
STATUTORY INSTRUMENTS

2013 No. 2356

The Local Government Pension Scheme Regulations 2013

PART 2

Administration

Transfers

Rights to payment out of pension fund

96.—(1) A member may apply for a transfer under Chapter 4 or 5 of Part 4 of the Pension Schemes Act 1993 and where the member does so the amount of any transfer payment due in respect of the member under the relevant transfer may only be paid by the administering authority from its pension fund if the transfer payment is a recognised transfer (within the meaning of section 169 of the Finance Act 2004) ^{M1}.

(2) Where such a transfer payment is to be or has been paid from a fund, no other payment or transfer of assets may be made from the fund as respects the accrued rights covered by the transfer payment.

(3) Paragraph (2) overrides anything to the contrary in these Regulations.

Marginal Citations

M1 2004 c. 12.

Contracting-out requirements affecting transfers out

97.—(1) There must be deducted from the transfer payment to be made in respect of any person to a contracted-in defined benefit registered pension scheme—

(a) the amount of any contributions equivalent premium payable pursuant to section 55 of the Pension Schemes Act 1993 ^{M2}; or

(b) an amount sufficient to meet the liability in respect of the person's contracted-out rights.

(2) Where the amount mentioned in paragraph (1)(a) is deducted, the appropriate administering authority must use that amount to pay the premium.

(3) Where the amount mentioned in paragraph (1)(b) is deducted, the appropriate administering authority may use the amount in preserving the liability mentioned in that paragraph in the appropriate fund unless the member wishes a transfer payment in respect of it to be paid to the trustees or managers of a contracted-out defined benefit or contracted-in defined contribution registered pension scheme.

(4) Contracted-out rights, in relation to a member, are—

(a) the member's, and any surviving spouse's, civil partner's or cohabiting partner's rights to guaranteed minimum pensions; and

Status: Point in time view as at 01/04/2015.

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- (b) the member's section 9(2B) rights as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations 1996^{M3}.

Marginal Citations

M2 1993 c. 48.

M3 S.I. 1996/1172; the definition of section 9(2B) rights in regulation 1(2) was amended by S.I. 1997/786, 1999/3198 and 2011/1246.

Bulk transfer (transfers of undertakings etc)

98.—(1) This regulation applies where—

- (a) two or more members' active membership ends on their joining a different registered pension scheme (“the new scheme”);
- (b) it is agreed by—
- (i) the members' appropriate administering authority,
 - (ii) the members' Scheme employers (if different), and
 - (iii) the trustees or managers of the new scheme,
- that a payment should be made under this regulation; and
- (c) the members—
- (i) agree in writing that payment should be made instead of any payment which they otherwise might require to be made under Chapter 4 or 5 of Part 4 of the Pension Schemes Act 1993, and
 - (ii) waive any rights they might have under those Chapters by virtue of the cessation of their active membership.

(2) The appropriate administering authority must not give its agreement under paragraph (1)(b) unless it is satisfied that the rights that each of the members will acquire under the new scheme are at least equivalent to those which would have obtained if a transfer value had been paid to the same scheme under Chapter 4 or 5 of Part 4 of the Pensions Schemes Act 1993, as they apply as modified by these Regulations (assuming in any case where a member would not be entitled to such a payment that the member was so entitled).

(3) The appropriate administering authority must provide each member with sufficient information in writing to check that the matters of which the authority must be satisfied under paragraph (2) are satisfied, before the member agrees as mentioned in paragraph (1)(c).

(4) The appropriate administering authority must—

- (a) set aside (whether in cash or in assets or both) such part of the appropriate fund (“the transfer payment”) as an actuary appointed by the authority and an actuary appointed by the trustees or managers of the new schemes for the purpose may agree as appropriate for the acquisition of such rights in that scheme as they may so agree; and
- (b) pay or transfer it to the trustees or managers of the new scheme for the benefit of the relevant members.

(5) The appropriate administering authority must certify to the new scheme's trustees or managers the amount included in the transfer payment which represents each member's contributions and interest on them.

