

2002 No. 819

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Miscellaneous)
Regulations 2002**

Made - - - - -	26th March 2002
Laid before Parliament	26th March 2002
Coming into force - -	16th April 2002

The Secretary of State, in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.— (1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous) Regulations 2002 and shall come into force on 16th April 2002, but regulation 2 shall have effect from 31st August 2001 and regulations 3 and 4 shall have effect from 1st April 2002.

(2) In these Regulations, “the principal Regulations” means the Local Government Pension Scheme Regulations 1997(b) and in regulation 4, unless the context otherwise requires, expressions which are also used in the principal Regulations shall have the same meaning as they have in those Regulations.

The Local Government Pension Scheme (Her Majesty’s Chief Inspector of Schools in England) (Transfers) Regulations 2001

2. Regulation 3 of the Local Government Pension Scheme (Her Majesty’s Chief Inspector of Schools in England) (Transfers) Regulations 2001(c) shall be amended—

- (a) in paragraph (1)(b)(i), by substituting “31st July 2002” for “31st March 2002”; and
- (b) in paragraph (4), by substituting “31st March 2002” for “31st December 2001”.

The Local Government Pension Scheme Regulations 1997

3. Regulation 6 of the principal Regulations(d) shall be amended—

- (a) in paragraph (1), by inserting “paragraph (11) and” after “Subject to”; and
- (b) by adding after paragraph (10)—

(a) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

(b) S.I. 1997/1612; relevant amending instruments are S.I. 1998/1238, 1999/1212, 3438 and 2001/770.

(c) S.I. 2001/2866.

(d) Regulation 6 is amended by S.I. 1999/1212, regulation 5, S.I. 1999/3438, regulation 4 and S.I. 2001/770, regulation 4.

“(11) A person may be a member of the Scheme notwithstanding that he is entitled to be a member of the National Health Service Pension Scheme for England and Wales(a) by reason of his employment by a Care Trust(b) if—

- (a) he is specified in, or within a class of employees specified in, an admission agreement made between an administering authority and a Care Trust, and
- (b) he was an active member of the Scheme immediately before his employment by the Care Trust.”.

The Care Standards Inspectorate for Wales

4.—(1) This regulation applies to a person who—

- (a) immediately prior to 1st April 2002 is an active member of the Scheme and employed under a contract of employment with a local authority on work which would have continued but for the provisions of section 79 of the Care Standards Act 2000(c); and
- (b) on 1st April 2002 becomes employed by the National Assembly for Wales in employment for the Care Standards Inspectorate for Wales.

(2) A person to whom this regulation applies is referred to in this regulation as “a transferring member”.

(3) Where a transferring member—

- (a) becomes a member of the principal civil service pension scheme on 1st April 2002;
- (b) agrees in writing by 31st December 2002 that a transfer be made under this regulation instead of any payment which he otherwise may require to be made under Chapter IV of Part IV of the Pension Schemes Act 1993(d) and the principal Regulations, and
- (c) waives any rights he may have under that Chapter by virtue of the cessation of his active membership.

the administering authority which was his appropriate administering authority on 31st March 2002 must—

- (d) set aside in cash such part of the appropriate fund as equals the transfer payment, and
- (e) pay it to the managers of the principal civil service pension scheme for the benefit of the transferring member.

(4) The transfer payment referred to in paragraph (3)(d) shall be such amount as is determined in accordance with Part 1 of the Schedule.

(5) The transferring member’s appropriate administering authority must provide the transferring member by 30th September 2002 with sufficient information in writing for the member to check that the rights that he will acquire under the principal civil service pension scheme as a result of payment of the transfer payment are at least equivalent to those which he would have obtained if a transfer value had been paid to the same scheme under Chapter IV of Part IV of the Pension Schemes Act 1993, as it applies by virtue of regulation 116 of the principal Regulations, (assuming in any case where the member would not be entitled to such a payment that he was).

(6) His appropriate administering authority must certify to the managers of the principal civil service pension scheme the amount included in the transfer payment that represents the transferring member’s contributions and interest on them.

(7) Where a transfer payment is to be or has been made under paragraph (3), no other payment or transfer of assets shall be made from the pension fund by reason of membership covered by the transfer payment.

(8) Paragraph (7) overrides anything to the contrary in the principal Regulations.

(a) A public service pension scheme established by regulations made under section 10 of the Superannuation Act 1972.
(b) The Health and Social Care Act 2001 (c. 15), Part 3 provides for the establishment of Care Trusts and for the transfer of staff.
(c) 2000 c. 14.
(d) 1993 c. 48.

