
STATUTORY INSTRUMENTS

1997 No. 1373

**The Local Government Superannuation
(Scotland) Amendment (No. 2) Regulations 1997**

Mis-sold pensions – calculation of restitution

5. After regulation J14B(1) there shall be inserted the following regulation:–

“Mis-sold pensions – calculation of restitution

J15.—(1) Where–

- (a) in relation to an individual mentioned in regulation B4B(4)(b) who is still eligible to be a pensionable employee, information is requested by a prescribed person in the prescribed circumstances for the purpose of calculating what payment would need to be made in respect of the individual to restore the position to what it would have been if the individual had been a pensionable employee throughout the period referred to in that regulation (“the restitution payment”); or
- (b) an individual mentioned in sub-paragraph (a) makes an election under regulation B4B to become a pensionable employee or applies to have a restitution payment accepted having become a pensionable employee after the period referred to in regulation B4B(4)(b),

the administering authority who maintain the superannuation fund which would be the appropriate superannuation fund for that individual shall calculate the restitution payment in accordance with Schedule 17A.

(2) Where–

- (a) an individual mentioned in regulation B4B(4)(b) becomes a pensionable employee;
- (b) a transfer value is accepted in respect of him under regulation J8;
- (c) the transfer value–
 - (i) is paid by the trustees or managers of the personal pension scheme to which he has made contributions in the circumstances specified in regulation B4B(4)(b);
 - (ii) has been calculated in a manner consistent with the methods adopted and assumptions made by the administering authority in determining the restitution payment; and
- (d) the administering authority of the superannuation fund to which the transfer value is paid are satisfied that–
 - (i) it is adequate to restore the position in relation to that individual to what it would have been if the individual had been a pensionable employee throughout the period during which he was eligible to be a pensionable

employee but instead made contributions to the personal pension scheme (“the relevant period”), or

- (ii) where it is not so adequate, it represents an amount which would enable the individual to reckon as reckonable service such period as the administering authority may approve in respect of the relevant period,

Schedule 17 shall not apply and the period mentioned in regulation J9(1)(a) shall—

- (i) where sub-paragraph (d)(i) applies be equal to the period which the individual would have been entitled to reckon as reckonable service if he had been a pensionable employee throughout the relevant period, and
- (ii) where sub-paragraph (d)(ii) applies, be equal to the period approved by the administering authority thereunder.

(3) In the case of an individual mentioned in regulation B4B(4)(b) who has become a pensionable employee after the period referred to in that provision and who has been credited with an additional period of reckonable service calculated as specified in paragraph 2(2) of Schedule 17 (transfer from non-statutory schemes), the administering authority may adjust the period of reckonable service referred to in paragraph (2)(i) or (ii) on account of the transfer value payment by reference to which that additional period of reckonable service was credited.

(4) Where at any time an individual mentioned in regulation B4B(4)(b) makes an election to become a pensionable employee and dies in pensionable employment or becomes entitled to benefits under Part E of these Regulations before the transfer value referred to in paragraph (3) has been paid to the appropriate superannuation fund in respect of him, paragraph (2) shall continue to apply in the case of that individual.

(5) In this regulation “prescribed person” and “prescribed circumstances” have the same meaning respectively as in regulations 3 and 4 of the Local Government, Teachers' and National Health Service (Scotland) Pension Schemes (Provision of Information and Administrative Expenses etc.) Regulations 1996(2).”.