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

(7) Paragraph (6) overrides anything to the contrary in these Regulations.

Calculation of amount of transfer payment

99.—(1) The amount of the transfer payment to be paid under regulation 98 (bulk transfers) is the amount determined by an actuary appointed by the members' appropriate administering authority to be equal to the value at the date those members join the new scheme, of the actual and potential liabilities payable from its fund which have then accrued in respect of the members and the persons who are or may become entitled to benefits under the Scheme through them.

(2) The actuary may make such adjustments as are thought fit in calculating that amount and in particular as respects the period from that date to the date of actual payment of the transfer value.

(3) The actuary must specify in the valuation the actuarial assumptions used in making it.

(4) The Scheme employer shall bear the costs of determining the appropriate part of the fund and apportioning the fund.

(5) But if there is more than one Scheme employer involved, each shall bear such part of the costs as the actuary determines to be appropriate.

Inward transfers of pension rights

100.—(1) An active member with relevant pension rights may request the appropriate administering authority to accept a transfer value for some or all of those rights from the relevant transferor.

(2) Relevant pension rights are—

- (a) accrued rights under a registered pension scheme other than rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit; and
- (b) accrued rights under a European pensions institution.

(3) Accrued rights under a registered pension scheme include rights to preserved benefits and rights appropriately secured under section 19 of the Pension Schemes Act 1993 ^{M4}.

(4) The relevant transferor is the trustees or managers of the scheme under which the transferring person's relevant pension rights arise.

(5) But the relevant transferor for the rights specified in paragraph (3) is the trustees and managers of the scheme, or the insurance company, to which a payment in respect of the person's accrued rights has been made.

(6) A request from a transferring person under paragraph (1) must be made by notice in writing given to the appropriate administering authority and the Scheme employer before the expiry of the period of 12 months beginning with the date on which the person first became an active member in an employment (or such longer period as the Scheme employer and administering authority may allow).

(7) Where a request under paragraph (1) is duly made, the administering authority may accept the transfer value and credit it to its pension fund.

Marginal Citations

M4 Section 19 was amended by [S.I. 2001/3649](#), 2005/2050 and 2007/3014.

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Effect of acceptance of transfer value

101.—(1) Where a transfer value has been accepted under regulation 100 (inward transfer of pension rights), the administering authority must credit the active member's pension account with the appropriate amount of earned pension.

(2) The calculation of the appropriate amount of earned pension for the purposes of paragraph (1) is to be in accordance with actuarial guidance issued by the Secretary of State.

EU scheme transfers

102.—(1) The persons mentioned in paragraph (2) are entitled to such rights under the Scheme as are specified in actuarial guidance issued by the Secretary of State.

(2) Those persons are—

- (a) a person who became employed by an EU institution after having been employed in local government service; or
- (b) a surviving spouse, civil partner, cohabiting partner, dependant or child of such a person.

(3) In this regulation—

- (a) “EU institution” means a body treated as one of the EU's institutions for the purposes of the European Union's scheme; and
- (b) “the European Union's scheme” means the pension scheme provided for officials and other servants of the European Union in accordance with regulations adopted by the Council of the European Union.

Changes of administering authority

103.—(1) Subject to [F¹paragraphs (7) and (8)], this regulation applies where—

- (a) an administering authority becomes an active member's appropriate administering authority;
- (b) immediately before it does so, another administering authority was that member's appropriate administering authority; and
- (c) in a case where a member has the option of aggregating the past period of membership with the current period of membership, the member has exercised the option to aggregate those periods.

(2) An administering authority which has ceased to be a member's appropriate administering authority must make a transfer value payment to the member's new appropriate administering authority in accordance with actuarial guidance issued by the Secretary of State.

(3) Where paragraph (2) applies as respects 10 or more members by virtue of a single event, the amount of the payment under that paragraph shall be determined by agreement between an actuary appointed by the administering authority by which the payment must be made and an actuary appointed by the administering authority to which it must be made.

