
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 177

**Local Government Pension Scheme
Regulations (Northern Ireland) 2000**

Part K

Interchange Etc.

Preliminary

Interpretation

K1. In this Part—

- (a) “contributions equivalent premium” has the same meaning as in section 176 of the Pension Schemes (Northern Ireland) Act 1993⁽¹⁾;
- (b) “local Act scheme” has—
 - (i) in relation to any time before 25th March 1972, the same meaning as in the Act of 1937, and
 - (ii) in relation to any time on or after that date, the same meaning as in section 8 of the Act of 1972;
- (c) “pension” does not include an allowance, or grant;
- (d) “retirement annuity contract” means a contract approved by the Commissioners of Inland Revenue under either section 620 or 621 of the Income and Corporation Taxes Act 1988;
- (e) “service” means service or employment with any employer; and
- (f) “state scheme premium” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993.

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he has duly made an application in writing to the Committee for a transfer value to be paid and has not subsequently withdrawn it; and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(2) and the Pensions Increase Order (Northern Ireland) 1974(3),

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(4), 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.

(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.

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

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(5) (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,

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(6);
- (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.

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.

Transfers in

Inward transfers

K14.—(1) Where a person who becomes a member has accrued rights to benefit under—

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract approved by the Commissioners of Inland Revenue under section 620 or 621 of the Income and Corporation Taxes Act 1988, or
- (d) a self-employed pension arrangement,

he may within 12 months of becoming a member (or such longer period as the Committee may allow) give written notice to the Committee that he wishes it to accept a transfer value in respect of some or all of those accrued rights from the relevant transferor.

- (2) In paragraph (1) the reference to accrued rights to benefit—
- (a) includes rights to preserved benefits and rights appropriately secured under section 15 of the Pension Schemes (Northern Ireland) Act 1993, but
 - (b) excludes rights to benefits arising out of an additional voluntary contributions provision or an additional voluntary contributions scheme (except where the payments securing such rights began before 8th April 1987).
- (3) In paragraph (1) “the relevant transferor”, in relation to a member, means—
- (a) the trustees or managers of the scheme, contract or arrangement under which his accrued rights arise, or
 - (b) in the case of such rights as mentioned in paragraph (2)(a), the trustees or managers of the scheme, contract or arrangement, or the insurance company, to which a payment in respect of his accrued rights has been made.
- (4) Subject to paragraphs (5) and (6), where notice is given in accordance with paragraph (1), the transfer value shall be accepted by the Committee and be credited to the fund.
- (5) Paragraph (4) only applies if—
- (a) the transfer value is offered on conditions which are consistent with the provisions of these regulations;
 - (b) in the case of a person who—
 - (i) became employed in his local government employment before 26th August 1977, or
 - (ii) ceased to be employed in his non-local government employment before 31st March 1972,
 the Committee has consented to the transfer value being accepted; and
 - (c) 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.
- (6) Subject to regulation K18, the Committee only needs to accept a transfer value if it exceeds the annual amount of the guaranteed minimum pension to which the person would have become entitled under these regulations at the request date as a result of the transfer value being accepted, multiplied by the appropriate factor.
- (7) In paragraph (6)—
- “the request date” means the date when the Committee is requested to accept the transfer value; and
- “the appropriate factor”, in relation to a person, means—
- (a) in the case of a person under 30 on the request date, 8;
 - (b) in the case of a person at least 30 but under 40 on that date, 9;
 - (c) in the case of a person at least 40 but under 50 on that date, 10; and
 - (d) otherwise, 12.

Right to count service

K15.—(1) Where a transfer value has been accepted under regulation K14 in relation to a person, he shall be entitled—

- (a) subject to regulation K19(4), (5) and (6), to count a period calculated as mentioned in regulation K16 or, as the case may be, regulation K17, or regulation K18 as a period of membership for all purposes of these regulations (except that of determining whether there is any entitlement to benefit (other than any benefit under regulation D18)), and

- (b) to count as a period to which Part II of Schedule B1 applies all the service in respect of which he has accrued rights to benefits under his previous occupational pension scheme or appropriate policy, as certified by the trustees or managers of that scheme or issuers of that policy, whether the transfer value relates to some or all of those accrued rights.
- (2) For the purposes of making any calculation under these regulations a period of membership which may be counted under paragraph (1)(a) shall be treated—
 - (a) where the person is a man, as a period after 5th April 1978, and
 - (b) subject to regulation K17(6) where the person is a woman, as a period after 31st March 1972.
- (3) A period which may be counted 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 membership which he is entitled to count under paragraph (1)(a) and (b).
- (5) A notice under paragraph (4) shall contain a statement of the kind required by regulation J4(2)(c).

