
STATUTORY INSTRUMENTS

1998 No. 366

**The Local Government Pension
Scheme (Scotland) Regulations 1998**

PART III

OPTIONAL ADDITIONAL BENEFITS

CHAPTER IV

ADDITIONAL VOLUNTARY CONTRIBUTIONS

Members only AVC schemes

Elections to pay AVCs

59.—(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 so wish, 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

60.—(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 59(1) to pay them.

(4) However, 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

61.—(1) An employing authority must send any notice of election under regulation 59 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

62.—(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) However, the benefits must be money purchase benefits the value of which is reasonable considering the contributions paid.

Retirement benefits

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

(2) Where a member who has paid AVCs during his employment—

(a) becomes entitled to immediate payment of benefits under the Scheme, other than under regulation 26;

(b) does not make an election under regulation 64; and

(c) regulation 65(11) does not apply,

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.

(3) However, if the member dies before the policy is entered into, the accumulated value is payable to his executors.

(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 be used only 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 48 or 49; 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

64.—(1) If a member who is paying AVCs leaves his employment with the employer who was his employing authority when he elected under regulation 59(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) However, 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 on which 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 on which the new employment begins.

(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) However, 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 62 and continue to invest all other AVCs paid by him as specified in regulation 63(1).

(8) If those authorities are different, the former authority must transfer to the new authority a sum equal to the accumulated value of the member's additional contributions invested under regulation 63(1).

(9) They must also assign to the new authority their rights under any pension policy under regulation 62 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 63(2), this regulation and regulation 65 apply to changes in the new employment as if the election under regulation 59(1) had been given in that employment (and so on).

Elections as to use of accumulated value of AVCs

65.—(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 59(1) or 64(1) without becoming entitled to immediate payment of pension;
- (b) stops being an active member without leaving that employment;
- (c) becomes entitled to an ill-health pension under regulation 26; or
- (d) elects under regulation 59(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 63(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) Where paragraph (1)(d) applies and the member becomes entitled to the payment of retirement benefits by virtue of an election under regulation 30 (early payments), 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) However, 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 on which 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 26;
- (b) a repayment of contributions under regulation 86; or
- (c) a payment under regulation 87(2),

he must immediately be paid the accumulated value of the invested additional contributions mentioned in regulation 63(2).