(4) Where the actuaries cannot agree on the amount within 12 months of the date of transfer, or where there is more than one date of transfer, the date of the last transfer which relates to the single event—

- (a) the matter shall be referred to a third actuary, chosen by agreement between the actuaries, or in default of agreement, by the President of the Institute and Faculty of Actuaries; and
- (b) that actuary's determination shall be final.

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(5) The costs of determining the amount to be transferred shall be paid in equal shares by the fund held by the member's former appropriate administering authority and the fund held by the member's new appropriate administering authority.

(6) Any payment under paragraph (2) must be credited to the new appropriate administering authority's fund.

(7) This regulation does not apply where a member enters an employment in local government service which is concurrent with another in which the member is also an active member.

[^{F2}(8) This regulation does not apply where a member's administering authority has changed in the circumstances described in regulation 104(1) (change of administering authority in connection with probation service arrangements).]

Textual Amendments

- F1** Words in reg. 103(1) substituted (1.6.2014) by [The Local Government Pension Scheme \(Offender Management\) \(Amendment\) Regulations 2014 \(S.I. 2014/1146\)](#), regs. 1(2), **6(a)**
- F2** Reg. 103(8) inserted (1.6.2014) by [The Local Government Pension Scheme \(Offender Management\) \(Amendment\) Regulations 2014 \(S.I. 2014/1146\)](#), regs. 1(2), **6(b)**

[^{F3}Change of administering authority in connection with probation service arrangements

104.—(1) This regulation applies where in connection with arrangements made for the provision of probation services under section 3 of the Offender Management Act 2007 (power to make arrangements for the provision of probation services) the employees of a probation trust are transferred to another person and—

- (a) an administering authority becomes a member's appropriate administering authority ("the new authority"); and
- (b) immediately before it does so, another authority was that member's appropriate administering authority ("the former authority"),

and for the purposes of this regulation it is not material whether the member in question was in the employment of the probation trust immediately before the transfer date or the subject of a transfer of employment to another person.

(2) Within 30 days of the transfer date—

- (a) the transferring member's former Scheme employer and (where applicable) the transferring member's new Scheme employer must supply the former authority and the new authority with such information as those authorities may reasonably require to perform their functions under these Regulations in respect of the transferring members under the Scheme;
- (b) the former authority must supply the new authority with such information as the new authority may reasonably require to perform its functions under these Regulations in respect of the transferring members under the Scheme.

(3) With effect from the transfer date the liability to pay benefits or a refund of contributions under the Scheme to and in respect of the transferring members shall transfer to the new authority and the former authority must make a transfer payment from its pension fund to the pension fund of the new authority in respect of the transfer share determined in accordance with actuarial guidance issued by the Secretary of State by agreement between an actuary appointed by the former authority and an actuary appointed by the new authority.

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(4) Where the actuaries cannot agree the transfer share or any other matter that needs to be agreed in order to implement the provisions of this Regulation (assuming for this purpose that the payment date is the transfer date) on or before the agreement date—

- (a) the matter shall be referred to a third actuary, chosen by agreement between the actuaries or in default of agreement by the President of the Institute and Faculty of Actuaries; and
- (b) that actuary's determination, including as to who shall pay the costs of the referral, shall be final.

(5) The transfer payment shall be made in such manner (including as to the proportion of cash and other permitted assets that will comprise the transfer payment and whether the transfer payment is paid in one or more instalments) as the new authority shall reasonably require.

(6) The transfer payment from each former authority must be paid on the payment date.

(7) Where agreement cannot be reached in relation to the payment date on or before the later of the agreement date and 30 days after the date on which the transfer share has been determined by agreement under paragraph (3) or by an actuary's determination under paragraph (4), the new authority must notify the former authority of the date or dates, which shall be no later than the final payment date, and the date or dates so notified shall become the payment date.

(8) If a transfer payment is not made in accordance with paragraph (6) or (7), the new authority may by notice in writing require the former authority to pay interest on the amount that falls due and is not so paid.

(9) Interest payable under paragraph (8) is to be calculated at 3 per cent per annum on a day-to-day basis from the date which falls three calendar months after the payment date to the date of actual payment, compounded with three-monthly rests.

