

**2006 No. 920**

**PENSIONS**

**The Parliamentary  
Pensions (Amendment)  
Regulations 2006**

*Made* - - - - - *23rd March 2006*

*Laid before Parliament* - *29th March 2006*

*Coming into force in accordance with regulation 1(2) to (4)*



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SCHEDULE 1 — Part substituted for Part P of the Contributory Fund Regulations

SCHEDULE 2 — REVOCATIONS

The Leader of the House of Commons, in exercise of the powers conferred on him by section 2(1), (2) and (4) of the Parliamentary and other Pensions Act 1987(a), with the consent of the Minister for the Civil Service(b), and after consultation with the Trustees of the Parliamentary Contributory Pension Fund and such persons as appeared to him to represent persons likely to be affected by the Regulations, makes the following Regulations:

*Introductory*

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Parliamentary Pensions (Amendment) Regulations 2006.

(2) Regulation 6 (commutation for Members and office holders reaching 75 before 6th April 2006) comes into force on 5th April 2006.

(3) Regulation 17 (payments in respect of members with mental incapacity) and the entry in Schedule 2 relating to regulation R1 of the Contributory Fund Regulations come into force on the day on which paragraph 29 of Schedule 6 to the Mental Capacity Act 2005(c) (which repeals section 142 of the Mental Health Act 1983(d) for England and Wales subject to savings) comes into force.

(4) Subject to paragraphs (2) and (3), these Regulations come into force on 6th April 2006.

(5) But regulation 6 has effect from 4th March 2006 and regulation 13 (pension entitlement of salaried Chairmen of Select Committees or Standing Committees) has effect from 13th July 2005.

(6) In these Regulations—

“the AVC Regulations” means the Parliamentary Pensions (Additional Voluntary Contributions) Regulations 1993(e); and

“the Contributory Fund Regulations” means the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993(f).

*Amendments of the Contributory Fund Regulations*

**The earnings cap and maximum pensions**

2.—(1) Regulation A2 of the Contributory Fund Regulations (interpretation) is amended as specified in paragraphs (2) and (3).

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(a) 1987 c.45.

(b) See article 3 of, and the Schedule to, the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995 (S.I. 1995/269).

(c) 2005 c.9.

(d) 1983 c.20.

(e) S.I. 1993/3252, amended by S.I. 1994/1696, S.I. 1999/780, S.I. 2001/2649, S.I. 2001/3649 and S.I. 2004/2417.

(f) S.I. 1993/3253, amended by S.I. 1995/2867, S.I. 1996/2406, S.I. 1999/2100, S.I. 2001/835, S.I. 2001/2649, S.I. 2002/1807, S.I. 2002/1887, S.I. 2004/2416 and S.I. 2005/887.

(2) In paragraph (1)—

(a) after the definition of “guaranteed minimum pension”(a) insert—

““index” means the retail prices index, as defined for the purposes of the Income Tax Acts by section 833(2) of the Taxes Act 1988(b) and, except in paragraphs (1B) and (1C) of this regulation, references to the index at any time are to the index for the calendar month three months before that time;”

(b) for the definition of “permitted maximum” substitute—

““permitted maximum”, except in regulation G1(5)(a), (b)(i), (c), (5B)(a), (5C)(a) and (5D)—

(a) in relation to the tax years 1988-89 and 1989-90, means £60,000,

(b) in relation to any other tax year before the tax year 2006-07, means the figure specified for that tax year in an order made under section 590C of the Taxes Act 1988, and

(c) in relation to any later tax year, means the figure found for that year by virtue of paragraphs (1A) to (1C) of this regulation;

and, except where the context indicates otherwise, references to the permitted maximum in relation to a person mean the permitted maximum for the tax year in which the person ceases to be a participant;” and

(c) after the definition of “qualifying office” insert—

““registered pension scheme” has the same meaning as in Part 4 of the Finance Act 2004 (see section 150(2) of that Act);”.

(3) After paragraph (1) insert—

“(1A) The figure is £108,600, subject to paragraphs (1B) and (1C) of this regulation.

(1B) If the index for the month of September preceding the tax year 2007-08 or any later tax year is higher than it was for the previous September, the figure for that year shall be an amount arrived at by—

(a) increasing the figure for the previous tax year by the same percentage as the percentage increase in the index, and

(b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.

(1C) If the index for the month of September preceding the tax year 2007-08 or any later tax year is not higher than it was for the previous September, the figure for that year shall be the same as for the previous tax year.”.

(4) Schedule 2 to those Regulations (maximum pensions) is amended as follows.

(5) In paragraph 1 (interpretation)—

(a) for the definition of “index” substitute—

““pension value”, in relation to a person’s retained benefits, means—

(a) in the case of a pension to which the person is actually entitled, the annual amount of the pension, adjusted in accordance with guidance issued from time to time by the Government Actuary in any case specified in the guidance where the amount of the pension may fluctuate,

(b) in the case of a lump sum to which the person has become entitled, the annual amount, as calculated in accordance with such guidance, of a pension payable from the Fund to someone of the person’s description that has a value equal to that sum, and

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(a) This definition was substituted by regulation 2(f) of S.I. 2004/2416.

(b) Section 833(2) was amended by paragraph 22 of Schedule 2 to the Transfer of Functions (Registration and Statistics) Order 1996 (S.I. 1996/273).

- (c) in the case of a benefit to which the person is prospectively entitled, the annual amount, as calculated in accordance with such guidance, of a pension payable from the Fund to someone of the person's description that has a value equal to the value of that benefit;”, and
- (b) in the definition of “retained benefits” for the words from the beginning to the end of paragraph (e) substitute—
  - ““retained benefits”, in relation to a participant, means benefits for the participant that—
  - (a) are derived from a registered pension scheme, or
  - (b) were retained benefits in relation to the participant for the purposes of this Schedule immediately before 6th April 2006.”.

(6) In paragraph 3(4) (restriction of Class A member's total retirement benefit under the Contributory Fund Regulations and additional voluntary contributions to one thirtieth of the permitted maximum for each year of service) omit “total”, in the first and third places where it occurs, and “from any free-standing additional voluntary contributions scheme and from any other additional voluntary contributions”.

(7) In paragraph 3(5)(a) omit “total”.

### **Limits on purchase of added years**

3.—(1) Schedule 6 to the Contributory Fund Regulations (purchase of added years) is amended as follows.

(2) In paragraphs 2(1)(iii) and 6(2)(iv) for “the maximum permitted” substitute “the maximum permitted by virtue of the contributions that are permitted to be made”.

(3) In paragraph 5(5) (interrupted service) for “8(1)” substitute “8”.

(4) For paragraph 8 (limits on purchase of added years) substitute—

#### **“Limits on contributions for purchase of added years**

8. The total amount of a participating Member's contributions for the purchase of added years (whether made as periodical contributions or by way of lump sum) shall not in any tax year exceed—

- (a) in the case of a participating Member who holds or has held the office of Prime Minister and First Lord of the Treasury or Speaker of the House of Commons, 10% of his salary as a Member of the House of Commons, and
- (b) in the case of any other participating Member, 10% of a Member's ordinary salary.”.

### **Re-employment of pensioners**

4.—(1) Regulation F8 of the Contributory Fund Regulations(b) (duration of pensions) is amended as follows.

(2) In paragraph (2)—

- (a) for “no such pension shall be payable” substitute “such a pension shall be reduced to nil if it is payable”, and
- (b) omit “or a candidate for election to that House”.

(3) In paragraph (3)—

- (a) after “payable to him” insert “in full”, and

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(a) Paragraph 3(5) of Schedule 3 was inserted by paragraph 16(a) of Schedule 1 to S.I. 2001/2649.  
 (b) Regulation F8(3) was amended by regulation 4 of S.I. 2002/1807.

(b) for the words from “neither” to “that House” substitute “not a Member of the House of Commons”.

(4) Omit paragraph (4).

### **Pension commencement lump sums**

**5.**—(1) Regulation G1 of the Contributory Fund Regulations<sup>(a)</sup> (commutation into lump sum) is amended as follows.

(2) After paragraph (1) insert—

“(1A) But a person may only give notice under paragraph (1) at least six months before he reaches the age of 75 or at such later time before he reaches that age as the Trustees allow, and the lump sum payable as a result of the notice must be paid to him before he reaches that age.”.

(3) For paragraph (5) substitute—

“(5) For the purposes of paragraph (4) above, subject to paragraph (6), the maximum commutable lump sum is—

- (a) in the case of a person who becomes a participant after 5th April 2006, the permitted maximum, as defined in paragraph 2 of Schedule 29 to the Finance Act 2004, (which is usually the applicable amount, as defined in paragraph 3(6) of that Schedule),
- (b) in the case of a person who was a participant before 6th April 2006 and has pension commencement lump sum protection (see paragraph (5A)), the higher of—
  - (i) the permitted maximum referred to in sub-paragraph (a), and
  - (ii) the sum of the appropriate amount in respect of the person’s service before 6th April 2006 (see paragraphs (5B) and (5C)) and the permitted maximum referred to in sub-paragraph (a) in respect of the person’s service on and after that date, and
- (c) in the case of a person who was a participant before 6th April 2006 and does not have pension commencement lump sum protection, the permitted maximum referred to in sub-paragraph (a).

(5A) A person has pension commencement lump sum protection for the purposes of paragraph (5) if he is a person in relation to whom the provisions of Schedule 29 to the Finance Act 2004 relating to pension commencement lump sums apply with the modifications specified in paragraph 34 of Schedule 36 to that Act by virtue of paragraph 31 of Schedule 36 to that Act (entitlement to lumps sums exceeding 25% of uncrystallised rights).

(5B) In the case of a person who became a participant before 1st June 1989, the appropriate amount in respect of the person’s service before 6th April 2006 is the higher of—

- (a) the permitted maximum referred to in paragraph (5)(a) in respect of that service, and
- (b) so much of the maximum commutable sum calculated in accordance with Schedule 3 as may be paid to the person in respect of that service as a pension commencement lump sum (see paragraph (5D)).

