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STATUTORY INSTRUMENTS

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**1998 No. 366**

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

**PART IV**

**ADMINISTRATION**

**CHAPTER VI**

**TRANSFERS**

*Transfers out*

**Application of Chapter IV of Part IV of the Pension Schemes Act 1993**

**116.**—(1) For sections 12C (requirements as to transfer, commutation etc. for contracting-out), 19 (discharge of liability) and 20 (transfer of accrued rights) and Chapter IV or Part IV (transfer values) of the Pension Schemes Act 1993<sup>(1)</sup> and any regulations made under any of those sections or that Chapter, the managers of the Scheme in relation to a member are the fund authority.

(2) Despite regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations 1996<sup>(2)</sup> (pre-1986 leavers), Chapter IV of Part IV of the Pension Schemes Act 1993 shall apply to all members of the Scheme regardless of the date of termination of their pensionable service.

(3) The references in regulation 4 of those Regulations to regulation 3 of those Regulations include a reference to paragraph 4(1) and (2) of Schedule 16 to the 1987 Regulations and any corresponding earlier provisions.

(4) Regulation 5 of those Regulations (treatment of a number of employments as a single employment) only applies if the employments are treated as a single employment for the purposes of the Scheme.

(5) Sub-paragraph (a) of regulation 10(2) of those Regulations (interest on late payment of cash equivalents) does not apply where the member has required the cash equivalent to be paid to a club scheme.

(6) Regulation 18 of those Regulations (termination of pensionable service in certain circumstances to be disregarded) only applies if—

- (a) in the case of a termination before the commencement date, no election was made under regulation E2(9)(c) of the 1987 Regulations (or any corresponding earlier provision) in respect of the service which terminated; and
- (b) in any case, no election has been made under regulation 31(1) to have the service which terminated aggregated with later service.

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(1) 1993 c. 48.

(2) S.I.1996/1847, amended by S.I. 1996/3126 and 1997/786 and 1613.

(7) For this regulation and regulation 117, the fund authority, in relation to a member, is the body maintaining the pension fund to which he was contributing immediately before his pensionable service terminated.

(8) However, if that fund has been closed, the fund authority is the body which would be liable to pay him his pension for that employment if he had been entitled to receive payment of such a pension when his pensionable service terminated.

### **Rights to payment out of fund authority's pension fund**

**117.**—(1) The amount of any transfer payment due in respect of a member under Chapter IV of Part IV of the Pension Schemes Act 1993 is payable by the fund authority from their pension fund.

(2) Where such a transfer payment is to be or has been paid from a fund, no other payment or transfer of assets may be made from the fund as respects the accrued rights covered by the transfer payment.

(3) Paragraph (2) overrides anything to the contrary in the former Regulations, any local Act scheme, the 1974 Regulations, the 1987 Regulations or any other provision of these Regulations or the Transitional Regulations.

### **Contracting-out requirements affecting transfers out**

**118.**—(1) There must be deducted from the transfer payment to be made in respect of any person—

- (a) the amount of any contributions equivalent premium payable pursuant to section 55 of the Pension Schemes Act 1993<sup>(3)</sup>; or
- (b) an amount sufficient to meet the liability in respect of his contracted-out rights.

(2) However, the amount mentioned in paragraph (1)(b) may not be deducted where—

- (a) the transfer payment is made to an occupational pension scheme which is contracted-out or an appropriate personal pension scheme; and
- (b) that scheme's trustees or managers undertake to accept liability for his contracted-out rights.

(3) Where the amount mentioned in paragraph (1)(a) is deducted, if the appropriate administering authority think fit, that amount may be used in preserving the liability mentioned in paragraph (2)(b) in the appropriate fund.

(4) Otherwise, it must be used in paying the premium.

(5) Contracted-out rights, in relation to a member, are—

- (a) his and his surviving spouse's rights to guaranteed minimum pensions; and
- (b) his section 9(2B) rights (as defined in regulation 1(2) of the Occupational Pension Schemes Contracting-out) Regulations 1996<sup>(4)</sup>).

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(3) 1993 c. 48.

(4) S.I. 1996/1172; the definition of "section 9(2B) rights" was substituted by S.I. 1997/786, Schedule 1, paragraph 4(2).