STATUTORY RULES OF NORTHERN IRELAND

2000 No. 177

Local Government Pension Scheme Regulations (Northern Ireland) 2000

Part K

Interchange Etc.

Transfers out

Outwards transfers

K2.—(1) Subject to regulation K4, where a person has ceased to be a member by virtue of—

(a) ceasing to be employed in local government employment, or

(b) a notification under regulation B11 (leaving the Scheme),

and the conditions in paragraph (2) are satisfied, then the Committee shall pay a transfer value in respect of him to be used in accordance with section 91 of the Pension Schemes (Northern Ireland) Act 1993 (ways of taking right to cash equivalent) in one or more of the ways set out in sub-section (2) of that section, at his option.

(2) The conditions are that—

(a) he ceased to be a member as described in paragraph (1)—

(i) where the transfer value is to be paid to an occupational pension scheme, before his NRD, or

(ii) otherwise, at least one year before his NRD;

(b) he is a person who—

(i) has a statutory pension entitlement,

(ii) after ceasing to be a member as described in paragraph (1), has taken up non-local government employment in which he participates in an occupational pension scheme, or

(iii) after so ceasing, entered into a contract for a personal pension scheme or a self-employed pension arrangement or an appropriate policy;

(c) he has duly made an application in writing to the Committee for a transfer value to be paid and has not subsequently withdrawn it; and

(d) if he ceased to be employed in his local government employment before 31st March 1972, the Committee has consented to the payment of the transfer value.

(3) For the purposes of paragraph (2)(*c*) an application is only duly made if—

(a) in the case of a request for the transfer value to be paid to an occupational pension scheme, it is made before the applicant's NRD;

(b) in any other case, it is made—

(i) at least one year before the applicant's NRD, or

(ii) before the expiry of the period of six months beginning with the date on which he ceased to be a member,

whichever is the later; and

(c) in the case of a person within paragraph (2)(*b*)(ii) or (iii), it is made within 12 months after the applicant took up the non-local government employment or, as the case may be, entered the contract (or such longer period as the Committee may in any particular case allow).

(4) A person who has made an application under paragraph (2)(*c*) may withdraw it by giving notice in writing to the Committee, but such a notice is of no effect if, before receiving it, the Committee has entered into an agreement with a third party to use the whole or part of that person's transfer value in one or more of the ways specified in section 91(2) of the Pension Schemes (Northern Ireland) Act 1993.

(5) A person who withdraws an application may make another.

(6) Where a person is entitled to separate preserved benefits by virtue of regulation D12(1)(*c*)—

(a) he may make an application under paragraph (2)(*c*) in respect of all or any of those separate entitlements, and

(b) where his application does not relate to all of them, he may make a further application in respect of all or any of the remainder.

Time for payment of transfer value under regulation K2

K3.—(1) Where an application is duly made to the Committee under regulation K2(2)(*c*) in respect of any person, it shall pay a transfer value not later than—

(a) six months after the date on which it receives the application, or

(b) if—

(i) his NRD is earlier,

(ii) he ceased to be a member as described in regulation K2(1) at least one year before his NRD, and

(iii) he made his application under regulation K2(2)(*c*) before the expiry of the period of six months beginning with the date on which he ceased to be a member,

his NRD.

(2) Where—

(a) proceedings before a court have been commenced against a person at any time before the expiry of the period of six months beginning with the date on which he ceased to be a member,

(b) those proceedings (including any proceedings on appeal) have not been concluded at least three months before the date by which the Committee is required to pay the transfer value under paragraph (1), and

(c) it appears to the Committee at that date that the proceedings may lead to all or any part of the benefits payable under these regulations to or in respect of that person being forfeited under regulation H4,

then the Committee need not pay a transfer value in relation to that person until the expiry of the period of three months beginning with the date on which those proceedings are concluded.

Cases where right to transfer value excluded

K4.—(1) A transfer value shall not be paid in relation to a person—

(a) who has received any benefit (other than a return of contributions) in respect of his local government employment,

(b) who ceased to be employed in local government employment on or after 6th April 1978, having attained state pensionable age, and whose accrued rights for the purposes of regulation K5 relate wholly or partly to service before he attained that age;

(c) in respect of whom a transfer value has been paid by the Committee since he ceased to be employed in his local government employment, or

(d) who, on becoming employed in approved non-local government employment became entitled to count service in his local government employment in relation to his approved non-local government employment, without any condition as to receipt of a transfer value.

