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STATUTORY INSTRUMENTS

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**2014 No. 1964**

**The Public Service (Civil Servants and  
Others) Pensions Regulations 2014**

**PART 4**

**Scheme membership**

**CHAPTER 1**

**Eligibility for active membership**

**Scheme employment**

**13.**—(1) In these Regulations, “scheme employment” means—

- (a) permanent or fixed term employment as a civil servant;
- (b) permanent or fixed term employment held by a person (P) mentioned in regulation 3(2)(a) to (e) and to whom this scheme relates by virtue of a determination under section 25(5) of the Act, where the scheme relates to P by virtue of that employment;
- (c) permanent or fixed term employment held by a Fair Deal eligible person, where the scheme relates to that person by virtue of that employment.

(2) Any person engaged under a contract for services or engaged locally overseas is not in scheme employment.

**Eligible persons**

**14.**—(1) For the purpose of this Part, an eligible person is a person who is eligible to be an active member of this scheme.

(2) A person who is in service in a scheme employment (P) is an eligible person in relation to that service unless paragraph (3) or (4) applies.

(3) This paragraph applies if the terms of the employment exclude P from being an active member of this scheme.

(4) This paragraph applies if, in relation to service in that employment—

- (a) P is a protected member of the PCSPS;
- (b) P has a partnership pension account; or
- (c) P is a member of any other pension scheme and P’s employer pays contributions to that scheme in respect of P.

**Service in 2 or more scheme employments**

**15.** If a person is in service in 2 or more scheme employments, regulation 14 applies separately in relation to each employment.

## **Fair Deal eligible persons**

- 16.—(1) In these Regulations, “Fair Deal eligible person” means—
- (a) a person mentioned in regulation 3(2)(g)—
    - (i) in respect of whom the Minister has made a further determination under section 25(5) of the Act in accordance with regulation 3(1)(b); and
    - (ii) who meets the conditions of eligibility set out in paragraph (2) (“the conditions of eligibility”); or
  - (b) a person mentioned in regulation 3(2)(f) or (h)—
    - (i) in respect of whom the Minister has made a determination under section 25(5) of the Act in accordance with regulation 3(1)(b); and
    - (ii) who meets the conditions of eligibility.
- (2) A person (P) meets the conditions of eligibility if—
- (a) P’s employer is a party to an Admission Agreement in respect of the transferred services and the Admission Agreement has not terminated;
  - (b) on the Fair Deal transfer date, P was employed to carry out the transferred services;
  - (c) since the Fair Deal transfer date, P has been continuously employed to carry out the transferred services;
  - (d) P is employed to carry out the transferred services for more than 50% of P’s time working under P’s contract to carry out the transferred services;
  - (e) P is not, in respect of the transferred services, an active member of an occupational pension scheme or a personal pension scheme provided by P’s employer; and
  - (f) P has not signed an agreement with P’s employer to waive, voluntarily, P’s eligibility to be an active member of this scheme as a Fair Deal eligible person.
- (3) For the purposes of paragraph 2(c), P has not been continuously employed where P has had a gap in service of any period.
- (4) In determining whether P meets the condition in paragraph (2)(d)—
- (a) functions or services carried out by P under another contract are to be disregarded;
  - (b) if the scheme manager has agreed that P may carry out functions or services in another description of employment specified in the published list, those other functions or services must be treated as if they were the transferred services; and
  - (c) time spent carrying out activities associated with the transferred services (such as training relevant to the transferred services) may be treated as time spent carrying out the transferred services.
- (5) A person who ceases to meet the conditions of eligibility ceases to be a Fair Deal eligible person on the date that the person ceases to meet those conditions.
- (6) In these Regulations—
- “Admission Agreement” means a contractual agreement between the Minister and P’s employer (and if applicable a third party) relating to participation in this scheme;
- “Fair Deal transfer date” means the date specified in the published list as the date on which a person, in order to be eligible to be an active member of this scheme in respect of the transferred services, must have been employed to carry out those services;
- “published list” means a list of persons to whom the scheme relates published for the purposes of section 25(9) of the Act; and

“the transferred services”, in relation to a person, means the functions or services in the description of employment specified in the published list that relates to that person.

## CHAPTER 2

### Pensionable service

#### Application of Chapter

**17.—**(1) This Chapter applies in relation to a continuous period of service in a scheme employment.

(2) If a person is in service in 2 or more scheme employments at the same time, this Chapter applies separately in relation to each of the employments.

#### Interpretation of Chapter

**18.** In this Chapter—

“automatic re-enrolment date”, in relation to a person in service in a scheme employment, means a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010<sup>(1)</sup>;

“continuous period of service”, in relation to scheme employment, means a period of service in scheme employment disregarding any gap in service not exceeding 5 years;

“first eligible day of service”, in relation to a continuous period of service in a scheme employment, means the day on which a person becomes an eligible person in relation to that service.

