
STATUTORY INSTRUMENTS

1998 No. 366

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

PART IV

ADMINISTRATION

CHAPTER VI

TRANSFERS

Transfers in

Inward transfers of pension rights

121.—(1) If a person who becomes an active member has relevant pension rights, he may request his fund authority to accept a transfer value for some or all those rights from the relevant transferor.

(2) Relevant pension rights are accrued rights under—

- (a) an occupational pension scheme (other than the 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 Taxes Act;
- (d) a self-employed pension arrangement; or
- (e) an additional voluntary contributions scheme (other than a FSAVC scheme or a scheme constituted by virtue of Chapter IV of Part III).

(3) Accrued rights include rights to preserved benefits and rights appropriately secured under section 19 of the Pension Schemes Act 1993⁽¹⁾.

(4) For this regulation and the following regulations of this Chapter the fund authority, in relation to a transferring person, are the body maintaining the pension fund of the scheme to which he is contributing.

(5) The relevant transferor is the trustees or managers of the scheme, contract or arrangement under which the transferring person's relevant pension rights arise.

(6) However, the relevant transferor for the rights specified in paragraph (3) is 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.

(7) A request from a transferring person under paragraph (1) must be made by notice in writing.

(8) That notice must be given before the expiry of the period of 12 months beginning with the date on which he became an active member (or such longer period as his employer may allow).

(1) 1993 c. 48.

(9) Where a request under paragraph (1) is duly made the fund authority may accept the transfer value and credit it to their pension fund.

Right to count credited period

122.—(1) Where a transfer value has been accepted under regulation 121, the member may count the credited period as a period of membership for these Regulations (but see Schedule 3).

(2) If the transfer value—

- (a) is paid by the trustees or managers of a club scheme;
- (b) represents all the rights relating to the member in that scheme;
- (c) has been calculated—

(i) in a case where Chapter IV of Part IV of the Pension Schemes Act 1993 applies, in accordance with that Chapter, and

(ii) otherwise, in a manner consistent with that prescribed under that Chapter,

the credited period is the period which, if used to calculate a transfer value to be paid by the Scheme, would produce an amount equal to the transfer value received.

(3) If the transfer value is not paid by the trustees or managers of a club scheme, the credited period must be calculated in a manner consistent with that Chapter.

(4) In calculating the credited period under paragraph (3) due allowance must be given for the expected increase in the member's pensionable pay between the date on which he became a member (or, if more than twelve months later, the date on which the transfer value is received) and his NRD.

(5) If the member is a man, the credited period must be treated as a period after 5th April 1978.

(6) If the member is a woman, the credited period must be treated as a period after 5th April 1988.

(7) The fund authority must give the member a written notice stating the period of membership he may count under paragraph (1).

(8) The notice must contain a statement of the kind required by regulation 97(4).

Rights as to service not matched by credited period

123.—(1) Where the member's transferred-in service exceeds the credited period, he may count the excess as a period which counts towards his total membership for the purposes of the provisions mentioned in paragraph (2).

(2) Those provisions are—

- (a) regulation 18(1) (general qualification for benefits);
- (b) paragraphs (a) and (b) of the definition of "normal retirement date" in regulation 24(4);
- (c) regulation 40(4) and (5) (amount of active member's surviving spouse's long-term pension);
- (d) regulation 86(1) (return of contributions).

(3) A period which may be counted under paragraph (1) counts as its actual length.

(4) The fund authority must give the member a written notice stating the period of membership he may count under paragraph (1).

(5) The notice must contain a statement of the kind required by regulation 97(4).

(6) The transferred-in service of a transferring member is the service in respect of which he has accrued rights to benefits under his previous occupational pension scheme or appropriate policy (whether or not the transfer value covers all those rights).

(7) The period of that service is the period certified by the trustees or managers of that scheme or issuers of that policy.

Credited periods for transferring members with mis-sold pension rights

124.—(1) Regulation 122(3) does not apply where—

- (a) the transferring person is a person mentioned in regulation 6(9)(c); and
- (b) the transfer value satisfied the conditions specified in paragraph (2).

(2) Those conditions are that—

- (a) it is paid by the trustees or managers of the personal pension scheme mentioned in section 172(1)(a)(ii) of the Pensions Act 1995⁽²⁾;
- (b) it represents all the rights relating to the member in that scheme;
- (c) it is paid on an application made to the appropriate administering authority before the expiry of the period of 12 months beginning with the date on which the transferring person becomes an active member (or such longer period as they may allow); and
- (d) in the opinion of the appropriate administering authority it is not less than the restitution amount.

(3) Where paragraph (1) applies, the credited period is the period of membership the transferring person could have counted if he had been an active member throughout the personal pension period.

(4) The restitution amount is the aggregate of—

- (a) the capitalised value (as at the date on which the request for the calculation of the restitution amount is made) of the rights which would have accrued to the transferring person under the Scheme if he had remained an active member of the Scheme throughout the personal pension period (including rights under the Pensions (Increase) Act 1971⁽³⁾ and the Pensions (Increase) Act 1974⁽⁴⁾);
- (b) the transfer value (if any) paid out of the Scheme to the personal pension scheme; and
- (c) interest on any such transfer value at such rate as is approved for the time being by the Government Actuary, calculated on a daily basis over the period from the date on which that transfer value was paid out of the Scheme to the date as at which the transfer value is taken to be paid to the Scheme.

(5) The appropriate administering authority must determine the value mentioned in paragraph (4)

(a) in such manner as is for the time being indicated in guidance issued by the Government Actuary.

(6) The personal pension period is the period referred to in regulation 6(9)(c).

(2) 1995 c. 26.
(3) 1971 c. 56.
(4) 1974 c. 9.