

## Dealing with the 85 year rule in the 2015 Scheme (v1.42)

### Groups

Group 1 member: a member who was an active member ~~prior to any time between 1 December~~ April 1998 and 30 November 2006 and who was born on 31 March 1960 or earlier

Group 2 member: a member who was an active member ~~prior to 1 December~~ at any time between 1 April 1998 and 30 November 2006 and who was born on or after 1 April 1960

Group 3 member: a member who was not a member prior to 1 December 2006.

**CRA** = the earlier of

- a) the member's pre 1 December 2006 'protected' Normal Retirement Date which some members who joined the Scheme before 1 April 1998 had under regulation 24(4) of the LGPS (Scotland) Regulations 1998 before its deletion by SSI 2006/514
- b) the earliest date at which the member would have satisfied the 85 year rule had the member remained in service, calculated in accordance with paragraph 4 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014
- c) age 65

**BUT** CRA cannot be earlier than 60 for early retirements under Regulation 29(5) of the LGPS (Scotland) Regulations 2014 which the employer has agreed to under regulation 29(13) of those Regulations unless the employer has agreed, under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014, that it should be.

### 2009 Scheme

In the table on page 810 of the GAD guidance at [http://timeline.lge.gov.uk/GAD/Scot\\_EarlyRet280312.pdf](http://timeline.lge.gov.uk/GAD/Scot_EarlyRet280312.pdf) [http://lgpsregs.org/timeline/regs/GAD/Scot\\_EarlyRet280312.pdf](http://lgpsregs.org/timeline/regs/GAD/Scot_EarlyRet280312.pdf) we show that the actuarial reduction under the ~~current scheme is~~ 2008 Scheme was as follows:

	Group 1	Group 2	Group 3
Part A	CRA	CRA	65
Part B	CRA	65	65
Part C	CRA	65	65
Part D	65	65	65

Part A = membership to 31 March 2008

Part B= membership 1 April 2008 to 31 March 2009

Part C = membership 1 April 2009 to 31 March 2020

Part D = membership 1 April 2020 onwards

### 2015 Scheme

A member's CRA under the 2009 Scheme is cast in stone. Thus, if a member could not meet the 85 year rule by age 65, that member's CRA is age 65. A member retiring at 66 who would meet the 85 year rule at 65½ would still have a protected CRA of 65. Thus, if that member retires at age 60 they will, on their protected membership, have an actuarial reduction for retiring 5 years earlier than their CRA (60 – 65) and not an actuarial reduction for retiring 5½ years early. The CRA cannot be later than age 65. The table for the 2015 Scheme now reads as follows:

	Group 1	Group 2	Group 3
Part A	CRA (can't be later than 65)	CRA (can't be later than 65)	65
Part B	CRA (can't be later than 65)	65	65
Part C1	CRA (can't be later than 65)	65	65
Part C2	CRA (can't be later than 65)	SPA (min 65)	SPA (min 65)
Part D1	SPA (min 65)	SPA (min 65)	SPA (min 65)
Part D2	65	65	65

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Part A = membership to 31 March 2008

Part B= membership 1 April 2008 to 31 March 2009

Part C1 = membership 1 April 2009 to 31 March 2015

Part C2 = membership 1 April 2015 to 31 March 2020

Part D1 = membership 1 April 2020 onwards (including Part D1 benefits as defined in the notes at the end of this paper)

Part D2 = membership defined as D2 membership (including Part D2 benefits as defined in the notes at the end of this paper).

### **Members with an Underpin addition**

Where a member's pension being brought into payment includes an underpin "guarantee amount", both

- a) the underpin "guarantee amount", and
- b) the amount of the pension in the member's post-15 pension account accrued prior to the member's 2009 NPA, but excluding any element of that post-15 pension account which was derived from a transfer in or which relates to an APC / SCAPC (other than where the APC / SCAPC was to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of authorised unpaid leave of absence including a period of unpaid additional maternity, paternity or adoption leave or unpaid shared parental leave)

are treated as if they were pension accrued under the 2009 Scheme for the purposes of determining any actuarial reduction (or increase) due on them. Any underpin “guarantee amount” which is calculated will need to be apportioned to Part C2 and Part D2 as appropriate in order that the correct actuarial reduction can be applied (if drawn before the member’s NPA under the 2009 Scheme). For example, if the member has membership from 1 April 2015 to 31 March 2021 (6 years), has final pay (2009 Scheme definition) of £40,000 and has an underpin “guarantee amount” of £145.00 the underpin amount would be allocated as follows:

	C2					D2
	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
CARE accrued	£650.00	£600.00	£650.00	£625.00	£650.00	£680.00
Total CARE	£3,175.00					£680.00
2008 Scheme comparison	5/60 x £40,000 = £3,333.33					1/60 x £40,000 = £666.67
Difference	+£158.33					-£13.33
Total	£3,333.33					£666.67

This method of allocation ensures that where a member is subject to the 85 year rule the actuarial reduction applicable to Part C2 and Part D2 membership is applied to the amount of pension the member would actually have earned as Part C2 or Part D2 membership had they remained in the 2009 Scheme.