(5C) In the case of a person who became a participant on or after 1st June 1989, the appropriate amount in respect of the person’s service before 6th April 2006 is the higher of—

- (a) the permitted maximum referred to in paragraph (5)(a) in respect of that service, and

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<sup>(a)</sup> Regulation G1 was amended by paragraph 7 of Schedule 1 to S.I. 2001/2649.

- (b) the lower of—
  - (i) so much of the maximum commutable sum calculated in accordance with Schedule 3 as may be paid to the person in respect of that service as a pension commencement lump sum, and
  - (ii) one and a half times the permitted maximum in respect of that service, as defined in regulation A2(1).

(5D) In this regulation “pension commencement lump sum” has the meaning given in paragraph 1 of Schedule 29 to the Finance Act 2004; and in determining for the purposes of paragraphs (5B)(b) and (5C)(b) the maximum sum that may be paid to a person in respect of his service before 6th April 2006 as a pension commencement lump sum, it is to be assumed that the whole of the permitted maximum referred to in paragraph (5)(a) in respect of his service on and after that date qualifies as a pension commencement lump sum.”.

(4) Omit paragraph (7).

(5) In Schedule 3 to those Regulations—

- (a) for “regulation G1(4)”, wherever it occurs, substitute “regulation G1(5B)(b) and (5C)(b)”, and
- (b) in paragraph 6 after “maximum commutable sum” insert “for the purposes of regulation G1(5B)(b) and (5C)(b)”.

#### **Commutation for Members and office holders reaching 75 before 6th April 2006**

6. After regulation C5 of the Contributory Fund Regulations insert—

##### **“C5A Members of the House of Commons and office holders reaching 75 before 6th April 2006**

(1) This regulation applies to any person whose 75th birthday falls on or before 5th April 2006 and who immediately before that date—

- (a) is a participating Member or a participating office holder, and
- (b) would be entitled to receive a pension under regulation F1 or F3 if he had ceased to be a participant, a Member of the House of Commons and an office holder.

(2) The person may opt under this regulation not to remain a participant in the principal scheme on and after 6th April 2006.

(3) The option must be exercised by notice in writing given to the Trustees before 6th April 2006.

(4) A person who exercises the option under this regulation—

- (a) ceases to be a participant on 5th April 2006,
- (b) is treated for the purposes of these Regulations (except for regulation F8) as if he ceased to be a Member of the Commons and an office holder on that date (and accordingly is entitled under regulations F1 and F3 to receive the pension to which he would be entitled if he had so ceased, but subject to regulation F8), and
- (c) is treated for the purposes of regulation G1 as having given notice under regulation G1(1) on that date of his desire to commute into a lump sum such part of the pension as is specified in the notice under this regulation.”.

#### **Death benefits: dependants’ pensions**

7.—(1) At the beginning of regulations K2(2), K2A(3), K3(2), K4(2) (amount of pensions payable to surviving adults and children)(a) insert “Subject to regulation K8 (restriction on the amount of dependants’ scheme pensions under Finance Act 2004)”.

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(a) Regulation K2 was amended by regulation 1(3) and (4) of S.I. 2005/887. Regulation K2A was inserted by regulation 10 of S.I. 2005/887.

(2) In regulation K3 of the Contributory Fund Regulations (pensions for children) in paragraph (5)(a) (meaning of “child” in that regulation)—

(a) for “in relation to any person” substitute “in relation to any deceased person does not include any person who is not a dependant of the deceased person for the purposes of section 167 of the Finance Act 2004 (pension death benefit rules) because paragraph 15(2) or (3) of Schedule 28 to that Act applies to him, but subject to that it”, and

(b) in sub-paragraph (c) for “bodily or mental infirmity” substitute “physical or mental impairment”.

(3) At the end of regulation K5(8) add “or regulation K8”.

(4) In regulation K7(1)(b) after “K2A” , in the second place where it occurs, insert “(before account is taken of regulation K8)”.

(5) After regulation K7 insert—

**“K8 Restriction on the amount of dependants’ scheme pensions under Finance Act 2004**

(1) This regulation applies if, apart from this regulation, any part of a pension to which any person becomes entitled under this Part or Schedule 12 on the death of a former participant after reaching the age of 75 would not qualify as a dependants’ scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules) (see paragraphs 16 to 16C of Schedule 28 to that Act).

(2) Only so much of the pension as is a dependants’ scheme pension for those purposes is payable.”.

**Death benefits: lump sum gratuities**

8.—(1) In regulation L1 of the Contributory Fund Regulations (gratuity on death in service) after paragraph (1) insert—

“(1A) But no gratuity may be granted under paragraph (1) if the deceased person had reached the age of 75.”.

(2) Omit regulation L2 of those Regulations (gratuity on death after retirement).

(3) In paragraph 1 of Schedule 13 to those Regulations (gratuities on death after retirement: persons with service between 1st January 1972 and 1st August 1978) after sub-paragraph (2) insert—

“(2A) But no gratuity may be granted under sub-paragraph (2) if the deceased person had reached the age of 75.”.

(4) The amendments made by this regulation only apply where the death in question occurs after 5th April 2006.

**Death benefits: members’ pension guarantees**

9.—(1) In regulation F8(5) of the Contributory Fund Regulations for “M2(3)” to the end substitute “M2 to M7 (pension guarantees).

(2) In regulation K2 of those Regulations (pensions for widows, widowers and surviving civil partners) in paragraph (1) after “Subject to the provisions of this regulation” insert “and regulation M2(2)(a)”.

(3) In regulation K2A of those Regulations (pensions for surviving adult dependants) at the beginning of paragraph (2) insert “Subject to regulation M2(2)(a),”.

(4) In regulation K3(1) and (1A) of those Regulations(c) (pensions for children) after “Subject to the provisions of this regulation” insert “and regulations M2(3)(a) and M3(2)(a)”.

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(a) Regulation K3(5) was amended by regulation 11(2) of S.I. 2005/887.

(b) Regulation K7 was inserted by regulation 14 of S.I. 2005/887.

(c) Regulation K3(1) was amended by regulation 6(1) of S.I. 2002/1807 and paragraph (1A) was inserted by regulation 6(2) of S.I. 2002/1807.

(5) For regulations M2 to M6 of those Regulations (five year guarantees) substitute—

**“M2 Guarantees for adult survivors**

(1) This regulation applies if a pensioner Member dies during the pensioner Member’s five year period (see paragraph (5)) leaving an adult survivor.

(2) Until the end of the pensioner Member’s five year period—

(a) no pension is payable to the adult survivor under regulation K2 or K2A (including any enhancement payable under regulation K5), but

(b) so much of the pensioner Member’s unpaid pension (see paragraph (5)) as is not payable to any person under paragraph (3) is payable as a pension under this regulation—

(i) to the adult survivor, or

(ii) if the adult survivor dies within that period, to the adult survivor’s personal representatives.

(3) If the member leaves any person for whose benefit any amount would (apart from this regulation) be payable as a pension under regulation K3 (by virtue of a direction of the Trustees under regulation K3(4)), until the end of the pensioner Member’s five year period—

(a) no pension is payable to the person under regulation K3, but

(b) so much of the pensioner Member’s unpaid pension (see paragraph (5)) as does not exceed the amount that would from time to time be payable to the person apart from sub-paragraph (a) is payable to the person as a pension under this regulation.

(4) Paragraphs (2) and (3) do not apply if a pension is payable under regulation M5A (members exercising option under regulation C5A).

(5) In this Part—

(a) subject to sub-paragraph (b), “the pensioner Member’s five year period”, in relation to a pensioner Member, means the period of five years beginning with the day on which he became entitled to the pension under regulation F1 (including an early retirement pension or an ill-health pension payable by virtue of regulation H1, J1 or J3),

(b) in the case of a pensioner Member who has exercised the option under regulation C5A, references to the pensioner Member’s five year period are references to that period (as defined in sub-paragraph (a)) extended by—

(i) a period of the same length as the period beginning with the pensioner Member’s 75th birthday and ending with the day on which he ceased to be a Member of the House of Commons, or

(ii) the period of five years,

whichever is the shorter,

(c) “the pensioner Member’s unpaid pension” means any amount which, if the pensioner Member had lived, would have been payable to him by way of pension under regulation F1 (including an early retirement pension or an ill-health pension payable by virtue of regulation H1, J1 or J3), and

(d) references to a person becoming entitled to a pension have the same meaning as in Part 4 of the Finance Act 2004 (see section 165(3) of that Act).

**M3 Guarantees where children but no adult survivor**

(1) This regulation applies if a pensioner Member dies during the pensioner Member’s five year period (see regulation M2(5)) leaving any person for whose benefit any amount would (apart from this regulation) be payable as a pension under regulation K3 (by virtue of a direction of the Trustees under regulation K3(4)), but not leaving any adult survivor.

(2) Until the end of the pensioner Member’s five year period—

- (a) no pension is payable to the person under regulation K3,
- (b) so much of the pensioner Member's unpaid pension (see regulation M2(5)) as does not exceed the amount that would from time to time be payable to the person apart from sub-paragraph (a) is payable to the person as a pension under this regulation, and
- (c) so much of the pensioner Member's unpaid pension as is not payable to any person under sub-paragraph (b) is payable as a pension under this regulation to the pensioner Member's personal representatives.

(3) Paragraph (2) does not apply if a pension is payable under regulation M5A (members exercising option under regulation C5A).

**M4 Guarantees where no survivors: death before 75**

(1) This regulation applies if a pensioner Member dies before reaching the age of 75 leaving no person for whose benefit any amount is payable as a pension under regulation K3 (by virtue of a direction of the Trustees under regulation K3(4)), nor any adult survivor.

(2) If the pensioner member dies during the pensioner Member's five year period (see regulation M2(5)), then, unless a payment is made under paragraph (3), a lump sum is payable to the pensioner Member's personal representatives that is equal to the aggregate of the amounts of the pensioner Member's unpaid pension (see regulation M2(5)) that, apart from his death, would have been payable to him in the period from his death until the end of the pensioner Member's five year period.

