STATUTORY INSTRUMENTS

1979 No. 1534

PENSIONS

The Local Government Superannuation

(Amendment) (No. 3) Regulations 1979

Made - - - -	*28th November 1979*
Laid before Parliament	*11th December 1979*
Coming into Operation	*1st January 1980*

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 110 (1) of the National Insurance Act 1965 (a), having been determined by the Minister for the Civil Service to be the appropriate Minister of the Crown under that section, and in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972 (b), and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Citation etc.

1.—(1) These regulations may be cited as the Local Government Superannuation (Amendment) (No. 3) Regulations 1979 and shall come into operation on 1st January 1980, but regulation 13 and Schedules 21 and 23 (to the extent they relate to regulation 13) shall have effect from 30th March 1978.

(2) These regulations shall be included among the regulations which may be cited together as the Local Government Superannuation Regulations 1974 to 1979 (c).

(3) In these regulations "the principal regulations" means the Local Government Superannuation Regulations 1974 (d) and, unless the context otherwise requires, expressions used in these regulations, which are also used in the principal regulations, shall have the same meaning as they have in the principal regulations.

(a) 1965 c. 51 (continued in force by regulation 3 of, and Schedule 1 to, the National Insurance (Non-participation – Transitional Provisions) Regulations 1974 (S. I. 1974/2057)).
(b) 1972 c. 11.
(c) S. I. 1974/520, 1977/1121, 1845, 1978/266, 822, 1738, 1739, 1979/2, 592.
(d) S. I. 1974/520, relevant amendments are made by S. I. 1977/1341, 1845, 1978/266, 1738, 1739, 1979/2.

Definitions in the principal regulations

2. In regulation A3(1) of the principal regulations—

(*a*) the following definitions shall be inserted at appropriate points—

" "approved non-local government employment" means employment in which a person participates in an approved non-local government scheme, and "non-local government employer" and "non-local government employment" shall be construed accordingly;";

" "approved non-local government scheme" means a non-local government scheme—

(*a*) the fund of which is wholly approved under section 208 of the Income and Corporation Taxes Act 1970 (**a**); or

(*b*) which is approved under section 222 of that Act or under Chapter II of Part II of the Finance Act 1970 (**b**), or

(*c*) which is approved by the Commissioners of Inland Revenue for the purposes of these regulations;";

" "non-local government scheme" means a superannuation scheme or other arrangements for superannuation, other than—

(*a*) the superannuation scheme provided in the Acts of 1937 to 1953 and the regulations made thereunder or in the Local Government Superannuation (Scotland) Acts 1937 to 1953 (**c**) and the regulations made thereunder;

(*b*) a superannuation scheme provided in regulations for the time being in force under section 7 of the Act of 1972; or

(*c*) a local Act scheme (including a local Act scheme within the meaning of the Act of 1937);";

" "scheme managers" means—

(*a*) in the case of a statutory scheme, the Minister of the Crown or police or fire authority administering the scheme; and

(*b*) in any other case, the person responsible for the management of a non-local government scheme;";

" "state pensionable age" means the age of 65, in the case of a man, and 60, in the case of a woman;"; and

(*b*) at the end of the definition of "service", there shall be inserted the words, " except in Part N where it shall have the meaning given by regulation N1,".

(**a**) 1970 c. 10.
(**b**) 1970 c. 24.
(**c**) 1937 c.69; 1939 c.18; 1953 c.25.

Pensionable employees

3. In regulation B2(1) of the principal regulations, after the end of sub-paragraph (*b*)(ii), there shall be inserted the words—

";or

(iii) satisfies the requirements of Part III of Schedule 1,".

Return of employee's contributions in certain cases

4. In regulation C8 of the principal regulations—

(*a*) in paragraph (1)—

(i) in sub-paragraph (*b*), after the words "one month" in both places where they occur, there shall be inserted the words "and one day"; and

(ii) in sub-paragraph (*c*), after the word "regulations,", there shall be inserted the words "or in respect of service or employment to which a transfer value accepted under regulation N7 relates,"; and

(*b*) in paragraph 2—

(i) in sub-paragraph (*b*), after the words "one month", there shall be added the words "and two days"; and

(ii) at the end of sub-paragraph (i), there shall be added the words "and, for any period after 31st March 1980, at the rate of 9 per cent. per annum with yearly rests on 31st March"; and

(*c*) for paragraph (5), there shall be substituted the following paragraph—

"(5) A payment under paragraph (2) to a person with an aggregate of less than 5 years' reckonable and qualifying service shall be made at the end of the 12 months following the termination of his employment but, if a written request is received by the administering authority, an earlier (in no case earlier than one month and two days after the termination of the employment) or, as the case may be, a later payment shall be made.".

Exclusion from reckonable service and qualifying service

5. In regulation D3(1)(*b*)(i), after the words "one month" in both places where they occur, there shall be inserted the words "and one day".

Previous service of certain whole-time manual workers

6. After regulation D14 of the principal regulations, there shall be added the following regulation—

"Previous service of certain whole-time manual workers

D14A.—(1) A whole-time manual worker to whom this regulation applies who on entering the employment of a scheduled body does not immediately become a pensionable employee shall be entitled to reckon as reckonable service his service in that employment prior to becoming a pensionable employee if he pays into the appropriate superannuation fund the sum mentioned in paragraph (3) within the period specified in paragraph (4).

(2) This regulation applies to a whole-time manual worker if—

(*a*) he becomes a pensionable employee by virtue of regulation B2(1)(*b*)(iii); or

(*b*) he becomes or became a pensionable employee by virtue of regulation B2 (1) (*b*) (i) and—

(i) he entered the employment of the scheduled body on or after 1st April 1974 but before 1st January 1980; and

(ii) he was previously employed in non-local government employment; and

(iii) he makes a written declaration to the scheduled body that his pension rights under his non-local government scheme will be preserved or that he has applied, or will apply, for their transfer to the appropriate administering authority.

(3) The sum to be paid into the appropriate superannuation fund is a sum equal to the contributions which he would have been liable to make in respect of his service in the employment of the scheduled body prior to becoming a pensionable employee if throughout that period of service he had been a pensionable employee.

(4) Subject to paragraph (5), the period within which the payment must be made is—

(*a*) in the case of a person falling within paragraph (2)(*a*), the period of 6 months beginning with the date on which he becomes a pensionable employee, and

(*b*) in the case of a person falling within paragraph (2)(*b*), the period of 6 months beginning with 1st January 1980 or, if later, the period of 6 months beginning with the date on which he becomes a pensionable employee.

(5) The scheduled body may in any particular case extend the period mentioned in paragraph (4).

(6) The sum paid into the appropriate superannuation fund under this regulation shall be treated for the purposes of these regulations as if it consisted of contributions made by the employee under regulation C1 or C2 in relation to his service in the employment of the scheduled body as a pensionable employee.".

Previous service of certain re-employed pensioners

7. In regulation D16 (1) (*a*) (iii), after the words "one month", there shall be inserted the words "and one day".

Disregard of certain reckonable service in determining entitlement to benefits

8. At the end of regulation D19, the following paragraph shall be added—

"(*e*) any period reckonable by virtue of regulation N8 (1) (*a*) (but account shall be taken of that period in relation to regulation E2 (1A)).".

