
STATUTORY INSTRUMENTS

1998 No. 364

The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998

Special cases

Former members of NHS Superannuation Scheme for Scotland

22.—(1) The 1998 Regulations apply with the modifications mentioned in paragraphs (3) to (5) to a member—

- (a) who became an active member immediately after being transferred to employment by the governing body of a university or designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992(1) or by the board of management of a college of further education within the meaning of Part I of that Act as a consequence of a transfer to the governing body or board of management on 1st September 1996, or in the case of a transfer to the governing body of the Robert Gordon University on 1st December 1996, of the undertaking in which he was employed, to which transfer the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply;
- (b) who immediately before that transfer was employed by a health board and was a member, or was eligible to be a member, of the pension scheme the rules of which are set out in the National Health Service Regulations; and
- (c) who since that transfer has been an active member in relevant local government employment.

(2) In regulation 30 of the 1998 Regulations (early leavers: deferred retirement benefits and elections for early payment)—

- (a) in paragraph (1) for the words “may elect to receive payment of them immediately” substitute the words “is entitled, on his so requesting the administering authority in writing, to receive payment immediately of those benefits in respect of his relevant local government employment and transferred service”;
- (b) omit paragraphs (2), (3) and (8);
- (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”;
- (d) at the end add the following new paragraph:—

“(9) In this regulation—

“relevant local government employment” has the meaning given in regulation 22(5) of the Transitional Regulations;

“transferred service” means, where on the transfer referred to in regulation 22(1)(a) of the Transitional Regulations a transfer value has been accepted in respect of a person’s accrued rights from the National Health Service Superannuation Scheme for Scotland constituted under the National Health Service Superannuation Scheme

(Scotland) Regulations 1995, the period of membership which he was entitled to count under regulation J9(1)(a) of the 1987 Regulations.”.

(3) Regulation 56 of those Regulations (effect of increases 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 5 of Schedule 16B to the 1987 Regulations to have been made pursuant to an election under regulation C5 or C6 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.

(4) For regulation 123 of the 1998 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.

(5) In this regulation—

“the National Health Service Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 1995(2);

“relevant local government employment” means a continuous period of employment as an active member comprising—

- (a) the period, immediately following the transfer to employment by a governing body or board of management in terms of paragraph (1)(a), of employment by that governing body or board of management during which the member was continuously engaged in the work of the undertaking in which he was previously employed or in the work of another undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a); and
- (b) any further periods, immediately following the period described in sub-paragraph (a) and each other, of employment by another governing body or board of management of the kind specified in paragraph (1)(a) during which the member was continuously engaged in the work of an undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a).