#### Automatic enrolment

**19.—**(1) Where a person (P) who is in pensionable service under this scheme moves from one scheme employment to another without a gap in service, P continues in pensionable service under this scheme.

(2) A person (P) who is not in pensionable service under this scheme immediately before P’s first eligible day of service in a scheme employment begins pensionable service under this scheme on P’s first eligible day of service in that employment unless—

- (a) regulation 24 applies; or
- (b) P is a transition member with continuity of service and paragraph (3) applies.

(3) This paragraph applies if—

- (a) P’s first eligible day of service in the scheme employment is the day after P’s closing date; and
- (b) on P’s closing date—
  - (i) P was in service in the same employment; and
  - (ii) P had opted out of the PCSPS in relation to that service.

#### Opting into this scheme

**20.—**(1) A person who, in relation to a scheme employment, is an eligible person but is not in pensionable service under this scheme may opt to become an active member of this scheme in relation to service in that employment.

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(1) [S.I. 2010/772](#); regulation 12 was amended by [S.I. 2012/215](#).

(2) A person who has a partnership pension account in relation to service in a scheme employment is not prevented from opting into this scheme in relation to service in that employment (see regulation 21 for when the option takes effect).

(3) The option under this regulation may only be exercised by notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(4) A person who exercises the option under this regulation in relation to service in a scheme employment opts into this scheme in relation to service in that employment with effect from the date on which the opt-in notice is received by the scheme manager.

(5) The option under this regulation is taken to be exercised on that date.

(6) If P opts out of this scheme within 12 months after opting in, P may not opt in again until after the end of that period of 12 months.

### **When does an option in take effect**

**21.**—(1) If P opts into this scheme in relation to service in a scheme employment for which P has a partnership pension account—

(a) P becomes an active member of this scheme in relation to that service on the first date that is 1st April or 1st October—

(i) after the period of 3 months beginning with the date on which the option is exercised; or

(ii) after any shorter period the scheme manager considers appropriate; and

(b) immediately before that date, P’s partnership pension account is closed.

(2) If P opts into this scheme in relation to service for which P does not have a partnership pension account, P becomes an active member of this scheme in relation to that service—

(a) at the beginning of the first pay period beginning on or after the date on which the option is exercised; or

(b) if the scheme manager considers that pay period inappropriate, at any other time the scheme manager considers appropriate.

### **Automatic re-enrolment**

**22.**—(1) This regulation applies if, on the automatic re-enrolment date, an eligible person in relation to service in a scheme employment is not in pensionable service under this scheme in relation to service in that employment.

(2) On the automatic re-enrolment date, the scheme manager must enrol P in this scheme in relation to service in that employment if the employer is required under section 5 (automatic re-enrolment) of the Pensions Act 2008(2) to make arrangements for P to be an active member of a pension scheme.

(3) For the purpose of paragraph (2), the employer is required to make arrangements under that section even if—

(a) P has not reached the age of 22;

(b) P has reached normal pension age; or

(c) the earnings requirements under that section are not met.

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(2) 2008 c. 30. Section 5 was amended by the Pensions Act 2011 (c. 19) sections 4(2), (3) and (4), 5(3) and (4) and 6(3).

### **Opting out of this scheme**

- 23.**—(1) A person (P) opts out of this scheme in relation to service in a scheme employment if—
- (a) P opts not to be an active member of this scheme in relation to that service; or
  - (b) P opens a partnership pension account in relation to that service.
- (2) P may only exercise the option under paragraph (1)(a) by notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).
- (3) The option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.
- (4) If P is subject to a transfer in relation to that service as a result of which P would be eligible to be (or continue to be eligible to be) a member of the scheme as a Fair Deal eligible person, the option ceases to have effect on the Fair Deal transfer date.

### **Opting out before the end of one month**

- 24.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in scheme employment—
- (a) before the end of one month after P’s first day of a continuous period of service in scheme employment (or within any longer period the scheme manager considers appropriate); or
  - (b) before the end of one month after the automatic re-enrolment date (or within any longer period the scheme manager considers appropriate).
- (2) If paragraph (1)(a) applies, P is taken never to have been in pensionable service under this scheme in relation to that continuous period of service in scheme employment.
- (3) If paragraph (1)(b) applies, P is taken not to have been in pensionable service under this scheme in relation to that period of service during the period referred to in paragraph (1)(b).
- (4) This regulation does not require the scheme manager to pay P any additional amount which becomes payable by P in respect of national insurance contributions because P has not after all been an active member of this scheme during any period.