(2) Subject to paragraph (3), in relation to a person who has received a return of contributions in respect of local government employment in which he has ceased to be employed, a transfer value may only be paid in relation to any period in respect of which he is entitled to preserved benefits.

(3) In relation to a person who—

(a) ceased to be employed in local government employment on or after 15th August 1975 but before 26th August 1977 with an aggregate of at least five years' total membership; or

(b) ceased to be employed in local government employment on or after 26th August 1977,

and has received a return of contributions in relation to that employment, a transfer value may only be paid in relation to membership in respect of which he is entitled to preserved benefits.

Amount of transfer value under regulation K2

K5.—(1) The amount of any transfer value payable under regulation K2 shall be calculated in accordance with the following provisions.

(2) Subject to the provisions of this Part, a transfer value to be paid in accordance with the provisions of regulation K2 in respect of a person shall be an amount equal to the capitalised value—

(a) of the rights which have accrued in respect of him under these regulations at the material date, and

(b) of any associated rights under the Pensions (Increase) Act (Northern Ireland) 1971(**1**) and the Pensions Increase Order (Northern Ireland) 1974(**2**),

less a sum in respect of any state scheme premium which is payable or has been paid and not recovered in respect of a period of membership taken into account in the valuation of those rights.

(3) Subject to regulation K9, where the transfer value is, without reasonable cause or excuse, not paid before the expiry of the period of six months beginning with the material date, the transfer value mentioned in paragraph (2) shall be increased by—

(a) interest, calculated on a daily basis over the period from the material date to the date on which the transfer value is paid at the rate set out in regulation 10(2)(*a*) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**3**), or

(b) the amount by which the transfer value falls short of what it would have been if the material date had been the date on which the transfer value was paid,

whichever is the greater.

(**1**) 1971 c. 35 (N.I.)
(**2**) 1974/1267 (N.I. 2)
(**3**) S.R. 1996 No. 619

(4) The reference in paragraph (2)(*a*) to rights which have accrued at the material date is a reference—

(a) in the case of such a person as is described in regulation K2(6), to those rights in respect of which his application under regulation K2(2)(*c*) was made; or

(b) if the person does not have a statutory pension entitlement by virtue of satisfying paragraph (*a*) of regulation D3, to the rights which would have accrued under regulation D11,

and for the purpose of determining the accrued rights in respect of a widow's or widower's pension of a person who was unmarried on ceasing to be a member—

(i) in the case of a man, if any part of his membership can be counted by virtue of regulation K15(1)(*a*) or regulation 70(1)(*a*) of the 1981 regulations; and

(ii) in the case of a woman, if any part of her membership is treated as membership after 31st March 1972 by virtue of regulation K15(1)(*a*) and (2)(*b*),

all the person's membership shall be taken into account.

(5) In paragraph (2) "capitalised value" means the capitalised value at the material date as determined by the Committee, in such manner as may be approved by the Government Actuary, having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these regulations.

(6) In this regulation "the material date" means—

(a) the date on which the person ceased to be employed in local government employment or to be a member as described in regulation K2(1), or

(b) the date on which his application for payment of a transfer value is received by the Committee,

whichever is later.

Special provision as respects pre-6th April 1988 service

K6.—(1) Subject to regulation K9, where—

(a) a transfer value is payable to the trustees or managers of an approved non-local government scheme,

(b) the service to which it relates includes relevant former service, and

(c) the amount of the transfer value payable in respect of the relevant former service would be greater if it were calculated in accordance with the 1981 regulations as they had effect immediately before 6th April 1988,

then the amount of the transfer value attributable to the relevant former service shall be calculated on the basis mentioned in paragraph (*c*).

(2) In paragraph (1) "relevant former service" means service which the person was entitled to count as reckonable service before 6th April 1988.

Reductions of the transfer value: unsecured GMPs, pre-1988 service and forfeiture

K7.—(1) There must be deducted from the transfer payment to be made in respect of any person the amount of any contributions equivalent premium payable pursuant to section 51 of the Pension Schemes (Northern Ireland) Act 1993.

(2) Where—

(a) a person has ceased to be a member by virtue of a notification under regulation B11 (leaving the Scheme), and

(b) his total period of membership before 6th April 1988 amounts to at least two years,

that person shall be entitled to a transfer value under regulation K2(1) in respect only of that part of his accrued rights which is attributable to his membership after 5th April 1988.