Furthermore –

- c) any element of the member’s post-15 pension account which was derived from a transfer in or which relates to an APC / SCAPC (other than where the APC / SCAPC was to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of authorised unpaid leave of absence including a period of unpaid additional maternity, paternity or adoption leave or unpaid shared parental leave)

is treated as pension accrued under the 2015 Scheme for the purposes of determining any actuarial reduction (or increase) due on them (related to the member’s NPA in the 2015 Scheme).

The rationale for (c) is twofold. Firstly, regulations 4(5)(b)(i), 4(5)(c) and 4(5)(d) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 exclude the elements in (c) from the underpin calculation (and so they must, therefore, be paid in addition). Secondly, the amount of pension credited to the member’s account from a transfer in and the amount of the additional pension purchased via the APC / SCAPC were based on the member’s NPA under the 2015 Scheme.

## What counts as membership for working out the CRA under the 85 year rule?

The following counts as membership when calculating the CRA for the purposes of the 85 year rule:

- total membership under the Earlier Schemes (i.e. under the 1974, 1987, 1998 and 2009 Schemes) which counts as membership in relation to the employment, including membership granted by the employer under regulations 51 or 52 of the LGPS (Scotland) Regulations 1998 [paragraph 4(2)(a)(i) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014] including any aggregated membership [paragraphs 8(1) and (2) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 – but see note 8]
- the total period for which the member has paid, or is treated as having paid, contributions under regulations 9 or 10 of the LGPS (Scotland) Regulations 2014 in relation to the employment, including any period of absence due to sickness or injury, child related leave (ordinary maternity, paternity and adoption leave, paid parental leave and paid additional maternity or adoption leave) or reserve forces service leave [paragraph 4(2)(a)(ii) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- any period after 31 March 2015 of unpaid leave of absence due to industrial action, or absence from work with permission with no pensionable pay (other than because of illness or injury, child related leave or reserve forces service leave) provided contributions have been paid under regulation 16 of the LGPS (Scotland) Regulations 2014 (APCs and SCAPCs) to cover the whole of that period of absence [paragraph 4(2)(a)(iii) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- any membership purchased under an added years contract in accordance with regulations 54 and 82 of the LGPS (Scotland) Regulations 1998 or equivalent Earlier Regulations, as continued in effect by regulations 15(1)(a) and (c) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 [paragraph 7 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- any membership credited on or before 1 February 2013 under Regulation 79 of the LGPS (Administration) (Scotland) Regulations 2008 or equivalent Earlier Regulations (transferred-in membership) [para 4(2)(b)(ii) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- any membership from a transfer credit awarded under protected regulation 65(8) of the LGPS (Scotland) Regulations 1998 or equivalent Earlier Regulations, as continued in effect by regulation 15(1)(b) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014

- membership after taking flexible retirement under regulation 31(4) of the LGPS (Scotland) Regulations 2014, regulation 18 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008, or regulation 34(1A) of the LGPS (Scotland) Regulations 1998 (but only for the purposes of calculating the 85 year rule applicable to that part of benefits not drawn upon partial flexible retirement) [paragraphs 4(2)(b)(iii) and 5 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- the qualifying period counted by virtue of regulation 123 of the LGPS (Scotland) Regulations 1998 (qualifying service from a transfer in where the period in the former scheme exceeds the membership credited in the LGPS) where that qualifying service was awarded before 1 April 2008 to a person who was a member of the 1987 Scheme before 1 April 1998 [paragraph 4(1)(d) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- the notional period of membership between the date of cessation of active membership and the member's normal pension age (under the 2009 Scheme – normally age 65) [paragraph 4(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- the period of qualifying service from an earlier deferred benefit or frozen refund which has subsequently been aggregated and has bought an amount of pension in a CARE account (see note 10).

The following does not count as membership when calculating the CRA for the purposes of the 85 year rule:

- any membership credited under regulation 12 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (power of employing authority to increase total membership of active members) [paragraph 4(2)(b)(i) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- any membership credited after 1 February 2013 under Regulation 79 of the LGPS (Administration) (Scotland) Regulations 2008 or under regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 (transferred-in membership) [paragraph 4(2)(b)(ii) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
- membership after taking flexible retirement under regulation 31(4) of the LGPS (Scotland) Regulations 2014, regulation 18 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008, or regulation 34(1A) of the LGPS (Scotland) Regulations 1998 (except for the purposes of calculating the 85 year rule applicable to that part of benefits not drawn upon partial flexible retirement) [paragraphs 4(2)(b)(iii) and 5 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014], or
- in relation to a later period of membership, any period of membership that could have been aggregated with that later period of membership but which the member chose not to aggregate [paragraph 6 of

Schedule 2 to the LGPS (Transitional Provisions and Savings)  
(Scotland) Regulations 2014]

The 85 year rule continues to apply to any period of membership to which it formally applied but which is not aggregated with a later period of membership (e.g. if a member with a deferred benefit to which the 85 year rule applies joins the LGPS in a new employment and does not aggregate the deferred membership with the new period of membership, the 85 year rule continues to apply to the deferred benefit but the membership from the unaggregated deferred benefit does not count towards the 85 year rule in the new employment).

