requirements to be met by a registered pension scheme.

PART 9

Actuarial valuations and employer cost cap

Appointment of scheme actuary and actuarial valuations

113.—(1) The Secretary of State must appoint an actuary (the "scheme actuary") to provide a consulting service on actuarial matters relevant to this scheme or a connected scheme.

(2) The scheme actuary is responsible for—

(a) carrying out valuations of the scheme and any connected scheme; and

(b) preparing a report on such a valuation.

(3) Before appointing an actuary as scheme actuary the Secretary of State must be satisfied that the actuary is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with Treasury directions under section 11 of the Act (the "Treasury directions").

(4) The scheme administrator is responsible for providing the scheme actuary with any data that the scheme actuary requires, in accordance with Treasury directions, in order to carry out a valuation and prepare a report on the valuation.

(5) A valuation of the scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Treasury directions.

(6) Valuations of the scheme must be carried out within a time-frame which enables requirements in the Treasury directions regarding dates which are applicable to the valuation to be met.

Employer cost cap

114.—(1) The employer cost cap for this scheme is such percentage of pensionable earnings of members of this scheme as the Secretary of State shall determine with the approval of the Treasury.

(2) Where the cost of this scheme goes beyond the margin either side of the employer cost cap for this scheme specified in regulations under section 12(5)(a) of the Act, the Secretary of State must consult such persons (or those appearing to the Secretary of State to represent such persons) as appear to the Secretary of State likely to be affected by any steps that will be taken, with a view to the Secretary of State determining the steps required to achieve the target cost for this scheme.

(3) Following such consultation, the Secretary of State must determine that an adjustment to this scheme must be made so that the target cost for it is achieved.

(4) In this regulation—

(a) "cost of this scheme" means the cost of this scheme calculated following a valuation in accordance with regulation 113 (appointment of scheme actuary and actuarial valuations); and

(b) "target cost for this scheme" means the target cost for this scheme specified in regulations under section 12(5)(b) of the Act.

PART 10

Supplementary

CHAPTER 1

Payment of pensions

Late payment of retirement index adjustment

115. 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

116.—(1) This regulation applies if—

(a) a person's entitlement to a pension under this scheme does not exceed the small pensions commutation maximum;

(b) a dual capacity member's total pension entitlement under this scheme does not exceed the small pensions commutation maximum; or

(c) the total pension entitlement under this scheme of a surviving adult dependant or an eligible child of a dual capacity member does not exceed the small pensions commutation maximum.

(2) The scheme manager may pay the person a lump sum of such an amount as the scheme manager after consultation with the scheme actuary advises represents the capital value of the pension if—

(a) the person consents to receipt of a lump sum in respect of the pension; and

(b) the commutation requirements are met.

(3) 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.

(4) 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(**a**);

(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 6 (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 of the Pension Sharing (Pension Credit Benefit) Regulations 2000(**b**).

CHAPTER 2

Payment and deduction of tax

Scheme administrator for purposes of the Finance Act 2004

117.—(1) The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on a scheme administrator by or under Part 4 of the FA 2004.

(2) In this regulation 'scheme administrator' has the meaning given in Part 4 of the FA 2004.

Reduction of benefits where lifetime allowance charge payable

118.—(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 scheme manager are jointly and severally liable in relation to that event.

(2) If this regulation applies—

(a) the scheme manager must pay the lifetime allowance charge 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 must be such that in the opinion of the scheme manager, having consulted the scheme actuary, fully reflects the amount of the lifetime allowance charge so paid and is consistent with normal actuarial practice.

Payment on behalf of members of annual allowance charge

119.—(1) The scheme manager must provide a member with information about the payment of an annual allowance charge under section 227 of FA 2004 if the member's total pension input amount for that tax year exceeds the amount of the annual allowance for that tax year.

(2) The member may request the scheme manager to pay the charge in respect of this scheme on the member's behalf.

(3) Such a request must be made by notice in writing in such form and subject to such conditions as the scheme manager requires.

(**a**) S.I. 1997/785
(**b**) S.I. 2000/1054

Reduction of benefits where annual allowance charge paid by scheme manager

120.—(1) If the scheme manager pays the annual allowance charge on a member's behalf, the amount or value of the benefits payable to or in respect of the member must be reduced.

(2) The amount or value of the reduction of benefits must be such that in the opinion of the scheme manager, having consulted with the scheme actuary, it fully reflects the amount of the charge so paid and is consistent with normal actuarial practice.