Entitlement to retirement pension and retiring allowance

9. In regulation E2 of the principal regulations—

(*a*) in paragraph (1), for sub-paragraph (*c*), there shall be substituted the following sub-paragraph—

"(*c*) he is not entitled to benefit under sub-paragraph (*a*) or (*b*) and—

(i) the reckonable service and qualifying service he is entitled to reckon amounts in aggregate to not less than 5 years; or

(ii) by reason of his not being such an employee as is referred to in regulation C8(1)(*c*), he is not entitled to a return of contributions under that regulation; or

(iii) he has become subject in that employment to an approved non-local government scheme and by virtue of regulation G9(3)(*b*) he is to be treated for certain purposes as if he had ceased to hold that employment;".

(*b*) in paragraph (1A), at the end of sub-paragraph (*b*), there shall be inserted the words "or was reckonable service which relates to service or employment with a non-local government employer in a non-participating employment".

(*c*) in paragraph (4), at the end of sub-paragraph (*c*), there shall be inserted the words "and, after receiving the return of contributions, the employee has no further right to reckon any reckonable service to which a transfer value accepted under regulation N7 relates".

Amount of retirement pension and retiring allowance

10. In regulation E3 of the principal regulations—

(*a*) for paragraph (7A), there shall be substituted the following paragraph—

"(7A) Where a pensionable employee becomes entitled to benefits by virtue of regulation E2(1)(*c*) and subsequently receives a return of contributions in circumstances in which regulation E2(4)(*c*) does not apply, for the purposes of calculating the amount of any benefit in accordance with the provisions of this regulation his reckonable service shall be taken to be the reckonable service which he is entitled to reckon after he receives the return of contributions excluding reckonable service to which the return of contributions relates."; and

(*b*) in paragraph (9A), after the words "in a non-participating employment", there shall be inserted the words "or which relates to service with a non-local government employer in a non-participating employment".

National Insurance modification

11. In regulation F1(2) of the principal regulations—

(*a*) for the definition of "unmodified status", there shall be substituted the following definition—

"the expression "unmodified status" refers to the status of—

(*a*) a person whose contributions were by virtue of the Modification regulations or of interchange rules not subject immediately before the appointed day to reduction in connection with a retirement pension under section 30 of the Insurance Act; or

(*b*) a person who—

(i) becomes employed by a scheduled body after ceasing to be employed in non-local government employment; and

(ii) becomes entitled by virtue of regulation N8 (1) (*a*) to reckon a period as reckonable service; and

(iii) in his non-local government employment was subject to a statutory scheme under which he was not in respect of the last day when he held that employment subject to a reduction of superannuation benefits in connection with a retirement pension under section 28 of the Social Security Act 1975 (a) or under corresponding provisions of earlier legislation,

and who in either case remains a pensionable employee without a disqualifying break of service;"; and

(*b*) the definition of "flat-rate pension" shall be omitted.

Certain persons who become subject to certain other superannuation schemes

12. In regulation G9 of the principal regulations—

(*a*) at the end of paragraph (1) (*b*), there shall be added the words "which would be a contracted-out scheme in relation to that employment for the purposes of the Social Security Pensions Act 1975 (b).";

(*b*) in paragraph (3)—

(i) in sub-paragraph (*b*), after the word "regulations", there shall be inserted the words "(except regulations N2 to N5)";

(ii) at the end of that sub-paragraph, the following sub-paragraphs shall be added—

"; and

(*c*) shall not be entitled to a return of contributions under regulation C8 in relation to that employment; and

(*d*) may on the actual termination of that employment (but not at any earlier time) request the payment of a transfer value under regulation N2, unless he is a person to whom regulation G9A applies;

and, if a transfer value is requested in the circumstances mentioned in sub-paragraph (*d*), regulations N2 to N5 shall apply as if he had continued to be employed in his local government employment until the date of the actual termination of the employment, but Schedule 21 shall apply as if his local government employment had ended on the day before he became subject to the approved non-local government scheme."; and

(*c*) paragraph (5) shall be omitted.

(a) 1975 c.14. (b) 1975 c.60.

Transfer of pension rights

13. After regulation G9 of the principal regulations, there shall be inserted the following regulation—

"*Transfer of pension rights*

G9A.—(1) Where—

(*a*) regulation G9 applies to a person; and

(*b*) on the date on which he becomes subject to the approved non-local government scheme he has not reached state pensionable age; and

(*c*) before that date he has given written notice to the appropriate administering authority and, if different, to his employing authority that he wishes to transfer his pension rights under these regulations to the approved non-local government scheme; and

(*d*) the scheme managers, the appropriate administering authority and, if different, his employing authority have each given their consent before that date,

the appropriate administering authority shall, subject to paragraphs (4) and (6), pay to the scheme managers out of the superannuation fund a transfer value calculated in accordance with Schedule 21.

(2) The appropriate administering authority shall not give their consent under paragraph (1) (*d*) unless the person transferring his pension rights will acquire pension rights under the approved non-local government scheme at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers under regulation N2.

(3) The appropriate administering authority shall provide the person transferring his pension rights with sufficient information in writing to check that the condition in paragraph (2) is satisfied.

(4) If—

(*a*) the number of persons transferring their pension rights under paragraph (1) from a particular superannuation fund to the same or a different approved non-local government scheme as part of the same transfer scheme is more than 9 but less than 100; and

(*b*) the fund's assets immediately before any transfer takes place are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time,

the total payable under paragraph (1) (or, as the case may be, the respective totals) shall be adjusted to the extent that the fund's actuary and the actuary of the approved non-local government scheme consider appropriate in the circumstances.

(5) If any question arises as to the application of paragraph (4) or the actuaries are unable to agree on the adjustment to be made under that paragraph, the adjustment (if any) to be made shall be decided by an actuary appointed by the Secretary of State.

(6) If the number of persons transferring their pension rights under paragraph (1) from a particular superannuation fund to the same or a different approved non-local government scheme as part of the same transfer scheme is 100 or more—

(*a*) no payment shall be made under that paragraph; and

(*b*) the fund shall be apportioned in accordance with Schedule 23.

(7) Where paragraph (6) applies in relation to any person, he shall be treated for the purposes of regulation D3(2)(*b*) as if a transfer value had been paid in relation to him under paragraph (1).

(8) Notwithstanding anything in the Acts of 1937 to 1953 and the regulations made thereunder, the former regulations, any local Act scheme or any provision of these regulations, where a payment or transfer of assets is to be or has been made under this regulation or under Schedule 23, no other payment or transfer of assets shall be made out of the superannuation fund on account of service or employment to which the payment or transfer of assets under this regulation or under Schedule 23 relates.

(9) A person shall be treated for the purposes of this regulation as having transferred his pension rights on the date on which he becomes subject to the approved non-local government scheme.

(10) For the purposes of this regulation, a transfer scheme is a scheme agreed between the scheme managers, the appropriate administering authority and, if different, the employing authority providing for the transfer of pension rights under this regulation of a number of persons.

(11) "Accrued actuarial liabilities" means the actual and potential liabilities of the fund in connection with any service or employment before any transfer takes place.".

Continuation in certain cases of participation in policy schemes

14. In regulation G12(1) of the principal regulations, after the word "becomes", there shall be inserted the words "at any time before 1st April 1980".

Payments due in respect of deceased persons

15. In regulation L10 of the principal regulations, for "£500" there shall be substituted "£1,500".

Forfeiture of rights

16. In regulation L13, for the words "(being rights under Parts C, D, E, F and J)", there shall be substituted the words "or employment (being rights under Parts C, D, E, F, J and N)".