(9) A transferring member may remain an active member of the Scheme after 31st March 2002 notwithstanding that he is entitled to be a member of the principal civil service pension scheme by reason of his employment by the National Assembly for Wales in employment for the Care Standards Inspectorate for Wales if he is specified in, or within a class of employees specified in, an admission agreement made between Rhondda, Cynon, Taff County Borough Council and the National Assembly for Wales and regulation 6(1) of the principal Regulations shall not apply.

(10) Where—

- (a) as a consequence of such an admission agreement, the pension fund maintained by Rhondda, Cynon, Taff County Borough Council becomes the appropriate fund for a transferring member after 31st March 2002,
- (b) immediately before it does so, another fund was his appropriate fund,
- (c) in a case where regulation 32(1)(a) of the principal Regulations applies, the transferring member makes an election under that regulation to have his membership prior to 1st April 2002 aggregated with his membership after that date,

the administering authority that has ceased to be the transferring member's appropriate administering authority must make a payment to Rhondda, Cynon, Taff County Borough Council—

- (d) of an amount determined in accordance with Part I of the Schedule unless, where regulation 32(1) applies, no election is made before 1st January 2003; or
- (e) of an amount determined in accordance with Part 2 of the Schedule where such an election is made after 31st December 2002.

(11) Rhondda, Cynon, Taff County Borough Council must credit any payment made under paragraph (10) to their fund.

(12) Paragraph (10) overrides anything to the contrary in regulation 125 of the principal Regulations.

Signed by authority of the Secretary of State
for Transport Local Government and the Regions

26th March 2002

Alan Whitehead
Parliamentary Under Secretary of State,
Department for Transport, Local Government and the Regions

(a) Regulation 32 was amended by S.I. 1998/1238, regulation 15, S.I. 1999/3438, regulation 5 and S.I. 2001/770, regulation 8.

SCHEDULE 1

Regulation 4

Calculation of Transfer Amounts

PART 1

The amount referred to in regulation 4(3)(d) and (10)(d) shall be—

AV multiplied by A

where—

AV is the actuarial value as at 1st April 2002 of the accrued rights to benefits under the Scheme of the transferring member calculated in accordance with the method used for the purposes of calculating a club transfer payment between club schemes, including an adjustment for market conditions; and

A is an adjustment factor of 1.0125 raised to the power of n, where n is the number of complete years from 1st April 2002 to age 60 for the person in question. For any transferring member over the age of 60 on 1st April 2002, A will be 1.

PART 2

The amount referred to in regulation 4(10)(e) shall be—

AV multiplied by A

Where AV is the cash equivalent transfer value, as at the date that the transferring member makes his election, in respect of the transferring member, calculated and verified in the manner prescribed by regulations made under Chapter IV of Part IV of the Pensions Schemes Act 1993; and

A is an adjustment factor of 1.0125 raised to the power of n, where n is the number of complete years from 1st April 2002 to age 60 for the person in question. For any transferring member over the age of 60 on 1st April 2002, A will be 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend or make certain provisions in connection with the Local Government Pension Scheme which is an occupation pension scheme established under regulations made under section 7 of the Superannuation Act 1972.

Regulations 2 amends the Local Government Pension Scheme (Her Majesty's Chief Inspector of Schools in England) (Transfers) Regulations 2001 by extending the period within which information must be given to members and the date by which a member must agree if a transfer is to be made in accordance with regulation 3 of those Regulations.

Regulation 3 amends regulation 6 of the Local Government Pension Scheme Regulations 1997 to allow persons to remain members of the Local Government Pension Scheme after the transfer of their employment to a Care Trust, in which employment they are entitled to membership of the National Health Service Pension Scheme for England and Wales.

Regulation 4 makes provision for the calculation and payment of transfer payments for active members of the Local Government Pension Scheme who transfer on 1st April 2002 from local government employment to employment with the Care Standards Inspectorate for Wales, a division of the National Assembly for Wales, as a consequence of the provisions of section 79 of the Care Standards Act 2000 (child minding and day care). The regulation makes provision for members who transfer from the Local Government Pension Scheme to the Principal Civil Service Pension Scheme and for members who remain as active members of the Local Government Pension Scheme as admission agreement employees but whose appropriate fund changes.

The Schedule sets out how the transfer payments are to be calculated.

These Regulations take effect on dates before the Regulations come into force (as set out in regulation 1). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.

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