
STATUTORY INSTRUMENTS

1991 No. 2471

PENSIONS

**The Local Government Superannuation
(Interchange) Regulations 1991**

Made - - - - 28th October 1991
Laid before Parliament 4th November 1991
Coming into force - - 25th November 1991

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of, and Schedule 3 to, the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Superannuation (Interchange) Regulations 1991, and shall come into force on 25th November 1991 but—

- (a) regulations 2, 3(1), 4(1), 5 to 20 and 24 to 26 shall have effect as from 6th April 1988,
- (b) regulations 21 and 22 shall have effect as from 1st December 1988,
- (c) regulation 23 shall have effect as from 1st April 1989, and
- (d) regulations 3(2) and 4(2) shall have effect as from 28th February 1991.

(2) In these Regulations “the principal Regulations” means the Local Government Superannuation Regulations 1986(2), and unless the context otherwise requires any expression which is also used in the principal Regulations has the same meaning as in those Regulations.

(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(2) S.I. 1986/24; relevant amending instruments are S.I. 1986/380, 1987/293, 1988/466, 1989/371, 1462.

Part II

Interchange provisions

AVC Transfers

2. Regulation C9A of the principal Regulations is amended by adding the following paragraph:

“(3) Schedule 6A shall also apply in relation to receipt of a transfer value in respect of an additional voluntary contributions provision or an additional voluntary contributions scheme.”.

Return of employee’s contributions in certain cases

3.—(1) Regulation C12 of the principal Regulations is amended—

(a) by substituting for paragraph (1) the following:

“(1) This regulation applies to a person who—

- (a) (i) ceases to be employed by a scheduled body, and
- (ii) on so ceasing to be employed does not become entitled to a retirement pension;

or

- (b) (i) ceases to be a pensionable employee by virtue of a notification under regulation B1B, and
- (ii) on so ceasing to be a pensionable employee has completed less than an aggregate of 2 years' reckonable service and qualifying service; and does not, within one month and one day thereafter become a pensionable employee with any scheduled body.”;

(b) by inserting after paragraph (11)(d) the following: “or

- (e) to a person in relation to whom a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the appropriate superannuation fund.”;

(c) in paragraph (12)—

- (i) by substituting for the words “paragraph (2)” the words “paragraph (7)”, and
- (ii) by inserting after the words “one month and two days after the termination of the employment” the words “or, in the case of a person referred to in paragraph (1)(b), after the notification given under regulation B1B”.

(2) Regulation C12 (as amended by paragraph(1)) is further amended by deleting paragraph (5), the words “or (5)” in paragraph (6), the words “and not having given a notice under paragraph (5)” in paragraph (11)(a) and paragraph (11)(b).

Entitlement to retirement pension and retiring allowance

4.—(1) Regulation E2(1) of the principal Regulations is amended—

- (a) in sub-paragraph (b), by substituting for the word “and” after the words “2 years” the words “or regulation C12(11)(e) applies to him and in either case”;
- (b) in sub-paragraph (c)(ii), by inserting after the words “C12(4)(b)” the words “or regulation C12(11)(e) applies to him”.

(2) Regulation E2(2)(a) is amended by deleting the words “or he is entitled under paragraph (1)(c) but makes an election under regulation C12(5)”.

Ill-health retirement grant

5. Regulation E4(1) of the principal Regulations is amended by adding after sub-paragraph (e) the following: “, and

- (f) to whom regulation C12(11)(e) did not apply when he ceased to hold that employment.”.

Entitlement to widow’s short-term and long-term pensions

6. Regulation E5(1) of the principal Regulations is amended by inserting after sub-paragraph (c) (ii) the following: “or

- (iii) a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the appropriate superannuation fund in relation to him,”.

Entitlement to children’s short-term and long-term pensions

7. Regulation E8(1) of the principal Regulations is amended by inserting after sub-paragraph (c) the following: “or

- (d) was in a local government employment and a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the appropriate superannuation fund in relation to him,”.

Children’s special short-term pension

8. Regulation E10(1)(a) of the principal Regulations is amended by inserting after the words “2 years” the words “and regulation E8(1)(d) does not apply to him”.

Death grant

9. Regulation E11 of the principal Regulations is amended—

- (a) in paragraph (1), by adding after sub-paragraph (e) the following: “or
 - (f) was in a local government employment and a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the appropriate superannuation fund in relation to him, but was not a pensionable employee by virtue of a notification under regulation B1B,”;
- (b) in paragraph (8), by substituting for the words “paragraph (1)(d) or (e)” the words “paragraph (1)(d), (e) or (f)”;
- (c) in paragraph (9), by substituting for the words “paragraph (1)(a), (d) or (e)” the words “paragraph (1)(a), (d), (e) or (f)”.

Outward transfers

10. Regulation J2 of the principal Regulations is amended—

- (a) by substituting for paragraphs (1) to (4) the following:
 - “(1) Subject to paragraphs (6) and (7), where a person has ceased to be a pensionable employee by virtue of—
 - (a) his ceasing to be employed in local government employment, or

- (b) a notification under regulation B1B, and the conditions in paragraph (2) are satisfied, the fund authority shall, in relation to that person, pay a transfer value to be used in accordance with paragraph 13 of Schedule 1A to the Pensions Act at the person's option in one or more of the ways set out in sub-paragraph (2) of that paragraph.
- (2) The conditions are that—
- (a) he ceased to be a pensionable employee as described in paragraph (1) at least one year before he would have attained pensionable age, or, where the transfer value is to be paid to a superannuation scheme, before he would have attained pensionable age; and
- (b) he is a person—
- (i) who is entitled to reckon an aggregate of not less than 2 years' reckonable service and qualifying service, or
- (ii) in relation to whom a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the appropriate superannuation fund, or
- (iii) who after ceasing to be a pensionable employee as described in paragraph (1) has taken up non-local government employment in which he participates in a superannuation scheme and he has, within 12 months after taking up that employment, made an application, such as is mentioned in sub-paragraph (c), for a transfer value to be paid, or
- (iv) who after ceasing to be a pensionable employee as described in paragraph (1) enters into a contract for a personal pension scheme or a self-employed pension arrangement or an appropriate policy and has, within 12 months of that contract, made an application, such as is mentioned in sub-paragraph (c), for a transfer value to be paid; and
- (c) he has—
- (i) if the request is for the transfer value to be paid to a superannuation scheme, before attaining pensionable age, or
- (ii) in any other case, at least one year before he would have attained pensionable age or not later than 6 months after the date on which he ceased to be a pensionable employee, whichever is the later, made an application in writing to his fund authority for a transfer value to be paid, and has not subsequently withdrawn it in accordance with paragraph (10) (a); and
- (d) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, his local government employer has consented to the payment of the transfer value.
- (3) The local government employer may in any particular case extend the period of 12 months referred to in paragraphs (2)(b)(iii) and (iv).”⁽³⁾
- (b) in paragraph (5), by substituting for the words“paragraph (3)(d)” the words“paragraph (2) (d)”;
- (c) in paragraph (6), by deleting sub-paragraphs (c) and (f);

(3) “The Pensions Act” means the Social Security Pensions Act 1975 c. 60 (see Schedule 1 to the principal Regulations); Schedule 1A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3; paragraph 13 was amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraph 30 and by the Personal and Occupational Pension Schemes (Modifications of Enactments) Regulations 1987, S.I. 1987/1116, Schedule 6, paragraphs 1 to 4.

(d) by adding after paragraph (7) the following:

“(8) Subject to paragraph (9), the fund authority shall, if an application under paragraph (2)(c) is received by them, pay a transfer value not later than—

- (a) 12 months after the date on which they receive the application, or
- (b) where the person in relation to whom the transfer value is paid—
 - (i) ceased to be a pensionable employee as described in paragraph (1) on a date at least one year before he would have attained pensionable age, and
 - (ii) made his application under paragraph (2)(c) not later than 6 months after that date, the date on which he attains pensionable age,

whichever is the earlier.