**Applying the 85 year rule to benefits drawn under regulations 30(1) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (retirement benefits: early retirement)**

The 85 year rule automatically applies in full where benefits are voluntarily drawn by the member under regulation 30(1) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 when aged 60 or over, or if drawn on or after age 55 and before age 60 with employer consent [paragraph 1(1)(a) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

**Applying the 85 year rule to benefits drawn under regulation 29(5) of the LGPS (Scotland) Regulations 2014 (retirement benefits: early retirement)**

The 85 year rule automatically applies in full where benefits are voluntarily drawn by the member under regulation 29(5) of the LGPS (Scotland) Regulations 2014 when aged 60 or over [paragraph 1(1)(b) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

The 85 year rule applies in full where, with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014, benefits are voluntarily drawn by the member under regulation 29(5) of the LGPS (Scotland) Regulations 2014 on or after age 55 and before age 60 but only if the employer agrees that the 85 year rule should be applied [paragraphs 1(1)(c) and 1(3) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

Where benefits are, with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014, voluntarily drawn by the member under regulation 29(5) of the LGPS (Scotland) Regulations 2014 on or after age 55 and before age 60 and the employer has not agreed that the 85 year rule should be applied in full then:

- if the member is a Group 1 or Group 2 member and satisfies the 85 year rule at the date of drawing the benefits, that part of the member's benefits that are calculated by reference to any period of membership before the 'relevant date' is to be reduced by reference to the period between the date the benefits are brought into payment and the day

before age 60 [paragraph 1(4)(a) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014], and

- if the member is a Group 1 or Group 2 member and does not satisfy the 85 year rule at the date of drawing the benefits, that part of the member's benefits that are calculated by reference to any period of membership before the 'relevant date' is to be reduced by reference to the period between the date the benefits are brought into payment and the day before age 60 or, if later, the date the member would satisfy the 85 year rule (or age 65 if the member would not satisfy the 85 year rule by that age) [paragraph 1(4)(b) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

Note that the 'relevant date' for:

- a Group 1 member is the earlier of 1 April 2020 or the day following the last day of active membership
- a Group 2 member is 1 April 2008

[paragraph 3 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

#### **Applying the 85 year rule to benefits drawn under regulation 29(6) of the LGPS (Scotland) Regulations 2014 (flexible retirement)**

The 85 year rule automatically applies in full where benefits are voluntarily drawn by the member under regulation 29(6) of the LGPS (Scotland) Regulations 2014 (when aged 55 or over) [paragraph 1(1)(d) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

Note that if a member only takes part of their benefits on flexible retirement the 85 year rule continues to apply to the part not drawn. However, it does not apply to benefits accrued after flexible retirement.

#### **Waiving reductions on benefits drawn under regulation 30(1) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008**

Where benefits are drawn by a member under regulation 30(1) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (voluntarily on or after age 60, or with employer consent on or after age 55 and before age 60) the employer can waive, on compassionate grounds, (and at cost to the employer) any actuarial reduction that would otherwise have been applied [regulation 3(1) of, and paragraph 2(1) of Schedule 2 to, the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 and regulations 30(5) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008].

**Waiving reductions on benefits drawn by a Group 3 member on or after age 55 under regulation 29(5) of the LGPS (Scotland) Regulations 2014**

Where:

- a) an active member voluntarily retires and elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to immediately draw benefits
  - (i) on or after age 60, or
  - (ii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014, or
- b) a deferred member elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to draw benefits (other than on ill health grounds)
  - (i) on or after age 60, or
  - (ii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014

and was not a member of the LGPS before 1 December 2006 [a Group 3 member], the employer can:

- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2015 [regulations 3(1), (5) and (12) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2015 [regulation 29(8) of the LGPS (Scotland) Regulations 2014]

**Waiving reductions on benefits drawn by a Group 1 member on or after age 55 under regulation 29(5) of the LGPS (Scotland) Regulations 2014**

Where:

- a) an active member voluntarily retires and elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to immediately draw benefits
  - (i) on or after age 60, or
  - (ii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014, or
- b) a deferred member elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to draw benefits (other than on ill health grounds)
  - (i) on or after age 60, or
  - (ii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014

and was a member of the LGPS before 1 December 2006 and will be 60 or more on 31 March 2020 (i.e. Group 1 members falling within paragraph



3(1) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014), the employer can:

- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued before 1 April **2020** [regulations 3(1), (5) and (12) of, and paragraph 2(1) of Schedule 2 to, the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March **2020** [regulation 29(8) of the LGPS (Scotland) Regulations 2014]

**Waiving reductions on benefits drawn by a Group 2 member on or after age 55 under regulation 29(5) of the LGPS (Scotland) Regulations 2014**

Where:

- a) an active member voluntarily retires and elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to immediately draw benefits
  - (i) on or after age 60, or
  - (ii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014, or
- b) a deferred member elects under regulation 29(5) of the LGPS (Scotland) Regulations 2014 to draw benefits (other than on ill health grounds)
  - (i) on or after age 60, or
  - (iii) on or after age 55 and before age 60 with the employer's consent under regulation 29(13) of the LGPS (Scotland) Regulations 2014

and was a member of the LGPS before 1 December 2006 and will not be 60 or more on 31 March 2020 (i.e. Group 2 members falling within paragraph 3(2) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014), the employer can:

- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued before 1 April 2015 [regulations 3(1), (5) and (12) of, and paragraph 2(1) of Schedule 2 to, the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014], and / or
- waive, in whole or in part (on any grounds), any actuarial reduction that would otherwise be applied to benefits accrued after 31 March 2015 [regulation 29(8) of the LGPS (Scotland) Regulations 2014]

### **Waiving reductions on benefits drawn on flexible retirement under regulation 29(6) of the LGPS (Scotland) Regulations 2014**

Where benefits are drawn by a member (aged 55 or over) under regulation 29(6) of the LGPS (Scotland) Regulations 2014 (flexible retirement) the employer can:

- waive, in whole or in part, any actuarial reduction which would otherwise be applied to the benefits taken on flexible retirement before Normal Pension Age (NPA) [regulation 3(5) of, and paragraph 2(1) of Schedule 2 to, the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014, regulation 18(4) of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 and regulations 29(6) and 29(8) of the LGPS (Scotland) Regulations 2014]

#### **Notes:**

1. Membership credited under Regulation 79 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (the "Administration Regulations") or equivalent previous Regulations, or under regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 (transferred-in membership), in respect of Group 1 or 2 members should:
  - a) if the transfer occurred before 1 April 2008, be treated as Part A Membership
  - b) if the member was an active member immediately before 1 April 2008 and the Membership was credited under Regulation 79 of the Administration Regulations on or after 1 April 2008 and before 1 April 2015, the Membership should be treated as Part A Membership
  - c) if the member was **not** an active member immediately before 1 April 2008 and the Membership was credited under Regulation 79 of the Administration Regulations on or after 1 April 2008 and before 1 April 2015, the Membership should be treated as Part D2 Membership but note that such credited membership drags forward the 85 year rule for any pre-existing membership
  - d) if the Membership was credited under regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 where the relevant date was before 1 April 2015, the Membership should be treated as Part A membership if the member was an active member immediately before 1 April 2008 and, in any other case, Part D2 Membership but note that such credited membership does **not** drag forward the 85 year rule for any pre-existing membership.
2. Membership credited under Regulation 79 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (the "Administration Regulations") or equivalent previous Regulations, or under regulation 9 of the LGPS (Transitional Provisions and Savings)

(Scotland) Regulations 2014 (transferred-in membership), in respect of Group 3 members should:

- a) if the Membership was credited under Regulation 79 of the Administration Regulations and the member joined between 1 December 2006 and 31 March 2009, be treated as Part A or Part B Membership, as appropriate.
  - b) if the Membership was credited under Regulation 79 of the Administration Regulations and the member joined between 1 April 2009 and 31 March 2015, be treated as Part D2 Membership.
  - c) if the Membership was credited under regulation 9 of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 where the relevant date was before 1 April 2015, the Membership should be treated as Part A or part B Membership, as appropriate, if the member joined between 1 December 2006 and 31 March 2009 or as Part D2 Membership if the member joined between 1 April 2009 and 31 March 2015.
3. Pension purchased by a transfer in under the LGPS (Scotland) Regulations 2014 (other than from the LGPS) and credited in to the member's post 31 March 2015 pension account will purchase Part D1 benefits and will not drag forward the 85 year rule for any pre-existing membership (because it is purchasing an amount of pension, not membership).
  4. Membership purchased under regulations 54 and 82 of the LGPS (Scotland) Regulations 1998 or equivalent previous Regulations (added years) should be treated as Part A Membership if the election was before 1 December 2006 and the contributions were due to cease before the member's 65<sup>th</sup> birthday. Other Membership under Regulation 54 of the LGPS (Scotland) Regulations 1998 (where the contributions were due to cease on the member's 65<sup>th</sup> birthday or where the contract was taken out between 1 December 2006 and 31 March 2009) should be treated as Part D2 Membership.[paragraph 7 of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]
  5. Membership credited under Regulation 36 of the LGPS (Administration) (Scotland) Regulations 2008 or the equivalent in previous Regulations e.g. regulation 51 of the LGPS (Scotland) Regulations 1998 (Employer Augmented Membership) in respect of Group 1 or 2 members should be treated as Part A Membership if it was credited before 1 April 2008. Other Membership under Regulation 36 of the LGPS (Administration) (Scotland) Regulations 2008 or the equivalent in previous Regulations should be treated as Part D2 Membership, except for Group 3 members who joined between 1 December 2006 and 31 March 2009, for whom it should be treated as Part A or Part B Membership, as appropriate.

6. Membership granted by the employer under regulation 52 of the LGPS (Scotland) Regulations 1998 will count as Part A Membership.
7. Pension awarded under Regulation 20 of the LGPS (Administration) (Scotland) Regulations 2008 (pension purchased by an ARC), as continued in effect by regulation 15(1)(d) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014, should be treated as if it is payable unreduced from age 65.
8. Pension awarded under regulations 16 or 30 of the LGPS (Scotland) Regulations 2014 (pension purchased by an APC or SCAPC) is treated as payable from Normal Pension Age under the 2015 Scheme i.e. Part D1.
9. A transfer credit awarded under protected regulation 65(8) of the LGPS (Scotland) Regulations 1998 or equivalent previous Regulations should be reduced if it is taken earlier than the retirement age assumed for the calculation of the credit. For example, transfer credits awarded on or after 25 October 2011 (including transfer credits awarded after 1 April 2015) are calculated based on a retirement age of 65. Therefore, if taken before age 65, a reduction factor should be applied to the pension based on the period from the date of early retirement to age 65. Similarly, if a credit was previously calculated based on a member's CRA, then if taken early the pension should be reduced based on the period from the date of early retirement to the CRA.
10. Where:
  - (i) regulation 5(1) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 applies, or is deemed to apply by virtue of regulation 5(5) of those Regulations, and
  - (ii) the member subsequently left with a deferred pension or deferred refund, and
  - (iii) the member subsequently rejoins the LGPS after a break of more than 5 years in membership of a public service pension scheme, and
  - (iv) the membership is aggregated [regulations 10(3) and (4) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

OR

- (i) the member left with a deferred benefit pre 1 April 2015, and
- (ii) regulation 5(1) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 does not apply, and is not deemed to apply under regulation 5(5) of those Regulations, and
- (iii) the member rejoins the LGPS after 31 March 2015, and
- (iv) the membership is aggregated [regulation 10(6) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]

OR

- (i) the member left with a deferred refund pre 1 April 2015, and
- (ii) regulation 5(1) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 does not apply, and
- (iii) the member rejoins the LGPS after 31 March 2015, and
- (iv) the membership is aggregated  
[regulation 10(5) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014]

the amount of CARE pension purchased by the transfer will reflect the fact that the CETV for the earlier membership will have been calculated by reference to the member's 85 year rule and will be treated as Part D1 membership. Thus, where a member rejoins and aggregates membership under regulations 10(3) to (6) of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014, the cash equivalent transfer value in respect of the benefits being aggregated would reflect the effect of the 85 year rule applicable to those benefits. The CETV would recognise the member's 85 year rule and so would produce a higher CETV than if the member had not been subject to the 85 year rule and the amount of CARE pension bought by this CETV will therefore be higher than the amount bought by a member not subject to the 85 year rule.

The 85 year rule will continue to apply to that part of the member's post 2015 CARE pension accruing after rejoining if the member is a Group 1 member and rejoins before 1 April 2020 and, where that is the case, the qualifying period of membership that counted towards the 85 year rule in the calculation of the CETV for the earlier membership will count as 'qualifying' service towards when the 85 year rule is met for that part of the CARE pension accrued after rejoining the Scheme (but not for the CARE pension derived from the CETV, as the amount of pension credited from that CETV will already have compensated for the 'loss' of the 85 year rule on that part of the benefits).

[Regulations 10(3) to (6) of, and paragraph 8(2) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014].

#### **Disclaimer**

This document has been prepared based on the LGPC Secretariat's understanding of the information presently available including the relevant Statutory Instruments governing the Local Government Pension Scheme (Scotland), associated overriding legislation and relevant draft legislation. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the Local Government Association or the LGPC for any direct or consequential loss,

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~~Terry Edwards~~  
~~Senior Pensions Adviser~~  
~~10<sup>th</sup> April 2015~~  
~~LGPC Secretariat~~  
~~9 February 2017~~

**Rule of 85 Examples (Members electing to draw benefits from age 55-60)  
Schedule 2 of the LGPS (Transitional Provisions and Savings) (Scotland)  
Regulations 2014**

**Examples 1 - 2 = Member (male) meets R85 @ DOL**

**Examples 3 - 6 = Member (male) doesn't meet R85 @ DOL**

**Examples 7 - 8 = Member (female) meets R85 @ DOL**

**Examples 9 - 12 = Member (female) doesn't meet R85 @ DOL**

**Example 1 - Group 1 Member**

**Details:**

Gender: Male

DOB: 01/09/1956

Joined: 01/04/1981

Date draws benefits: 01/09/2015 (age 59)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 and  
Group 1 Member

New NPA = SPA: 66

**Membership**

Pre 01/04/2009 = 28 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2015 = 153 days

**Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland)  
Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS  
(Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that  
paragraph 1(3)(a) of that Schedule should apply. Paragraphs 1(2) and 1(4)(a) of that  
Schedule therefore apply.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2015
- Membership up to 31/08/2015 is reduced for period between drawing benefits and age 60.
- Therefore 1 year reduction applied to all this members benefits

Calculation:

Reduction on pension = period between drawing benefits and age 60 = 1 year = **6%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits  
and age 60 = 1 year = **3%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing  
benefits and age 60 = 1 year = **3%**

Note: in any individual case the employer can, for a Group 1 member, waive the  
actuarial reductions on pre 01/04/2020 membership on compassionate grounds and /

or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

**Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(a) of that Schedule therefore applies.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2015
- Membership up to 31/08/2015 no reduction.
- Therefore no reduction applied to this members benefits

Calculation:

Reduction on pension = period between drawing benefits and CRA = 0 years = **0%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**



