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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 19**

**The Firefighters' Pension Scheme (Scotland) Regulations 2015**

**PART 9**

**Transfers**

**CHAPTER 1**

**Preliminary**

**Application of Part**

**121.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of PSA 1993 (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**

**122.** In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 97 of PSA 1993;

“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 125 (statement of entitlement);

“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;

“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

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(1) Chapter 5 of Part 4 of PSA 1993 was inserted by section 264 of the Pensions Act 2004 (c.35).

- (ii) the guaranteed cash equivalent together with any increase payable under regulation 127 (calculating amount of a transfer value or club transfer value), 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**

**123.**—(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 of FA 2004 (see section 169(2) of that 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 95(2) of PSA 1993.

(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 96(2) of PSA 1993 (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member's other rights) 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 of PSA 1993, on or after 6th April 1997.

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

**124.**—(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 this transfer payment, P must apply for a statement of entitlement by written notice to the scheme manager.

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

(4) P may make a second application in the period of 12 months beginning with the date of the first application.

### **Statement of entitlement**

**125.**—(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 (“the guarantee date”).

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

(a) the three months beginning with the date of the member’s application for the statement of entitlement (“the three 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 six months beginning with the date of the member’s application for the statement of entitlement if—

(a) 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 three month period; and

(b) the scheme manager considers it reasonable to specify a guarantee date that falls outside the three month period.

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

**126.**—(1) An active or a 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 transfer payment must be made by written notice to the scheme manager and specify the pension scheme or other pension arrangement to which the transfer payment is to be made.

(3) A deferred member must exercise the right to apply for the payment of a club transfer value on the earlier of the day before the deferred member attains the deferred pension age and the end of the period of 12 months beginning with the date on which the deferred member ceased to be an active member of the scheme.

(4) A deferred member must exercise the right to apply for the payment of a transfer value on or before the day before the deferred member attains the deferred pension age.

(5) Subject to paragraph (6), the member by written notice to the scheme manager may withdraw the request at any time before the transfer payment is made.

(6) 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.

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

**127.**—(1) Subject to paragraphs (2) and (3), the amount of the transfer value is to be calculated in accordance with actuarial guidance as at the guarantee date.

(2) If a transfer value is paid later than six months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 97 (calculation of cash equivalents) of PSA 1993.

(3) If a club transfer value is paid later than six 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.

(4) 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.

(5) In this regulation—

“the minimum transfer value” means the total of—

- (a) the sum of all member contributions and added pension payments made by the member; and
- (b) the sum of all transfer payments received by this scheme in relation to the member.

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

**128.** 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**

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

### **Interpretation of Chapter**

**130.** In this Chapter—

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a qualifying recognised overseas pension scheme for the purposes of Part 4 of FA 2004; or
- (c) a personal pension scheme;

“club transfer value statement” means a statement under regulation 134 (club transfer value statement) 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 two 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 132 (transfer statement).

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

**131.—(1)** P may by written notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P’s accrued rights 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; and

(b) subject to paragraph (3), must be made before the beginning of the period of one year ending with the date on which the member reaches normal pension age.

(3) A request that a transfer payment be accepted from a non-occupational pension scheme must be made during the period of one year beginning with the day on which the member becomes an active member or such longer period as the scheme manager may allow.

(4) On receiving a transfer payment request, the scheme manager may accept the transfer payment.

### **Transfer statement**

**132.**—(1) This regulation applies in relation to—

- (a) a request for a transfer payment to be accepted from another pension scheme that is not a club scheme; and
- (b) a request for a transfer payment in respect of added pension to be accepted from another club scheme.

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager of the other scheme to provide a statement of the amount of transferred pension, calculated in accordance with actuarial guidance, that P will be entitled to count under regulation 133 (amount of transferred pension) provided that the transfer date falls within the period of two months beginning with the date of that statement.

### **Amount of transferred pension**

**133.**—(1) This regulation applies in relation to—

- (a) any transfer payment received in relation to P from another pension scheme that is not a club scheme; and
- (b) any transfer payment in respect of added pension received in relation to P from another club scheme.

(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 payment is—

- (a) the amount specified in the transfer statement; or
- (b) if such a statement is not provided or is not calculated in accordance with actuarial guidance, an amount calculated by the scheme manager in accordance with actuarial guidance.

### **Club transfer value statement**

**134.**—(1) This regulation applies in relation to a request 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 of the sending scheme to provide a statement of the amount of club transfer earned pension, calculated in accordance with actuarial guidance, that P will be entitled to count under regulation 135 (amount of club transfer earned pension) if the transfer date falls within the period of two months beginning with the date of that statement.

(3) 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**

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

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count 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.

### **CHAPTER 4**

#### **Provision of certificates**

#### **Requirement for scheme manager to provide a certificate**

**136.**—(1) The scheme manager must, if requested to do so by a member who has ceased to be employed in scheme employment and has taken up employment with a fire and rescue authority in England, Wales or Northern Ireland, provide that member with a certificate stating—

- (a) the entries in the pension account, or pension accounts if more than one, at the date of the certificate;
- (b) the period of pensionable service in the scheme employment, or employments; and
- (c) the date on which the certificate is given.

(2) Where the scheme manager is required to provide a certificate under paragraph (1) and the scheme manager had established an added pension account for that member, the scheme manager must provide the member with a certificate stating—

- (a) the entries in the added pension account at the date of the certificate;
- (b) the date on which the certificate is given; and
- (c) details of the member's added pension election where the contributions period has not ended.

(3) The scheme manager must provide a certificate under this regulation within three months of the date on which the member leaves scheme employment.

#### **Request to confirm details on certificate**

**137.** Where a member has been provided with a certificate under regulation 136 (requirement for scheme manager to provide a certificate) and is dissatisfied with the information stated on the certificate, that member may within the period of three months commencing on the date on which the certificate was received, request the scheme manager to confirm the accuracy of the information contained in it or to provide an amended certificate.

#### **Appeal concerning entries on the certificate**

**138.**—(1) Where a member (P) is not satisfied with the entries on the certificate, or amended certificate, after P has made a request under regulation 137 (request to confirm details on certificate), P may, by written notice given to the scheme manager within 28 days of the notification date, require the scheme manager to deal with the disagreement by means of arrangements implemented by it

pursuant to the requirements of section 50 of the Pensions Act 1995<sup>(2)</sup> (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008<sup>(3)</sup>.

(2) In paragraph (1), “the notification date” is the date on which P is treated as having received from the scheme manager confirmation of the certificate provided or provision of an amended certificate following P’s request under regulation 137 (request to confirm details on certificate).

#### **Certificate to be given to new employer**

**139.** A member who has been provided with a certificate under regulation 136 (requirement for scheme manager to provide a certificate) must give the certificate to that member’s new employer.

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(2) 1995 c.26.  
(3) S.I. 2008/649.