(9) Where proceedings before a court have been commenced against a person at any time before the expiry of the period of 12 months beginning with the date on which he ceased to be a pensionable employee, and it appears to the fund authority 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 M1, the date by which the fund authority shall pay a transfer value in relation to that person shall be—

- (a) the date by which they would be required to do so under paragraph (8), or
- (b) the end of the period of 3 months after the conclusion of the court proceedings (including any proceedings on appeal),

whichever is the later.

- (a) (10) A person who has made an application under paragraph (2)(c) may withdraw that application by giving notice in writing to his fund authority, but such a notice will be of no effect if, before receiving it, the fund authority have 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 paragraph 13(2) of Schedule 1A to the Pensions Act.

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

(11) Where a person is entitled to separate preserved benefits by virtue of regulation E2(9)(c) he may make an application under paragraph (2)(c) above in respect of all or any of those separate entitlements and, 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.”.

Amount of transfer value etc.

11. Regulation J4(1) of the principal Regulations is amended by substituting for the words“Parts I to IV” the words“Part I”.

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

12. Regulation J6(5) of the principal Regulations is amended by substituting for sub-paragraph (a) the following:

- “(a) on the termination of his local government employment he had been entitled to reckon either—
 - (i) where the termination occurred before 6th April 1988, an aggregate of 5 years' reckonable service and qualifying service, or
 - (ii) where the termination occurred on or after 6th April 1988, an aggregate of 2 years' reckonable service and qualifying service, or

- (iii) if he was subject to a local Act scheme, 5 years' service which would have been taken into account under the scheme for the purpose of determining whether he was entitled to benefit, and”.

Compound interest on certain sums

13. Regulation J7 of the principal Regulations is amended by deleting the words “J2(3)(e)(iii)” and the words “I (paragraph 1(2)),”.

Inward Transfers

14. Regulation J8 of the principal Regulations is amended—

- (a) by substituting for paragraphs (1) and (2) the following:

“(1) Where a person, other than a person to whom Part Q applies, becomes a pensionable employee and has accrued rights to benefit under a superannuation scheme, a personal pension scheme, a retirement annuity contract or a self-employed pension arrangement (including rights to preserved benefits and rights appropriately secured under section 52C of the Pensions Act but excluding rights to benefits arising out of an additional voluntary contributions provision or an additional voluntary contributions scheme unless the payments securing such rights under that provision or scheme began before 8th April 1987), he may within 12 months of becoming a pensionable employee (subject to paragraph (4)) give written notice to his fund authority that he wishes the fund authority to accept a transfer value in respect of some or all of those accrued rights from—

- (a) the trustees or managers of the superannuation scheme, personal pension scheme, retirement annuity contract or self-employed pension arrangement under which his accrued rights arise, or
- (b) the trustees or managers of the superannuation scheme, personal pension scheme, retirement annuity contract or self-employed pension arrangement, or the insurance company, to which a payment in respect of his accrued rights has been made.

(2) Where notice is given in accordance with paragraph (1), the transfer value shall, subject to paragraphs (5) and (6) and provided that the conditions specified in paragraph (3) are satisfied, be accepted by the fund authority and shall, together with the amount of any limited revaluation premium under section 45 of the Pensions Act repaid to the fund authority by the Secretary of State, be credited to their superannuation fund.”(4);

- (b) in paragraph (3), by deleting sub-paragraphs (a) and (b);
- (c) in paragraph (4), by substituting for the words “paragraph (3)(b)” the words “paragraph (1)”;
- (d) by substituting for paragraphs (6), (7) and (8) the following:

“(6) Subject to paragraph (7), the fund authority shall not be required to accept a transfer value in accordance with paragraph (2) if that transfer value does not exceed $P \times F$, where—

P is the annual amount of the guaranteed minimum pension to which the person would have become entitled under these Regulations at the date when the fund

(4) “The Pensions Act” means the Social Security Pensions Act 1975 c. 60 (see Schedule 1 to the principal Regulations). Section 52C was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 2; and amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraph 26, the Social Security Act 1989 (c. 24), Schedule 6, paragraph 14, and the Social Security Act 1990 (c. 27), Schedule 4, paragraph 10. Section 45 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 22(7); the Social Security Act 1980 (c. 30), section 3(9); the Social Security Act 1985, Schedule 3, paragraph 5 and Schedule 5, paragraph 25; the Social Security Act 1986, Schedule 2, paragraph 6 and Schedule 8, paragraph 10; the Social Security Act 1989, Schedule 6, paragraph 12 and Schedule 9; and by S.I. 1985/1323 and 1987/1118.