(3) If—

- (a) the pensioner Member was a participant at any time on or after 6th April 1988,
- (b) there is a guarantee shortfall, and
- (c) in a case where paragraph (2) applies, the guarantee shortfall exceeds the lump sum payable to the personal representatives under paragraph (2),

the Trustees may pay a lump sum equal to the guarantee shortfall to the personal representatives.

(4) Paragraphs (2) and (3) do not apply if a pension is payable under regulation M5A (members exercising option under regulation C5A).

(5) For the purposes of this regulation—

- (a) there is a guarantee shortfall if the L1 gratuity exceeds the paid pension amount, and
- (b) the guarantee shortfall is equal to the amount of the excess.

(6) In paragraph (5)—

“the L1 gratuity” means the gratuity that the Trustees could have granted the pensioner Member's personal representatives under regulation L1 if the pensioner Member had died immediately before he last ceased to be a participant, and

“the paid pension amount” means the aggregate amount of the payments made to the pensioner Member by way of pension under Part F, Part H or Part J, together with any lump sum paid to him under regulation G1.

**M5 Guarantees where no survivors: death after reaching 75**

(1) This regulation applies if a pensioner Member dies after reaching the age of 75 leaving no person for whose benefit any amount is payable as a pension under regulation K3 (by virtue of a direction of the Trustees under regulation K3(4)), nor any adult survivor.

(2) If the pensioner member—

- (a) was a pensioner Member on 5th April 2006, and
- (b) dies during the pensioner Member's five year period (see regulation M2(5)),

then, unless a pension is granted under paragraph (4), a lump sum is payable to the pensioner Member's personal representatives that is equal to the aggregate of the amounts

of the pensioner Member's unpaid pension (see regulation M2(5)) that, apart from his death, would have been payable to him in the period from his death until the end of the pensioner Member's five year period.

(3) If the pensioner member—

- (a) was not a pensioner Member on 5th April 2006, and
- (b) dies during the pensioner Member's five year period (see regulation M2(5)),

then, unless a pension is granted under paragraph (4), the pensioner Member's pension is payable to his personal representatives until the end of the pensioner Member's five year period as a pension under this regulation.

(4) If—

- (a) the pensioner Member was a participant at any time on or after 6th April 1988,
- (b) he dies during the pensioner Member's ten year period (see paragraph (8)),
- (c) there is a guarantee shortfall (see paragraph (7)),
- (d) in a case where paragraph (2) applies, the aggregate amount of the pension payable under this paragraph exceeds the lump sum payable to the personal representatives under that paragraph, and
- (e) in a case where paragraph (3) applies, that aggregate exceeds the aggregate amount of the pension payable under that paragraph,

the Trustees may grant the pensioner Member's personal representatives a pension under this paragraph of amounts totalling in aggregate not less than the guarantee shortfall.

(5) A pension payable under this regulation is payable for—

- (a) the pension shortfall period (see paragraph (8)), or
- (b) the pensioner Member's ten year period,

whichever is the shorter.

(6) Paragraphs (2) to (4) do not apply if a pension is payable under regulation M5A (members exercising option under regulation C5A).

(7) For the purposes of this regulation—

- (a) there is a guarantee shortfall if the assumed L1 gratuity exceeds the paid pension amount, and
- (b) the guarantee shortfall is equal to the amount of the excess.

(8) In this regulation—

“the assumed L1 gratuity” means the gratuity that the Trustees could have granted the pensioner Member's personal representatives under regulation L1 if the pensioner Member had died immediately before he last ceased to be a participant and had not reached the age of 75,

“the paid pension amount” means the aggregate amount of the payments made to the pensioner Member by way of pension under Part F, Part H or Part J, together with any lump sum paid to him under regulation G1,

“the pension shortfall period” means the shortest period in which an amount at least equal to the guarantee shortfall will be paid if—

- (a) payments of amounts equal to the pension payments payable to the pensioner Member under these Regulations immediately before his death are made at the same intervals as those at which those pension payments were payable to him, and
- (b) the first payment is made on the date on which the first payment of a pension granted to the personal representatives under paragraph (4) would be made, and

“the pensioner Member's ten year period” means the period of ten years beginning with the day on which the pensioner Member became entitled to the pension under regulation F1 (including an early retirement pension or an ill-health pension payable by virtue of regulation H1, J1 or J3).

### **M5A Members exercising option under regulation C5A**

(1) This regulation applies if—

- (a) a pensioner Member who has ceased to be a participant by virtue of exercising the option under regulation C5A dies whilst a Member of the House of Commons,
- (b) he dies during the pensioner Member's ten year period,
- (c) there is a guarantee shortfall (see paragraph (7)), and
- (d) the aggregate amount of the pension payable under this regulation exceeds the aggregate amount that would be payable under this Part by way of pension or lump sum, apart from this regulation.

(2) The Trustees may grant a pension under this paragraph of amounts totalling in aggregate not less than the guarantee shortfall to—

- (a) the person or persons nominated in any nomination made by the pensioner Member for the purposes of this regulation which was in force at the time of his death, or
- (b) if no such nomination was in force at that time or, if and to the extent that any such nomination is treated under paragraph (5) as not being in force, to his personal representatives.

(3) A pension payable under this regulation is payable for—

- (a) the pension shortfall period (see paragraph (8)), or
- (b) the pensioner Member's ten year period,

whichever is the shorter.

(4) A nomination for the purposes of this regulation—

- (a) must be made, and may be revoked, by notice in writing to the Trustees in such form as the Trustees may require, and
- (b) where more than one person is nominated may specify the proportions in which the pension is payable to them.

(5) A nomination made by a person for the purposes of this regulation is treated as not being in force at the time of his death if or to the extent that—

- (a) any person nominated was the person's wife, husband or civil partner when the nomination was made but has ceased to be so, or
- (b) the Trustees are of the opinion that the payment of any gratuity to any person nominated is not reasonably practicable in all the circumstances.

(6) A nomination made for the purposes of regulation L1 and in force at the time when the option under regulation C5A was exercised is treated as having been made for the purposes of this regulation, taking any reference to the gratuity under that regulation as a reference to the pension payable under this regulation.

(7) For the purposes of this regulation—

- (a) there is a guarantee shortfall if the assumed L1 gratuity exceeds the paid pension amount, and
- (b) the guarantee shortfall is equal to the amount of the excess.

(8) In this regulation—

“the assumed L1 gratuity” means the gratuity that the Trustees could have granted the pensioner Member's personal representatives under regulation L1 if he had died immediately before 6th April 2006,

“the paid pension amount” has the meaning given in regulation M5(8),

“the pension shortfall period” means the shortest period in which an amount at least equal to the guarantee shortfall will be paid if—

- (a) payments of amounts equal to the pension payments payable to the pensioner Member under these Regulations immediately before his death are made at the same intervals as those at which those pension payments were payable to him, and
  - (b) the first payment is made on the date on which the first payment of a pension granted under this regulation would be made, and
- “the pensioner Member’s ten year period” has the meaning given in regulation M5(8).

**M6 Power to remove adult survivor’s pension on change of status**

(1) This regulation applies if—

- (a) a pensioner Member who ceased to be a participant before 3rd November 2004 dies during the pensioner Member’s five year period (see regulation M2(5)) leaving an adult survivor, and
- (b) the adult survivor marries, forms a civil partnership or cohabits with another person.

(2) The Trustees may direct that any pension payable to the adult survivor under this Part is payable instead to the pensioner Member’s personal representatives.

(3) If the adult survivor is entitled to a guaranteed minimum pension in respect of the pensioner Member, paragraph (2) only applies to so much of the pension payable to the adult survivor under this Part as exceeds the guaranteed minimum.”.

(6) In regulation M7 of those Regulations (deceased pensioner office holders)—

(a) in paragraph (1)—

(i) after “M5” insert “, M5A”,

(ii) after sub-paragraph (a) insert—

“(aa) any reference to “Member of the House of Commons” shall be construed as a reference to “office holder”; and”, and

(iii) omit sub-paragraph (b),

(b) in paragraph (2)—

(i) omit the definition of “the pensioner office holder’s children’s prospective pension end date”,

(ii) in the definition of “the pensioner office holder’s five year period” after “means” insert “, subject to paragraph (3),” and for “to receive a” substitute “the”; and

(iii) after that definition insert—

““the pensioner officer’s ten year period” means the period of ten years beginning with the day on which he became entitled to the pension under regulation F3 (including an early retirement pension or an ill-health pension payable by virtue of regulation H2, J2 or J4).”, and

(c) after paragraph (2) insert—

“(3) In the case of a pensioner office holder who has exercised the option under regulation C5A, references in this Part to the pensioner office holder’s five year period are references to that period (as defined in paragraph (2)) extended by—

(a) a period of the same length as the period beginning with the pensioner office holder’s 75th birthday and ending with the day on which he ceased to be an office holder, or

(b) the period of five years,

whichever is the shorter.”.

(7) In paragraph 3 of Schedule 13 to those Regulations (gratuities on death after retirement: persons with service between 31st July 1984 and 5th April 1988) for sub-paragraph (2) substitute—

“(2) In relation to a person who satisfies the conditions in sub-paragraph (1) and dies leaving no person to whom a pension is payable under Part K or Schedule 12—

- (a) in a case where the person dies before reaching the age of 75, paragraphs (2), (3), (5) and (6) of regulation M4 apply as they apply to a deceased pensioner to whom they apply by virtue of regulations M1, M4(1) and M7, but subject to the modifications in sub-paragraph (3), and
- (b) in a case where the person dies after reaching the age of 75, paragraphs (2), (3) to (5), (7) and (8) of regulation M5 apply as they apply to a deceased pensioner to whom they apply by virtue of regulations M1, M5(1) and M7, but subject to the modifications in sub-paragraph (4).

(3) The modifications of regulation M4 referred to in sub-paragraph (2)(a) are as follows—

- (a) omit paragraph (3)(a),
- (b) in paragraph (5)(a) for “the L1 gratuity” substitute “the relevant amount”
- (c) in paragraph (6) for the definition of “the L1 gratuity” substitute—
  - ““the relevant amount” means the greater of—
  - (a) the amount of a Member’s pensionable salary at the time of the pensioner Member’s death, and
  - (b) the aggregate of the contributions paid by the pensioner Member and not refunded to him, together with interest on each contribution from the date on which it was paid.”.