(3) Where—

(a) a transfer value limited in accordance with paragraph (2) has been paid in respect of a person, and

(b) that person has subsequently ceased to be employed in local government employment—

(i) before his NRD, or

(ii) where regulation K2(3)(*b*) applies, at least one year before his NRD,

a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of paragraph (2), he would have been entitled on so ceasing, shall accrue to him on the date of cessation and shall be valued accordingly.

(4) In relation to any person to whom paragraph (3) applies—

(a) regulation K2(3)(*b*)(ii) shall have effect as if there were substituted for the words "a member" the words "employed in local government employment"; and

(b) the definition of "material date" in regulation K5(6) shall have effect as if the words "or to be a member, as described in regulation K2(1)" were omitted.

(5) For the purposes of paragraphs (2) to (4), where a person ceases to be employed in local government employment but enters again into local government employment, then if—

(a) the interval between those two employments does not exceed one month; or

(b) the second of the employments results from the exercise of a right to return to work under Article 111 of the Employment Rights (Northern Ireland) Order 1996(**4**) (right to return to work following pregnancy or confinement),

they shall be treated as a single employment unless the employee elected under regulation D12(1)(*c*).

(6) Where—

(a) under regulation H4, any corresponding provision of earlier legislation or a local Act scheme, the employing authority directs that all or any of the benefits payable under these regulations in respect of a person shall be forfeited, and

(b) the direction is given before the last date on which the Committee is required to pay a transfer value in respect of those benefits under these regulations and no such payment has been made,

any transfer value payable in respect of that person shall be reduced in proportion to the reduction in the total value of the benefits or, as the case may be, shall be withheld.

Minimum transfer values

K8.—(1) Subject to regulations K9 and K10, a transfer value paid by the Committee in respect of a person shall be at least equal to the aggregate of the contributions, transfer values and sums mentioned in paragraph (2) less any contributions equivalent premium paid or payable by the Committee.

(2) The contributions, transfer values and sums referred to in paragraph (1) are—

(a) any contributions made by that person under Part C (other than contributions under regulation C24), and

(b) any transfer values paid to the Committee under this Part in respect of that person,

(**4**) S.I. 1996/1919 (N.I. 16)

in so far as those contributions, transfer values or sums relate to the accrued rights in respect of which the transfer value is paid.

(3) A transfer value paid under this Part shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled under Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993 (including any contributions equivalent premium which is paid or payable).

Modifications where transfer is to club scheme

K9.—(1) Regulations K5(3), K6, and K8(1) do not apply where the transfer value is to be paid to the trustees or managers of a club scheme.

(2) In this Part "club scheme" means an occupational pension scheme which—

(a) provides benefits calculated by reference to the remuneration of the participant;

(b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is approved by the Commissioners of Inland Revenue under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988(**5**);

(c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and

(d) complies with reciprocal arrangements for the payment and receipt of transfer values with the statutory schemes and schemes made under Article 9 of the Order of 1972.

Modification in connection with persons to whom regulation K17 applies

K10. Regulation K8(1) does not apply where the transfer value is in respect of a person to whom regulation K17 applies and in respect of whom a transfer value had previously been accepted by the Committee applying paragraphs (3) and (4) of that regulation.

General provisions about payment of transfer values

K11.—(1) The transfer value under regulation K2 shall be paid to the scheme managers by the Committee out of the fund.

(2) The Committee shall provide the scheme managers and the person to whom the transfer value relates with a written notice showing how it was calculated.

(3) A notice provided under paragraph (2) shall include a statement of the kind required by regulation J4(2)(*c*).

Termination of right to payment out of the fund

K12.—(1) Where a transfer value is to be or has been paid under regulation K2, no other payment or transfer of assets shall be made out of the fund on account of the service to which the transfer value relates, except as provided in regulation K13.

(2) Paragraph (1) has effect notwithstanding anything to the contrary in the Acts of 1937 to 1953 and the regulations made under those Acts, the former regulations, any local Act scheme, the 1981 regulations, the 1992 regulations (except regulations J3 and J6) or any other provision of these regulations.

(**5**) 1988 c. 1

Revival of rights for certain Community scheme transferees

K13.—(1) Schedule K1 shall have effect for the purpose of making provision as respects persons—

(a) in respect of whom transfer values are paid under regulation K2 on their transfer to the Communities' scheme, and

(b) who subsequently leave that scheme without rights to either an immediate or prospective pension.

(2) In this regulation and that Schedule "Communities' scheme" means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities.