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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 290**

The Public Service (Civil Servants and Others)  
Pensions Regulations (Northern Ireland) 2014

PART 10

Transfers

CHAPTER 1

Preliminary

**Application of Part**

**140.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of the 1993 Act (transfer values) and is without prejudice to that Chapter; and
- (b) supplements the rights conferred by or under Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds)(1) and is without prejudice to that Chapter.

**Interpretation in relation to Part**

**141.** In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act(2);

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

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

“guarantee date” has the meaning given in regulation 144;

“guaranteed cash equivalent” means, in relation to calculating the transfer value of accrued rights to benefits under this scheme, the cash equivalent of those benefits as at the guarantee date, as specified in a statement of entitlement;

“statement of entitlement”, in relation to an active or deferred member’s accrued rights to benefits under this scheme, means a statement by the scheme manager of the cash equivalent or club transfer value of those benefits as at the guarantee date;

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(1) Chapter 5 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 was inserted by Article 241 of the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#)

(2) Section 93 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.165 Sch.4 para.6 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4) section 52 and Sch.5 para.5(1)

“transfer value” means, for accrued rights to benefits other than accrued earned pension which is the subject of a club transfer—

- (a) for accrued rights to benefits under this scheme, an amount equal to—
  - (i) the guaranteed cash equivalent of those benefits; or
  - (ii) the guaranteed cash equivalent together with any increase payable under regulation 146; and
- (b) for accrued rights to benefits under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and
  - (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme.

## CHAPTER 2

### Transfers out

#### **Transfer payments made to other schemes or pension arrangements**

**142.**—(1) A transfer payment may only be made in respect of the accrued rights to benefits of an active or deferred member of this scheme.

(2) A transfer payment may only be made to—

- (a) a registered pension scheme that is not a connected scheme; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 169(2)(3) (recognised transfers) of the Act).

(3) A transfer payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer payment in a way specified in section 91(2) (ways of taking right to cash equivalent) of the 1993 Act(4).

(5) A member may only require the scheme manager to make a club transfer value payment during the period of 12 months beginning with the day on which the member becomes eligible to be an active member of the scheme to which the payment is to be made.

(6) The whole of the transfer payment must be made in accordance with the provisions of this regulation.

(7) If section 92(2) (further provisions concerning exercise of option under section 91) of the 1993 Act(5) applies, benefits attributable to the following may be excluded from the transfer payment—

- (a) the member’s accrued rights to a guaranteed minimum pension; or
- (b) the member’s accrued rights attributable to service in contracted-out employment within the meaning of Part 3 (certification of pension schemes and effects on members’ state scheme rights and duties) of the 1993 Act, on or after 6 April 1997.

(3) Section 169(2) was amended by Finance Act 2013 (c.29) section 53(2) and (3)

(4) Section 91(2)(c) was amended by S.I. 2001/3649, Arts.133

(5) Section 92(2) was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.147 and Sch.3 para.53(a), the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) Arts.17,76, Sch.2 para.2(2)(b) and Sch.10 Pt 1, the Pensions Act (Northern Ireland) 2008 (2008 c.1) sections 13,19 ,Sch.4 para.29 and Sch.6 Pt.6 and the Pensions (2008 No.2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012 No. 124) Art.4(14)(a)

### **Application for a statement of entitlement**

**143.**—(1) This regulation applies in relation to an active or deferred member of this scheme (P) who requires a transfer payment to be made in respect of P’s accrued rights to benefits under this scheme.

(2) Before requesting the transfer payment, P must apply for a statement of entitlement by notice to the scheme manager.

(3) P may withdraw the application by notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by notice to the scheme manager in the period of 12 months beginning with the date of the first application<sup>(6)</sup>.

### **Statement of entitlement**

**144.**—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent or club transfer value is calculated (“guarantee date”).

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

(a) the 3 months beginning with the date of the member’s application for the statement of entitlement (“the 3 month period”); and

(b) the 10 days ending with the date on which the member is provided with that statement (“the 10 day period”).

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member’s application for the statement of entitlement if, for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent or club transfer value cannot be obtained before the end of the 3 month period.

### **Request for transfer payment to be made**

**145.**—(1) An active or deferred member of this scheme who is provided with a statement of entitlement may request a transfer payment to be made in respect of the member’s accrued rights to benefits under this scheme.

(2) The request for the transfer payment must—

(a) be made by notice to the scheme manager;

(b) specify the pension scheme or other pension arrangement to which the transfer payment is to be made; and

(c) meet any other conditions the scheme manager requires.