CHAPTER 3

Forfeiture

Forfeiture of benefits

121.—(1) The Secretary of State may withhold benefits payable under this scheme in respect of a member to whom paragraph (2) of regulation 128 (information and evidence) applies to such extent as the Secretary of State considers appropriate.

This is subject to paragraphs (3) and (4).

(2) The Secretary of State may withhold pension benefits payable under Part 5 to a person to whom paragraph (2) of regulation 122 (events enabling forfeiture) applies to such extent as the Secretary of State considers appropriate; and if the whole of a person's benefits are so withheld that Part applies as if that person had predeceased the member.

This is subject to paragraph (4).

(3) If the member has a guaranteed minimum under section 14 of the PSA 1993 in relation to service by reference to which he is entitled to benefits under the scheme, paragraph (1) only applies to so much of the member's pension as exceeds that guaranteed minimum, unless regulation 122 (1)(a) or (b)(conviction of treason or Official Secrets Acts offences) applies.

(4) If the case of a pension payable to the surviving spouse of a member, paragraph (1) and (2) are subject to regulation 66 (guaranteed minimum pensions for surviving spouses and civil partners).

(5) Where regulation 122 (1)(c) (monetary obligations) applies—

(a) If the amount of the obligation is in dispute, paragraph (1) only applies if the obligation has become enforceable—

(i) under an order of a competent court; or

(ii) in consequence of an award of an arbitrator or, in Scotland, an arbiter to be appointed (failing agreement by the parties) by the sheriff;

(b) only benefits to which the member alone is entitled may be withheld; and

(c) the benefits withheld must not exceed the amount of the monetary obligation or, if less, the value of the person's entitlement or the accrued right in question (as determined under section 93(2) of the Pensions Act 1995)(**a**).

(6) This regulation is without prejudice to—

(a) section 2 of the Forfeiture Act 1870(**b**) (under which forfeiture is required in cases of treason, subject to whole or partial restoration under section 70(2) of the Criminal Justice Act 1948)(**c**); or

(b) so far as it has effect in relation to benefits under the scheme, section 24 of the Chelsea and Kilmainham Hospitals Act 1826(**d**).

(**a**) 1995 c. 26.
(**b**) 1870 c. 23.
(**c**) 1948 c. 58.
(**d**) 1826 c. 16.

Events enabling forfeiture

122.—(1) This paragraph applies to a member, who is an active member, a deferred member or a pensioner member, if the member—

(a) is convicted of treason or of one or more offences under the Official Secrets Acts 1911(**a**) 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; or

(ii) to two or more consecutive terms amounting in the aggregate to at least 10 years,

(b) is convicted of an offence in connection with the service that qualifies the member to belong to the scheme which the Secretary of State considers to have been gravely injurious to the defence, security or other interests of the State; or

(c) has after becoming a member of the scheme incurred a monetary obligation to the Crown which—

(i) arises out of a criminal, negligent or fraudulent act or omission by the member, and

(ii) arises out of or in connection with his service in the armed forces.

(2) This paragraph applies to a person who is convicted of the murder or manslaughter of the member or any other offence which involves the unlawful killing of the member.

(3) In paragraph (2) "unlawful killing" includes unlawfully aiding, abetting, counselling or procuring the death.

Procedure, references etc

123.—(1) If the Secretary of State proposes to withhold a person's benefits under regulation 121 (forfeiture of benefits) the Secretary of State must notify the person in writing that he proposes to do so.

(2) Such a notification must give the person information about rights under—

(a) the arrangements established by the Secretary of State for the resolution of disputes relating to the scheme that are in force at the time the notification is given; and

(b) Part 10 of the PSA 1993 (investigations: the Pensions Ombudsman), in respect of any decision made under regulation 121 (forfeiture of benefits).

(3) If the Secretary of State withholds benefits under regulation 121 (forfeiture of benefits) in a case where regulations 122(1)(c) (monetary obligation) applies, the member must be given a certificate showing any amount withheld and the effect of its being withheld on the member's benefits under the scheme.

(4) The Secretary of State—

(a) may refer the question whether benefits of a person to whom regulation 121(2) (conviction of member) applies should be withheld to the Social Security Commissioner; and

(b) must refer that question if the person to whom that rule applies or an eligible child of the member requests the Secretary of State to do so.

(**a**) 1911 c. 28
(**b**) 1989 c. 6.

CHAPTER 4

General

Pension ceases to be payable

124.—(1) A pension ceases to be payable to a member who re-enters pensionable service within 28 days after the last day of the service in respect of which the pension was payable ("earlier service").

(2) If paragraph (1) applies in relation to a member, the scheme manager must—

(a) cease to pay the pension; and

(b) recover any overpayment made.

(3) The member becomes a deferred member in respect of the earlier service.

(4) The scheme manager must close the pension member's account and establish a deferred member's account in respect of the earlier service.

(5) The scheme manager must credit to the deferred member's account as the provisional amount for each description of deferred pension the amount specified in the pension member's account.

Re-employment after ill health awards

125.—(1) This regulation applies where—

(a) an ill health pension has been awarded to a member in respect of a continuous period of pensionable service ("earlier service"); and

(b) subsequently, the member re-enters pensionable service ("current service").

(2) The ill health pension ceases to be payable on the first day of the current service.

(3) The member becomes a deferred member in respect of the earlier service.

(4) The scheme manager must close the pension member's account and establish a deferred member's account in respect of the earlier service.

(5) The scheme manager must credit to the deferred member's account as the provisional amount for each description of deferred pension the amount specified in the pension member's account less an amount attributable to the enhancement value under Chapter 3 of Part 5.

Payment of benefits

126. Pensions payable under the scheme are payable by monthly instalments in arrears.

False statements etc about ill-health

127.—(1) This regulation applies where—

(a) a pension under Chapter 3 of Part 5 (Ill-Health Benefits) has been awarded to a member; and

(b) subsequently it appears to the scheme manager that the member made a false declaration about the member's health or deliberately suppressed a material fact that was relevant to the award.

(2) The scheme manager may—

(a) cease paying the pension;

(b) withhold the whole or part of the pension; or

(c) recover any payment made under the award.

Non assignability

128.—(1) Every benefit to which a person is entitled under this scheme is payable to or for that person's benefit.

(2) No such benefit is assignable or chargeable with the member's or any other person's debts.

(3) This regulation is without prejudice to anything that has effect by virtue of any enactment or may be done under or for the purposes of the Chelsea and Kilmainham Hospitals Act 1826.

General prohibition on unauthorised payments

129. 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

130.—(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, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that are required 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 or in the case of a leap year 366, and rounding the result to 4 decimal places.

(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).

Determination of questions

131. Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager, whose decision on it is final.

Information and evidence

132.—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

(a) the person's identity; and

(b) the person's continuing entitlement to payment of any amount.

(2) If such evidence is not provided, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

Provision of benefit information statements to members

133. The scheme manager must provide an annual benefit information statement to each active member of this scheme in accordance with Treasury directions made under section 14 of the Act (information about benefits).

Anna Soubry
Minister of State
31st August 2014 Ministry of Defence

We approve

Gavin Barwell
Mark Lancaster
22nd August 2014 Two of the Lords Commissioners of Her Majesty's Treasury Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish a career average revalued earnings scheme for the payment of pensions and other benefits in respect of a person's service in the armed forces.

Part 2 contains governance provisions including establishment of the Scheme Management Board and delegation of the scheme manager's functions.

Part 3 provides for scheme membership. It provides for the key concepts of scheme employment, active membership period, pensionable earnings and qualifying service. It contains eligibility and enrolment provisions.

Part 4 provides for members' pension accounts.

Chapter 1 explains how the amount of accrued pension is calculated.

Chapter 3 provides for the establishment of the active member's account. This Chapter shows how the proportion of pensionable earnings accrued as pension is revalued each year until the member leaves pensionable service.

Chapter 4 provides for the establishment of the deferred member's account and explains how the provisional amount of deferred pension is calculated.

Chapter 5 provides for the establishment of a pension member's account.

Chapter 6 provides for the establishment of a pension credit member's account.

Part 5 provides for a member's entitlement to payment of retirement benefits. It also provides for the allocation of benefits.

Part 6 provides for death benefits. It provides for the recovery and suspension of benefits in certain cases.

Part 7 provides for the payment of contributions to purchase added pension by members.

Part 8 provides for payment and receipt of transfer payments.

Part 9 provides for actuarial valuations and employer cost cap.

Part 10 contains supplementary provisions on payment of pensions, payment and deduction of tax and miscellaneous provisions including the determination of questions.

© Crown copyright 2014

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

UK201409016 09/2014 19585

http://www.legislation.gov.uk/id/uksi/2014/2336