
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART K

INTERCHANGE ETC

Transfers of certain members who are eligible to join approved non-local government schemes

Requests for transfer payments: regulation K23 employees and employees of ineligible employers

K24.—(1) This paragraph applies—

(a) to a person who ceases to be a member because—

(i) the undertaking in which he is employed is transferred to a body who is not a LGPS employer nor a body which has entered or is eligible to enter into an admission agreement; or

(ii) the body by whom he is employed ceases to be a LGPS employer or a body which has entered or is eligible to enter into an admission agreement,

and in respect of whom the body employing him after the transfer date can make other provision under an approved non-local government scheme; and

(b) to a person to whom regulation K23 applies; and in this regulation “the transfer date” means—

(i) in the case of a person within paragraph (a)(i), the date of transfer of the undertaking,

(ii) in the case of a person within paragraph (a)(ii), the date his employer ceases to be such an employer as there mentioned, and

(iii) in the case of a person within paragraph (b), the date on which he becomes subject to an approved non-local government scheme.

(2) A person within paragraph (1)(a) shall be treated for the purposes of these regulations as having ceased to hold his employment on the transfer date.

(3) Where—

(a) a person to whom paragraph (1) applies has not attained state pensionable age on the transfer date; and

(b) before that date or, with the consent of his employing authority, the appropriate administering authority and the scheme managers of the transferee scheme, before the expiry of the period of three months beginning with that date—

(i) he gives written notice to the appropriate administering authority (and to his employing authority, if different) that he wishes to transfer his pension rights under these regulations to the transferee scheme, and

(ii) the scheme managers of the transferee scheme, the appropriate administering authority (and his employing authority, if different) have each consented, then, subject to paragraph (6), the appropriate administering authority shall set aside the appropriate part of the appropriate pension fund (“the transfer payment”), whether in cash or in assets or both, and pay or transfer it to the scheme managers of the transferee scheme for the benefit of the relevant beneficiaries.

(4) For the purposes of paragraph (3), the appropriate part of the appropriate pension fund is the amount determined by the actuary of the appropriate pension fund (on the basis of actuarial assumptions specified by him) to be equal to the value at the transfer date of the actual and potential liabilities of the fund which have then accrued in respect of the relevant beneficiaries, after making such adjustments as he thinks fit as respects—

- (a) any period between the transfer date and the date of actual payment of the transfer value; and
- (b) such other matters as he thinks fit;

and in paragraph (3) and this paragraph “relevant beneficiaries” means the member or members in respect of whom the transfer payment is made and those persons who under these regulations are or may become entitled to benefit through him or them.

(5) The employing authority shall bear the costs of determining the appropriate part of the fund and apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of the costs as the actuary of the fund determines.

(6) Where a transfer payment in respect of a person is made under paragraph (3)—

- (a) if the transferee scheme is contracted-out and the scheme managers undertake to accept liability for that person’s guaranteed minimum pension, no deduction shall be made for that pension from the transfer payment;
- (b) otherwise, there shall be deducted from it—
 - (i) the amount of any transfer premium which may be paid under section 55(3) of the Pension Schemes Act 1993⁽¹⁾, or
 - (ii) the amount of any contributions equivalent premium payable pursuant to section 55(2) of that Act,

and such amount shall be used either in paying such a premium or, if the appropriate administering authority think fit, in preserving the liability for the guaranteed minimum in the appropriate pension fund; and

- (c) the appropriate administering authority—
 - (i) shall certify to the scheme managers of the transferee scheme the amount included in the transfer payment which represents the person’s contributions and interest on them, and
 - (ii) may require them to undertake to treat only those amounts as employee’s contributions in the transferee scheme.

(7) The appropriate administering authority—

- (a) shall provide the person transferring his pension rights with sufficient information in writing to check that the pension rights he will acquire under the new scheme are at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers of the transferee scheme under regulation K2; and
- (b) shall not consent under paragraph (3)(b)(ii) unless they are satisfied of that fact.

(1) 1993 c. 48.

(8) Where a transfer payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made out of the pension fund on account of service or employment to which the transfer payment under this regulation relates.

(9) Paragraph (8) applies notwithstanding anything in the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme or any provision of the 1974 regulations, the 1986 regulations or these regulations.

(10) In this regulation “undertaking” has the same meaning as in the Transfer of Undertakings (Protection of Employment) Regulations 1981⁽²⁾.

(2) [S.I. 1981/1794](#); regulation 2(1) was partially repealed by the Trade Union Reform and Employment Rights Act 1993 (c. 19), sections 33(1), (2), 51, Schedule 10.