(3) The member may, by notice to the scheme manager withdraw the request at any time before the transfer payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer payment has already been entered into with a third party.

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<sup>(6)</sup> Regulation 6(3) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 619) provides that a member may not make a second application within this period unless the rules of the scheme provide otherwise.

**Calculating the amount of a transfer value or club transfer value**

**146.**—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act.

(2) If a club transfer value is paid later than 6 months after the guarantee date, the amount of the club transfer value as specified in the statement of entitlement must be increased if necessary so that it is equal to the amount it would have been if the guarantee date had been the date on which the payment is made.

(3) If the transfer value or club transfer value is less than the minimum transfer value, the amount of the transfer value or club transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(4) In this regulation—

“minimum transfer value” means the total of—

- (a) the sum of all member contributions and payments for extra pension made by the member; and
  - (b) the sum of all transfer payments received by this scheme in relation to the member;
- “member contributions” has the meaning given in regulation 134; and  
“payments for extra pension” has the meaning given in regulation 139.

**Effect of transfers-out**

**147.** If a transfer payment is made under this Chapter in respect of a member’s accrued rights to benefits under this scheme, those rights are extinguished.

**CHAPTER 3****Transfers in****Application of Chapter**

**148.** This Chapter applies in relation to an active member of this scheme who has accrued rights under another pension scheme (P).

**Interpretation of Chapter**

**149.** In this Chapter—

“accrued rights” does not include rights accrued under the Northern Ireland Civil Service Additional Voluntary Contribution Scheme if the scheme manager considers that the amount to which the member is entitled under that Scheme is sufficient for the purchase of an annuity for the member;

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a personal pension scheme; or
- (c) the Northern Ireland Civil Service Additional Voluntary Contribution Scheme;

“Northern Ireland Civil Service Additional Voluntary Contribution Scheme” means the scheme which was made on 23rd March 1989 under Article 3 of the 1972 Order, as amended from time to time;

“club transfer value statement” means a statement under regulation 153 of the amount of club transfer earned pension;

“transfer date” means the earlier of—

- (a) if the scheme manager has provided a transfer statement or a club transfer value statement, the last day of the period of 2 months beginning with the date of the statement; or
- (b) the day on which the transfer payment is received by the scheme manager;

“transfer payment request” means a request to the scheme manager under this Chapter that a transfer payment be accepted from another pension scheme;

“transfer statement” means a statement under regulation 151(2).

### **Request for acceptance of a transfer payment**

**150.**—(1) P may by notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P’s accrued rights to benefits under another pension scheme.

(2) A transfer payment request—

- (a) must specify—
  - (i) the pension scheme from which the transfer payment is requested to be made; and
  - (ii) the anticipated amount of the transfer payment;
- (b) must meet any other conditions the scheme manager requires; and
- (c) subject to paragraph (3), must be made during the period of 12 months beginning with the day on which P becomes eligible to be an active member of this scheme.

(3) A request that a transfer payment be accepted from the Northern Ireland Civil Service Additional Voluntary Contribution Scheme must be made—

- (a) within the period of 3 months ending with the day on which P is first entitled to receive retirement benefits under this scheme; or
- (b) if the scheme manager considers it reasonable in the circumstances, within any longer period the scheme manager directs.

(4) The scheme manager may direct that a transfer payment request is to be treated as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(5) Subject to paragraph (6) on receiving a transfer payment request, the scheme manager may accept the transfer payment if all of such conditions as the scheme manager may have required are met.

(6) The scheme manager may not accept a transfer value payment if—

- (a) it would be applied in whole or in part in respect of—
  - (i) the member’s entitlement to a guaranteed minimum pension; or
  - (ii) the entitlement of the member’s spouse to a guaranteed minimum pension; and
- (b) it is less than the amount required for that purpose, as calculated in accordance with guidance and tables determined by the Department for the purposes of this paragraph, after consultation with the scheme actuary.

### **Transfer statement**

**151.**—(1) This regulation applies in relation to a request by P for a transfer value payment to be accepted from another pension scheme

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager to provide a statement of the amount of transferred pension that P will be entitled to count under regulation 152 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2 month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

### **Amount of transferred pension**

**152.**—(1) This regulation applies in relation to a transfer value payment received from another pension scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension P is entitled to count in respect of the transfer value payment is—

- (a) the amount specified in the transfer statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

(3) The amount of transferred pension P is entitled to count in a scheme year must not be more than 50% of P's annual rate of pensionable earnings as at the day P becomes an active member of this scheme.