## **Example 2 - Group 2 Member**

### **Details:**

Gender: Male

DOB: 01/09/1962

Joined: 01/04/1981

Date draws benefits: 01/09/2020 (age 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 and Group 2 Member

Protected NPA = 65

New NPA = SPA: 67

### **Membership**

Pre 01/04/2009 = 28 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2020 = 5 years 153 days

### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(a) of that Schedule should apply. Paragraphs 1(2) and 1(4)(a) of that Schedule therefore apply.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and age 60 = 2 years
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and 60 = 2 years = **11%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **33%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **39%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and 60 = 2 years = **6%**

Reduction on 1/4/2008 to 31/3/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(a) of that Schedule therefore applies.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = No Reduction
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **33%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **39%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Example 3 - Group 1 Member - Doesn't Meet R85 @ DOL**

#### **Details:**

Gender: Male

DOB: 01/09/1956

Joined: 01/04/1989

Date draws benefits: 01/06/2015 (age attained 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 @

CRA 59 and Group 1 Member

Protected NPA = 65

New NPA = SPA: 66

#### **Membership**

Pre 01/04/2009 = 20 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/05/2015 = 61 days

#### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(b) of that Schedule should apply. Paragraphs 1(2) and 1(4)(b) of that Schedule therefore apply.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/06/2015
- Membership up to 31/05/2015 = Reduction for period between drawing benefits and age 60 = 1 year 92 days years

Calculation:

Reduction on pension = period between drawing benefits and age 60 = 1 year 92 days  
 $= (92/365 \times 11) + (273/365 \times 6)^* = \mathbf{7.2603\%}$

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and age 60 = 1 year 92 days  
 $= (92/365 \times 6) + (273/365 \times 3)** = \mathbf{3.7562\%}$

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and age 60 = 1 year 92 days  
 $= (92/365 \times 6) + (273/365 \times 3)** = \mathbf{3.7562\%}$

\* Alternative method of calculation: 1 year = 6%, 2 years = 11% (difference = 5%)  
 $6 + (92/365 \times 5) = 7.2603\%$

\*\* Alternative method of calculation: 1 year = 3%, 2 years = 6% (difference = 3%)  
 $3 + (92/365 \times 3) = 3.7562\%$

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

## **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(b) of that Schedule therefore applies.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/06/2015
- Membership up to 31/05/2015 = Reduction for period between drawing benefits and CRA = 92 days years

Calculation:

Reduction on pension = period between drawing benefits and CRA = 92 days =  $(92/365 \times 6) = \mathbf{1.5123\%}$

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 92 days =  $(92/365 \times 3) = \mathbf{0.7562\%}$

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 92 days =  $(92/365 \times 3) = \mathbf{0.7562\%}$

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

#### **Example 4 - Group 2 Member**

##### **Details:**

Gender: Male

DOB: 01/09/1962

Joined: 01/04/1995

Date draws benefits: 01/09/2020 (age 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 at age 59 and Group 2 Member

Protected NPA = 65

New NPA = SPA: 67

##### **Membership**

Pre 01/04/2009 = 14 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2020 = 5 years 153 days

##### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(b) of that Schedule should apply. Paragraphs 1(2) and 1(4)(b) of that Schedule therefore apply.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and age 60 = 2 years
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

##### Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and 60 = 2 years = **11%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **33%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **39%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and 60 = 2 years = **6%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(b) of that Schedule therefore applies.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and CRA = 1 year
- Membership up from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and CRA = 1 year = **6%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **33%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **39%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 1 year = **3%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Example 5 - Group 1 Member**

#### **Details:**

Gender: Male

DOB: 01/02/1957

Joined: 01/05/1999

Date draws benefits: 01/09/2019 (attained age 62)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 at 31/01/2021 (aged 64) and is a Group 1 Member

Protected NPA = 65

New NPA = SPA: 66

Purchased £500 additional annual pension via APCs

Member is entitled to an annual pension Underpin of £100

#### **Membership**

Pre 01/04/2009 = 9 years 335 days

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2019 = 4 years 153 days

#### **Calculation**

Draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2019
- Membership up to 31/08/2019 = Reduction for period between drawing benefits and CRA = 1 year 153 days

Reduction on pre 01/09/2019 pension (including £100.00 underpin) = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 11) + (212/365 \times 6) =$   
**8.096%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 6) + (212/365 \times 3) =$  **4.2575%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 6) + (212/365 \times 3) =$  **4.2575%**

Reduction on APCs = period between drawing benefits and new NPA = 3 years 153 days =  $(153/365 \times 21) + (212/365 \times 16) =$  **18.0959%**

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership, and on the additional pension from APCs, in whole or in part on any grounds.