Interchange

17. After Part M of the principal regulations, there shall be added the following Part—

"PART N
INTERCHANGE

Interpretation

N1. In this Part, unless the context otherwise requires—

"fund authority" means—

(*a*) in the application of regulations N2 to N5 to a person, the body maintaining the superannuation fund to which he was a contributor immediately before he ceased to be employed in his local government employment or, if that fund has been closed, the body which would be liable to pay him his pension in respect of that employment if he had been entitled to receive payment of such a pension when he ceased to be employed in his local government employment; and

(*b*) in the application of regulations N7 to N11 to a person, the body maintaining the superannuation fund to which he became a contributor after he ceased to be employed in his non-local government employment or, if that fund has been closed—

(i) if when the fund was closed he was not employed in local government employment, the body which would be liable to pay him his pension in respect of the local government employment in question if he had been entitled to receive payment of such a pension when he ceased to be employed in that employment; and

(ii) in all other cases, the body maintaining the superannuation fund to which he became a contributor when the fund was closed;

"local Act authority" and "local Act scheme" have—

(*a*) in relation to any time before 25th March 1972, the same meanings as in the Act of 1937; and

(*b*) in relation to any time on or after 25th March 1972, the same meanings as in section 8 of the Act of 1972;

"local government employer", in relation to a person who is, or has been, employed in local government employment, means the body which is, or is treated as being, the employing authority or former employing authority for the purposes of the Acts of 1937 to 1953, the local Act scheme or these regulations, as the case may be;

"local government employment" means—

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

(*b*) in relation to any time on or after 1st April 1974, employment by virtue of which the person employed is, or is deemed to be, a pensionable employee or a local Act contributor;

"pension" does not include an allowance or gratuity; and

"service" means service or employment with any employer.

Outwards transfers

N2.—(1) Subject to paragraph (6), a transfer value shall be paid in relation to a person who has ceased to be employed in local government employment and has become employed in approved non-local government employment if the conditions in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the local government employment, or the commencement of the approved non-local government employment, or both the cessation and the commencement, occurred before 1st January 1980.

(3) The conditions are that—

(*a*) he has made a written request to his fund authority for the transfer value to be paid; and

(*b*) subject to paragraph (4), the request was made not later than 6 months after 1st January 1980 or, if later, 6 months after the date on which he became employed in his approved non-local government employment; and

(*c*) the scheme managers of his approved non-local government scheme have agreed to accept the transfer value; and

(*d*) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, his local government employer has consented to the payment of the transfer value; and

(*e*) in the case of a person who received a return of contributions in relation to his local government employment (other than a person falling within paragraph (6)(*b*) or (*c*)), he has within 3 months of making his request under sub-paragraph (*a*) paid his fund authority for the credit of their superannuation fund—

(i) a sum equal to the contributions returned to him (together with any interest which he was paid);

(ii) a sum equal to any deduction made on account of tax under section 378(2) of the Income Tax Act 1952(**a**) or section 209(2) of the Income and Corporation Taxes Act 1970; and

(iii) compound interest on both those sums calculated in accordance with regulation N6 for the period beginning with the date on which he received the return of contributions and ending on the date of his request under sub-paragraph (*a*) (but no interest is to be paid if that period is less than 6 months).

(**a**) 1952 c. 10.

(4) The local government employer may in any particular case extend the period mentioned in paragraph (3)(*b*).

(5) The local government employer shall not give its consent under paragraph (3)(*d*) unless—

(*a*) in the interval between the employments the person was in employment outside the United Kingdom in relation to which rules made under section 2 of the Act of 1948 applied; or

(*b*) the person left his local government employment with a right to a prospective pension under a local Act,

and he has not previously made an application for a transfer value to be paid to the scheme managers in question in relation to his local government employment which was refused.

(6) A transfer value shall not be paid in relation to a person—

(*a*) who has received any benefit (other than a return of contributions) under the Acts of 1937 to 1953 and the regulations made thereunder, the former regulations, any local Act scheme or these regulations in respect of his local government employment; or

(*b*) who ceased to be employed in local government employment on or after 1st April 1974 but before 1st January 1980 with an aggregate of at least 5 years' reckonable and qualifying service (or, if he was subject to a local Act scheme, with an aggregate of at least 5 years' service which was to be taken into account under the scheme for the purposes of determining whether he was entitled to benefit) and who has received a return of contributions in relation to that employment; or

(*c*) who ceased to be employed in local government employment on or after 1st January 1980 and who has received a return of contributions in relation to that employment; or

(*d*) who ceased to be employed in local government employment on or after 6th April 1978 having reached state pensionable age, unless his accrued pension for the purposes of Schedule 21 relates solely to service after he reached state pensionable age; or

(*e*) who ceased to be employed in local government employment on or after 6th April 1978 and who has become employed in approved non-local government employment which is not contracted-out employment for the purposes of the Social Security Pensions Act 1975, unless—

(i) the person is a married woman or widow who has made, or is treated as having made, an election for the purposes of section 3(2) of that Act and she has not revoked that election and, in consequence, on the cessation of her local government employment she has no accrued rights under the Local Government Superannuation Regulations 1974 to 1979 to a guaranteed minimum pension in connection with that employment; or

(ii) an election has been made under section 42(2) of that Act to pay a contributions equivalent premium with a view to extinguishing the person's accrued rights under the Local Government Superannuation Regulations 1974 to 1979 to a guaranteed minimum pension in connection with his local government employment; or

(*f*) in respect of whom a transfer value has been paid by the fund authority or a predecessor of that authority since he ceased to be employed in his local government employment; or

(*g*) who, on becoming employed in approved non-local government employment became entitled, without any condition as to receipt of a transfer value, to reckon service in his local government employment in relation to his approved non-local government employment; or

(*h*) if a direction has been made in relation to his service in his local government employment under regulation C8 (3) or L13 or any corresponding provision of earlier legislation or a local Act scheme.

Amount of transfer value etc.

N3.—(1) The amount of any transfer value payable under regulation N2 shall be calculated in accordance with the provisions of Schedule 21.

(2) The transfer value shall be paid to the scheme managers by the fund authority out of their superannuation fund.

(3) The fund authority shall provide the scheme managers and the person to whom the transfer value relates with a written notice showing how it was calculated.

(4) A notice provided to a person under paragraph (3) shall include a statement of the kind required by regulation L4 (3).

Termination of right to payment out of fund authority's superannuation fund

N4. Notwithstanding anything in the Acts of 1937 to 1953 and the regulations made thereunder, the former regulations, any local Act scheme or any other provision of these regulations (except regulation N5), where a transfer value is to be or has been paid under regulation N2, no other payment or transfer of assets shall, subject to regulation N5, be made out of the superannuation fund on account of the service to which the transfer value relates.

Rights where a person transfers to the Communities' scheme and leaves without a right to either an immediate or prospective pension

N5.—(1) This regulation has effect to confer rights on a person and those claiming through him where—

(*a*) the person became employed by a Community institution after having been employed in local government employment; and

(*b*) the scheme managers of the Communities' scheme were paid a transfer value under regulation N2 in relation to his previous service in local government employment; and

(*c*) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension; and

(*d*) his fund authority has been paid for the credit of their superannuation fund—

(i) a sum equal to the amount of the transfer value which the scheme managers received; and

(ii) compound interest on that sum calculated in accordance with regulation N6 for the period beginning with the date on which the transfer value was received by the scheme managers and ending on the date on which the fund authority was paid the sum required by (i) above (but no interest is to be paid if that period is less than 6 months).

(2) Where the person ceased to be employed in his local government employment before 31st March 1972, he and those claiming through him shall, subject to paragraph (3), have the same rights as they would have had by virtue of the Acts of 1937 to 1953 and the regulations made thereunder, the former regulations, any local Act scheme and these regulations (so far as applicable) if—

(*a*) he had reached the age of 65 by the termination of his local government employment; and

(*b*) he had sufficient service at that time to qualify him for a pension; and

(*c*) the payment of the transfer value had not been requested or made.

