
STATUTORY INSTRUMENTS

1998 No. 364

The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998

Special provisions about rights relating to old membership

Equivalent pension benefits

18.—(1) This paragraph applies where—

- (a) when a member left his local government employment he was not entitled in relation to that employment to a retirement pension under regulation 24, 25, 26 or 30 of the 1998 Regulations (or any corresponding provision of any earlier regulations) and he receives a return of contributions;
- (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment;
- (c) a period of his service in a non-participating employment came to an end by reason—
 - (i) of the repeal of section 56(1) of the National Insurance Act 1965(1), or
 - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-Participation Assurance of Equivalent Pension Benefits) Regulations 1960(2) (as modified by regulation 9(2)(a) or (b) of the National Insurance (Non-participation Transitional Provisions) Regulations 1974(3)); and
- (d) at some time during the settlement period (within the meaning of regulation 2 of those Regulations of 1974) he became, and has remained, assured of equivalent pension benefits.

(2) Where paragraph (1) applies, the member is entitled under the 1998 Regulations in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership—

- (a) in service in a non-participating employment; or
- (b) which relates to service with a non-local government employer in a non-participating employment.

(3) That pension is payable from the first date on which he—

- (a) has attained state pensionable age; and
- (b) is no longer in any local government employment.

(4) Where a pension is payable under paragraph (2) to a member who attains state pensionable age for a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), no relevant provision shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable for that period of service under the Insurance Acts.

(1) 1965 c. 51; section 56(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

(2) S.I.1960/1103.

(3) S.I. 1974/2057.

(5) A relevant provision is a provision of the 1998 Regulations for the surrender, assignation, reduction, termination or suspension of a pension.

(6) Paragraph (4) does not apply to relevant provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 57(1)(c) of the National Insurance Act 1965 (equivalent pension benefits).

(7) For these Regulations and the 1998 Regulations, a member to whom paragraph (1) applies shall be treated as having ceased to hold the employment for which he receives a return of contributions on the day before the date of receipt.

(8) Entitlement to a pension under paragraph (2) must be disregarded—

(a) for regulations 19(4), (6) and (8), 28, 33(1), 37(5), 41, 44(5), 45(7) and 86(1)(a) of the 1998 Regulations; and

(b) for determining whether a person is at any time a pensioner member or a deferred member.

(9) For this regulation a member may count the excess period referred to in regulation 123(1) of the 1998 Regulations (service not matched by period credited on transfer into the Scheme).

(10) In this regulation—

“non-participating employment” has the same meaning as in section 56(1) of the National Insurance Act 1965;

“excepted service”, in relation to any person, is any earlier period of such service as is mentioned in paragraph (4), being service in respect of which—

(a) a payment in lieu of contributions has been made; or

(b) equivalent pension benefits satisfying the requirements of the Insurance Acts have already been assured to him.