Calculation of period of membership allowed under regulation K15(1)(a): non-club schemes

- K16.**—(1) Subject to regulation K18—
- (a) the period mentioned in regulation K15(1)(a) shall be calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining the amount of transfer values to be paid to occupational pension schemes (other than club schemes) under regulations K5, K7 and K8; and
 - (b) due allowance shall be given for the expected increase in the pensionable remuneration of a local government employee between—
 - (i) the appropriate date, and
 - (ii) the NRD of the person in respect of whom the transfer value was paid.
- (2) In paragraph (1)(b)(i) “the appropriate date” means—
- (a) the date on which the person in respect of whom the transfer value is paid became a member, or
 - (b) if more than twelve months later, the date on which the transfer value is received.

Mis-sold pensions

- K17.**—(1) This regulation applies to a person who, during any period—
- (a) was eligible to be a member of the Scheme;
 - (b) opted out of, or chose not to become a member of, the Scheme and instead was a member of a personal pension scheme or made contributions to a personal pension arrangement; and
 - (c) has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986(7) (actions for damages in respect of contravention of rules etc. made under the Act).
- (2) Where, at any time after 8th April 1997, a person to whom this regulation applies—
- (a) dies when still a member, or
 - (b) becomes entitled to benefits under Part D,

before the transfer payment referred to in paragraph (3) has been paid to the fund in respect of him, paragraphs (3) and (4) shall continue to apply in the case of that person.

(3) Paragraph (4) shall apply where—

- (a) a transfer value in relation to a person to whom this regulation applies has been calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining a restitution payment; and
- (b) the Committee is satisfied that—
 - (i) the transfer value is adequate to restore the position in relation to that person to what it would have been if the person had been a member of the Scheme throughout the relevant period, or
 - (ii) the transfer value represents an amount which will provide such period of service as the Committee may approve in respect of the relevant period.

(4) Where this paragraph applies in relation to a person—

- (a) the period mentioned in regulation K15(1)(a) shall be equal to the period which the person would have been entitled to count as his period of membership if he had been a member of the Scheme throughout the relevant period or such shorter period as the Committee may approve; and
- (b) the person shall be entitled to count the whole of the relevant period as a period to which Part II of Schedule B1 applies (total period of membership to include former and related membership for some purposes of entitlement etc.).

(5) In the case of a member to whom this regulation applies who has been credited with an additional period of membership calculated as specified in regulation K16 (calculation of period of membership allowed under regulation K15(1)(a): non club schemes), the Committee may adjust the amount of the period of membership or period of total membership referred to in paragraph (4)(a) and (b) on account of the transfer value payment by reference to which that additional period of membership was credited.

(6) Where a transfer payment has been accepted in relation to a woman to whom this regulation applies and in respect of whom a transfer value had been paid previously by the Committee to a personal pension scheme or a personal pension arrangement any part of which transfer value was attributable to membership before 1st April 1972, then the period of membership which may be counted under regulation K15(1) shall be apportioned as membership in the same proportions as it would have been had the woman become or remained a member of the Scheme throughout the relevant period.

(7) In this regulation—

“opted out period” means any period throughout which the person was eligible to be a member of the Scheme but instead was a member of a personal pension scheme or made contributions to a personal pension arrangement,

“personal pension arrangement” means a contract or arrangement referred to in regulation K14(1)(c) or (d),

“relevant period” means the total of the opted out period and, if applicable, any period of transferred out service,

“restitution payment” has the same meaning as in regulation K20(5), and

“transferred out service” means service which the person transferred out of the Scheme to a personal pension scheme by exercising a right to a cash equivalent under regulation K2.

Special provision where transfer is from a club scheme

K18.—(1) Regulation K14(6) does not apply where the transfer value is offered by the trustees or managers of a club scheme.

(2) Where the transfer value—

- (a) is paid by the trustees or managers of a club scheme,
- (b) represents all the rights relating to the person in that scheme,
- (c) has been calculated in a manner consistent with the methods adopted and assumptions made by the Committee in determining the amount of transfer values to be paid to club schemes, and
- (d) is paid following an application made to the Committee before the expiry of the period of twelve months beginning with the date on which the person becomes a member,

regulation K16 does not apply and the period mentioned in regulation K15(1)(a) shall be equal to the period which, if used to calculate a transfer value to be paid to a club scheme, would produce an amount equal to the transfer value received by the Committee.