(4) The modifications of regulation M5 referred to in sub-paragraph (2)(b) are as follows—

- (a) omit paragraph (4)(a),
- (b) in paragraph (4)(b) for “he” substitute “the pensioner member”,
- (c) in paragraph (7)(a) for “the assumed L1 gratuity” substitute “the relevant amount”,
- (d) in paragraph (8) for the definition of “the assumed L1 gratuity” substitute—
  - ““the relevant amount” has the meaning given in regulation M4(6).”.

(8) The amendments made by this regulation only apply where the death in question occurs after 5th April 2006.

### **Ill-health pensions**

**10.**—(1) Part J of the Contributory Fund Regulations (ill-health pensions) is amended as follows.

(2) After regulation J4 insert—

#### **“J4A Requirement for incapacity for occupation**

No person is entitled to receive a pension by virtue of this Part unless the person has in fact ceased to carry on the person’s occupation.”.

(3) For regulation J5(1) (medical evidence) substitute—

“(1) Every application under this Part must be accompanied by evidence from a registered medical practitioner that the applicant is (and will continue to be) incapable of carrying on the applicant’s occupation because of physical or mental impairment.”.

## Early retirement

11. In regulation H1(4) of the Contributory Fund Regulations(a) (early retirement for Members: persons who are participants on or after 4th November 2004) for “is a participant at any time on or after 4th November 2004 and who”, in the first place where it occurs, substitute “who is a participant at any time on or after 2nd April 1991 and”.

## Investment principles

12. For paragraph 10 of Schedule 1 to the Contributory Fund Regulations (trustees’ obligation to secure the preparation, maintenance and revision from time to time of a written statement of investment principles) substitute—

“10. Notwithstanding regulation 6(1)(b) of the Occupational Pension Schemes (Investment) Regulations 2005(b), the Trustees must comply with section 35(1) to (4) of the 1995 Act(c) (statements of investment principles), except that the consultation referred to in regulation 2(2)(b) of those Regulations must be with the Leader of the House of Commons.”.

## Pension entitlement of salaried Chairmen of Select Committees or Standing Committees

13.—(1) In regulation A2(1) of the Contributory Fund Regulations—

(a) for the definition of “Chairman of a Select Committee”(d) substitute—

““Chairman of a Select Committee” means the Chairman of a select committee appointed under the Standing Orders of the House of Commons who is eligible for additional salary in respect of that appointment;”,

(b) after that definition insert—

““Chairman of a Standing Committee” means the Chairman of a standing committee appointed under the Standing Orders of the House of Commons who is eligible for additional salary in respect of that appointment;”, and

(c) in the definition of “a Member’s ordinary salary”(e) after “the Chairman of a Select Committee” insert “or the Chairman of a Standing Committee”.

(2) In regulation C3(2A) of those Regulations(f) (meaning of “period of tenure of a qualifying office” in relation to a Chairman of a Select Committee) after “Chairman of a Select Committee”, in both places where it occurs, insert “or, as the case may be, a Chairman of a Standing Committee”.

(3) In regulation D2(2) of those Regulations(g)—

(a) in sub-paragraph (a) after “Chairman of a Select Committee” insert “or the Chairman of a Standing Committee”;

(b) in sub-paragraph (b) after “Chairman of a Select Committee”, in both places where it occurs, insert “or, as the case may be, a Chairman of a Standing Committee”.

## Cases where certain charges under the Finance Act 2004 apply

14.—(1) After regulation R2 of the Contributory Fund Regulations insert—

### “R2A Payment on behalf of participants of lifetime allowance charge

(1) A participant or former participant may request the person who is the scheme administrator for the purposes of section 217 of the Finance Act 2004 (“the administrator”)

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(a) Regulation H1(4) was inserted by regulation 5(6) of S.I. 2005/887.

(b) S.I. 2005/3378.

(c) Section 35 was substituted by section 244 of the Pensions Act 2004 (c. 35).

(d) This definition was inserted by regulation 2(b) of S.I. 2004/2416.

(e) This definition was substituted by regulation 2(g) of S.I. 2004/2416.

(f) Regulation C3(2A) was inserted by regulation 3(b) of S.I. 2004/2416.

(g) Regulation D2(2) was substituted by regulation 4 of S.I. 2004/2416.

to pay on his behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004 when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 occurs in relation to him, and
  - (b) the participant or former participant and the administrator are jointly and severally liable to the charge in respect of the event.
- (2) Such a request may only be made by notice in writing given before the event occurs.
- (3) The administrator may only comply with such a request if the participant or former participant pays him the amount in question on or before the date on which the event occurs.

**R2B Reduction of benefits and transfer values where lifetime allowance charge payable**

- (1) This regulation applies if—
- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 (“the table”) occurs in relation to a participant or former participant,
  - (b) the participant or former participant and the person who is the scheme administrator for the purposes of section 217 of the Finance Act 2004 (“the administrator”) are jointly and severally liable to the charge in respect of the event, and
  - (c) no request has been duly made under regulation R2A in relation to the event or, if such a request has been made, the administrator is prevented from complying with it by paragraph (3) of that regulation.
- (2) Where this regulation applies—
- (a) the administrator must pay from the Fund the tax payable on the event,
  - (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced, and
  - (c) in the case of any other event, the amount or value of the benefits payable to or in respect of the participant must be reduced.
- (3) The amount or value of the reduction must be such that in the opinion of the Government Actuary it fully reflects the amount of the tax paid under this regulation.

**R2C Deduction from payments of other tax due under the Finance Act 2004**

- (1) This regulation applies where—
- (a) a payment is made under Part M of or Schedule 13 to these Regulations that is a pension protection lump sum death benefit for the purposes of Part 4 of the Finance Act 2004 (see paragraph 14 of Schedule 29 to that Act), or
  - (b) a repayment of contributions (including interest on contributions) is made under Part N of or Schedule 14 to these Regulations that is a short service refund lump sum for the purposes of Part 4 of that Act (see paragraph 5 of Schedule 29 to that Act).
- (2) Before making the payment the person who is the scheme administrator for the purposes of section 217 of that Act may deduct from it any tax due in respect of it under—
- (a) section 206 of that Act (the special lump sum death benefits charge), or
  - (b) section 205 of that Act (short service refund lump sum charge).”.
- (2) Omit regulation N5 (deduction of tax from contributions).

## Transfers to and from other schemes

**15.**—(1) For Part P of the Contributory Fund Regulations(a) (transfers) substitute the Part set out in Schedule 1.

(2) In regulation A2(1) (definitions) of those Regulations after the definition of “fraction of a year” insert—

““guarantee date” has the meaning assigned to it by regulation P2(2);

“guaranteed cash equivalent transfer payment” has the meaning assigned to it by regulation P3(2);”.

(3) In regulation E1(1) and (2), (3) and (5) of those Regulations for “regulations” and “P1, P2 and P3 (transfers out)” substitute “regulation” and “Part P (transfers)” respectively.

(4) In regulation E1(3) and (5) of those Regulations for “P1, P2 and P3 (transfers out)” substitute “Part P (transfers)”.

(5) In regulation E1(4) of those Regulations for “N1 (refunds), P1, P2 and P3 (transfers out)” substitute “and N1 (refunds) and Part P (transfers)”.

(6) In paragraph 3(4) of Schedule 2 to those Regulations for “regulation P1 or P2” substitute “Part P”.

(7) In Schedule 3 to those Regulations (commutation of pensions)—

(a) in paragraph 2(2)(ii) for “under regulation P6(2)” substitute “by virtue of regulations P9(4) and P10”, and

(b) in paragraph 4(1)(ii) and (2)(ii)(b) for “under regulation P6(3)” substitute “by virtue of regulations P9(6)(a) and P10”.

(8) In Schedule 8 to those Regulations (reckonable service)—

(a) in paragraph 1(2) for “regulation P3 (transfers out) and regulation P5 (transfers in)” substitute “regulation P6 (effect of transfers out) and regulation P9 (acceptance of transfer value payments)”, and

(b) in paragraph 1(3) for “regulation P4 (transfers out) and regulation P6 (transfers in)” substitute “regulation P6 (effect of transfers out) and regulation P9 (acceptance of transfer value payments)”.

## Refunds of contributions

**16.**—(1) Part N of the Contributory Fund Regulations (refunds) is amended as follows.

(2) In regulation N1 (refund to contributor)—

(a) in paragraph (2)—

(i) at the end of sub-paragraph (b) add “and he is not entitled to short service benefit by virtue of section 71 of the 1993 Act (basic principles as to short service benefit);”, and

(ii) after that sub-paragraph insert—

“(bb) there has been no previous benefit crystallisation event (within the meaning given by section 216(1) of the Finance Act 2004) in relation to the person and the principal scheme”,

(b) omit paragraph (3),

(c) in paragraph (4)(b) omit from “provided that” onwards, and

(d) in paragraph (6) for the words from “certified” onwards substitute “of any contributions equivalent premium paid in respect of the person”.

(3) In regulation N2(b) for “paragraph (3)” substitute “paragraph (2)”.

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(a) Part P was amended by paragraphs 12 and 13 of Schedule 1 to S.I. 2001/2649 and regulations 9 to 11 of S.I. 2004/2416.

(b) Regulation N1(4) was amended by regulation 8 of S.I. 2004/2416.

## **Payments in respect of members with mental incapacity**

17.—(1) In regulation R1 of the Contributory Fund Regulations (application of pensions) omit paragraph (2) (which provides that section 142 of the Mental Health Act 1983<sup>(a)</sup> has effect in relation to pensions under the Contributory Fund Regulations and certain other regulations as if they were payable directly out of moneys provided by Parliament).