authority are requested to accept the transfer value as a result of the transfer value being accepted, and

F is the factor appropriate to that person set out in column 2 of the following table opposite that person's age in column 1 at the same date:

TABLE

<i>I</i> <i>Age</i>	<i>2</i> <i>Appropriate factor</i>
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

(7) Paragraph (6) does not apply to a transfer value offered by the scheme managers of a club scheme.”.

Right to reckon service

15. Regulation J9 of the principal Regulations, which shall have effect subject to regulation 26 below, is amended—

(a) by substituting for paragraph (1)(b) the following:

“(b) he shall be entitled to reckon as qualifying service all the service in respect of which he has accrued rights to benefits under his previous superannuation 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.”; and

(b) by substituting for paragraph (2) the following:

“(2) For the purposes of making any calculation under these Regulations a period reckonable under paragraph (1)(a) shall be treated—

(a) where the person is a man, as reckonable service after 5th April 1978, and

(b) where the person is a woman, as reckonable service after 5th April 1988.”.

Change of local government employment and fund authority

16. Regulation Q2(1)(c) of the principal Regulations is amended by inserting after the words “he is” the words “a pensionable employee and is”.

Glossary of expressions

17. Schedule 1 to the principal Regulations is amended—

(a) by inserting after the entry for the expression “Additional contributory payment” the following:

““Additional voluntary contributions provision”	A provision of a superannuation scheme approved by the Board of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988 which
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provides for the payment by employees of voluntary contributions.

“Additional voluntary contributions scheme”

A scheme approved by the Board of Inland Revenue under section 591 of the Income and Corporation Taxes Act 1988, to which an employer is not a contributor and which provides benefits additional to those provided by a superannuation scheme.”⁽⁵⁾

- (b) by inserting after the entry for the expression “Appropriate administering authority” the following:

““Appropriate personal pension scheme”

A personal pension scheme for which there is in force a certificate issued in accordance with regulations made under section 2 of the Social Security Act 1986, and which has been approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 or provisionally approved under section 655(5) of that Act.

“Appropriate policy”

A policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under paragraph 13(2)(b) of Schedule 1A to the Pensions Act.”⁽⁶⁾

- (c) by inserting after the entry for the expression “Child” the following:

““Club scheme”

A superannuation scheme—

- (a) which 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) which is approved by the Board of Inland Revenue under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988;
- (c) which 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

⁽⁵⁾ Income and Corporation Taxes Act 1988, c. 1; section 591 was amended by paragraph 6 of Schedule 13 to the Finance Act 1988, c. 39.

⁽⁶⁾ Section 655(5) of the Income and Corporation Taxes Act 1988 was amended by section 54(2)(c) of the Finance Act 1988, and by paragraph 9 of Schedule 7 and Part IV of Schedule 17 to the Finance Act 1989, c.26.

- level of post as the participants in the closed scheme; and
- (d) which complies with reciprocal arrangements for the payment and receipt of transfer values with the statutory schemes and schemes made under section 7 of the Act of 1972.”;

(d) by inserting after the entry for the expression “The Pensions Act” the following:

““Personal pension scheme”	A personal pension scheme as defined in section 84(1) of the Social Security Act 1986 which has been approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 or provisionally approved under section 655(5) of that Act.”;
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(e) by inserting after the entry for the expression “Retiring allowance” the following:

““Retirement annuity contract”	A contract approved by the Board of the Inland Revenue under either section 620 or 621 of the Income and Corporation Taxes Act 1988.”;
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(f) by inserting after the entry for the expression “Scheme managers” the following:

““Self-employed pension arrangement”	A personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988 which is approved by the Board of Inland Revenue under that Chapter or provisionally approved under section 655(5) of that Act, but which is neither a personal pension scheme within the meaning of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988.”;
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(g) by inserting after the entry for the expression “Statutory scheme” the following:

““Superannuation scheme”	An occupational pension scheme within the meaning of section 66(1) of the Pensions Act except— (i) a retirement benefits scheme as defined in section 611 of the Income and Corporation Taxes Act 1988 which is not of a description mentioned in section 596(1)(a), (b) or (c) of that Act, or
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- (ii) an additional voluntary contributions scheme, or
 - (iii) an appropriate personal pension scheme, or
 - (iv) an appropriate policy, or
 - (v) a personal pension scheme, or
 - (vi) a self-employed pension arrangement.”(7).
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Transfers from AVC Provisions and Schemes

18. Schedule 6A to the principal Regulations is amended by inserting after paragraph 9 the following—

“**9A.**—(1) A pensionable employee may, when giving a notice under regulation J8(1), also give written notice to the appropriate administering authority that he wishes them to accept a transfer value relating to some or all of the rights to benefits arising out of an additional voluntary contributions provision or an additional voluntary contributions scheme to be used to provide money purchase benefits as specified in paragraphs 3, 4 and 5 of this Schedule.

(2) Where such a notice is given the transfer value shall be accepted and so used by the administering authority and paragraphs 3, 4, 5(3) and (4), 8 and 9 of this Schedule shall apply in relation to the transfer value as they apply to additional contributions except that for references to a notice under paragraph 1(1) or 2(c) there shall be substituted a reference to the notice under sub-paragraph (1).”.

Calculation of transfer values

19. Schedule 16 to the principal Regulations is amended by substituting for Parts I, II, III and IV the following:

“PART 1

1. In this Schedule

“accrued rights” means the rights which have accrued in respect of a person under these Regulations at the material date (or, in the case of such a person as is described in regulation J2(11), those rights in respect of which his application under regulation J2(2)(c) was made), or, if his service is less than that specified in regulation E2(1)(c)(i), the rights which would have so accrued if that regulation had contained no requirement as to service; and, for the purpose of determining a single man’s accrued rights in respect of a widow’s pension all his reckonable service shall be taken into account if any part of that reckonable service is reckonable by virtue of regulation J9(1)(a) of these regulations or regulation N8(1)(a) of the 1974 regulations;

“capitalised value” means the capitalised value at the material date as determined by the fund authority, in such manner as may be approved by the Government Actuary or by an actuary authorised by the Government Actuary to act on his behalf for that purpose, having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these regulations;

(7) Section 596(1)(b) of the Income and Corporation Taxes Act 1988 was amended by paragraph 8(2)(b) of Schedule 6 to the Finance Act 1989.

“material date” means the date on which the person ceased to be employed in local government employment or to be a pensionable employee, as described in regulation J2(1), or, if it is later, the date on which his application for payment of a transfer value is received by his fund authority; and

“state scheme premium” means a state scheme premium or a transfer premium under Part III of the Pensions Act.

2. Subject to the provisions of this Part of this Schedule, a transfer value to be paid in accordance with the provisions of regulation J2, J3(1) or J14 in respect of a person shall be an amount equal to—

- (a) the capitalised value of his accrued rights at the material date, and any associated rights under the Pensions (Increase) Act 1971 and the Pensions (Increase) Act 1974, less a sum, if any, in respect of any state scheme premium which is payable or has been paid and not recovered in respect of a period of service taken into account in the valuation of those rights, together with
- (b) where the transfer value is, without reasonable cause or excuse, not paid within 6 months of the material date and it is not to be paid to a club scheme—
 - (i) 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 4(4)(a) of the Occupational Pension Schemes (Transfer Values) Regulations 1985, or, if it is greater,
 - (ii) 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.

3. Where, prior to the last date on which the fund authority is required to pay a transfer value under these regulations, the employing authority has directed under regulation M1 or any corresponding provision of earlier legislation or a local Act scheme that all or any of the benefits payable under these regulations shall be forfeited, 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 shall be withheld as the case may be.

