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STATUTORY INSTRUMENTS

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**1997 No. 1612**

**The Local Government Pension Scheme Regulations 1997**

**PART III**

**OPTIONAL ADDITIONAL BENEFITS**

**CHAPTER IV**

**ADDITIONAL VOLUNTARY CONTRIBUTIONS**

*Members only AVC schemes*

**Elections to pay AVCs**

**60.**—(1) An active member may elect to pay contributions under this regulation (“AVCs”) in addition to any other contributions he may pay under this Part.

(2) The election must specify the percentage of his pay he wishes to pay or the amount he wishes to pay on his usual pay days.

(3) It must also specify whether he wishes any of his AVCs to be used to provide benefits payable on his death (“death benefits”).

(4) If he does, he must specify the proportion to be so used.

(5) The appropriate administering authority may require the amount of the AVCs to be at least the specified minimum.

(6) They may not do so after AVCs are first paid under the election.

(7) The specified minimum is the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987(1).

(8) A member may elect to vary the amount of his AVCs or the proportion of them to be used to provide death benefits.

(9) A member may elect to stop paying AVCs.

(10) An election under this regulation must be made by notice in writing to the member's employing authority.

**Payment of AVCs**

**61.**—(1) AVCs must normally be payable by an active member on his usual pay day.

(2) No contributions may be paid to cover any period during which the person contributing is not an active member.

(3) A person may not pay AVCs after he leaves his employment with the employer who was his employing authority when he elected under regulation 60(1) to pay them.

(4) But he may do so if his last usual pay day with that employer falls after that time (or if he makes a fresh election in relation to another employment).

### **Functions of employing and administering authorities**

**62.**—(1) An employing authority must send any notice of election to pay AVCs to the appropriate administering authority as soon as possible.

(2) The appropriate administering authority must make the arrangements necessary so as to enable a member to begin paying AVCs before the expiry of the period of six months beginning with the date he elects to pay them.

(3) The appropriate administering authority must make the arrangements necessary to enable a member who has elected to vary his AVCs or to stop paying them to do so before the expiry of the period of three months beginning with the date he so elects.

### **Death benefits**

**63.**—(1) If a member elects for any of his AVCs to be used to provide death benefits, the appropriate administering authority must make arrangements for those benefits to be provided under a pension policy with an AVC insurance company.

(2) The policy must provide for the appropriate administering authority to pay the company the same amounts as the AVCs to be so used within one month after the member's usual pay day.

(3) The policy must reflect the restrictions on AVCs and the provisions which apply under these Regulations.

(4) In entering into the pension policy the administering authority must give effect to the member's wishes about the benefits it provides, so far as is practicable.

(5) But the benefits must be money purchase benefits and their value reasonable considering the contributions paid.

### **Retirement benefits**

**64.**—(1) The administering authority must invest any AVCs which are not to be used to provide death benefits with an approved AVC body.

(2) When a member who has paid AVCs during his employment leaves his employment with the employer who was his employing authority when he elected under regulation 60(1) to pay them, the appropriate administering authority must use the accumulated value of the contributions invested under paragraph (1) for the provision of additional pension benefits under a pension policy as soon as reasonably practicable (but see regulations 65 and 66).

(3) But if the member dies before the policy is entered into, the accumulated value is payable to his personal representatives.

(4) In entering into the pension policy the administering authority must give effect to the member's wishes about the benefits it provides, so far as is practicable.

(5) The benefits must be money purchase benefits and their value reasonable considering the accumulated value.

(6) The AVCs may only be used to provide benefits in the form of a lump sum if—

- (a) all the pension benefits payable to or in respect of the member under the Scheme are being commuted under regulation 49 (commutation of small pensions), and

- (b) the annual rate referred to in that regulation is not exceeded by aggregating with them the additional pension benefits provided by the pension policy entered into under paragraph (2).

### **Changes of employment in which membership is continued**

**65.**—(1) If a member who is paying AVCs leaves his employment with the employer who was his employing authority when he elected under regulation 60(1) to pay them and enters a new employment in which he is also a member, he may elect that that election should continue to have effect.

(2) But he may only do so if he enters the new employment before the expiry of the period of one month and one day beginning with the date he left the former employment.

(3) The election must be made by notice given in writing to the member's new employing authority before the expiry of the period of one month beginning with the date the new employment begins (or such longer period as that authority may allow).

(4) The new employing authority must send the notice of election to the appropriate administering authority in relation to the new employment.

(5) The member may continue paying AVCs under his existing election with effect from his next pay day in his new employment after his election to continue.

(6) But he may not pay any AVCs to cover any period falling between the employments.

(7) If the same authority are the member's appropriate administering authority in both employments, they must continue to apply any AVCs to be used for death benefits towards the pension policy mentioned in regulation 63 and continue to invest all other AVCs paid by him as specified in regulation 64(1).

(8) If those authorities are different, the former authority must transfer to the new authority a sum equal to the accumulated value of his additional contributions invested under regulation 64(1).

(9) They must also assign to the new authority their rights under any pension policy under regulation 63 in respect of him which are assignable.

(10) The new authority must apply and invest the sum received and payments of additional contributions as mentioned in paragraph (7).

(11) Regulation 64(2), this regulation and regulation 66 apply to changes in the new employment as if the election under regulation 60(1) had been given in that employment (and so on).

### **Elections as to use of accumulated value of AVCs**

**66.**—(1) This regulation applies where a person—

- (a) leaves his employment with the employer who was his employing authority when he made an election under regulation 60(1);
- (b) stops being an active member without leaving that employment;
- (c) becomes entitled to an ill-health pension under regulation 27; or
- (d) elects under regulation 60(9) to stop paying AVCs but continues to be an active member and attains the age of 50.

(2) Where paragraph (1)(a) or (c) applies to a person, he must elect to have the accumulated value of the invested additional contributions specified in regulation 64(2) used in one or more of the permissible ways and he may so elect where paragraph (1)(b) or (d) applies to him.

(3) Where paragraph (1)(a) applies, the permissible ways are—

- (a) to subscribe to an occupational pension scheme (other than the Scheme);

- (b) to subscribe to a personal pension scheme (including an additional voluntary contributions scheme, other than a FSAVC scheme);
  - (c) to subscribe to a self-employed pension arrangement;
  - (d) to purchase an appropriate policy from one or more AVC insurance companies.
- (4) Where paragraph (1)(b) applies, the only permissible way is that mentioned in paragraph (3)(b).
- (5) Where paragraph (1)(c) or (d) applies, the only permissible way is to acquire transfer credits in the Scheme.
- (6) Those credits are calculated on the same basis as if a transfer value were being accepted for the member under regulation 121.
- (7) But where paragraph (1)(d) applies and the member becomes entitled to the payment of retirement benefits by virtue of an election under regulation 31 (early payment), those transfer credits shall be reduced to such percentage of the credits to which he would otherwise be entitled as is shown as appropriate in guidance issued by the Government Actuary.
- (8) Transfer credits acquired under paragraph (5) must not entitle the member to benefits in the form of a lump sum payable at retirement (and accordingly the period of membership with which he is credited for other purposes shall be adjusted appropriately in accordance with such guidance as may be issued by the Government Actuary).
- (9) Where paragraph (1)(c) or (d) applies, the election under paragraph (2) may only be made—
- (a) while the member remains an active member, or
  - (b) not later than 30 days after he stops being an active member or such later date as the employing authority may agree.
- (10) But the employing authority may not agree under paragraph (9)(b) to the election being made later than—
- (a) one year before the member's NRD, or
  - (b) the expiry of the period of six months beginning with the date he stops being an active member,
- whichever is later.
- (11) Where a person who has stopped being employed by an employing authority or being a member receives—
- (a) an ill-health grant under regulation 27,
  - (b) a repayment of contributions under regulation 87, or
  - (c) a payment under regulation 88(2),
- he must immediately be paid the accumulated value of the invested additional contributions mentioned in regulation 64(2).

#### *Shared cost schemes (SCAVCs)*

#### **Establishment of shared cost AVC schemes (SCAVCs)**

**67.—**(1) An employing authority may resolve to establish and maintain arrangements under this Chapter for the purpose of enabling contributions (“SCAVCs”) to be paid by and for active members under this regulation, in addition to the others which may be paid under this Part.

(2) The resolution must specify whether all active members in employment under the Scheme with the employing authority are eligible to take part in the arrangements and, if not, the conditions for eligibility.

(3) It must also specify whether SCAVCs may be used to provide benefits payable on the death of active members (“death benefits”).

(4) If they may, it must specify whether the whole or a proportion is to be so used, and, if a proportion, specify it.