### **Club Transfer value statement**

**153.**—(1) This regulation applies in relation to a request by P for a club transfer value payment to be accepted from another club scheme.

(2) The scheme manager may require that, before making the transfer payment request, P must ask the scheme manager to provide a statement of the amount of club transfer earned pension that P will be entitled to count under regulation 154 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount of club transfer earned pension specified in the statement must be calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2 month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

(4) The statement must specify the basis on which an amount of accrued earned pension is revalued under the sending scheme while a member is in pensionable service under that scheme.

### **Amount of club transfer earned pension**

**154.**—(1) This regulation applies in relation to a club transfer value payment received from another club scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count in respect of a club transfer value payment is—

- (a) the amount specified in the club transfer value statement; or

- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

## CHAPTER 4

### Bulk transfers

#### **Bulk transfers out**

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

- (a) the employment of one or more active members (“the transferring employees”) is transferred without their consent to a new employer,
- (b) on that transfer, the transferring employees—
  - (i) cease to be eligible to be active members of this scheme, and
  - (ii) become active members of another occupational pension scheme (“the new employer’s scheme”),
- (c) the scheme manager has agreed special terms for making transfer payments to the new employer’s scheme in respect of the rights of the transferring employees, after consultation with the scheme actuary, and
- (d) the transferring employees have consented in writing to their rights being transferred in accordance with those terms.

(2) This regulation also applies if—

- (a) the rights of one or more members (“the transferred members”) are transferred to another occupational pension scheme (“the new scheme”) from this scheme without their consent in accordance with section 69(2)(a)(i) and (4)(b) (form of short service benefit and its alternatives) of the 1993 Act, and
- (b) the scheme manager has agreed special terms for the making of transfer payments to the new scheme in respect of the rights of the transferred members, after consultation with the scheme actuary.

(3) The transfer payment to be made in respect of the rights of the transferring employees or the transferred members is an amount that the scheme manager determines to be appropriate under the special terms, after consulting the scheme actuary.

(4) This Part has effect with any modifications the scheme manager considers necessary to give effect to those terms.

(5) If the Department gives an undertaking concerning the pension rights of the transferring employees or the transferred members, this Part has effect with any modifications the scheme manager considers necessary to reflect the terms of the undertaking.

(6) If the transfer is directly or indirectly attributable to an enactment, this Part has effect with any modifications the scheme manager considers necessary in consequence of the transfer.

#### **Bulk transfers in**

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

- (a) the employment of one or more persons (“the transferred employees”) is transferred without their consent to a new employer;
- (b) on that transfer, the transferred employees—
  - (i) cease to be active members of an occupational pension scheme (“the former employer’s scheme”); and

- (ii) become active members of this scheme;
  - (c) the scheme manager has agreed special terms for the acceptance of transfer payments from the former employer's scheme in respect of the rights of the transferred employees, after consulting the scheme actuary, and
  - (d) the transferred employees have consented in writing to their rights being transferred in accordance with those terms.
- (2) This regulation also applies if—
- (a) the rights of one or more persons (“the transferred members”) are transferred from an occupational pension scheme (“the former scheme”) to this scheme without their consent in accordance with section 69(2)(a)(i) and (4)(b) (form of short service benefit and its alternatives) of the 1993 Act; and
  - (b) the scheme manager has agreed special terms for the acceptance of transfer payments from the former scheme in respect of the rights of the transferred members, after consultation with the scheme actuary.
- (3) This scheme has effect with any modifications the scheme manager considers necessary to give effect to the special terms.
- (4) If the Department gives an undertaking concerning the pension rights of the transferred employees or the transferred members, this scheme has effect with any modifications the scheme manager considers necessary to reflect the terms of the undertaking.
- (5) If the transfer is directly or indirectly attributable to an enactment, this scheme has effect with any modifications the scheme manager considers necessary in consequence of the transfer.

## CHAPTER 5

### Miscellaneous transfers

#### **EU and overseas transfers**

- 157.**—(1) This regulation applies in the case of a member whose transfer is subject to transfer arrangements concluded with—
- (a) the Communities Pension Scheme of the Institutions of the European Communities; or
  - (b) any other scheme for the provision of retirement benefits established outside the United Kingdom.
- (2) This scheme applies in relation to the member with any modifications the scheme manager considers necessary to comply with—
- (a) the terms of those arrangements;
  - (b) any applicable provision contained in or made under any enactment; and
  - (c) the requirements to be met by a registered pension scheme.