
STATUTORY RULES OF NORTHERN IRELAND

1992 No. 547

**Local Government (Superannuation)
Regulations (Northern Ireland) 1992**

PART J

INTERCHANGE, ETC.

Interpretation

J1. In this Part—

“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;

“Community institution” includes a body treated as one of the Communities' institutions for the purposes of the Communities' scheme;

“local Act authority” and “local Act scheme” have—

- (a) in relation to any time before 25th March 1972, the same meanings as in the Act of 1937; and
- (b) in relation to any time on or after 25th March 1972, the same meanings as in section 8 of the Act of 1972;

“pension” does not include an allowance; and

“service” means service or employment with any employer.

Outwards transfers

J2.—(1) Subject to paragraphs (6) and (7), a transfer value shall be paid in relation to a person who has ceased to be employed in local government employment and has become employed in approved non-local government employment if the conditions in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the local government employment, or the commencement of the approved non-local government employment, or both the cessation and the commencement, occurred before 1st March 1993.

(3) The conditions are that—

- (a) he has made a written request to the Committee for the transfer value to be paid; and
- (b) subject to paragraph (4), the request was made not later than 6 months after 1st March 1993, or, if later, 6 months after the date on which he became employed in his approved non-local government employment; and
- (c) the scheme managers of his approved non-local government scheme have agreed to accept the transfer value; and

- (d) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, the Committee has consented to the payment of the transfer value; and
- (e) in the case of a person who received a return of contributions in relation to his local government employment (other than a person falling within paragraph (7)), he has within 3 months of making his request under sub-paragraph (a) paid to the Committee—
 - (i) a sum equal to the contributions returned to him (together with any interest which he was paid);
 - (ii) a sum equal to any deduction made on account of tax under section 209(2) of the Income and Corporation Taxes Act 1970(1); and
 - (iii) compound interest on both those sums calculated in accordance with regulation J7 for the period beginning with the date on which he received the return of contributions and ending on the date of his request under sub-paragraph (a) (but no interest is to be paid if that period is less than 6 months).
- (4) The Committee may in any particular case extend the period mentioned in paragraph (3)(b).
- (5) The Committee shall not give its consent under paragraph (3)(d) unless—
 - (a) in the interval between the employments the person was in employment outside the United Kingdom in relation to which rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(2) applied; or
 - (b) the person left his local government employment with a right to a prospective pension under a local Act scheme,
 and he has not previously made an application for a transfer value to be paid to the scheme managers in question in relation to his local government employment which was refused.
- (6) 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; or
 - (b) who ceased to be employed in local government employment on or after 6th April 1978 having reached state pensionable age, unless his accrued pension for the purposes of Schedule 16 relates solely to service after he reached state pensionable age; or
 - (c) who ceased to be employed in local government employment on or after 6th April 1978 and who has become employed in approved non-local government employment (other than employment with a Community institution) which is not contracted-out employment for the purposes of the Pensions Order, unless—
 - (i) the person is a married woman or widow who has made, or is treated as having made, an election for the purposes of Article 5(2) of that Order and she has not revoked that election and, in consequence, on the cessation of her local government employment she has no accrued rights under these regulations to a guaranteed minimum pension in connection with that employment; or
 - (ii) an election has been made under Article 44(2) of that Order to pay a contributions equivalent premium with a view to extinguishing the person's accrued rights under these regulations to a guaranteed minimum pension in connection with his local government employment; or
 - (d) 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

(1) 1970 c. 10
 (2) 1948 c. 33

- (e) who, on becoming employed in approved non-local government employment became entitled, without any condition as to receipt of a transfer value, to reckon service in his local government employment in relation to his approved non-local government employment; or
 - (f) if a direction has been made in relation to his service in his local government employment under regulations C15(8) or M1 or any corresponding provision of earlier legislation or the former regulations.
- (7) 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 5 years' reckonable and qualifying service; 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 service in respect of which he is entitled to preserved benefits.

Additional transfer value on outwards transfer in certain cases

J3.—(1) Notwithstanding regulation J2(6)(d), where after 31st March 1978 there has been paid in respect of a person to whom regulation F3 applies a transfer value in the calculation of which the period that he became entitled by regulation F6(1)(a) to reckon as reckonable service was not taken into account, an additional transfer value shall be paid in respect of that period.

(2) Notwithstanding regulation J2(6)(d), where a transfer value has been paid before 1st April 1978 in respect of a person in relation to whom one of the conditions in regulation F3(2)(a) to (d) is satisfied and the conditions in regulation F3(4) to (9) were satisfied at the time of payment, an additional transfer value shall be paid if the conditions in paragraph (3) are satisfied.