(3) In making the calculation referred to in paragraph (2), regard shall be had—

- (a) to the person's age,
- (b) to the rate of remuneration used by the trustees or managers of the scheme making the payment in determining its amount,
- (c) to his normal retirement age,
- (d) to his marital status, and
- (e) to any other factor notified to the Committee by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount.

Increase in return of contributions

K19.—(1) Where—

- (a) a person to whom regulation K15 applies ceases to be employed in employment in which he is a member in circumstances in which a return of contributions is payable to him under regulation C21(1),
- (b) if a transfer value had not been payable, he would have been entitled on the termination of his non-local government employment to a return of contributions under his non-local government scheme in respect of service to which the transfer value accepted under regulation K14 relates, and
- (c) no previous increase has been made under this regulation in relation to that service,

the sum due to him under regulation C21(1) 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 sub-paragraph (b), if it had been paid when the transfer value was received by the Committee.

(2) Where compound interest is payable on the contributions due to be so returned, compound 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 with the date on which he ceased to be employed in the employment in which he was a member.

(3) Nothing in paragraphs (1) and (2) confers 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) a sum due under regulation C21(1) 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
- (b) that is the only service to which the transfer value relates,

his right to count a period of membership under regulation K15(1)(a) on account of the transfer value shall be extinguished when the increased payment is made.

(5) Where—

- (a) a sum due under regulation C21(1) is increased under paragraph (1), and
- (b) paragraph (4) does not apply,

then, when the increased payment is made, the period of membership the person is entitled to count under regulation K15(1)(a) on account of the transfer value is reduced to the appropriate fraction of the period of membership which he was entitled so to count before the payment was made.

(6) In paragraph (5) “the appropriate fraction” means the fraction of which—

- (a) the numerator is the period he is entitled to count under regulation K15(1)(b) (“the K15(1)(b) period”) reduced by the period of service on account of which the increase under paragraph (1) is made, and
- (b) the denominator is the K15(1)(b) period.

(7) For the purpose of calculating the reduction under paragraph (5)—

- (a) the period of service mentioned in paragraph (6)(a) shall count at its actual length; and
- (b) all periods are to be expressed in years and fractions of a year.

Provision of information, charging and prescribed persons

K20.—(1) For the purposes of Article 164(1) of the Pensions Order (prescribed circumstances in which information may be provided) (“the prescribed circumstances”) the prescribed circumstances are that the individual to whom the information relates, or, where he has died, his personal representatives, has requested or consented in writing to the provision of the information.

(2) For the purposes of Article 164(1) of the Pensions Order (persons to whom information may be provided and the imposition of reasonable fees in respect of expenses incurred in providing that information) the prescribed persons are those persons described in paragraph 1 of Schedule K2.

(3) For the purposes of Article 164(2) of the Pensions Order (persons on whom fees may be imposed in respect of administrative expenses incurred in connection with admission, readmission or payment) the prescribed persons are the persons referred to in paragraph 2 of Schedule K2.

(4) For the purposes of Article 164(4) of the Pensions Order (person prescribed in place of the Department in the case of an occupational pension scheme under Article 9 of the Order of 1972) the Committee is a prescribed person.

(5) Where—

- (a) information is requested by a prescribed person in the prescribed circumstances in relation to an individual to whom regulation K17 applies for the purpose of establishing what payment would need to be made to the Scheme in respect of the individual to restore the position to what it would have been if the individual had been an active member of the Scheme throughout the period in question (“the restitution payment”), or
- (b) an individual to whom regulation K17 applies, applies to become a member of the Scheme or applies to have a restitution payment accepted having become a member of the Scheme after the period in question

the Committee shall calculate the restitution payment in accordance with the provisions of paragraphs 3 to 5 of Schedule K2.

Transfers of certain members who are eligible to join approved non-local government schemes

Certain members who become subject to other pension schemes in the same employment

K21.—(1) This regulation applies to a person if—

- (a) he is a member by virtue of being an employee to whom an admission agreement applies;
- (b) the body employing him in that employment (“the relevant employment”) can make other provision for his superannuation under an approved non-local government scheme;
- (c) he gives written notice to that body (and to the Committee, if different) that he wishes this regulation to apply to him and it consents to its doing so.

(2) When a person to whom this regulation applies becomes subject in the relevant employment to an approved non-local government scheme (“the new scheme”), he shall be treated for the purposes of these regulations (except regulations C23 (return of contributions) and K2 to K13) as having ceased to hold the relevant employment.

(3) Unless a person to whom this regulation applies has given notice under regulation K22(3)(b), he may, on the actual termination of the relevant employment (but not before), request the payment of a transfer value under regulation K2.

