
STATUTORY INSTRUMENTS

1997 No. 1613

**The Local Government Pension Scheme
(Transitional Provisions) Regulations 1997**

Special cases

Civil servants transferred to the Environment Agency

22.—(1) The 1997 regulations apply with the following modifications to a member who is employed by the Environment Agency as a result of a relevant statutory transfer immediately before which he was a pensionable civil servant.

- (2) At the end of regulation 13(2) (exclusions from “pay”) add the words “or
- (h) the amount of any supplement paid by the Environment Agency in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme.”
- (3) In regulation 31 (early leavers: deferred retirement benefits and elections for early payment)—
- (a) in paragraph (2) for the words “his employing authority or former employing authority” substitute the words “the Environment Agency”;
- (b) in paragraph (4) after the word “Actuary” insert the words “as respects members to whom regulation 22 of the Transitional Regulations applies”;
- (c) in paragraph (7) for “NRD” substitute the words “60th birthday”;
- (d) at the end of paragraph (8) add the words “and the Environment Agency”.

(4) The employment with the Environment Agency referred to in paragraph (1) does not count as new employment for regulation 109 (statements of policy concerning abatement of retirement pensions in new employment) or regulation 110 (application of abatement policy in individual cases).

(5) The 1997 regulations and these Regulations shall have effect, so long as the member has no disqualifying break in service, as if they conferred on the member the same rights relating to service overseas as he would have enjoyed if he had remained subject to the principal civil service pension scheme.

(6) For this regulation a member has a disqualifying break in service if there is a continuous period of at least 12 months during no part of which he is an active member.

- (7) A relevant statutory transfer in relation to a member is a transfer of his employment—
- (a) which took place on 1st April 1996 as a consequence of a transfer of functions on that date to the Environment Agency, or
- (b) which took place as a consequence of a transfer to the Environment Agency of the undertaking in which he was formerly employed to which the Transfer of Undertakings (Protection of Employment) Regulations 1981(1) apply.

(1) S.I. 1981/1794; the definition of “undertaking” was amended by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

(8) A pensionable civil servant is a person who is employed in the civil service of the State and eligible to be a member of the principal civil service pension scheme.

Former NHS scheme members

23.—(1) The 1997 regulations apply with the modifications mentioned in paragraphs (3) to (5) to a member—

- (a) who became an active member after being transferred to the employment of a higher education corporation, higher education trust or admission body on or after 1 October 1994 and has remained so with no disqualifying break of service (as defined in regulation 22(6));
- (b) who immediately before that transfer was eligible to be a member of the pension scheme the rules of which are set out in the National Health Service Regulations (whether or not he was); and
- (c) in respect of whom no transfer value was accepted under regulation K13 of the 1995 regulations before 28th March 1997.

(2) For paragraph (1)(c), interim payments of a transfer value are to be disregarded if the final payment of it was not made.

(3) In regulation 31 of the 1997 regulations (early leavers: deferred retirement benefits and elections for early payment)—

- (a) in paragraph (1) for the words “may elect” substitute the words “is entitled”;
- (b) omit paragraphs (2) and (3);
- (c) in paragraph (4) for the words from the beginning to “85 years” substitute the words “If the member has not attained the age of 60”.

(4) Regulation 57 of those regulations (effect of additional periods counted under Chapter III of Part III for older members) does not apply to so much of any period counted under that Chapter as is attributable to contributions paid under a contract—

- (a) which was deemed by paragraph 10(3)(a) of Schedule M2 to the 1995 regulations to have been made pursuant to an election under regulation C9 of those regulations,
- (b) under which contributions were being made immediately before the commencement date, and
- (c) which is treated as continuing under regulation 14.

(5) For regulation 123 of those regulations (rights as to service not matched by credited period), in the case of the transfer mentioned in paragraph (1) member’s transferred-in service means any service which for the National Health Service Regulations the member was entitled to count in relation to employment in which he was an officer (as defined in those regulations) for determining whether he was entitled to a benefit under those regulations, but for no other purpose.

(6) In relation to any person, the National Health Service Regulations means the National Health Service (Superannuation) Regulations 1980(2) or the National Health Service Pension Scheme Regulations 1995(3) as in force immediately before his transfer to local government employment.

Overseas employment

24.—(1) Where any person to whom regulation 3 of the Local Government Superannuation (Overseas Employment) Regulations 1985(4) applies has not made an election under paragraph (3) of that regulation, the 1997 regulations apply to him with the following modifications.

(2) S.I. 1980/362 as amended by S.I. 1981/1205, 1982/288, 1765, 1985/39, 1987/2218, 1989/804, 1991/584.

(3) S.I. 1995/300.

(4) S.I. 1985/1922.

(2) Regulation 31 (early leavers' pensions) does not apply unless his total period of membership is at least 5 years.

(3) For paragraph (2) and the provisions mentioned in paragraph (4) he may count the period of overseas employment towards his total membership.

(4) Those provisions are—

- (a) regulation 19(1) (general qualification for benefits);
- (b) paragraphs (a) and (b) of the definition of “normal retirement date” in regulation 25(4);
- (c) regulation 41(4) and (5) (amount of active member’s surviving spouse’s long-term pension);
- (d) regulation 87(1) (return of contributions).

(5) In paragraph (3) “the period of overseas employment” means any period which, if Part II of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1969(5) had applied to him, would have been a period of overseas employment (within the meaning of those rules).

(6) His preserved benefits (including any increases under the Pensions (Increase) Act 1971(6) and the Pensions (Increase) Act 1974(7)) are subject to reduction, as if regulations D1(2) (with the substitution for “the appointed day” of “6th January 1986”), D1(3) and K1(7) of the 1974 regulations had continued to have effect.

(7) But on a return to local government employment, despite regulation 9(3) of the 1997 regulations, previous service may be counted on repayment of the appropriate sum.

(8) Paragraphs (3) to (7) of regulation 17 apply for the purposes of paragraph (7) above as they apply to a repayment under paragraph (2) of that regulation.

Community scheme transferees

25.—(1) Community scheme transferees and their surviving spouses, dependants and children are entitled to such rights under the Scheme as are specified in guidance issued by the Government Actuary.

(2) A Community Scheme transferee is a person—

- (a) who became employed by a Community institution after having been employed in local government employment,
- (b) in respect of whom the scheme managers of the Communities' scheme were paid a transfer value under Chapter IV of Part IV of the Pension Schemes Act 1993(8) or Part K of the 1995 regulations or any corresponding earlier provisions, and
- (c) whose fund authority (as defined in regulation 116 of the 1997 regulations) have been repaid for the credit of their pension fund an amount which in accordance with that guidance may be treated as equivalent to that transfer value.

(3) The rights to which any person is entitled by virtue of guidance under this regulation must not be less valuable than those to which he would have been entitled if regulation K12 of the 1995 regulations still applied to him.

(5) [S.I. 1969/975](#); amended by the Local Government Superannuation (Overseas Employment) Regulations 1985 ([S.I. 1985/1922](#)) in relation to certain employees.

(6) [1971 c. 56](#).

(7) [1974 c. 9](#).

(8) [1993 c. 48](#).