### **Example 6 - Group 1 Member**

#### **Details:**

Gender: Male

DOB: 01/09/1956

Joined: 01/04/1991

Left: 31/03/2011

Rejoined 01/05/2016 (and has had a continuous break in membership of public service pension schemes of more than 5 years)

Aggregated earlier membership which purchased an amount of pension of £6,000 in the member's CARE pension account

Date draws benefits: 01/09/2018 (age 62)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 – Qualifying service from earlier LGPS membership counts towards 85 year rule applicable to pension in the member's CARE pension account built up from 01/05/2016 to 31/08/2018

Meets R85 at 30/04/2019 and Group 1 Member

85 year rule does not apply to the £6,000 pension purchased from the aggregated membership

Protected NPA = 65

New NPA = SPA: 66

#### **Qualifying service**

01/04/1991 to 31/03/2011 = 20 years

#### **Membership**

01/05/2016 to 31/08/2018 = 2 years 123 days

#### **Calculation:**

Draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014.

- Membership from 01/05/2016 to 31/08/2018 = Reduction on this membership for period between drawing benefits and CRA

Reduction on 01/05/2016 to 31/08/2018 pension = period between drawing benefits and CRA = 242 days =  $(242/365 \times 6) + (121/365 \times 0) = \mathbf{3.9781\%}$

Reduction on the revalued £6,000 pension bought when the previous service was aggregated = period between drawing the pension and new NPA = 4 years = **21%**

Note: the employer can waive the actuarial in whole or in part on any grounds.



### **Example 7 - Group 1 Member**

#### **Details:**

Gender: Female

DOB: 01/09/1956

Joined: 01/04/1981

Date draws benefits: 01/09/2015 (age 59)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 and

Group 1 Member

New NPA = SPA: 66

#### **Membership**

Pre 01/04/2009 = 28 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2015 = 153 days

#### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(a) of that Schedule should apply. Paragraphs 1(2) and 1(4)(a) of that Schedule therefore apply.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2015
- Membership up to 31/08/2015 is reduced for period between drawing benefits and age 60.
- Therefore 1 year reduction applied to all this members benefits

Calculation:

Reduction on pension = period between drawing benefits and age 60 = 1 year = **6%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and age 60 = 1 year = **3%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and age 60 = 1 year = **3%**

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

#### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(a) of that Schedule therefore applies.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2015
- Membership up to 31/08/2015 no reduction.
- Therefore no reduction applied to this members benefits

Calculation:

Reduction on pension = period between drawing benefits and CRA = 0 years = **0%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**

### **Example 8 - Group 2 Member**

#### **Details:**

Gender: Female

DOB: 01/09/1962

Joined: 01/04/1981

Date draws benefits: 01/09/2020 (age 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 and Group 2 Member

Protected NPA = 65

New NPA = SPA: 67

#### **Membership**

Pre 01/04/2009 = 28 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2020 = 5 years 153 days

#### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland)

Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(a) of that Schedule should apply. Paragraphs 1(2) and 1(4)(a) of that Schedule therefore apply.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and age 60 = 2 years
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and 60 = 2 years = **11%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **31%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **38%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and 60 = 2 years = **6%**

Reduction on 1/4/2008 to 31/3/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(a) of that Schedule therefore applies.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = No Reduction
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **31%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **38%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 0 years = **0%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Example 9 - Group 1 Member - Doesn't Meet R85 @ DOL**

#### **Details:**

Gender: Female

DOB: 01/09/1956

Joined: 01/04/1989

Date draws benefits: 01/06/2015 (age attained 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 @

CRA 59 and Group 1 Member

Protected NPA = 65

New NPA = SPA: 66

#### **Membership**

Pre 01/04/2009 = 20 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/05/2015 = 61 days

#### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(b) of that Schedule should apply. Paragraphs 1(2) and 1(4)(b) of that Schedule therefore apply.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/06/2015
- Membership up to 31/05/2015 = Reduction for period between drawing benefits and age 60 = 1 year 92 days years

Calculation:

Reduction on pension = period between drawing benefits and age 60 = 1 year 92 days

=  $(92/365 \times 11) + (273/365 \times 6)^* = 7.2603\%$

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and age 60 = 1 year 92 days =  $(92/365 \times 6) + (273/365 \times 3)** = 3.7562\%$

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and age 60 = 1 year 92 days =  $(92/365 \times 6) + (273/365 \times 3)** = 3.7562\%$

\* Alternative method of calculation: 1 year = 6%, 2 years = 11% (difference = 5%)

$6 + (92/365 \times 5) = 7.2603\%$

\*\* Alternative method of calculation: 1 year = 3%, 2 years = 6% (difference = 3%)  
 $3 + (92/365 \times 3) = 3.7562\%$

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(b) of that Schedule therefore applies.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/06/2015
- Membership up to 31/05/2015 = Reduction for period between drawing benefits and CRA = 92 days years

Calculation:

Reduction on pension = period between drawing benefits and CRA = 92 days =  
 $(92/365 \times 6) = 1.5123\%$

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 92 days =  $(92/365 \times 3) = 0.7562\%$

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 92 days =  $(92/365 \times 3) = 0.7562\%$

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership in whole or in part on any grounds.