4. Where a person requests that a transfer value be paid—

- (a)
 - (i) to a superannuation scheme which is not contracted-out within the meaning of section 32(1) of the Pensions Act, or
 - (ii) to a superannuation scheme which is contracted-out within the meaning of that section and the person is not entitled to benefits under regulation E2(1)(c), or
 - (iii) to a personal pension scheme which is not an appropriate personal pension scheme, or
 - (iv) to a self-employed pension arrangement; and
- (b) the trustees or managers of the superannuation scheme, personal pension scheme or self-employed pension arrangement are able and willing to have transferred to it only the liability for a member’s accrued rights other than his and his surviving spouse’s rights to guaranteed minimum pensions; and
- (c) he does not require that portion of his transfer value that represents his guaranteed minimum pension to be used in one of the ways specified in paragraph 13(2)(b) and (c) of Schedule 1A to the Pensions Act,

then his transfer value shall be reduced by the amount of a state scheme premium sufficient to meet the liability in respect of that person’s and his surviving spouse’s guaranteed minimum pensions.

5.—(1) Subject to sub-paragraph (2), where a person has ceased to be a pensionable employee by virtue of a notification under regulation B1B, that person shall be entitled to a transfer value under regulation J2(1) in respect only of that part of his accrued rights which is attributable to his reckonable service after 5th April 1988.

(2) This paragraph shall not apply to a person the aggregate of whose reckonable service and qualifying service before 6th April 1988 amounts to less than 2 years.

(3) Where—

- (a) a transfer value limited in accordance with sub-paragraph (1) has been paid in respect of a person, and
- (b) that person has subsequently ceased to be employed in local government employment before attaining pensionable age or, where regulation J2(2)(c)(ii) applies, at least one year before he would have attained pensionable age,

a right to a transfer value in respect of any part of his accrued rights to which, but for the operation of sub-paragraph (1), he would have been entitled on ceasing to be a pensionable employee, shall accrue to the person on the date on which his local government employment ceased and shall be valued accordingly.

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

- (a) regulation J2(2)(c)(ii) shall have effect as if there were substituted for the words “a pensionable employee” the words “employed in local government employment”; and
- (b) the definition of “material date” in paragraph 1 shall have effect as if the words “or to be a pensionable employee, as described in regulation J2(1)” were deleted.

(5) For the purposes of this paragraph, where a person ceases to be employed in local government employment but that person enters again into local government employment, then, if there is between those two employments—

- (a) an interval not exceeding one month; or
- (b) an interval of any length if the second of the employments results from the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978 (right to return to work following pregnancy or confinement),

they shall be treated as a single employment unless the employee elected under regulation E2(9)(c).

6. A transfer value paid by a fund authority in respect of a person shall, unless it is paid to the trustees or managers of a club scheme, be at least equal to the aggregate of—

- (a) any contributions made by that person under Part C (other than contributions under regulation C9A),
- (b) any transfer values paid to that fund authority under Part J in respect of that person, and
- (c) any transfer values paid under Part J in respect of that person to an authority which was his previous fund authority (within the meaning of regulation Q2),

(insofar as those contributions or transfer values relate to the accrued rights in respect of which the transfer value is paid) less any state scheme premium paid or payable.

7. A transfer value paid under this Schedule shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled under Part II of Schedule 1A to the Pensions Act including any state scheme premium paid or payable.”(8).

Calculation of reckonable service to be credited under regulation J9(1)(a)

20. The principal Regulations are amended by substituting for Schedule 17 the following:

“SCHEDULE 17

Regulation J9(1)(a)

CALCULATION OF RECKONABLE SERVICE TO BE CREDITED UNDER REGULATION J9(1)(a)

1. Where a transfer value has been paid to, and accepted by, the fund authority, there shall be credited to the person in respect of whom the payment was made a period of reckonable service calculated in accordance with paragraph 2.