(3) The conditions are that the scheme managers of a public service scheme not specified in Schedule 14—

- (a) have made a written request to the Committee for the additional transfer value to be paid;
- (b) have given them particulars of the service (being such whole-time service as is described in regulation F2(1)) to which it is to relate, and the rate or amount, as the case may be, to be used in ascertaining C of the formula set out in Part V of Schedule 16; and
- (c) have certified that on payment of the additional transfer value the person will be entitled to reckon extra service for the purposes of the scheme,

but an additional transfer value shall not be paid in the case of an officer who transferred to a government department on 1st October 1973 under an order made under sections 134 or 135 of the Local Government Act (Northern Ireland) 1972(3) or any other transferred provision.

Amount of transfer value, etc.

J4.—(1) The amount of any transfer value payable under regulation J2 and of any additional transfer value payable under regulation J3(1) shall be calculated in accordance with the provisions of Parts I to IV of Schedule 16.

(2) The amount of any additional transfer value payable under regulation J3(2) shall be calculated in accordance with Part V of Schedule 16.

(3) The transfer value or additional transfer value shall be paid to the scheme managers by the Committee out of the fund.

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

(5) A notice provided to a person under paragraph (4) shall include a statement of the kind required by regulation N7(2)(c).

Termination of right to payment out of the fund

J5. Notwithstanding any provision of these regulations or of the former regulations (except regulations J3 and J6), where a transfer value is to be or has been paid under regulation J2 no other payment or transfer of assets shall, subject to regulations J3 and J6, be made out of the fund on account of the service to which the transfer value relates.

Rights where a person transfers to the Communities' scheme and leaves without a right to either an immediate or prospective pension

J6.—(1) This regulation has effect to confer rights on a person and those claiming through him where—

- (a) the person became employed by a Community institution after having been employed in local government employment; and
- (b) the scheme managers of the Communities' scheme were paid a transfer value under regulation J2 in relation to his previous service in local government employment; and
- (c) he ceased to be employed in his employment with the Community institution without the right to an immediate or prospective pension; and
- (d) the Committee has been paid for the credit of the fund—
 - (i) a sum equal to the amount of the transfer value which the scheme managers received; and
 - (ii) compound interest on that sum calculated in accordance with regulation J7 for the period beginning with the date on which the transfer value was received by the scheme managers and ending on the date on which the Committee was paid the sum required by (i) above (but no interest is to be paid if that period is less than 6 months).

(2) Where the person ceased to be employed in his local government employment on or after 1st March 1993 in circumstances in which he would, apart from regulations J2 to J5, have been entitled to a pension (other than a pension under regulations E1(3)(b) or E2(2)) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (4), have the same rights as they would have had by virtue of these regulations (so far as applicable) if the payment of the transfer value had not been requested or made.

(3) Where the person ceased to be employed in his local government employment on or after 1st March 1993 in circumstances in which he would not, apart from regulations J2 to J5, have been entitled to a pension (other than a pension under regulations E1(3)(b) or E2(2)) in respect of the service to which the transfer value relates, he and those claiming through him shall, subject to paragraph (4), have the same rights as they would have had by virtue of these regulations (so far as applicable) if—

- (a) on the termination of his local government employment he had been entitled to reckon an aggregate of 5 years' reckonable and qualifying service; and
- (b) the payment of the transfer value had not been requested or made.

(4) Paragraphs (2) and (3) shall not confer any right to—

- (a) a return of contributions; or

- (b) the payment of any benefit for any period ending on or before the date on which he left his employment with the Community institution.

(5) For the purposes of this regulation references to those claiming through a person shall be construed as references to his widow, dependants, children and personal representatives so far as is appropriate in his particular case.

Compound interest on certain sums

J7. Compound interest under regulations J2(3)(e)(iii) and J6(1)(d)(ii) and Parts I (paragraph 1(2)) and V of Schedule 16 is to be calculated—

- (a) at the rate of 6% with yearly rests for each complete period of a year ending before 1st April 1977 (any residual period of less than a year is to be ignored); and
- (b) at the rate of 2¼% with 3-monthly rests for each complete period of 3 months beginning after 31st March 1977 (any residual period of less than 3 months is to be ignored).

Inward transfers

J8.—(1) Subject to paragraphs (5) and (6), a transfer value offered to the Committee by the scheme managers of a persons previous non-local government scheme shall be accepted by them and shall, together with the amount of any limited revaluation premium under Article 47 of the Pensions Order repaid to the Committee by the Department of Health and Social Services, be credited to the fund if the conditions specified in paragraph (3) are satisfied.