(3) Paragraph (2) shall not confer any right to—

(*a*) a return of contributions; or

(*b*) the payment of any benefit for any period ending on or before the date on which he left his employment with the Community institution or, if later, the earliest date on which any benefit would have been payable if he had left his local government employment with the right to a retirement pension under regulation E2 (1) (*c*).

(4) Where the person ceased to be employed in his local government employment on or after 31st March 1972 in circumstances in which he

would, apart from regulations N2 to N4, have been entitled to a pension (other than a pension under regulation E2 (1A) or regulation 3 (3) of the Local Government Superannuation (Social Security – Requirements for Contracting-out) Regulations 1978 (a)) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (6), have the same rights as they would have had by virtue of these regulations and any local Act scheme (so far as applicable) if the payment of the transfer value had not been requested or made.

(5) Where the person ceased to be employed in his local government employment on or after 31st March 1972 in circumstances in which he would not, apart from regulations N2 to N4, have been entitled to a pension (other than a pension under regulation E2(1A) or regulation 3(3) of the Local Government Superannuation (Social Security — Requirements for Contracting-out) Regulations 1978) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (6), have the same rights as they would have had by virtue of these regulations and any local Act scheme (so far as applicable) if—

(*a*) on the termination of his local government employment he had been entitled to reckon an aggregate of 5 years' reckonable and qualifying service (or, if he was subject to a local Act scheme, 5 years' service which would have been taken into account under the scheme for the purpose of determining whether he was entitled to benefit); and

(*b*) the payment of the transfer value had not been requested or made.

(6) Paragraphs (4) and (5) shall not confer any right to—

(*a*) a return of contributions; or

(*b*) the payment of any benefit for any period ending on or before the date on which he left his employment with the Community institution.

(7) For the purposes of this regulation—

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

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

and references to those claiming through a person shall be construed as references to his widow, dependants, children and personal representatives so far as is appropriate in his particular case.

Compound interest on certain sums

N6. Compound interest under regulations N2(3)(*e*)(iii) and N5(1)(*d*) (ii) and paragraph 1(2) of Schedule 21 is to be calculated—

(*a*) at the rate of 6 per cent. with yearly rests for each complete period of a year ending before 1st April 1977 (any residual period of less than a year is to be ignored); and

(a) S.I. 1978/1738.

(*b*) at the rate of 2¼ per cent. with 3-monthly rests for each complete period of 3 months beginning after 31st March 1977 (any residual period of less than 3 months is to be ignored).

Inward transfers

N7.—(1) Subject to paragraph (5), a transfer value offered to a person's fund authority by the scheme managers of his previous non-local government scheme shall be accepted by them and credited to their superannuation fund if the conditions specified in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the non-local government employment, or the commencement of the local government employment, or both the cessation and commencement, occurred before 1st January 1980.

(3) The conditions are that—

(*a*) he has made a written request to his fund authority for the transfer value to be accepted; and

(*b*) subject to paragraph (4), the request was made not later than 6 months after 1st January 1980 or, if later, 6 months after the date on which he became employed in his local government employment; and

(*c*) the transfer value is not offered on conditions which are inconsistent with the provisions of these regulations; and

(*d*) except in the case of a person who became employed in his local government employment on or after 1st January 1980 and who ceased to be employed in his non-local government employment on or after 31st March 1972, his local government employer has consented to the transfer value being accepted; and

(*e*) in the case of a person who became employed in his local government employment before 31st March 1972, he was employed in local government employment on that date.

(4) The local government employer may in any particular case extend the period mentioned in paragraph (3) (*b*).

(5) A transfer value under paragraph (1) shall not be accepted in relation to a person if—

(*a*) his non-local government employment was contracted-out employment for the purposes of the Social Security Pensions Act 1975; and

(*b*) his non-local government scheme was not a statutory scheme or a scheme which is to be treated for the purposes of Schedule 22 as being a statutory scheme; and

(*c*) the transfer value would not secure a resultant pension at least equal to the annual equivalent of his guaranteed minimum in respect of service to which the transfer value relates.

(6) A person's resultant pension shall be calculated in accordance with the formula:

$$R = \left[\frac{N}{80} \times S \right] - E, \text{ where—}$$

R is the annual amount of the resultant pension;

N is the reckonable service (expressed in years and fractions of a year) which would, apart from paragraph (5), be credited to him under regulation N8(1)(*a*) if the transfer value were to be accepted by the fund authority;

S is the annual rate of his remuneration on becoming employed in his local government employment (if he is paid weekly, the annual rate shall be calculated by multiplying the weekly rate by 52.18); and

E is the annual rate of the equivalent pension benefits (if any) in respect of service to which the transfer value relates and for which the fund authority would, apart from paragraph (5), become responsible if the transfer value were to be accepted.

(7) A person's guaranteed minimum shall be calculated in accordance with section 35 of the Social Security Pensions Act 1975 (except that subsections (7) and (8) shall be ignored) by reference to the regulations applying in relation to that section, and the orders in force under section 21 of that Act, when he becomes employed in his local government employment, and the annual equivalent shall be calculated by multiplying the guaranteed minimum by 52.18.

Right to reckon service

N8.—(1) Where a transfer value has been accepted in relation to a person under regulation N7—

(*a*) he shall, subject to regulation N9(4), (5) and (6), be entitled to reckon as reckonable service a period calculated in accordance with Schedule 22 for all purposes of these regulations except that of determining whether there is any entitlement to benefit (other than any benefit under regulation E2(1A)); and

(*b*) he shall be entitled to reckon as qualifying service any service to which the transfer value relates which would not otherwise be qualifying service.

(2) A period reckonable under paragraph (1)(*a*) shall be treated as reckonable service after 31st March 1972 for the purposes of making any calculation under these regulations.

(3) Service reckonable under paragraph (1)(*b*) shall count at its actual length.

(4) The fund authority shall provide the person with a written notice stating the periods of service which he is entitled to reckon under paragraph (1)(*a*) and (*b*) and whether or not his retirement pension is subject to reduction under regulation N10 or N11.

(5) A notice under paragraph (4) shall contain a statement of the kind required by regulation L4(3).

Increase in return of contributions

N9.—(1) Where—

(*a*) a person to whom regulation N8 applies ceases to be employed in employment in which he is a pensionable employee in circumstances in which a return of contributions is payable to him under regulation C8(2); and

(*b*) he would have been entitled to a return of contributions under his non-local government scheme in respect of service to which the transfer value accepted under regulation N7 relates on the termination of his non-local government employment if a transfer value had not been payable; and

(*c*) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C8(2) shall be increased by an amount equal to the return of contributions (including any interest) which would have been paid to him under his non-local government scheme in respect of that service in the circumstances specified in sub-paragraph (*b*) if it had been paid when the transfer value was received by his fund authority.

(2) Where compound interest is payable on the contributions to be returned under regulation C8(2), compound interest calculated at the same rate and in the same manner shall also be payable on the amount of the increase under paragraph (1) for the period beginning with the date on which the transfer value was received by the fund authority and ending on the date on which he ceased to be employed in the employment in which he was a pensionable employee.

(3) Nothing in paragraphs (1) and (2) shall confer any entitlement to an increase on account of contributions which were returned to and were not subsequently repaid by the person who paid them.