(2) Paragraph (1) does not affect the powers of the Trustees of the Parliamentary Contributory Pension Fund under paragraph 29(5) and (6) of Schedule 6 to the Mental Capacity Act 2005<sup>(b)</sup> (by virtue of which an authority which made certain kinds of payments under section 142 of the Mental Health Act 1983 in respect of a patient before that section ceased to have effect in England and Wales may continue to do so despite that section ceasing to have effect).

## **Members entitled to enhanced protection**

18.—(1) In regulation A2(1) of the Contributory Fund Regulations (definitions) insert at the appropriate place—

““protected individual” has the meaning assigned to it by regulation T1(2);”.

(2) After Part S of those Regulations insert—

## **“Part T**

### **Members with enhanced protection**

#### **T1 Application of this Part**

(1) This Part relates to individuals in the case of whom paragraph 12 of Schedule 36 to the Finance Act 2004 applies (enhanced protection).

(2) In these Regulations such individuals are referred to as “protected individuals”.

#### **T2 Option to cease contributions**

(1) A protected individual may opt for Part D of these Regulations (contributions) not to apply in respect of the individual’s salary.

(2) The option under paragraph (1) may only be exercised by notice in writing to the Trustees.

(3) An individual who has exercised such an option may revoke it by such a notice if—

- (a) the individual has ceased to be a protected individual, and
- (b) the Trustees consent.

(4) A notice exercising or revoking such an option must specify the date on which the option is to take effect or, as the case may be, cease to have effect.

(5) In the case of a notice exercising such an option, that date may not be earlier than—

- (a) 6th April 2006, or
- (b) the beginning of the month in which the notice is given,

whichever is the later.

(6) In the case of a notice revoking such an option, the date specified as the date on which the option is to take effect may not be earlier than the beginning of the month in which the notice is given.

(7) Where such an option is revoked, any option as to the rate at which deductions are made under Part D that was effective immediately before the option under this regulation took effect is treated as continuing in force from the date on which the revocation takes effect, subject to any further exercise of any option as to that rate.

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(a) 1983 c. 20.  
(b) 2005 c. 9.

### **T3 Effect of option to cease contributions**

(1) An individual shall not be regarded as a participating Member or a participating office holder for the purposes of Part D of these Regulations (contributions) at any time when an option exercised by the individual under regulation T2 has effect.

(2) But, except as provided by paragraph (3), the fact that the individual is not making contributions to the Fund deducted from his salary under that Part shall be disregarded for the purposes of determining whether the individual falls within the definition of “participant”, “participating Member” or “participating office-holder” in regulation A2(1).

(3) Notwithstanding anything in paragraph (2)—

- (a) no period during which the individual’s option has effect shall be regarded as a period of reckonable service (or actual reckonable service) as a participant, participating Member or participating office-holder, except for the purpose of determining the relevant terminal salary of the individual under regulation F2 or F4, and
- (b) if a pension becomes payable to the individual under regulation F1 by virtue of regulation J1 (ill-health pensions based on service as a participating Member) for the purposes of calculating the annual amount of the pension the words in regulation J1(4) from “but for the purposes of that calculation” onwards (by virtue of which the individual’s reckonable service would be increased) are disregarded.

### **T4 Surrender of excess rights for the purpose of obtaining enhanced protection**

(1) An individual who proposes to give notice under paragraph 12 of Schedule 36 to the Finance Act 2004 (enhanced protection) may surrender the whole or part of such rights as in accordance with regulations made under paragraph 12(5) of that Schedule are to be treated as representing the relevant excess (as defined in paragraph 12(6) of that Schedule) in the case of the individual.

(2) Such a surrender may only be made by notice in writing to the Trustees and is irrevocable.

(3) A surrender under this regulation is ineffective so far as it purports to affect—

- (a) any rights in respect of an excluded pension (as defined in section 172A(10) of the Finance Act 2004) that is payable under Part M or paragraph 3 of Schedule 13, or
- (b) any rights entitlement to which is required for the employment of the individual to be contracted-out in relation to the principal scheme.

### **T5 Surrender to avoid relevant benefit accrual**

(1) Subject to paragraphs (2) and (3), a protected individual may surrender the whole or part of any rights to any benefit to which he (or any dependant of his) has a prospective entitlement under these Regulations.

(2) Such a surrender may only be made by notice in writing to the Trustees and is irrevocable.

(3) A surrender under this regulation is ineffective so far as it purports to affect—

- (a) any rights in respect of an excluded pension (as defined in section 172A(10) of the Finance Act 2004) that is payable under Part M or paragraph 3 of Schedule 13, or
- (b) any rights entitlement to which is required for the employment of the individual to be contracted-out in relation to the principal scheme.”.

### **Election for non-aggregation of reckonable service on entering new service**

**19.**—(1) In regulation A2(1) of the Contributory Fund Regulations (definitions) after the definition of “overseas fund or scheme” insert—

““Part U optant” has the meaning assigned to it by regulation U1(3);”.

- (2) At the end of regulation E2(a) of those Regulations (aggregate reckonable service) add—  
“(4) This regulation is subject to Part U.”.
- (3) After Part T of those Regulations (as inserted by these Regulations) insert—

## “Part U

### Election for separate treatment on participation for second or subsequent time

#### **U1 Election for separate treatment on becoming participant again**

(1) This Part applies if a person who has ceased to be a participant becomes a participant again on or after 6th April 2006 and makes an election for this Part to apply.

(2) An election under this regulation is made by giving notice in writing to the Trustees within the period of 6 months beginning with the day on which the person becomes a participant.

(3) A person who makes such an election is referred to in these Regulations as a “Part U optant”.

(4) More than one election may be made under this regulation.

#### **U2 Effect of election**

(1) Where a person makes an election under regulation U1, the general rule is that these Regulations apply as if the person becoming a participant again were a different person from the person who ceased to be a participant earlier.

(2) Accordingly, in particular, for the purposes of these Regulations—

(a) the reckonable service (“the earlier service”) that the person was entitled to count immediately before becoming a participant again (including reckonable service that is attributable to the purchase of added years or any transfer payment accepted by the Trustees during the course of that service) is disregarded in determining rights in respect of his service after becoming a participant again,

(b) he is regarded as a deferred pensioner in respect of the earlier service, and

(c) in determining rights in respect of the earlier service—

(i) the reckonable service that the person is entitled to count as a result of becoming a participant again (including reckonable service that is attributable to the purchase of added years or any transfer payment accepted by the Trustees during the course of that service), and

(ii) the fact that he has again become a participant and a Member of the House of Commons or, as the case may be, the holder of a qualifying office,

are disregarded.

(3) Paragraphs (1) and (2) are subject to paragraphs (4) and (5).

(4) The fact that a person who has made an election under this regulation is a Member of the House of Commons or, as the case may be, the holder of a qualifying office is not disregarded for the purposes of Part H (early retirement and abated pensions).

(5) For the purpose of Part P (transfers), paragraphs (1) and (2) apply only so far as they affect the value of the rights of the person who has made the election.”.

(4) In regulation L1(5)(b) (which limits the amount of the gratuity payable on death in service to the aggregate of the contributions paid by the participant) after “not refunded to him” insert “(whether during the aggregate period of reckonable service in which he died or, in the case of a Part U optant, any earlier period of reckonable service)”.

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(a) Regulation E2 was amended by regulation 3 of S.I. 1995/2867 and regulation 3 of S.I. 1996/2406.

## **Pension sharing**

**20.**—(1) In Schedule 15 to the Contributory Fund Regulations<sup>(a)</sup> (pension sharing on divorce or nullity: transfers out of pension credits) after paragraph 1 insert—

“**1A.** The provisions of this Schedule—

- (a) apply to a surviving civil partner as they apply to a surviving spouse,
- (b) apply to a civil partner as they apply to a spouse, and
- (c) apply to a civil partnership as they apply to a marriage.”.

(2) In paragraph 4 of that Schedule (death of ex-spouse before liability in respect of pension credit is discharged)—

- (a) in sub-paragraph (3) after “if”, in the second place where it occurs, insert “the ex-spouse has not reached the age of 75 at the date of death and”, and
- (b) in sub-paragraph (4) after “sub-paragraph (3)” insert “and the ex-spouse has not reached the age of 75 at the date of death”.

### *Amendments of the AVC Regulations*

## **Removal of restrictions on contributions and transfers in and benefits attributable to them**

**21.**—(1) The AVC Regulations are amended as follows.

(2) In regulation 2(1) (interpretation) omit the definitions of “Class A contributor”, “Class B contributor”, “Class C contributor”, “final remuneration”, “maximum pension”, “permitted maximum”, “retained benefits” and “retained death benefits”.

(3) In regulation 5 (contributions)—

- (a) in paragraph (1) omit “within limits imposed by the Board of Inland Revenue”,
- (b) omit paragraphs (2) and (3), and
- (c) for paragraph (4) substitute—

“(4) The Trustees shall only accept payment of a transfer value in respect of a person to the AVC scheme if it is from a registered pension scheme and—

- (a) the scheme is a personal pension scheme, or
- (b) the transfer value relates to voluntary contribution rights.”.

(4) Omit regulation 11 (maximum benefits) and Schedules 1 and 2 (final remuneration and maximum benefits).

## **Restriction of membership to contributors under 75**

**22.** In regulation 4(1) of the AVC Regulations (application to become contributor) after “any participant in the principal scheme” insert “who has not reached the age of 75”.

## **Benefits which may be provided**

**23.**—(1) Regulation 7 of the AVC Regulations<sup>(b)</sup> (benefits which may be provided) is amended as specified in paragraphs (2) to (5).

(2) For paragraph (1) substitute—

“(1) Subject to paragraph (5), a contributor will be entitled to such benefits as—

- (a) are secured by the contributions paid by the contributor and by any transfer value accepted under regulation 5(4), and

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<sup>(a)</sup> Schedule 15 was inserted by paragraph 18 of Schedule 1 to S.I. 2001/2649.

<sup>(b)</sup> Regulation 7(1) was amended by paragraph 2 of Schedule 3 to S.I. 2001/2649 and regulation 7(2) and (4) was amended by regulation 3 of S.I. 2004/2417.