(2) This regulation applies even if the cessation of the non-local government employment, or the commencement of the local government employment, or both the cessation and commencement, occurred before 1st March 1993.

(3) The conditions are that—

- (a) except where the transfer value is offered as mentioned in paragraph (5)(a) and is in respect of such a period as is mentioned in paragraph (5)(b), or relates only to service reckonable under the war service provisions of a public service scheme, he has made a written request to the Committee for the transfer value to be accepted; and
- (b) subject to paragraph (4), the request was made not later than 6 months after 1st March 1993 or, if later, 6 months after the date on which he became employed in his local government employment; and
- (c) the transfer value is not offered on conditions which are inconsistent with the provisions of these regulations; and
- (d) except in the case of a person who became employed in his local government employment on or after 26th August 1977 and who ceased to be employed in his non-local government employment on or after 31st March 1972, the Committee have consented to the transfer value being accepted; and
- (e) in the case of a person who became employed in his local government employment before 31st March 1972, he was employed in local government employment on that date.

(4) The Committee may in any particular case extend the period mentioned in paragraph (3)(b).

(5) A transfer value which—

- (a) is offered by the scheme managers of a public service scheme in relation to a person in relation to whom a transfer value was accepted and received before 1st April 1978; and
- (b) is in respect of a period which could if he had not ceased to be employed in his non-local government employment have become reckonable under the war service provisions of the scheme,

shall not be accepted unless it is one calculated in accordance with Part V of Schedule 16.

- (6) A transfer value under paragraph (1) shall not be accepted in relation to a person if—
- (a) his non-local government employment was contracted-out employment for the purposes of the Pensions Order; and
 - (b) his non-local government scheme was not a statutory scheme or a scheme which is to be treated for the purposes of Schedule 17 as being a statutory scheme; and
 - (c) the transfer value would not secure a resultant pension at least equal to—
 - (i) the annual equivalent of his guaranteed minimum in respect of service to which the transfer value relates; and
 - (ii) where equivalent pension benefits were, but would not remain, assured by his non-local government scheme, the annual rate of those benefits.
- (7) A person's resultant pension shall be calculated in accordance with the formula:

$$R = \frac{N}{80} \times S$$

where—

R is the annual amount of the resultant pension;

N is the reckonable service (expressed in years and fractions of a year) which would, apart from paragraph (5), be credited to him under regulation J9(1)(a) if the transfer value were to be accepted by the Committee;

S is the annual rate of his remuneration on becoming employed in his local government employment (if he is paid weekly, the annual rate shall be calculated by multiplying the weekly rate by 52.18).

(8) A person's guaranteed minimum shall be calculated in accordance with Article 37 of the Pensions Order (except that paragraphs (7) and (8) shall be ignored) by reference to the regulations applying in relation to that Article and the orders in force under Article 23 of that Order, when he becomes employed in his local government employment, and the annual equivalent shall be calculated by multiplying the guaranteed minimum by 52.18.

Right to reckon service

J9.—(1) Where a transfer value (other than one to which regulation J8(5) applies) has been accepted in relation to a person under regulation J8—

- (a) he shall, subject to regulation J10(4), (5) and (6), be entitled to reckon as reckonable service a period calculated in accordance with Schedule 17 for all purposes of these regulations except that of determining whether there is any entitlement to benefit (other than any benefit under regulation E2(2)); and
- (b) he shall be entitled to reckon as qualifying service all the service to which the transfer value relates.

(2) A period reckonable under paragraph (1)(a) shall be treated as reckonable service after 31st March 1972 for the purposes of making any calculation under these regulations.

(3) Service reckonable under paragraph (1)(b) shall count at its actual length.

(4) The Committee shall provide the person with a written notice stating the periods of service which he is entitled to reckon under paragraph (1)(a) and (b) and, in the case of a person who became employed in his local government employment before 1st April 1980, whether or not his retirement pension is subject to reduction under regulations J11 or J12.

(5) A notice under paragraph (4) shall contain a statement of the kind required by regulation N7(2)(c).

Increase in return of contributions

J10.—(1) Where—

- (a) a person to whom regulation J9 applies ceases to be employed in employment in which he is a pensionable employee in circumstances in which a return of contributions is payable to him under regulation C15(3) and (4);
- (b) he would have been entitled to a return of contributions under his non-local government scheme in respect of service to which the transfer value accepted under regulation J8 relates on the termination of his non-local government employment if a transfer value had not been payable; and
- (c) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C15(3) and (4) shall be increased by an amount equal to the return of contributions (including any interest) which would have been paid to him under his non-local government scheme in respect of that service in the circumstances specified in subparagraph (b) if it had been paid when the transfer value was received by the Committee.