2. For the purposes of paragraph 1–

(a) where the transfer value–

(i) is paid by the trustees or managers of a club scheme,

(ii) represents all the rights relating to the person in that scheme,

(iii) has been calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to club schemes, and

(iv) is paid following an application made to the fund authority within 12 months of the person becoming a pensionable employee,

the period of reckonable service to be credited to the person shall be equal to the period of service 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 fund authority, and in making the calculation regard shall be had to the person’s age, rate of pensionable remuneration, pensionable age, marital status and, in addition, to any other factor notified to the fund authority by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount;

(b) in any other case the period of reckonable service credited to the person shall be calculated in a manner consistent with the methods adopted and assumptions made by the fund authority in determining the amount of transfer values to be paid to superannuation schemes (other than club schemes) under Schedule 16, due allowance being given for the expected increase in the pensionable remuneration of a local government employee between the appropriate date and the date on which the person in respect of whom the transfer value was paid would attain pensionable age.

3. In this Schedule “the appropriate date” means the date on which the person in respect of whom the transfer value is paid became a pensionable employee or, if the transfer value is received more than 12 months after that date, the date on which it is received.”

(8) The Pensions Increase Act 1971, c. 56; the Pensions Increase Act 1974, c. 9; the Occupational Pension Schemes (Transfer Values) Regulations 1985, S.I. 1985/1931, amended by S.I. 1986/751 and 2171; the Employment Protection (Consolidation) Act 1978, c. 44.

PART III

MINOR AND TRANSITIONAL PROVISIONS

Power to admit employees of other bodies

21. Regulation B3(8) of the principal Regulations is amended by inserting after paragraph (f) the following:

“(ff) Housing for Wales;”.

Change of local government employment and fund authority

22. Regulation Q2(2) of the principal Regulations is amended by inserting after the words “London Government Act 1963” the words “or an offer made under paragraph 9 of Schedule 5 to the Housing Act 1988”(9)

Change of local government employment and fund authority

23. Regulation Q2(6) of the principal Regulations is amended by inserting after the words “London Government Act 1963” the words “or an offer made under paragraph 11(1)(b) of Schedule 1 to the Housing (Scotland) Act 1988”(10)

Transitional provisions

24. Regulations 10 to 15 and 19 and 20 shall have effect subject to regulations 25 and 26 below.

25.—(1) Regulations 10 to 15 and 19 and 20 shall not have effect—

(a) in relation to—

- (i) any person who has completed 5 or more years' reckonable service and qualifying service as a pensionable employee, or
- (ii) any person to whom regulation C12(12) of the principal Regulations applies and who has not received a return of contributions,

and whose local government employment ceased before 1st January 1986 (or who ceased to be subject to the principal Regulations before that date), so as to allow him to exercise an option under regulation J2 of the principal Regulations which would not have been available to him had these Regulations not been made; or

(b) in relation to—

- (i) payments of transfer values made by the fund authority to club schemes in respect of which an application was received by that authority before 6th April 1988, or
- (ii) payments of transfer values made by such schemes to the fund authority, in respect of which an application was received by the scheme before that date,

unless both the fund authority and the trustees or managers of the scheme agree otherwise.

(2) Where—

- (a) a transfer value is payable to the trustees or managers of an approved non-local government scheme which is not a club scheme, and
- (b) the reckonable service to which it relates includes reckonable service which the person was entitled to reckon as reckonable service before 6th April 1988,

(9) 1988 c. 50.

(10) 1988 c. 43.

the amount of the transfer value shall be the total of A and the greater of B and C, where—

A is a notional transfer value, calculated in accordance with Part J of the principal Regulations (as amended by these Regulations), in respect of the person’s reckonable service after 5th April 1988,

B is a notional transfer value, calculated on the same basis, in respect of his reckonable service before 6th April 1988, and

C is a notional transfer value, calculated as if Part J of the principal Regulations, as in force on 5th April 1988, had continued in force, in respect of his reckonable service before 6th April 1988.