- (b) are benefits for which a registered pension scheme that is a money purchase arrangement for the purposes of Part 4 of the Finance Act 2004 (see section 152(2) of that Act) is authorised to make payments under section 160(1) of the Finance Act 2004.”.
- (3) In paragraph (2) (benefits normally permitted)—
- (a) at the beginning insert “In particular, but without prejudice to the generality of paragraph (1),”
- (b) in sub-paragraph (a) at the beginning insert “in the case of a contributor who dies before reaching the age of 75,”,
- (c) in sub-paragraph (b)—
- (i) for “retirement benefits” substitute “pension benefits and any transfer values accepted under regulation 5(4),”
- (ii) after “by the contributor” insert “and those transfer values”, and
- (iii) for “before retirement” substitute “before he reaches the age of 75 or becomes entitled to the payment of a pension secured under this regulation”,
- (d) in sub-paragraph (c) for “spouse” substitute “adult survivor”,
- (e) in sub-paragraph (d)—
- (i) for “after retirement” substitute “after he becomes entitled to the payment of a pension under these Regulations”,
- (ii) for “Schedule 6” substitute “Schedule 5”, and
- (iii) omit “and” at the end,
- (f) in sub-paragraph (e)(ii) for the words “being paid in one lump sum on death” substitute “being paid, in the case of a member who dies before reaching the age of 75, in one lump sum on death”, and
- (g) after sub-paragraph (e) insert—
- “(f) if a pension is secured under sub-paragraph (e), a lump sum payable to the contributor at the time that pension becomes payable not exceeding the permitted maximum, as defined in paragraph 2 of Schedule 29 to the Finance Act 2004 (which is usually the applicable amount, as defined in paragraph 3(6) of that Schedule); and
- (g) a lump sum meeting the conditions required for it to be a lifetime allowance excess lump sum for the purposes of Part 4 of the Finance Act 2004 (see paragraph 11 of Schedule 29 to the Finance Act 2004).”.
- (4) In paragraph (4) omit from “and the benefits” onwards.
- (5) After that paragraph insert—
- “(4A) A pension under paragraph (2)(e) must commence—
- (a) not later than the day before the contributor’s 75th birthday; and
- (b) not earlier than the earlier of—
- (i) the date on which the contributor becomes entitled to receive a pension under regulation F1 or F3 of the principal scheme, and
- (ii) the day mentioned in sub-paragraph (a).”.
- (6) In regulation 8 of those Regulations (payment of lump sums on death) omit paragraph (3) (payment to contributor’s personal representatives of any part of a lump sum payable on his death that has not been paid within 2 years’ of the death).
- (7) In regulation 9 of those Regulations(a) (purchase of pensions) for paragraph (1) substitute—

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(a) Regulation 9(1) was amended by regulation 4 of S.I. 2004/2417.

“(1) At least six months before the date on which a contributor would like a pension to come into payment or at such later time before that date as the Trustees allow, the contributor shall specify in writing to the Trustees—

- (a) the pension or pensions which are to be purchased on his behalf or on behalf of his dependants, and
- (b) where a pension is to be purchased on his behalf and he would also like a lump sum to be paid to him or he wishes a sum that is a lifetime allowance excess lump sum for the purposes of Part 4 of the Finance Act 2004 to be paid to him—
  - (i) that that is the case, and
  - (ii) the amount he would like to be paid as a lump sum.”.

**Leaving the AVC scheme: refunds of contributions, transfers out etc.**

**24.** In regulation 10 of the AVC Regulations (leaving the AVC scheme)—

- (a) for “Schedule 1A to the Pensions Act 1975” substitute “Chapter 4 of Part 4 of the Pension Schemes Act 1993 (transfer values)”,
- (b) for paragraphs (a) and (b) substitute—
  - “(a) to apply an amount equal to the value of the contributor’s accrued benefits in such one or more of the ways permitted under section 95 of that Act as the contributor specifies;”,
- (c) in paragraph (c) after “less than two years” insert “and the payment would qualify as a short service refund lump sum for the purposes of section 166(1) of the Finance Act 2004 (lump sum rule) (see paragraph 5 of Schedule 29 to that Act)”, and
- (d) in the second sentence(a) after “by the contributor” insert “and any transfer values accepted under regulation 5(4)”.

**The lifetime allowance charge**

**25.** For regulation 14 of the AVC Regulations (taxation) substitute—

**“Reduction of benefits where lifetime allowance charge payable**

**14.—**(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the Finance Act 2004 (“the table”) occurs in relation to a contributor or former contributor, and
- (b) the contributor or former contributor and the Trustees are jointly and severally liable to the charge in respect of the event.

(2) Where this regulation applies—

- (a) the Trustees must pay the tax payable on the event,
- (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced, and
- (c) in the case of any other event, the total realisable value of the investments made by the Trustees with the contributions made by the contributor and any transfer values accepted under regulation 5(4) must be reduced.

(3) The amount or value of the reduction must be such that in the opinion of the Government Actuary it fully reflects the amount of the tax so paid.”.

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(a) The second sentence of regulation 10 was amended by paragraph 3 of Schedule 3 to S.I. 2001/2649.

## **Pension sharing**

**26.**—(1) In Schedule 3 to the AVC Regulations (pension sharing on divorce or nullity: transfers out of pension credits)(a) after paragraph 1 insert—

“**1A.** The provisions of this Schedule—

- (a) apply to a surviving civil partner as they apply to a surviving spouse,
- (b) apply to a civil partner as they apply to a spouse, and
- (c) apply to a civil partnership as they apply to a marriage.”.

(2) In paragraph 4 of that Schedule (death of ex-spouse before liability in respect of pension credit is discharged)—

- (a) in sub-paragraph (3) after “if”, in the second place where it occurs, insert “the ex-spouse has not reached the age of 75 at the date of death and”, and
- (b) in sub-paragraph (4) after “sub-paragraph (3)” insert “and the ex-spouse has not reached the age of 75 at the date of death”.

## **Minor amendments of the AVC Regulations**

**27.**—(1) The AVC Regulations are amended as follows.

(2) In regulation 2(1)—

- (a) omit the definitions of “approved scheme”, “free-standing additional voluntary contribution scheme” and “retirement benefits scheme”,
- (b) for the definition of “personal pension scheme” substitute—

““personal pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993;”

- (c) at the appropriate places insert the following definitions—

““occupational pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993;”,

““registered pension scheme” has the same meaning as in Part 4 of the Finance Act 2004 (see section 150(2) of that Act);”, and

““voluntary contribution rights”, in relation to a person, means rights under an occupational pension scheme that derive from voluntary contributions made by the person;”.

(3) In regulation 2(3) from “approved” to the end substitute “a registered pension scheme”.

(4) For regulation 3(4) substitute—

“(4) The Trustees shall be responsible for the discharge of the functions conferred or imposed on the scheme administrator of the AVC scheme by or under Part 4 of the Finance Act 2004.”.

(5) Omit regulation 12 (surplus monies)(b).

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(a) Schedule 3 was inserted by paragraph 7 of Schedule 3 to S.I. 2001/2649.

(b) Regulation 12 was substituted by regulation 5 of S.I. 1999/780

*Revocations*

**Revocations**

**28.** The subordinate legislation specified in Schedule 2 is revoked to the extent specified in the third column of that Schedule.

23 March 2006

*Geoff Hoon*  
Leader of the House of Commons

I consent

23 March 2006

*Jim Murphy*  
for the Minister for the Civil Service

## Part substituted for Part P of the Contributory Fund Regulations

*Transfers out***P1 Right to transfer value payment**

(1) This Part supplements the rights conferred under Chapter 4 of Part 4 of the Pension Schemes Act 1993 (transfer values).

(2) This Part is without prejudice to that Chapter or Chapter 5 of that Part(a) (early leavers: cash transfer sums and contribution refunds).

(3) Accordingly—

- (a) a former participant to whom Chapter 4 of that Part applies (see section 93(1)(a) of that Act) is entitled to require the payment of a transfer value in respect of the rights to benefit that have accrued to or in respect of him under the principal scheme, and
- (b) a former participant to whom Chapter 5 of that Part applies (see section 101AA(1) of that Act) is entitled to a cash transfer sum or a contribution refund in accordance with that Chapter.

(4) Subject to the provisions of this Part, any other former participant, other than a pensioner, is entitled to require such a payment as if rights under Chapter 4 of Part 4 of the Pension Schemes Act 1993 had accrued to or in respect of him by reference to his reckonable service (and references in this Part to his accrued rights or benefits are to be read accordingly).

(5) Paragraph (4) does not apply if the former participant is entitled under Part N to repayment of the contributions he has paid during the period of service ending with his ceasing to be a participant or acquires a right to a contribution refund under Chapter 5 of Part 4 of the Pension Schemes Act 1993.

(6) Paragraphs (3) and (4) do not apply to rights that are directly attributable to a pension credit.

**P2 Applications for statements of entitlement**

(1) A former participant who requires a transfer value payment to be made must apply in writing to the Trustees for a statement of the amount of the cash equivalent of the former participant's accrued benefits under the Scheme at the guarantee date ("a statement of entitlement").

(2) In these Regulations, "the guarantee date" means any date that—

- (a) falls within the required period,
- (b) is chosen by the Trustees,
- (c) is specified in the statement of entitlement, and
- (d) is within the period of 10 days ending with the date on which the former participant is provided with the statement of entitlement.

In counting the period of 10 days referred to in sub-paragraph (d), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(3) In paragraph (2) "the required period" means—

- (a) the period of 3 months beginning with the date of the former participant's application for a statement of entitlement, or
- (b) such longer period (not exceeding six months beginning with that date) as may reasonably be required if, for reasons beyond the control of the Trustees, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

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(a) Chapter 5 (sections 101AA to 101AI) is inserted by section 264 of the Pensions Act 2004 (c. 35).

(4) The former participant may withdraw the application for a statement of entitlement by notice in writing at any time before the statement is provided.

(5) A former participant who—

- (a) has made an application for a statement of entitlement under this regulation (“the first application”), and
- (b) has not withdrawn it,

may make only one other such application in the period of twelve months beginning with the date of the first application.