(2) Where compound interest is payable on the contributions to be returned under regulation C15(3) and (4), compounded interest calculated at the same rate and in the same manner shall also be payable on the amount of the increase under paragraph (1) for the period beginning with the date on which the transfer value was received by the Committee and ending on the date on which he ceased to be employed in the employment in which he was a pensionable employee.

(3) Nothing in paragraphs (1) and (2) shall confer any entitlement to an increase on account of contributions which were returned to and were not subsequently repaid by the person who paid them.

(4) Where a sum due under regulation C15(3) and (4) is increased under paragraph (1) by an amount equal to the whole of the person's contributions in connection with the service to which the transfer value relates and that is the only service to which the transfer value relates, his right to reckon service under regulation J9(1)(a) (but not under regulation J9(1)(b)) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where a sum due under regulation C15(3) and (4) is increased under paragraph (1) and paragraph (4) does not apply, the person's right to reckon service under regulation J9(1)(a) (but not under regulation J9(1)(b)) on account of the transfer value shall be reduced in accordance with the formula in paragraph (6) when the increased payment is made.

(6) The formula mentioned in paragraph (5) is—

$$A = B \times \frac{(C - D)}{C}$$

where—

A is the reduced service which the person is entitled to reckon under regulation J9(1)(a) after the payment is made;

B is the service which he is entitled to reckon under regulation J9(1)(a) before the payment is made;

C is the service which he is entitled to reckon under regulation J9(1)(b); and

D is the service on account of which the increase under paragraph (1) is made and, for this purpose, the service shall count at its actual length.

(7) Service is to be expressed in years and fractions of a year for the purpose of making the calculation in paragraph (6).

National Insurance modification for flat-rate retirement pension

J11.—(1) The retirement pension of a person to whom regulation J9 applies shall be reduced in accordance with paragraph (2) where—

- (a) he became employed in his local government employment before 1st April 1980; and
- (b) on becoming employed in his local government employment he was subject to regulation 42(2) of the 1962 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme; and
- (c) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation J9(1)(a).

(2) Regulation 53(2) of the 1981 regulations shall be taken to have applied in relation to the period which he is entitled to reckon under regulation J9(1)(a) as if—

- (a) during that period he had been a person subject to regulation 42(2) of the 1962 regulations; and
- (b) that period were service after the relevant date.

(3) In this regulation “relevant date” means 31st March 1950 or, where the pension is reduced under regulation 53(2)(a), (b), (c) or (d) of the 1981 regulations, such other date as is appropriate.

National Insurance modification for graduated retirement pension

J12.—(1) The retirement pension of a person to whom regulation J9 applies shall be reduced by the amount specified in paragraph (2) where—

- (a) he became employed in his local government employment after 31st December 1973 and before 1st April 1980; and
- (b) his non-local government scheme was a statutory scheme; and
- (c) in calculating the amount of the transfer value accepted under regulation J8 a deduction was made in connection with graduated retirement benefit under section 35 of the Insurance Act; and
- (d) his retirement pension is calculated by reference to reckonable service which includes the period which he is entitled to reckon under regulation J9(1)(a).

(2) The specified amount is the reduction in connection with graduated retirement benefit under section 35 of the Insurance Act which would have been made to the person’s pension under his non-local government scheme in relation to the service to which the transfer value relates if on ceasing to be employed in his non-local government employment—

- (a) he had reached state pensionable age; and
- (b) he had become entitled to the immediate payment of a pension under that scheme instead of the payment of a transfer value.

(3) The reduction under this regulation shall take effect on the date on which the person’s retirement pension becomes payable or, if later, the date on which he reaches state pensionable age and shall be additional to any reduction required by regulation J11.

(4) The reduction under this regulation shall be treated for the purposes of Schedule 16 as a reduction made in connection with graduated retirement benefit under section 35 of the Insurance Act.

Certain persons who become subject to other superannuation schemes

J13.—(1) Subject to paragraph (2), this regulation applies to a person who is in an employment in which he is an admitted employee within the meaning of regulation B5, and for whose

superannuation in that employment (“the relevant employment”) the body employing him can make other provision under an approved non-local government scheme which would be a contracted-out scheme in relation to the employment for the purposes of the Pensions Order.