(4) If a transfer value is requested as mentioned in paragraph (3)—

- (a) regulations K2 to K13 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, and
- (b) regulations K5, K7 and K8 apply as if his local government employment had ended on the day before he became subject to the new scheme.

Requests for transfer payments: regulation K21 employees and employees of ineligible employers

K22.—(1) This paragraph applies—

(a) to a person who ceases to be a member because—

- (i) the undertaking in which he is employed is transferred to a body which is not a LGPS employer nor a body which has entered into an admission agreement; or
- (ii) the body by which he is employed ceases to be a LGPS employer or a body which is party to an admission agreement,

and in respect of which the body employing him after the transfer date can make other provision under an approved non-local government scheme; and

(b) to a person to whom regulation K21 applies;

and in this regulation “the transfer date” means—

- (i) in the case of a person within paragraph (a)(i), the date of the undertaking,
- (ii) in the case of a person within paragraph (a)(ii), the date his employer ceases to be such an employer as there mentioned, and
- (iii) in the case of a person within paragraph (b), the date on which he becomes subject to an approved non-local government scheme.

(2) A person within paragraph (1)(a) shall be treated for the purposes of these regulations as having ceased to hold his employment on the transfer date.

(3) Where—

- (a) a person to whom paragraph (1) applies has not attained state pensionable age on the transfer date; and
- (b) before that date or, with the consent of his employing authority, the Committee and the scheme managers of the transferee scheme, before the expiry of the period of twelve months or such longer period as is agreed by those persons beginning with that date—
 - (i) he gives written notice to the Committee (and to his employing authority) that he wishes to transfer his pension rights under these regulations to the transferee scheme, and
 - (ii) the scheme managers of the transferee scheme, the Committee (and his employing authority) have each consented,

then, subject to paragraph (6), the Committee shall set aside the appropriate part of the fund (“the transfer payment”), whether in cash or in assets or both, and pay or transfer it to the scheme managers of the transferee scheme for the benefit of the relevant beneficiaries.

(4) For the purposes of paragraph (3), the appropriate part of the fund is the amount determined by the Scheme’s actuary (on the basis of actuarial assumptions specified by him) to be equal to the value at the transfer date of the actual and potential liabilities of the fund which have then accrued in respect of the relevant beneficiaries, after making such adjustments as he thinks fit as respects—

- (a) any period between the transfer date and the date of actual payment of the transfer value; and
- (b) such other matters as he thinks fit;

and in paragraph (3) and this paragraph “relevant beneficiaries” means the member or members in respect of whom the transfer payment is made and those persons who under these regulations are or may become entitled to benefit through him or them.

(5) The employing authority shall bear the costs of determining the appropriate part of the fund and apportioning the fund or, if there is more than one employing authority involved, each shall bear such part of the costs as the Scheme’s actuary determines.

(6) Where a transfer payment in respect of a person is made under paragraph (3)—

- (a) if the transferee scheme is contracted-out and the scheme managers undertake to accept liability for that person’s guaranteed minimum pension, no deduction shall be made for that pension from the transfer payment;
- (b) otherwise, there shall be deducted from it the amount of any contributions equivalent premium payable pursuant to section 51(2) of the Pension Schemes (Northern Ireland) Act 1993,

and such amount shall be used either in paying such a premium or, if the Committee thinks fit, in preserving the liability for the guaranteed minimum in the fund; and

- (c) the Committee—
 - (i) shall certify to the scheme managers of the transferee scheme the amount included in the transfer payment which represents the person’s contributions and interest on them, and
 - (ii) may require them to undertake to treat only those amounts as employee’s contributions in the transferee scheme.

(7) The Committee—

- (a) shall provide the person transferring his pension rights with sufficient information in writing to check that the pension rights he will acquire under the new scheme are at least equivalent to those which he would have obtained if a transfer value had been paid to the scheme managers of the transferee scheme under regulation K2; and

(b) shall not consent under paragraph (3)(b)(ii) unless it is satisfied of that fact.

(8) Where a transfer payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made out of the fund on account of service or employment to which the transfer payment under this regulation relates.

(9) Paragraph (8) applies notwithstanding anything in the former regulations and these regulations.

(10) In this regulation “undertaking” has the same meaning as in the Transfer of Undertakings (Protection of Employment) Regulations 1981(8).

(8) [S.I. 1981/1794](#); regulation 2(1) was partially repealed by the Trade Union Reform and Employment Rights Act 1993 (c. 19), sections 33(1), (2), 51, Schedule 10