### **P3 Applications for transfer value payments**

(1) A former participant who has applied for and received a statement of entitlement under regulation P2 may apply in writing to the Trustees for a transfer value payment to be made.

(2) On making such an application a former participant becomes entitled to a payment of an amount equal, or amounts equal in aggregate, to the amount specified in the statement of entitlement (or such other amount as may be payable by virtue of paragraph (9)).

In these Regulations such a payment is referred to as “the guaranteed cash equivalent transfer value payment”.

(3) An application under paragraph (1) must be made before the end of the period of 3 months beginning with the guarantee date, and the payment must be made no later than—

- (a) six months after that date, or
- (b) if it is earlier, the date on which the former participant reaches 65.

(4) The application must specify the pension scheme or other arrangement to which the payment or payments should be applied.

(5) An application by a person who is entitled to apply for a guaranteed cash equivalent transfer value payment under Chapter 4 of Part 4 of the Pension Schemes Act 1993 may only be made—

- (a) on or before the applicant’s 64th birthday, or
- (b) before the end of the period of 6 months beginning with the day after that on which the applicant ceases to be a participant,

whichever is the later.

(6) An application by a person who is not entitled to apply for a guaranteed cash equivalent transfer value payment under Chapter 4 of Part 4 of the Pension Schemes Act 1993 may only be made—

- (a) before the expiry of the period of one year beginning with the day on which the applicant ceases to be a participant,
- (b) before the applicant reaches the age of 65, and
- (c) if Chapter 5 of Part 4 of the Pension Schemes Act 1993 applies to the person, before the expiry of—
  - (i) the period of 3 months beginning with the day after that on which the Trustees notify the person in writing of his options in accordance with section 101AC of that Act, or
  - (ii) such longer period as the Trustees allow.

(7) The Trustees may extend any time limit applying to an application under paragraph (1) if they consider it reasonable to do so in the circumstances.

(8) An application under this regulation may be withdrawn by notice in writing, unless an agreement for the application of the whole or part of the guaranteed cash equivalent transfer value payment has been entered into with a third party before the notice is given.

(9) If the payment is made later than six months after the guarantee date, the amount of the payment to which the former participant is entitled must be increased by—

- (a) the amount by which the amount specified in the statement of entitlement falls short of the amount it would have been if the guarantee date had been the date on which the payment is made, or
- (b) if it is greater and there was no reasonable excuse for the delay in payment, interest on the amount specified in the statement of entitlement, calculated on a daily basis over the period from the guarantee date to the date when the payment is made at an annual rate of 1% above the Bank of England base rate.

(10) In this regulation “Bank of England base rate” means—

- (a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, and
- (b) where an order under section 19 of the Bank of England Act 1998<sup>(a)</sup> (Treasury’s reserve powers) is in force, any equivalent rate determined by the Treasury under that section.

#### **P4 Ways in which transfer value payments may be applied**

(1) A former participant may only require the Trustees to apply the guaranteed cash equivalent transfer value payment in one or more of the ways permitted under section 95 of the Pension Schemes Act 1993 (whether or not he is entitled to a guaranteed cash equivalent transfer value payment under that Act).

(2) The whole of the guaranteed cash equivalent transfer value payment must be applied except so far as paragraph (3) applies.

(3) The benefits attributable to—

- (a) the former participant’s accrued rights to a guaranteed minimum pension, or
- (b) the former participant’s accrued rights attributable to service in contracted-out employment on or after 6 April 1997,

may be excluded from the guaranteed cash equivalent transfer value payment if section 96(2) of the Pension Schemes Act 1993 applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member’s other rights).

#### **P5 Calculating amounts of transfer value payments**

(1) The amount of the guaranteed cash equivalent transfer value payment is to be calculated in accordance with guidance and tables provided by the Government Actuary to the Trustees for use at the guarantee date.

This is subject to paragraph (3).

(2) In preparing those tables the Government Actuary must use such factors as he considers appropriate, having regard to section 97 of the Pension Schemes Act 1993 and regulations made under that Act (whether or not the payment is in respect of a person entitled to a guaranteed cash equivalent transfer value payment under that Act).

(3) If the amount calculated in accordance with paragraph (1) is less than the minimum transfer value, the amount of the guaranteed cash equivalent transfer value payment is to be equal to that value instead.

(4) In paragraph (3) “the minimum transfer value”, in relation to any person, means the sum of any of such payments as are mentioned in paragraph (5) as a result of which he is entitled to count any reckonable service under the principal scheme by reference to which the accrued rights subject to the transfer are calculated.

(5) The payments are—

- (a) any transfer value payments that have been made to the principal scheme in respect of him,

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<sup>(a)</sup> 1998 c.11.

- (b) any contributions deducted in respect of him under Part D, and
- (c) any payments made under Part Q for the purchase of added years.

#### **P6 Effect of transfers-out**

Where a transfer value payment is made under this Part in respect of a person's rights under the principal scheme, those rights are extinguished.

#### *Transfers in*

#### **P7 Right to apply for acceptance of transfer value payment from another scheme**

(1) Subject to the provisions of this Part, a participant may apply for a transfer value payment from a registered pension scheme to be accepted by the principal scheme.

(2) Paragraph (1) does not apply to rights that are directly attributable to a pension credit.

#### **P8 Procedure for applications under regulation P7**

(1) An application under regulation P7—

- (a) must be made in writing,
- (b) must specify the scheme or arrangement from which the transfer value payment is to be made and the anticipated amount of the payment, and
- (c) must be made on or before the applicant's 64th birthday.

(2) If the application relates to—

- (a) a transfer value payment from a personal pension scheme, or
- (b) a transfer value payment relating only to voluntary contribution rights,

it must be made before the expiry of the period of 12 months beginning with the relevant date, unless paragraph (3) applies.

(3) This paragraph applies in the case of a transfer value payment within paragraph (2)(b) ("the relevant payment") if—

- (a) the applicant is also applying for the Trustees to accept a transfer value payment from a different occupational pension scheme from that by which the relevant payment is payable (the "second scheme"),
- (b) the second scheme relates to the same employment as that to which the scheme by which the relevant payment is payable relates, and
- (c) the transfer value payment payable by the second scheme relates to rights that are or include rights that are not voluntary contribution rights.

(4) In this regulation—

"joining date" means the day on which the applicant becomes a participant or, if the person has become a participant more than once, the day on which he last becomes a participant before the application,

"occupational pension scheme" has the meaning given in section 1 of the Pension Schemes Act 1993,

"personal pension scheme" has the meaning given in that section, and

"relevant date" means the joining date of the applicant or 6th April 2006, whichever is the later, and

"voluntary contribution rights" means rights under an occupational pension scheme that derive from voluntary contributions made by the applicant.

#### **P9 Acceptance of transfer value payments**

(1) Where an application is duly made by a participant under regulation P7, the Trustees may accept the transfer value payment if such conditions as they may require are met, unless paragraph (8) applies.

(2) If the Trustees accept the payment on an application by a participating Member, paragraphs (4) and (5) apply.

(3) If the Trustees accept the payment on an application by a participating office holder who is not a Member of the House of Commons, paragraphs (5) and (6) apply.

(4) The participant's aggregate period of reckonable service for the purposes of the principal scheme and his aggregate period of reckonable service as a participant are increased by the appropriate period.

(5) So much of the payment accepted by the Trustees as in their opinion represents the participant's own contributory payments are treated for the purposes of regulations N1 to N4 as contributions paid by the participant, at the same time as those contributory payments were made, by deduction from his salary under regulation D1 or under section 3 of the 1972 Act or Part 2 of the Act of 1965, as the case may be.

(6) The calculation under regulation F4 of the annual amount of any pension must be made as if—

- (a) the number of years for which contribution credit falls to be calculated under regulation F4(4) were increased by the appropriate number, and
- (b) the contribution factor for each of those additional years were the appropriate amount.

(7) In this regulation—

“the appropriate amount” means the amount calculated in accordance with regulation P10,

“the appropriate number” means the number of years so calculated, and

“the appropriate period” means the period so calculated.

(8) The Trustees may not accept a transfer value payment if—

- (a) it would be applied in whole or in part in respect of the participant's or the participant's adult survivor's entitlement 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 prepared by the Government Actuary for the purposes of this paragraph.

#### **P10 Calculation of transferred-in reckonable service**

(1) The increase in the period of reckonable service that a participant is entitled to count under regulation P9(4), the increase in the number of years referred to in regulation P9(6)(a) and the amount referred to in P9(6)(b) are calculated—

- (a) as at the date on which the transfer payment is received by the principal scheme, and
- (b) in accordance with guidance and tables provided by the Government Actuary for the purpose.

(2) For the purposes of that calculation the participant's Member's ordinary salary or, if he is an office holder, his salary (within the meaning of regulation D2) is to be taken to be the amount of that salary as at—

- (a) two months after the application under regulation P7 is received, or
- (b) the date on which the transfer value payment is received,

whichever is the later, and, in a case where the transfer value payment is received earlier than two months after that application is received, any necessary adjustment is to be made to that calculation to reflect any change in the amount of that salary.