(10) When the transfer payment has been made in full and any adjustments made in accordance with actuarial guidance issued by the Secretary of State —

- (a) no other payment or transfer of assets shall be made from the pension fund of the former authority by reason of membership covered by the transfer payment;
- (b) the former authority shall have no liability to make any benefit payments or right to receive contributions for any period prior to, on, or subsequent to the transfer date in respect of a transferring member other than as provided for under arrangements made under paragraph (12);
- (c) except where arrangements under paragraph (12) provide otherwise, any payment made or income received by the former authority in respect of a transferring member after the transfer date shall be reimbursed to the former authority by the new authority or paid by the former authority to the new authority (as the case may be) within 45 days of receipt or payment by the former authority.

(11) The former authority shall provide such assistance and further information in its possession (or to which it has access) as the new authority may reasonably require in relation to the calculation and administration of benefits payable to and in respect of the transferring members under the Scheme, subject to reimbursement by the new authority of the former authority's reasonable costs for doing so.

(12) The new authority and the former authority may agree such arrangements as may be necessary for the former authority to continue making benefit payments to or in respect of the transferring members for a period after the transfer date until the new authority is able to make such payments itself (such agreement not to be unreasonably withheld by the former authority).

(13) The former authority and new authority must cooperate in order to—

- (a) permit members to continue to make AVCs and SCAVCs pursuant to arrangements entered into prior to the transfer date notwithstanding the change of administering authority; or,

(b) at the member's request, procure the transfer of the transferring members' accumulated AVCs and SCAVCs (including investment returns thereon) to arrangements established by the new authority.

(14) Where a member wishes to continue to make AVCs or SCAVCs in accordance with paragraph 13(a), regulation 17 (additional voluntary contributions) applies in respect of that member as if the references in that regulation to "appropriate administering authority" were references to the administering authority which was the member's appropriate administering authority at the time the arrangements were entered into.

(15) For the purposes of this regulation and save where the context otherwise requires—

"agreement date" means the date which falls 120 days after the date on which the administering authorities have been notified in writing of the transfer of employees, or the date the information described in paragraph (2) has been received, whichever is the later;

"final payment date" means the date that is 12 months after the later of the date on which the former authority has been notified in writing of the transfer of employees and the date the information described in paragraph (2) has been received;

"a local government pension scheme" means the Scheme or any of the Earlier Schemes within the meaning of regulation 1(6) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;

"member" includes deferred members, deferred pensioner members and pensioner members of a local government pension scheme and those entitled through them, including pension credit members;

"payment date" means the date or dates agreed between the former authority and the new authority for the making of the transfer payment to the new authority or the date or dates notified to the former authority in accordance with paragraph (7) where agreement cannot be reached;

"permitted assets" means liquid, transferable holdings of pooled vehicles which track market capitalisation weighted indices;

"transfer date" means the date on which the new pension fund becomes the member's appropriate fund;

"transferring members" means the employees and former employees (and those entitled through them, including pension credit members) of a probation trust (or its predecessor local probation boards or probation committees) who are the subject of the changes of Scheme employer and appropriate administering authority referred to in paragraph (1) and any persons specified in accordance with regulation 3A(5)(d) or (e) (civil servants etc engaged in probation provision) as a person to whom regulation 3A(5) applies;

"transfer payment" means a transfer of cash in British pounds sterling or permitted assets equal in value to the transfer share;

"transfer share" means the value of the assets allocated to the actual and potential liabilities payable from the pension fund of a former authority in respect of the benefits that have accrued to or in respect of transferring members as at the transfer date (whether that accrual arose before the commencement of these Regulations or afterwards), adjusted to the relevant payment date, calculated in accordance with actuarial guidance issued by the Secretary of State;

"probation trust" means a probation trust established under section 5 of the Offender Management Act 2007.]

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Textual Amendments

- F3** Reg. 104 inserted (1.6.2014) by [The Local Government Pension Scheme \(Offender Management\) \(Amendment\) Regulations 2014 \(S.I. 2014/1146\)](#), regs. 1(2), **7** (with reg. 11)

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