### **Example 10 - Group 2 Member**

#### **Details:**

Gender: Female

DOB: 01/09/1962

Joined: 01/04/1995

Date draws benefits: 01/09/2020 (age 58)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 at age 59 and Group 2 Member

Protected NPA = 65

New NPA = SPA: 67

#### **Membership**

Pre 01/04/2009 = 14 years

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2020 = 5 years 153 days

#### **Option 1**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**No employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that paragraph 1(3)(b) of that Schedule should apply. Paragraphs 1(2) and 1(4)(b) of that Schedule therefore apply.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and age 60 = 2 years
- Membership from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and 60 = 2 years = **11%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **31%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **38%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and 60 = 2 years = **6%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Option 2**

Leaves and draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014

**Yes - employer discretion** used under paragraph 1(1)(c) of Schedule 2 to the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 to agree that Rule of 85 should be turned on in full. Paragraph 1(3)(b) of that Schedule therefore applies.

- Paragraph 3(2) - Schedule 2 = Relevant Date = 01/04/2008
- Membership up to 31/03/2008 = Reduction for period between drawing benefits and CRA = 1 year
- Membership up from 01/04/2008 to 31/03/2015 = Reduction on this membership for period between drawing benefits and protected NPA
- Membership from 01/04/2015 to 31/08/2020 = Reduction on this membership for period between drawing benefits and new NPA

Calculation:

Reduction on pre 01/04/2008 pension = period between drawing benefits and CRA = 1 year = **6%**

Reduction on 01/04/2008 to 31/03/2015 pension = period between drawing benefits and protected NPA = 7 years = **31%**

Reduction on 01/04/2015 to 31/08/2020 pension = period between drawing benefits and new NPA = 9 years = **38%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 1 year = **3%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and protected NPA = 7 years = **19%**

Note: in any individual case the employer can, for a Group 2 member, waive the actuarial reductions on pre 01/04/2015 membership on compassionate grounds and /



or waive the actuarial reductions on any post 31/03/2015 membership in whole or in part on any grounds.

### **Example 11 - Group 1 Member**

#### **Details:**

Gender: female

DOB: 01/02/1957

Joined: 01/05/1999

Date draws benefits: 01/09/2019 (attained age 62)

~~In on 30/11~~ Was a member of the 1998 Scheme before 01/12/2006 - Meets R85 at 31/01/2021 (aged 64) and is a Group 1 Member

Protected NPA = 65

New NPA = SPA: 66

Purchased £500 additional annual pension via APCs

Member is entitled to an annual pension Underpin of £100

#### **Membership**

Pre 01/04/2009 = 9 years 335 days

01/04/2009 to 31/03/2015 = 6 years

01/04/2015 to 31/08/2019 = 4 years 153 days

#### **Calculation**

Draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014.

- Paragraph 3(1) - Schedule 2 = Relevant Date = 01/09/2019
- Membership up to 31/08/2019 = Reduction for period between drawing benefits and CRA = 1 year 153 days

Reduction on pre 01/09/2019 pension (including £100.00 underpin) = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 11) + (212/365 \times 6) =$   
**8.0959%**

Reduction on pre 01/04/2008 3/80ths lump sum = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 6) + (212/365 \times 3) =$  **4.2575%**

Reduction on 01/04/2008 to 31/03/2009 3/80ths lump sum = period between drawing benefits and CRA = 1 year 153 days =  $(153/365 \times 6) + (212/365 \times 3) =$  **4.2575%**

Reduction on APCs = period between drawing benefits and new NPA = 3 years 153 days =  $(153/365 \times 20) + (212/365 \times 15) = 17.0959\%$

Note: in any individual case the employer can, for a Group 1 member, waive the actuarial reductions on pre 01/04/2020 membership on compassionate grounds and / or waive the actuarial reductions on any post 31/03/2020 membership, and on the additional pension from APCs, in whole or in part on any grounds.

### **Example 12 - Group 1 Member**

#### **Details:**

Gender: Female

DOB: 01/09/1956

Joined: 01/04/1991

Left: 31/03/2011

Rejoined 01/05/2016 (and has had a continuous break in membership of public service pension schemes of more than 5 years)

Aggregated earlier membership which purchased an amount of pension of £6,000 in the member's CARE pension account

Date draws benefits: 01/09/2018 (age 62)

~~In on 30/4/19~~ Was a member of the 1998 Scheme before 01/12/2006 – Qualifying service from earlier LGPS membership counts towards 85 year rule applicable to pension in the member's CARE pension account built up from 01/05/2016 to 31/08/2018

Meets R85 at 30/04/2019 and Group 1 Member

85 year rule does not apply to the £6,000 pension purchased from the aggregated membership

Protected NPA = 65

New NPA = SPA: 66

#### **Qualifying service**

01/04/1991 to 31/03/2011 = 20 years

#### **Membership**

01/05/2016 to 31/08/2018 = 2 years 123 days

#### **Calculation:**

Draws benefits under Regulation 29(5) of the LGPS (Scotland) Regulations 2014.

- Membership from 01/05/2016 to 31/08/2018 = Reduction on this membership for period between drawing benefits and CRA

Reduction on 01/05/2016 to 31/08/2018 pension = period between drawing benefits and CRA = 242 days =  $(242/365 \times 6) + (121/365 \times 0) = 3.9781\%$

Reduction on the revalued £6,000 pension bought when the previous service was aggregated = period between drawing the pension and new NPA = 4 years = **20%**

Note: the employer can waive the actuarial in whole or in part on any grounds.