26.—(1) This regulation applies where—

- (a) a person ceased to be employed in local government employment (“the former employment” before 6th April 1988; and
- (b) a transfer value (“the first transfer value” was paid in respect of him by his fund authority to the trustees or managers of a club scheme; and
- (c) he again becomes a pensionable employee before 6th April 1993; and
- (d) he has, between his ceasing the former employment and his again becoming a pensionable employee, participated in the club scheme referred to in sub-paragraph (b), and has at no time during that period been employed otherwise than in an employment in which he was entitled to participate in that scheme; and
- (e) within 12 months of again becoming a pensionable employee, he applies for a transfer value to be paid by the trustees or managers of the club scheme to his new fund authority in accordance with the rules of that scheme; and
- (f) the trustees or managers of the club scheme pay to the new fund authority for the credit of their superannuation fund—
 - (i) a sum equal to the amount of the first transfer value together with compound interest on that sum calculated at the rate of 2¼% per quarter for the period beginning on the day after the person ceased the former employment and ending on the date on which the sum is paid to the new fund authority; and
 - (ii) a transfer value, calculated in accordance with Part J of the principal Regulations (as amended by these Regulations) in respect of the person’s service while he was a member of the club scheme (“the second transfer value”.

(2) Where this regulation applies—

- (a) the person shall be entitled to reckon the same qualifying service and reckonable service as he would have been entitled to reckon if the first transfer value had not been paid; and
- (b) regulation J9 (as amended by these Regulations) shall apply in respect of the second transfer value.

Right to opt out

27.—(1) Except as provided by paragraph (2) below, no provision of these Regulations shall apply to any person to whom at any time before 25th November 1991 any benefit (including a return of contributions and any pension payable to a widow or widower or any dependant by virtue of a surrender) was being paid or became or might become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and
- (b) that provision applies in relation to a benefit paid or payable in respect of a person who—

- (i) ceased before 25th November 1991 to hold an employment in respect of which he was a pensionable employee (whether or not he has subsequently recommenced any such employment); or
- (ii) died before that date while still in such an employment; and
- (c) the first-mentioned person, by notice in writing given to the appropriate administering authority within 3 months after 25th November 1991, elects that that provision shall not apply in relation to that benefit.

(2) If such an election as is mentioned in paragraph (1) above is made in relation to a benefit which was being paid or became or might have become payable in respect of a person who is employed in a local government employment, or if that person subsequently recommences service in such an employment, then—

- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued—
 - (i) by virtue of periods of service rendered before the cessation referred to in paragraph (1) above (or, if there has been more than one such cessation, the last of them before 25th November 1991); or
 - (ii) by virtue of contributions paid in respect of any such periods of service; and
- (b) in determining entitlement to, or the amount of, the benefit to that extent, he shall (without prejudice to the application of this paragraph) be treated as if he had never recommenced service in such employment at any time after the cessation referred to in sub-paragraph (a) above;

and the provision in question shall apply accordingly.

Right of appeal

28. The provisions of Part N of the principal Regulations (determination of questions and appeals) shall apply in relation to rights and liabilities arising by virtue of these Regulations as they apply in relation to other rights and liabilities under the principal Regulations.

28th October 1991

Michael Heseltine
Secretary of State for the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Superannuation Regulation 1986 (“the principal Regulations”) to take account of the provisions relating to transfer values contained in Schedule 1A to the Social Security Pensions Act 1975. Regulations 10 to 17 and 19 to 20 amend Part J of, regulation Q2 of, and Schedules 1, 16 and 17 to, the principal Regulations and revise the provisions regarding—

- (a) the payment of transfer values to occupational pension schemes, personal pension schemes, self-employed pension arrangements and insurance companies representing the cash equivalent of the accrued rights being transferred; and
- (b) the amount of reckonable service to be credited upon receipt of a transfer value calculated in a manner consistent with the methods and assumptions made in determining the transfer value.

Regulations 2 and 18 make provision regarding receipt of transfer values from additional voluntary contributions provisions and schemes.

Regulations 3 to 9 amend Parts C and E of the principal Regulations to ensure that any reckonable service credited as a result of the receipt of a transfer value from a personal pension scheme or self-employed arrangement is taken into account for benefit purposes.

Regulations 21 to 23 make minor amendments to the principal Regulations relating to Housing for Wales and Scottish Homes.

Regulations 24 to 26 contain transitional provisions.

Regulation 27 provides for a right to opt out if a person is placed in a worse position as a result of the retrospective application of the Regulations, as described in regulation 1(1). The enabling provision for the retrospective effect is section 12 of the Superannuation Act 1972 (amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990).

The appeal provisions of the principal Regulations are applied by regulation 28.