(2) This regulation does not apply to a person unless he gives written notice to the body employing him, and to the Committee, that he wishes it to apply to him, and they consent to its doing so.

(3) On the person’s becoming subject in the relevant employment to an approved non-local government scheme, he shall be treated for the purposes of these regulations, except regulations C15 (return of contributions) and J2 to J6, as having ceased to hold the relevant employment.

(4) On, but not before, the actual termination of the relevant employment, the person may, unless regulation J14 applies to him, request the payment of a transfer value under regulation J2.

(5) If a transfer value is requested in the circumstances mentioned in paragraph (4)—

- (a) regulations J2 to J6 apply as if the person had continued to be employed in his local government employment until the date of the actual termination of the relevant employment; but
- (b) Schedule 16 applies as if his local government employment had ended on the day before he became subject to the approved non-local government scheme.

Transfer of pension rights

J14.—(1) Where—

- (a) regulation J13 applies to a person; and
- (b) on the date on which he becomes subject to the approved non-local government scheme he has not reached state pensionable age; and
- (c) before that date he has given written notice to the Committee and, to his employing authority that he wishes to transfer his pension rights under these regulations to the approved non-local government scheme; and
- (d) the scheme managers, the Committee and his employing authority have each given their consent before that date,

the Committee shall, subject to paragraphs (4) and (6), pay to the scheme managers out of the fund a transfer value calculated in accordance with Schedule 16.

(2) The Committee shall not give their consent under paragraph (1)(d) unless the person transferring his pension rights will acquire pension rights under the approved non-local government scheme at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers under regulation J2.

(3) The Committee shall provide the person transferring his pension rights with sufficient information in writing to check that the condition in paragraph (2) is satisfied.

(4) If—

- (a) the number of persons transferring their pension rights under paragraph (1) from the fund to the same or a different approved non-local government scheme as part of the same transfer scheme is more than 9 but less than 100; and
- (b) the fund’s assets immediately before any transfer takes place are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time,

the total payable under paragraph (1) (or, as the case may be, the respective totals) shall be adjusted to the extent that the fund’s actuary and the actuary of the approved non-local government scheme consider appropriate in the circumstances.

(5) If any question arises as to the application of paragraph (4) or the actuaries are unable to agree on the adjustment to be made under that paragraph, the adjustment (if any) to be made shall be decided by an actuary appointed by the Department.

(6) If the number of persons transferring their pension rights under paragraph (1) from the fund to the same or a different approved non-local government scheme as part of the same transfer scheme is 100 or more—

- (a) no payment shall be made under that paragraph; and
- (b) the fund shall be apportioned in accordance with Schedule 18.

(7) Where paragraph (6) applies in relation to any person, he shall be treated for the purposes of regulation D3(7) as if a transfer value had been paid in relation to him under paragraph (1).

(8) Notwithstanding anything in the former regulations or these regulations, where a payment or transfer of assets is to be or has been made under this regulation or under Schedule 18 no other payment or transfer of assets shall be made out of the fund on account of service or employment to which the payment or transfer of assets under this regulation or under Schedule 18 relates.

(9) A person shall be treated for the purposes of this regulation as having transferred his pension rights on the date on which he becomes subject to the approved non-local government scheme.

(10) For the purposes of this regulation, a transfer scheme is a scheme agreed between the scheme managers, the Committee and the employing authority providing for the transfer of pension rights under this regulation of a number of persons.

(11) “Accrued actuarial liabilities” means the actual and potential liabilities of the fund in connection with any service or employment before any transfer takes place.

Revaluation of guaranteed minimum in certain cases

J15.—(1) This regulation applies where a person has ceased to be a pensionable employee and the guaranteed minimum in relation to his pension is appropriately secured within the meaning of Article 53C(4) of the Pensions Order⁽⁴⁾.

(2) The earnings factors of such a person shall be determined for the purposes of Article 37(2) of the Pensions Order by reference to the last Order under Article 23 of that Order to come into force before the end of the tax year in which he ceased to be a pensionable employee and without reference to the last such Order to come into force before the end of the final relevant year.

(3) The weekly equivalent mentioned in Article 37(2) of the Pensions Order is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of Article 47(1)(b) (exclusion from liability to pay a limited revaluation premium) of that Order.

(4) In this regulation “relevant year” has the meaning given in Article 37(9) of the Pensions Order.

(4) Article 53C was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 1, paragraph 2, amended by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Schedule 9, paragraph 17 and the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)), Article 26, Schedule 6 and the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)), Schedule 4, paragraph 9