### **Opting out after one month**

- 25.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in scheme employment—
- (a) one month or more after P’s first day of a continuous period of service in scheme employment; or
  - (b) one month or more after P’s automatic re-enrolment date.
- (2) If P exercises the option under paragraph (1)(a) or (b), P ceases to be in pensionable service under this scheme in relation to that continuous period of service in scheme employment—
- (a) on the first day of the first pay period beginning on or after the date on which the option is exercised; or
  - (b) if the scheme manager considers that day inappropriate, on the first day of any later pay period the scheme manager considers appropriate.
- (3) If P opens a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that employment on the first date that is 31st March or 30th September—
- (a) after the period of one month beginning with the date on which that account is opened; or
  - (b) after any shorter period the scheme manager considers appropriate.

## CHAPTER 3

### Pensionable earnings

#### **Pensionable earnings**

**26.**—(1) For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable earnings for any period are the sum of—

- (a) the member’s permanent pensionable earnings in respect of that period; and
- (b) the member’s fluctuating pensionable earnings in respect of that period.

(2) The money value of any benefit in kind forms part of a member’s pensionable earnings if—

- (a) the benefit is expressly provided on a pensionable basis; or
- (b) the scheme manager determines the benefit forms part of the member’s permanent pensionable earnings or fluctuating pensionable earnings.

(3) If a benefit in kind is expressly provided on a pensionable basis, the scheme manager must determine whether the benefit forms part of the member’s permanent pensionable earnings or fluctuating pensionable earnings.

(4) In this regulation—

“benefit in kind” means anything other than money provided to a member of this scheme in connection with the member’s pensionable service;

“money value”, in relation to a benefit in kind, means—

- (a) an amount determined by the employer in accordance with the arrangement under which the benefit is provided; or
- (b) otherwise, an amount determined by the scheme manager;

“permanent pensionable earnings”, in respect of any period, means—

- (a) basic pay in respect of that period;
- (b) any allowance granted on a permanent basis that the scheme manager determines to be permanent pensionable earnings in respect of that period; and
- (c) the money value of any benefit in kind that the scheme manager determines to be permanent pensionable earnings in respect of that period;

“fluctuating pensionable earnings”, in respect of any period, means any of the following that the scheme manager determines to be fluctuating pensionable earnings in respect of that period—

- (a) any non-consolidated performance-related pay not forming part of basic pay;
- (b) any allowance not granted on a permanent basis; and
- (c) the money value of any benefit in kind.

#### **Meaning of “assumed pay”**

**27.**—(1) For the purpose of these Regulations, an active member of this scheme (P) receives assumed pay in respect of any period in which the circumstances in paragraph (3) apply (“period of assumed pay”).

(2) For the purpose of paragraph (1), “assumed pay” means the sum of—

- (a) an amount equal to the pensionable earnings that P would have received in respect of that period if those circumstances had not applied; and
- (b) any increase the scheme manager considers appropriate.

(3) The circumstances are—

- (a) P is on sick leave on reduced pay;
- (b) P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave;
- (c) P is receiving statutory pay;
- (d) P is on secondment to a different employer under an arrangement providing for P to continue to be an active member of this scheme in relation to P's service although P is paid for it by that employer;
- (e) P is on unpaid leave in circumstances that the scheme manager has agreed can count for the purpose of this paragraph;
- (f) P is absent from duty because of being called out, or recalled, for permanent service in Her Majesty's armed forces in pursuance of a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996(3);
- (g) P is receiving pensionable earnings at a reduced rate in accordance with arrangements for members required by the scheme manager which apply where the members are entitled to—
  - (i) pension benefits under another occupational pension scheme; or
  - (ii) a payment under a compensation scheme; or
- (h) P voluntarily surrenders pensionable earnings in whole or in part.

(4) For the purpose of paragraph (3)(a), a period of sick leave on reduced pay does not include a period of leave in respect of which P is paid at a rate determined by P's employer to be appropriate because it is equivalent to the annual rate of an ill-health pension.

(5) Paragraph (3)(f) does not apply to any period of permanent service during which P is in pensionable service in—

- (a) an existing scheme that relates to the armed forces or another scheme under section 1 of the Act that relates to the armed forces; or
- (b) any other occupational pension scheme.

## CHAPTER 4

### Deferred membership

#### Meaning of “deferred member”

**28.** A person (P) becomes a deferred member of this scheme in relation to a continuous period of pensionable service under this scheme if—

- (a) P ceases to be an active member of this scheme in relation to that period of service before P reaches normal pension age under this scheme;
- (b) P does not become a pensioner member of this scheme in relation to that period of service; and
- (c) P has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.