## SCHEDULE 2

Regulation 28

### REVOCATIONS

<i>Title of statutory instrument</i>	<i>Extent of revocation</i>
<p>Parliamentary Pensions (Additional Voluntary Contributions) Regulations 1993 (S.I. 1993/3252)</p>	<p>In regulation 2(1), the definitions of “approved scheme”, “Class A contributor”, “Class B contributor”, “Class C contributor”, “final remuneration”, “free-standing additional voluntary contribution scheme”, “maximum pension”, “permitted maximum”, “retained benefits”, “retained death benefits” and “retirement benefits scheme”.</p> <p>In regulation 5, in paragraph (1) the words “within limits imposed by the Board of Inland Revenue” and paragraphs (2) and (3).</p> <p>In regulation 7(2)(d), the word “and” at the end, and in paragraph (4) the words from “and the benefits” onwards.</p> <p>Regulation 8(3).</p> <p>Regulations 11 and 12.</p> <p>Schedules 1 and 2.</p>
<p>The Parliamentary Pensions (Consolidation and Amendment) Regulations 1993 (S.I. 1993/3253)</p>	<p>In regulation F8, in paragraph (2) the words “or a candidate for election to that House” and paragraph (4).</p> <p>Regulation G1(7).</p> <p>Regulation L2.</p> <p>In regulation M7, paragraph (1)(b) and in paragraph (2) the definition of “the pensioner office holder’s children’s prospective pension end date”.</p> <p>In regulation N1, paragraph (3) and in paragraph (4) the words from “provided that” onwards.</p> <p>Regulation N5.</p> <p>Regulation R1(2).</p> <p>In Schedule 2, in paragraph 3(4) the word “total”, in the first and third places where it occurs, and the words “from any free-standing additional voluntary contributions scheme and from any other additional voluntary contributions” and in paragraph 3(5) the word “total”.</p>

## EXPLANATORY NOTE

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

These Regulations amend the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993 (S.I. 1993/3253) (“the Contributory Fund Regulations”) and the Parliamentary Pensions (Additional Voluntary Contributions) Regulations 1993 (S.I. 1993/3252) (“the AVC Regulations”), both of which were made under the Parliamentary and other Pensions Act 1987 (c.45) and set out pension schemes applying to Members of Parliament. Many of the amendments reflect changes that are consequential on the replacement on 6th April 2006 of the tax regime applying in respect of pensions under Part 14 of the Income and Corporation Taxes Act 1988 (c.1) by Part 4 of the Finance Act 2004 (c.12) (“Part 4”).

Regulation 1 provides for citation, commencement and interpretation. Most of the Regulations come into force on 6th April 2006. But regulation 6 comes into force on 5th April 2006 and has effect from 4th March 2006 to enable existing 75 year olds to become entitled to commuted lump sums in respect of their pensions before Part 4 comes into force; regulation 17, which is linked to the repeal made by paragraph 29 of Schedule 6 to the Mental Capacity Act 2005 (c. 9), will come into force with that paragraph; and regulation 13 (which relates to the extension of the provisions of the Contributory Fund Regulations relating to the Chairman of Select Committees to all Chairmen of such Committees and all Chairmen of Standing Committees) has effect from 13th July 2005 (the date on which the House of Commons resolution relating to that extension was passed). Section 2(4)(b)(i) of the Parliamentary and other Pensions Act 1987 authorises the making of provision taking effect from a day before the regulations are made.

Regulations 2 to 20 amend the Contributory Fund Regulations.

Regulation 2 amends regulation A2 of, and Schedule 2 to, those Regulations so as to update the definition of “the index” and make the definition of “permitted maximum” independent of the section 590C of the Income and Corporation Taxes Act 1988 (which is repealed by the Finance Act 2004) without changing its meaning. (Limits on contributions and benefits are expressed by reference to the permitted maximum.) It also inserts a definition of the pension value of retained benefits which is relevant to the maximum pension that can be paid to participants. It also amends that Schedule so that additional voluntary contributions are not taken into account in determining maximum contributions, and benefits purchased as a result of such contributions are not taken into account in determining maximum benefits.

Regulation 3 amends Schedule 6 to those Regulations so that the total contributions to buy added years, whether periodical or by way of lump sum, must not exceed 10% of the Member’s salary in the tax year.

Regulation 4 amends regulation F8 of those Regulations so that pensions are payable despite a person being a candidate in an election and so that pensions are reduced to nil during further service as a Member of the House of Commons, rather than becoming non-payable which is not permitted under the pension rules in section 165 of the Finance Act 2004.

Regulation 5 amends regulation G1 of those Regulations which enables pensions to be commuted for lump sums, so as to apply the limits imposed by the Finance Act 2004 on pension commencement lump sums. Existing limits for members who became participants before 6th April 2006 continue to apply as respects service before 6th April 2006 so far as permitted under Schedule 29 to that Act, as modified by the transitional provisions in Schedule 36 to that Act.

Regulation 6 amends those Regulations by inserting a new regulation C5A which provides a special option for members reaching 75 before 6th April 2006 to opt to cease to be participants and to become entitled to commute their pensions for a lump sum despite continuing in office as Members of the House of Commons or office holders.

Regulations 7 to 9 make provision relating to death benefits under those Regulations. Regulation 7 restricts the amount of pensions payable under Part K so that they qualify as dependants’ scheme pensions for Part 4 and amends the definition of “child” for the purposes of children’s pensions so

as to correspond with the Part 4 pension rules. Regulation 8 amends regulation L1 to comply with the Part 4 requirements so that death in service lump sums can only be paid to members who have reached 75 if they are pensioners on 6th April 2006, and removes the discretion to pay lump sums on the death of pensioner Members. Regulation 9 replaces most of Part M so that in most cases where a lump sum was payable because a pensioner member had died before he had received five years' pension, instead one or more pensions are payable to the pensioner's dependants for the remainder of the five year period that are equal to the member's own pension. (In such cases the dependants' pensions under Part K are suspended.) The new regulation M5A enables a special 10 year pension guarantee to be given to the nominees of those exercising the new regulation C5A option. The right to a lump sum only continues under the new regulations M4 and M5 where the member had no dependants and, unless he was a pensioner member on 5th April 2006, he had not reached 75.

Regulation 10 amends Part J of those Regulations (ill-health pensions) so as to mirror requirements imposed by Part 4 about cessation of occupation and medical evidence about incapacity.

Regulation 11 amends regulation H1 of those Regulations to enable persons who are participants on or after 2nd April 1991 (rather than on or after 4th November 2004) to take early retirement despite having less than 15 years' reckonable service.

Regulation 12 amends paragraph 10 of Schedule 1 to those Regulations (which relates to statements of investment principles) so as to refer to the latest Regulations imposing general obligations about such statements.

Regulation 13 makes various amendments of those Regulations so as to extend the provisions relating to the Chairman of Select Committees to all Chairmen of such Committees who are eligible for additional salary as such and all Chairmen of Standing Committees.

Regulation 14 inserts two new regulations (R2A and R2B) into those Regulations providing for the scheme administrator to pay the lifetime allowance charge on behalf of participants in some circumstances, and for benefits to be reduced where the scheme administrator has done so without the participant having made a payment to cover the tax. It also inserts a new regulation (R2C) providing for the payment of the short service refund lump sum charge and the special lump sum death benefits charge under sections 205 and 206 of that Act to be deducted from payments liable to those charges.

Regulation 15 substitutes a new Part for Part P of those Regulations (which is set out in Schedule 1 to these Regulations) to reflect changes in the law relating to transfers out as set out in Chapter 4 of Part 4 of the Pension Schemes Act 1993 and to update certain references in consequence of Part 4 of the Finance Act 2004. It also restricts the time within which certain transfers from other pension schemes can be accepted.

Regulation 16 makes amendments of Part N of those Regulations relating to refunds of contributions so as to align the requirements with those for short service refund lump sums, which are authorised payments for the purposes of Part 4.

Regulation 17 repeals regulation R1(2) of those Regulations (which relates to payments made in respect of persons who lack mental capacity and is no longer required following the repeal of section 142 of the Mental Health Act 1983 (c. 20)), subject to a saving for cases where payments under it have already been made.

Regulation 18 amends those Regulations to introduce a new Part T which relates to individuals to whom paragraph 12 of Schedule 36 to the Finance Act 2004 applies (enhanced protection). These "protected individuals" are given the right to cease making contributions, to surrender certain rights so as to obtain enhanced protection, or to surrender rights to which they have a prospective entitlement so as to avoid relevant benefit accrual.

Regulation 19 amends those Regulations so as to introduce a new Part U which enables people who become a participant for a second or subsequent time on or after 6th April 2006 to opt for their service when they do so to be treated separately from earlier service. The result of this will

often be that the rights in respect of old service will be less valuable than if the service had been aggregated, and accordingly the option may benefit a person whose rights would otherwise breach limits above which tax charges apply under Part 4.

Regulation 20 amends Schedule 15 to those Regulations (pension sharing) so as to extend the provisions to cases where civil partnerships are dissolved and to prevent payments being made in cases where the ex-spouse or civil partner dies before liability in respect of pension credit is discharged but after reaching 75.

Regulations 21 to 27 amend the AVC Regulations.

Regulation 21 amends those Regulations so as to remove restrictions on amounts of contributions and the benefits attributable to them, which do not need to apply once Part 4 is in force, and to restrict the kinds of transfers in that may be accepted by the AVC scheme under regulation 5.

Regulation 22 amends regulation 4(1) so as to prevent participants in the principal scheme who are over 75 from joining the AVC scheme.

Regulation 23 amends regulations 7 to 9 of the AVC Regulations, which relate to the provision of benefits under the AVC scheme. The amendments enable any benefits to be paid that are authorised for registered schemes under Part 4. They then amend the existing provisions about the benefits so as to achieve conformity with that Part. They also add a specific provision for lump sums to be taken at retirement or at a later time up to the member's 75th birthday, subject to the limits imposed by Part 4. In addition, it is made clear that the amounts that can be taken as benefits or transferred out include the realisable value of amounts transferred in under regulation 5 (subject to the effect of any pension debit).

Regulation 24 amends regulation 10 of those Regulations (leaving the AVC scheme) so as to enable transfers out to be applied in any way permitted under Chapter 4 of Part 4 of the Pension Schemes Act 1993 and to bring payments by way of return of contributions within the requirements for short service refund lump sums, which are authorised payments for the purposes of Part 4 of the Finance Act 2004.

Regulation 25 substitutes a new regulation 14 in those Regulations providing for the Trustees to pay the lifetime allowance charge in some circumstances, and for the contributor's fund to be reduced where they have done so.

Regulation 26 amends Schedule 3 to those Regulations (pension sharing) so as to extend the provisions to cases where civil partnerships are dissolved and to prevent payments being made in cases where the ex-spouse or civil partner dies before liability in respect of pension credit is discharged but after reaching 75.

Regulation 27 makes various further minor amendments of those Regulations that are consequential on Part 4 and the changes made by these Regulations.

Regulation 28 introduces Schedule 2 which contains revocations that are consequential on these Regulations.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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