
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 164

**The Local Government Pension
Scheme (Scotland) Regulations 2014**

PART 1

Membership, contributions and benefits

Contributions

Additional voluntary contributions

17.—(1) An active member may enter into arrangements to pay additional voluntary contributions (“AVCs”) or to contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”) in respect of an employment.

(2) The arrangements mentioned in paragraph (1) must be a scheme established under an agreement between the appropriate administering authority and a body approved for the purposes under the Finance Act 2004(1) (“the AVC provider”), registered in accordance with that Act and administered in accordance with the Pensions Act 2004(2).

(3) Where an active member wishes to make contributions to an arrangement under paragraph (1), the active member or the AVC provider authorised by the member to act on the member’s behalf must specify in a written notice given both to the appropriate administering authority and the member’s Scheme employer, if the member is not employed by the administering authority—

- (a) the percentage of pensionable pay or the amount that the member wishes to contribute from pensionable pay in respect of an employment in each pay period (but see paragraph (4)); and
- (b) whether any of the contributions are to be used to provide life assurance benefits payable upon death in service as an active member and, if so, the proportion or amount to be so used.

(4) Where a member is paying AVCs for life assurance and pensionable pay in a pay period, net of any deductions made by the Scheme employer, is less than the AVC due, the member may pay the contribution due by way of a payment direct to the AVC provider or to the Scheme employer for onward transmission to that body in order to ensure that the life assurance cover continues.

(5) A member may vary the amount specified in, or cease contributing to, an arrangement by a further written notice given to the member’s Scheme employer and appropriate administering authority by the member or by the AVC provider authorised by the member to act on the member’s behalf.

(6) The date the AVC becomes payable is the date specified in regulation 19(5) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(3).

(1) 2004 c.12.
(2) 2004 c.35.
(3) S.I. 2013/2734.

(7) If a member draws benefits under regulation 29(1), (2), (4), (5), (7), (10) to (12) (retirement benefits) or regulation 34(1) (early payment of retirement pension on ill-health grounds: active members) or, if a member who draws benefits under regulation 29(6) (flexible retirement) makes an election to draw the realisable value in the AVC arrangement at the same time, that member must notify the appropriate administering authority that the realisable value under arrangements made under this regulation—

- (a) is to be taken in full or in part by the member as a lump sum, and where only part is taken as a lump sum, the member must specify the amount to be so taken; and
- (b) to the extent that the realisable value has not been taken as a lump sum, it is to be used—
 - (i) to purchase additional pension under the Scheme, the amount of which is to be determined by the administering authority in accordance with actuarial guidance issued by the Scottish Ministers, or
 - (ii) to the extent that it has not been used to purchase additional pension under the Scheme, to purchase an annuity from one or more insurance companies (within the meaning of section 275 of the Finance Act 2004⁽⁴⁾).

(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of a lump sum, that sum forms part of the total amount referred to in regulation 32(2) (election for lump sum instead of a pension).

(9) A person with an arrangement under paragraph (1) who becomes a deferred member of the Scheme is entitled to a deferred AVC account with the AVC provider.

(10) A member must transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 94 (rights to payment out of pension fund).

(11) Where a member aggregates a deferred member's pension account or a deferred refund account with an active member's pension account, the realisable value in any deferred AVC account must be transferred to an arrangement under this regulation and the member may make an election to make further payments to the arrangement.

(12) If—

- (a) an active member who is paying contributions to an AVC or SCAVC for the purpose of life assurance dies; or
- (b) an active member who is paying contributions to an AVC or SCAVC other than for the purpose of life assurance dies; or
- (c) a deferred member dies and has a deferred AVC account attached to the deferred member's pension account; or
- (d) a pension credit member who has been awarded a share of a member's AVC account dies before drawing benefits; or
- (e) a member who has made an election under paragraph (7)(b)(ii) dies before the annuity has been purchased,

the appropriate administering authority shall, at its absolute discretion, decide that any life assurance sum due under sub-paragraph (a), and the realisable value of any arrangement under sub-paragraphs (b) to (e), should be paid to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.

(13) Where a member had attained the age of 75 at the date of death, any tax chargeable under section 206 of the Finance Act 2004 (special lump sum death benefits charge) is to be deducted from the payment due under paragraph (12) or (14).

(4) 2004 c.12.

(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the administering authority did not know about the member's death within that period, beginning with the date on which the administering authority could reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall must be paid to the member's personal representatives.

(15) Regulations 70 (first instance decisions) and 89 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 19(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member.