(4) Where a sum due under regulation C8(2) is increased under paragraph (1) by an amount equal to the whole of the person's contributions in connection with the service to which the transfer value relates and that is the only service to which the transfer value relates, his right to reckon service under regulation N8(1)(*a*) (but not under regulation N8(1)(*b*)) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where a sum due under regulation C8(2) is increased under paragraph (1) and paragraph (4) does not apply, the person's right to reckon service under regulation N8(1)(*a*) (but not under regulation N8(1)(*b*)) on account of the transfer value shall be reduced in accordance with the formula in paragraph (6) when the increased payment is made.

(6) The formula mentioned in paragraph (5) is—

$$A = B \times \frac{(C-D)}{C}, \text{ where—}$$

A is the reduced service which the person is entitled to reckon under regulation N8(1)(*a*) after the payment is made;

B is the service which he is entitled to reckon under regulation N8(1)(*a*) before the payment is made;

C is the service which he is entitled to reckon under regulation N8(1)(*b*); and

D is the service on account of which the increase under paragraph (1) is made and, for this purpose, the service shall count at its actual length.

(7) Service is to be expressed in years and fractions of a year for the purpose of making the calculation in paragraph (6).

National Insurance modification for flat-rate pension

N10.—(1) The retirement pension of a person to whom regulation N8 applies shall be reduced in accordance with paragraph (2) where—

(*a*) on becoming employed in his local government employment he did not enjoy unmodified status for the purposes of Part F; and

(*b*) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation N8(1)(*a*).

(2) Regulation F7 shall apply in relation to the period which he is entitled to reckon under regulation N8 (1) (*a*) as if—

(*a*) during that period he had been a person within Case B of Part F; and

(*b*) that period were service after 31st August 1947; and

(*c*) he had been a person who was not immediately before the appointed day entitled to the optant's rate for the purposes of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(a).

National Insurance modification for graduated retirement pension

N11.—(1) The retirement pension of a person to whom regulation N8 applies shall be reduced by the amount specified in paragraph (2) where—

(*a*) his non-local government scheme was a statutory scheme; and

(*b*) in calculating the amount of the transfer value accepted under regulation N7 a deduction was made in connection with graduated retirement benefit under section 36 of the Insurance Act; and

(*c*) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation N8(1)(*a*).

(2) The specified amount is the reduction in connection with graduated retirement benefit under section 36 of the Insurance Act which would have been made to the person's pension under his non-local government scheme in relation to the service to which the transfer value relates if on ceasing to be employed in his non-local government employment—

(*a*) he had reached state pensionable age; and

(*b*) he had become entitled to the immediate payment of a pension under that scheme instead of the payment of a transfer value.

(a) S.I. 1969/793.

(3) The reduction under this regulation shall take effect on the date on which the person's retirement pension becomes payable or, if later, the date on which he reaches state pensionable age and shall be additional to any reduction required by regulation N10.

(4) The reduction under this regulation shall be treated for the purposes of Schedule 21 as a reduction made in connection with graduated retirement benefit under section 36 of the Insurance Act.

Transfer values paid or accepted in anticipation of Part N

N12.—(1) Where in anticipation of this Part a transfer value has been paid or accepted, it shall be treated for the purposes of these regulations as if it had been paid or accepted under this Part and any written notice provided in connection with the transfer value shall be treated as if it had been provided in accordance with regulation N3(3) and (4) or N8(4) and (5), as the case may be.

(2) Any rights conferred on a person by this regulation shall be in substitution for any rights which he would otherwise have in connection with the payment or acceptance of the transfer value.

(3) A transfer value is paid or accepted in anticipation of this Part if it is paid or accepted without the authority of any enactment during the period beginning with 1st January 1974 and ending on 31st December 1979.".

Whole-time manual workers

18. At the end of Part II of Schedule 1 to the principal regulations, there shall be added the following—

"Regulation B2(1)(*b*)(iii) PART III

WHOLE-TIME MANUAL WORKERS

1. The requirements to be satisfied in order that a whole-time manual worker of a body described in column (1) of Part I of this Schedule may be a pensionable employee by virtue of regulation B2(1)(*b*)(iii) are that—

(*a*) he became employed by that body as such a worker after ceasing to be employed in non-local government employment; and

(*b*) he has, not later than 12 months after the date on which he became employed by that body as such a worker, elected to become a pensionable employee by notice in writing given to that body.

2. A notice under paragraph 1(*b*) above must also contain a declaration by the worker that his pension rights under his non-local government scheme will be preserved or that he has applied, or will apply, for their transfer to the appropriate administering authority.".

Maximum length of additional periods purchased by employee or granted at the discretion of employing authority

19. In paragraph 1 of Schedule 7 to the principal regulations—

(*a*) at the end of sub-paragraph (2)(*a*)(iv), the following shall be inserted—

";or

(v) any period reckonable by virtue of regulation N8(1)(*a*), unless the transfer value was paid by the scheme managers of a statutory scheme,"; and

(*b*) in sub-paragraph (2)(*a*), for the words "after the end of the last of any such periods", there shall be substituted the words "after the end of the period mentioned in (i), (ii), (iii) or (iv) above or of the period of employment to which the transfer value relates or of the last of such periods, if there is more than one.".

Interchange calculations and fund apportionment

20. After Schedule 20 of the principal regulations, there shall be added the following schedules—

Regulations G9A(1) and N3 SCHEDULE 21

CALCULATION OF TRANSFER VALUES

PART I

1. The transfer value payable under regulation G9A(1) or N2 in respect of any person is an amount equal to—

(1) the aggregate of the sums calculated in accordance with paragraph 2 below in respect of his accrued pension, accrued retiring allowance and, if the person is a man, his accrued widow's pension, less—

(*a*) a sum (calculated in accordance with paragraph 2 below) in respect of accrued modification; and

(*b*) any additional contributory payments remaining unpaid when he ceased to be employed in his local government employment; and

(*c*) in the case of a person who is entitled or prospectively entitled to a guaranteed minimum pension under the Local Government Superannuation Regulations 1974 to 1979 when he ceases to be employed in his local government employment and who has made a request under regulation N2, a sum (calculated in accordance with paragraph 2 below) in respect of the pensions increase liability on his guaranteed minimum pension; and

(*d*) in the case of a person in relation to whom a contributions equivalent premium is paid under section 42 of the Social Security Pensions Act 1975 when he ceases to be employed in local government employment, a sum equal to the amount of that premium,

together with—

(2) compound interest calculated in accordance with regulation N6 in respect of the period beginning immediately after the date on which the person ceased to be employed in his local government employment and ending with the date on which the transfer value is paid (but no interest is to be included in the transfer value if that period is less than 6 months).

2.—(1) The sums in respect of accrued pension, accrued retiring allowance and accrued modification shall be calculated by multiplying the accrued pension by the pension factor, the accrued retiring allowance by the retiring allowance factor and the accrued modification by the modification factor, such factors being the factors, in the appropriate table in Part II of this schedule where regulation G9A (1) applies and Part III of this schedule where regulation N2 applies, which are applicable to the person's age when he ceased to be employed in his local government employment.

(2) The sum in respect of accrued widow's pension shall be calculated by multiplying the accrued widow's pension by 2.4 where regulation G9A(1) applies and by 4 where regulation N2 applies.

(3) The sum in respect of the pensions increase liability on a person's guaranteed minimum pension shall be calculated by multiplying the annual equivalent of his guaranteed minimum in relation to his retirement pension in connection with his local government employment by the pensions increase liability factor in the appropriate table in Part IV of this schedule which is applicable in relation to his age when he ceased to be employed in local government employment.

(4) The guaranteed minimum shall be calculated in accordance with section 35 of the Social Security Pensions Act 1975 (except that subsections (7) and (8) shall be ignored) by reference to the regulations applying in relation to that section, and the orders in force under section 21 of that Act, when the person ceased to be employed in his local government employment, and the annual equivalent of his guaranteed minimum shall be calculated by multiplying the guaranteed minimum by 52.18.

3. In this schedule—

"accrued pension" means the annual retirement pension (however named) to which, apart from any reduction falling to be made to that pension in connection with a retirement pension under section 28 of the Social Security Act 1975 or corresponding provisions of earlier legislation or graduated retirement benefit under section 36 of the

Insurance Act or corresponding provisions of earlier legislation, the person would have become entitled if, on the date when he ceased to be employed in his local government employment—

(1) he had reached the age of 65; and

(2) (*a*) where the person ceased to be employed in that employment before 31st March 1972, he had completed a sufficient period of service to qualify for the pension and, notwithstanding anything in any enactment—

(i) if in that employment he was a contributory employee within the meaning of the Act of 1937, for the purpose of calculating the amount of that pension his service had been calculated in accordance with regulation 4(1) to (1B) of the Benefits regulations; and

(ii) his entitlement to that pension had been calculated by reference to completed years and completed days;

(*b*) where the person ceased to be employed in that employment on or after 31st March 1972, he had been entitled to reckon an aggregate of not less than 5 years' reckonable service and qualifying service (or, if he was subject to a local Act scheme, 5 years' service which would have been taken into account under that scheme for the purpose of determining whether he was entitled to benefit); and

(3) he had completed the payment of any additional contributory payments;

"accrued retiring allowance" means the lump sum retiring allowance (however named) to which the person would have become entitled if, on the date when he ceased to be employed in his local government employment—

(1) he had reached the age of 65; and

(2) (*a*) where the person ceased to be employed in that employment before 31st March 1972, he had completed a sufficient period of service to qualify for the allowance and, notwithstanding anything in any enactment—

(i) if in that employment he was a contributory employee within the meaning of the Act of 1937, for the purpose of calculating the amount of that allowance his service had been calculated in accordance with regulation 4(1) to (1B) of the Benefits regulations; and

(ii) his entitlement to that allowance had been calculated by reference to completed years and completed days;

(*b*) where the person ceased to be employed in that employment on or after 31st March 1972, he had been entitled to reckon an aggregate of not less than 5 years' reckonable service and qualifying service (or, if he was subject to a local Act scheme, 5 years' service which would have been taken into account under that scheme for the purpose of determining whether he was entitled to benefit); and

(3) he had completed the payment of any additional contributory payments; and

(4) if the person is a man, he had been married and he and his wife had not been judicially separated;

"accrued widow's pension" means the annual widow's long-term pension (however named) which, after any initial period during which it might not have been payable, would have been payable in respect of the person if, on the date when he ceased to be employed in his local government employment—

(1) he had been married and he and his wife had not been judicially separated; and

(2) by virtue of his having reached the age of 65, he had been in receipt of a pension equivalent to his accrued pension; and

(3) he had died;

"accrued modification" means the amount by which the accrued pension would be reduced in connection with a retirement pension under section 28 of the Social Security Act 1975 or corresponding provisions of earlier legislation and graduated retirement benefit under section 36 of the Insurance Act or corresponding provisions of earlier legislation.

PART II

TABLE 1—MEN

Age	Pension Factor	Retiring Allowance Factor	Modification Factor
under 20	3.90	.60	.20
20	3.95	.60	.20
21	4.00	.61	.20
22	4.05	.61	.25
23	4.10	.61	.25
24	4.10	.62	.25
25	4.15	.62	.30
26	4.20	.63	.30
27	4.25	.63	.35
28	4.30	.63	.35
29	4.30	.64	.40
30	4.35	.64	.40
31	4.40	.65	.45
32	4.45	.66	.50
33	4.45	.66	.50
34	4.50	.67	.55
35	4.55	.67	.65
36	4.60	.68	.70
37	4.65	.68	.80
38	4.65	.68	.90
39	4.70	.69	.95
40	4.75	.69	1.05
41	4.80	.70	1.10
42	4.85	.70	1.20
43	4.85	.71	1.30
44	4.90	.72	1.35
45	4.95	.72	1.45
46	5.00	.73	1.50
47	5.10	.74	1.60
48	5.20	.74	1.75
49	5.25	.75	1.90
50	5.35	.75	2.10
51	5.45	.76	2.30
52	5.60	.76	2.55
53	5.75	.77	2.80
54	5.90	.78	3.05
55	6.05	.79	3.35
56	6.25	.80	3.65
57	6.50	.81	4.00
58	6.75	.82	4.30
59	7.05	.84	4.65
60	7.45	.86	5.05
61	7.45	.88	5.45
62	7.45	.91	5.85
63	7.45	.94	6.35
64	7.45	.98	7.05

TABLE 2—WOMEN

Age	Pension Factor	Retiring Allowance Factor	Modification Factor
under 20	5.20	.60	.40
20	5.20	.60	.40
21	5.25	.61	.40
22	5.30	.61	.45
23	5.35	.61	.50
24	5.40	.62	.50
25	5.45	.62	.55
26	5.50	.63	.60
27	5.55	.63	.65
28	5.60	.63	.65
29	5.65	.64	.70
30	5.70	.64	.80
31	5.75	.65	.85
32	5.80	.66	.95
33	5.85	.66	1.00
34	5.90	.67	1.10
35	6.00	.67	1.15
36	6.10	.68	1.25
37	6.15	.68	1.30
38	6.25	.68	1.35
39	6.30	.69	1.45
40	6.40	.69	1.55
41	6.45	.70	1.65
42	6.55	.70	1.80
43	6.60	.71	1.95
44	6.70	.72	2.15
45	6.80	.73	2.35
46	6.85	.74	2.55
47	6.95	.75	2.75
48	7.00	.76	3.00
49	7.10	.77	3.25
50	7.15	.78	3.55
51	7.25	.79	3.85
52	7.35	.80	4.15
53	7.45	.81	4.55
54	7.60	.82	4.95
55	7.75	.83	5.40
56	7.90	.84	5.90
57	8.10	.85	6.50
58	8.30	.87	7.20
59	8.60	.89	8.00

PART III

TABLE 1—MEN

Age	Pension Factor	Retiring Allowance Factor	Modification Factor
under 20	5.00	.60	.25
20	5.05	.60	.25
21	5.10	.61	.25
22	5.15	.61	.30
23	5.20	.61	.30
24	5.25	.62	.30
25	5.30	.62	.35
26	5.35	.63	.40
27	5.40	.63	.40
28	5.45	.63	.45
29	5.50	.64	.50
30	5.55	.64	.50
31	5.60	.65	.55
32	5.65	.66	.60
33	5.70	.66	.65
34	5.75	.67	.70
35	5.80	.67	.80
36	5.85	.68	.90
37	5.90	.68	1.00
38	5.95	.68	1.10
39	6.00	.69	1.20
40	6.05	.69	1.30
41	6.10	.70	1.40
42	6.15	.70	1.50
43	6.20	.71	1.60
44	6.25	.72	1.70
45	6.30	.72	1.80
46	6.40	.73	1.90
47	6.50	.74	2.00
48	6.60	.74	2.20
49	6.70	.75	2.40
50	6.80	.75	2.60
51	6.90	.76	2.90
52	7.10	.76	3.20
53	7.30	.77	3.50
54	7.50	.78	3.80
55	7.70	.79	4.20
56	8.00	.80	4.60
57	8.30	.81	5.00
58	8.60	.82	5.40
59	9.00	.84	5.80
60	9.50	.86	6.30
61	9.50	.88	6.80
62	9.50	.91	7.40
63	9.50	.94	8.10
64	9.50	.98	9.00
65	9.50	1.00	9.50
66	9.15	1.00	9.15
67	8.80	1.00	8.80
68	8.50	1.00	8.50
69	8.15	1.00	8.15
70	7.80	1.00	7.80

TABLE 2—WOMEN

Age	Pension Factor	Retiring Allowance Factor	Modification Factor
under 20	7.00	.60	.50
20	7.05	.60	.50
21	7.10	.61	.55
22	7.15	.61	.60
23	7.20	.61	.65
24	7.25	.62	.70
25	7.35	.62	.75
26	7.40	.63	.80
27	7.45	.63	.85
28	7.50	.63	.90
29	7.55	.64	.95
30	7.65	.64	1.05
31	7.70	.65	1.15
32	7.80	.66	1.25
33	7.90	.66	1.35
34	7.95	.67	1.45
35	8.05	.67	1.55
36	8.15	.68	1.65
37	8.25	.68	1.75
38	8.35	.68	1.85
39	8.45	.69	1.95
40	8.55	.69	2.10
41	8.65	.70	2.25
42	8.75	.70	2.45
43	8.85	.71	2.65
44	8.95	.72	2.90
45	9.05	.73	3.15
46	9.15	.74	3.40
47	9.25	.75	3.70
48	9.35	.76	4.00
49	9.45	.77	4.35
50	9.55	.78	4.75
51	9.65	.79	5.15
52	9.80	.80	5.60
53	9.95	.81	6.10
54	10.10	.82	6.65
55	10.30	.83	7.25
56	10.50	.84	7.95
57	10.75	.85	8.75
58	11.05	.87	9.65
59	11.40	.89	10.65
60	11.75	.91	11.75
61	11.75	.93	11.75
62	11.75	.95	11.75
63	11.75	.97	11.75
64	11.75	.99	11.75
65	11.75	1.00	11.75
66	11.40	1.00	11.40
67	11.05	1.00	11.05
68	10.70	1.00	10.70
69	10.35	1.00	10.35
70	10.00	1.00	10.00

PART IV

TABLE 1—MEN

Age	Pensions Increase Liability Factor
under 20	1.47
20	1.50
21	1.53
22	1.56
23	1.59
24	1.62
25	1.65
26	1.68
27	1.71
28	1.74
29	1.78
30	1.81
31	1.85
32	1.88
33	1.92
34	1.95
35	1.99
36	2.02
37	2.06
38	2.10
39	2.14
40	2.18
41	2.22
42	2.26
43	2.30
44	2.34
45	2.39
46	2.44
47	2.48
48	2.53
49	2.58
50	2.62
51	2.67
2	2.72
53	2.78
54	2.84
55	2.90
56	2.97
57	3.04
58	3.12
59	3.20
60	3.28
61	3.36
62	3.44
63	3.53
64	3.64
65 and over	—

TABLE 2—WOMEN

Age	Pensions Increase Liability Factor
under 20	2.20
20	2.24
21	2.28
22	2.32
23	2.36
24	2.40
25	2.45
26	2.50
27	2.55
28	2.60
29	2.66
30	2.71
31	2.77
32	2.82
33	2.88
34	2.93
35	2.99
36	3.05
37	3.11
38	3.17
39	3.24
40	3.31
41	3.38
42	3.45
43	3.52
44	3.59
45	3.66
46	3.74
47	3.82
48	3.90
49	3.98
50	4.06
51	4.15
52	4.24
53	4.33
54	4.43
55	4.53
56	4.63
57	4.74
58	4.85
59	4.97
60 and over	—

Regulation N8(1)(a) **SCHEDULE 22**

CALCULATION OF RECKONABLE SERVICE TO BE CREDITED UNDER REGULATION N8(1)(*a*)

1. Subject to the provisions of this schedule, the period which a person is entitled to reckon as reckonable service by virtue of regulation N8(1)(*a*) is a period equal to the period of reckonable service which would enable the fund authority to pay under regulation N2 a transfer value (calculated in accordance with Schedule 21) of the amount which that authority accepted in respect of him under regulation N7.

2. For the purposes of paragraph 1 above—

(1) in the case of a person who was subject in his non-local government employment to a statutory scheme or to any other scheme which is for the time being specified by the Secretary of State as a scheme which is to be treated as a statutory scheme for the purposes of this schedule—

(*a*) the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and to the rate of his pensionable pay, used in the calculation of the transfer value accepted;

(*b*) where in that calculation an amount of a person's pay has been disregarded in connection with a retirement pension under section 28 of the Social Security Act 1975 or corresponding provisions of earlier legislation, the pensionable pay is to be increased by that amount; and

(*c*) any sum representing interest included in the transfer value accepted is to be ignored;

(2) in the case of a person who was subject in his non-local government employment to any other scheme—

(*a*) if he became employed in his local government employment before 22nd April 1975—

(i) the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and the annual rate of his remuneration, on 1st April 1972 or, if later, on the date when he became employed in his local government employment (here referred to as the "relevant date"); and

(ii) the sum to be used as the amount of the transfer value shall be the sum notified to the fund authority by the scheme managers as the sum which the fund authority would have received in respect of the person had the transfer value been calculated and paid on the relevant date;

(*b*) if he became employed in his local government employment on or after 22nd April 1975, the calculation of the period he is entitled to reckon as reckonable service is to be made by reference to his age, and the annual rate of his remuneration, on the date when he became employed in his local government employment or, if the transfer value in respect of him is received by the fund authority more than one year after he became employed in his local government employment, on the date on which the transfer value is received;

(*c*) any sum representing interest which is included in the transfer value accepted is to be taken into account;

(3) the accrued pension in respect of the period last mentioned in paragraph 1 above shall be deemed—

(*a*) where the person is such a person as is mentioned in regulation N10, to be subject to that regulation, and paragraph (2) of that regulation shall have effect for this purpose as if at the end there were added the words—

";and
(*d*) at the end of regulation F7(2), there were added the words "and a proportionate amount in respect of part of a year of such service";";

(*b*) where the person is such a person as is mentioned in regulation N11, to be subject to that regulation;

(4) where—

(*a*) the pensionable pay mentioned in sub-paragraph (1) above relates to a period of part-time employment, the pensionable pay for that period shall be deemed to be the pensionable pay by reference to which the transfer value accepted would have been calculated had the person during that period been in a single comparable whole-time employment;

(*b*) the remuneration mentioned in sub-paragraph (2) above relates to part-time employment, the annual rate of remuneration on the relevant date shall be deemed to be the annual rate of remuneration notified to the fund authority by his local government employer as the remuneration which would have been paid in respect of a single comparable whole-time employment;

(5) in applying Schedule 21 in accordance with paragraph 1 of this Schedule in relation to a person who ceased to be employed in his non-local government employment on or after 6th April 1978 and whose non-local government employment was not contracted-out employment for the purposes of the Social Security Pensions Act 1975, paragraphs 1(1)(*c*), 2(3) and (4) of Schedule 21 shall be ignored.

Regulation G9A(6)

SCHEDULE 23

FUND APPORTIONMENT WHERE 100 OR MORE TRANSFER THEIR PENSION RIGHTS UNDER REGULATION G9A

PART I

1. This Part of this Schedule applies if the fund is to be apportioned under regulation G9A(6) and all of the transfers under the transfer scheme are to take place on the same day.

2. The appropriate administering authority shall obtain a report from the fund's actuary specifying the apportionment fraction to be applied in apportioning the fund together with details of the calculation.

3. The apportionment fraction is—

$$\frac{\left[\frac{A}{B} \times (C + D)\right] - E}{C}$$,where—

A is the value at the relevant date of the accrued actuarial liabilities of the fund which relate to the persons transferring their pension rights on that date to the approved non-local government scheme;

B is the value at the relevant date of all accrued actuarial liabilities of the fund;

C is the value at the relevant date of the transferable assets of the fund minus any sums then due from the fund;

D is the value at the relevant date of any adjustments to be made in consequence of a certificate under regulation B8(1)(ii) to sums (other than sums then due to the fund) to be contributed to the fund under regulation C5(1)(*b*); and

E is the value at the relevant date of the part (if any) of those adjustments which relates to the persons transferring their pension rights on that date to the approved non-local government scheme.

4. The relevant date is the date on which those transferring their pension rights become subject to the approved non-local government scheme.

5. The accrued actuarial liabilities of the fund are the actual and potential liabilities of the fund in connection with any service or employment before the relevant date and, for this purpose, it is to be assumed that the liabilities which relate to those transferring their pension rights remain liabilities of the fund notwithstanding regulation G9A(8).

6. The transferable assets of the fund are the assets which belong to the fund at the relevant date.

7. The values of items D and E are to be agreed by the fund's actuary and the actuary of the non-local government scheme or, if they are unable to agree, they are to be determined by an actuary appointed by the Secretary of State.

8. Subject to paragraph 7 above, valuations are to be made by the fund's actuary.

9. Where more than one approved non-local government scheme is involved, separate apportionment fractions shall be specified in the actuary's report for the different schemes.

10. When the appropriate administering authority receive the actuary's report they shall provide the scheme managers of the approved non-local government scheme with a copy of it.

11. The value of the share of the fund to which the scheme managers of the approved non-local government scheme are entitled shall be calculated in accordance with the formula:

$$V = W \times [X - (Y + Z)], \text{ where—}$$

V is the value of the share of the fund to which the scheme managers are entitled;

W is the apportionment fraction specified in the actuary's report;

X is the value (determined by the fund's actuary) at the apportionment date of the transferable assets which still belong to the fund at that date and any other assets which belong to the fund at that date which represent in any form or have accrued from any transferable asset;

Y is the total of any sums due from the fund at the relevant date and still outstanding at the apportionment date; and

Z is the total of any sums due from the fund at the apportionment date (but not at the relevant date) in respect of any expenditure in connection with the transferable assets of the fund or assets representing or accruing from those assets.

12. The apportionment date is the date specified as such by the appropriate administering authority in a notice given to the scheme managers of the approved non-local government scheme.

13. Except with the agreement of the scheme managers of the approved non-local government scheme, the apportionment date shall not be later than six months after the date on which the appropriate administering authority receive the actuary's report.

14. Subject to paragraphs 15 to 17 below, immediately after the apportionment date the appropriate administering authority shall transfer to the scheme managers of the approved non-local government scheme assets of the fund of a value at the apportionment date equal to the value of the scheme managers' share of the fund and, unless the appropriate administering authority and the scheme managers otherwise agree, the composition of the assets to be transferred shall so far as possible reflect the

composition of the transferable assets which still belong to the fund at the apportionment date and any other assets which belong to the fund at that date which represent in any form or have accrued from any transferable asset.

15. The appropriate administering authority and the scheme managers may agree to transfer assets in advance of the apportionment date.

16. The value of an advance under paragraph 15 shall not exceed such sum as the fund's actuary may specify as appropriate in the circumstances.

17. Where an advance is made under paragraph 15, the appropriate administering authority's liability under paragraphs 11 and 14 shall be reduced by an amount equal to:

$$\frac{L}{M} \times N, \text{ where—}$$

L is the value of the advance;

M is the value of the share of the fund to which the scheme managers would have been entitled under paragraph 11 if the apportionment date had been the date on which the advance was made; and

N is the value of the share of the fund to which the scheme managers would have been entitled under paragraph 11 if the advance had not been made.

18. The employing authority shall bear the costs of apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of those costs as the fund's actuary determines.

19. The appropriate administering authority shall keep their accounts in a form which enables the calculations required in apportioning the fund to be made, and they shall also provide the fund's actuary with any information he requires in connection with the apportionment.

PART II

20. This Part of this schedule applies where the fund is to be apportioned under regulation G9A(6) and the transfers under the transfer scheme are to take place on different days.

21. The provisions of Part I of this schedule are to apply to the apportionment as if the transfers had occurred on a single date, but suitable adjustments are to be made to the sums payable to the scheme managers to reflect the fact that the transfers take place on different dates.

22. If any question arises in connection with paragraph 21 above, it shall be determined by the fund's actuary and the actuary of the approved non-local government scheme or, if they are unable to agree, by an actuary appointed by the Secretary of State."

Right to opt out

21. No provision of these regulations shall apply to any person to whom at any time before 1st January 1980 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or became or may become payable if—

(*a*) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and

(*b*) that provision relates to a benefit paid or payable in respect of a person who—

(i) ceased before 1st January 1980 to hold an employment in respect of which he was a pensionable employee, or

(ii) died before that date while still in such an employment; and

(*c*) the first-mentioned person, by notice in writing given to the fund authority if the provision relates to transfer values, or to the appropriate administering authority if it does not, within 6 months after 1st January 1980 elects that that provision shall not apply to him.

Michael R. D. Heseltine,

28th November 1979. Secretary of State for the Environment.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Local Government Superannuation Regulations 1974.

The main changes are—

(1) Regulations 3, 6 and 18 provide an opportunity for a manual worker, who has preserved pension rights under a non-local government scheme or who applies to transfer those rights to the local government scheme, to become pensionable under the local government scheme on paying the appropriate contributions without serving the normal 12-month qualifying period required by the 1974 regulations.

(2) Regulation 4 permits an employee, who leaves local government employment with a right to a return of contributions, to defer payment of the return of contributions for more than 12 months. It also increases the rate of interest payable on returned contributions to 9 per cent. per annum for periods after 31st March 1980.

(3) Regulations 9, 12 and 13 provide an employee, who switches under regulation G9 of the 1974 regulations from the local government scheme to another pension scheme without changing his employment, with the alternative of transferring his pension rights or having a preserved pension under the local government scheme. If he decides to have a preserved pension under the local government scheme, he will have the option, if he subsequently transfers to employment to which interchange arrangements apply, of transferring his pension rights to the pension scheme associated with the subsequent employment.

(4) Regulation 14 restricts the application of regulation G12 of the 1974 regulations (which permits certain local government employees to continue to participate in approved policy pension schemes) to employees who enter local government employment before 1st April 1980.

(5) Regulation 15 increases the sums payable without probate or letters of administration in relation to employees who have died from £500 to £1500.

(6) Regulation 17 provides for the transfer of pension rights from local government schemes to other pension schemes and vice versa. Consequential amendments are made by regulations 2, 8, 9, 10, 11 and 16.

(7) Regulation 20 provides for the calculation of transfer values by reference to actuarial tables where pension rights are being transferred from the local government scheme, and for the calculation of service to be credited by reference to those tables where pension rights are being transferred into the local government scheme. It also provides for the method of apportioning the local government superannuation fund where

100 or more employees are transferring their pension rights after switching schemes under regulation G9 of the 1974 regulations.

(8) Certain minor amendments are made in relation to employees who leave local government employment and return within a short period. These are made to meet the preservation requirements of the Social Security Act 1973.

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. Regulations 13 and 17 and Schedules 21 and 23 are to a certain extent retrospective and regulation 21 gives anyone who is placed in a worse position because of this the right to opt out of those provisions if certain conditions are satisfied.

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