(5) It must also specify the amount of the contributions which the authority will pay under the arrangements for members who are themselves paying contributions under them.

### **Applications to pay SCAVCs**

**68.**—(1) If an active member whose employing authority has established arrangements for SCAVCs under regulation 67 wishes to pay SCAVCs he must apply to them in writing.

(2) The employing authority must notify the member in writing before the expiry of the period of three months beginning with their receipt of his application whether they have accepted or rejected it.

(3) A notification of acceptance must specify the percentage of the member's pay which the authority will pay in contributions under the arrangements.

(4) It must also specify whether any and, if so, what proportion of the contributions is to be used to provide death benefits and the nature of any such benefits.

(5) A member may elect to stop paying SCAVCs.

(6) The election must be made by notice in writing to his employing authority.

### **Functions of employing and administering authorities**

**69.**—(1) Where an employing authority accept an application under regulation 68 they must send a copy of the notification of acceptance to the appropriate administering authority.

(2) The appropriate administering authority must make the arrangements necessary so as to enable a member whose application to pay SCAVCs has been accepted to begin paying them before the expiry of the period of six months beginning with the date he applies to pay them.

(3) The appropriate administering authority must make the arrangements necessary to enable a member who has elected to stop paying SCAVCs to do so before the expiry of the period of three months beginning with the date he so elects.

### **Application and investment of SCAVCs**

**70.**—(1) Where the arrangements established by an employing authority provide for any of the SCAVCs to be used to provide death benefits, the appropriate administering authority must make such arrangements for the provision of those benefits as are specified in regulation 63(1).

(2) The administering authority must invest any SCAVCs which are not to be used to provide death benefits with an approved AVC body.

(3) Regulations 63(2) to (5) and 64(2) to (6) apply as respects SCAVCs as they apply as respects AVCs.

### **Changes of employment in which membership is continued**

**71.**—(1) If a member who is paying SCAVCs leaves his employment and enters a new employment in which he is also a member, he may elect to have the accumulated value of the invested additional contributions specified in regulation 64(2) (as it applies by virtue of regulation 70(3)) used—

- (a) to make a contribution to the arrangements the new employing authority have made under this Chapter for AVCs, or

- (b) if—
- (i) his new employing authority have established arrangements under this Chapter for the payment of SCAVCs, and
  - (ii) he has made an application to contribute under those arrangements which has been accepted,

to make a contribution to the new employer's SCAVCs arrangements.

(2) Such an election must be made by notice in writing to the member's new employing authority and may only be made if the member enters the new employment before the expiry of the period of one month and one day beginning with the date he left the former employment.

(3) The new employing authority must send a copy of any election under this regulation to the appropriate administering authority.

(4) Where an election is made under paragraph (1)(a), it must specify—

- (a) whether the member wishes the election to be treated as an election under regulation 60(1) in respect of the member's new employment, and
- (b) if he does, the matters which require to be specified in such an election.

(5) Where an election is made under paragraph (1) and different authorities are the member's appropriate administering authority in the two employments, the former appropriate administering authority must transfer to the new authority a sum equal to the accumulated value of the member's invested additional contributions.

(6) Where the election is made under paragraph (1)(a), the new appropriate administering authority must apply and invest the sum received as mentioned in regulation 64, together with any additional contributions falling to be so invested under that regulation by virtue of contributions made in respect of the new employment by virtue of any election which is treated as made under paragraph (4).

(7) Where the election is made under paragraph (1)(b)—

- (a) if the new authority consent, the former authority must assign to them their rights under any pension policy under regulation 70(1) in respect of the member which are assignable; and
- (b) the new appropriate administering authority must apply and invest the sum received in the same manner as any SCAVCs made in respect of the new employment (other than those used to provide death benefits).

## **Termination**

**72.**—(1) Where a member who is paying SCAVCs—

- (a) leaves his employment and does not enter new employment in which he is an active member, or
- (b) stops being an active member without leaving that employment, regulation 66 applies as respects the elections he must or may make for the use of the accumulated value of the invested additional contributions specified in regulation 64(2) (as it applies by virtue of regulation 70(3)) as it would apply to a person in his circumstances as respects the accumulated value mentioned in regulation 66.

(2) Where neither paragraph (1)(a) nor (b) applies and an employing authority or a member stops paying SCAVCs (otherwise than by reason of the member having left his employment and entered new employment in which he is a member), the employing authority must give notice to the appropriate administering authority.