
STATUTORY INSTRUMENTS

1997 No. 954

PENSIONS

**The Local Government Pension Scheme
(Provision of Information, Administrative
Expenses and Restitution) Regulations 1997**

<i>Made</i>	- - - -	<i>18th March 1997</i>
<i>Laid before Parliament</i>		<i>19th March 1997</i>
<i>Coming into force</i>	- -	<i>9th April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 7 of the Superannuation Act 1972(1), section 172(1), (2), (3) and (5) of the Pensions Act 1995(2) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997 and shall come into force on 9th April 1997.

(2) In these Regulations “the principal Regulations” means the Local Government Pension Scheme Regulations 1995(3)

Age restrictions

2. Regulation B2 of the principal Regulations is amended—

- (a) by inserting at the beginning of paragraph (2) the words “Subject to paragraph (2A)”; and
- (b) by inserting after paragraph (2) the following—

“(2A) Paragraph (2) shall not apply to a person to whom regulation K15A applies.”.

(1) 1972 c. 11.

(2) 1995 c. 26.

(3) S.I. 1995/1019, amended by S.I. 1995/1985, 2249, 2953, 1996/185, 711, 1428, 2180, 1997/218, 329, 578, 598.

Rejoining the Scheme

3. Regulation B13(3) of the principal Regulations is amended by adding the following—
- “, or
- (c) he is a person to whom regulation K15A applies.”.

Mis-sold pensions

4. Part K of the principal Regulations is amended—
- (a) in regulation K14(1)(a) by inserting after the words “or, as the case may be” the words “regulation K15A”;
- (b) by inserting the following after regulation K15—

“**K15A.**—(1) This regulation applies to a person who, during any period—

- (a) was eligible to be a member of the Scheme;
- (b) opted out of the Scheme under regulation B10(2) or regulation B12(2) and was a member of a personal pension scheme or made contributions to a retirement annuity contract approved under Chapter III or Part XIV of the Income and Corporation Taxes Act 1988⁽⁴⁾ or a retirement benefits scheme approved under section 591(2)(g) of that Act; and
- (c) has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986⁽⁵⁾ (actions for damages in respect of contravention of rules etc. made under the Act).

(2) Where, at any time, a person to whom this regulation applies, applies to become a member of the Scheme under regulation B10(1) or B13(1) but dies in pensionable employment or becomes entitled to benefits under Part D of these regulations before the transfer payment referred to in paragraph (3) has been paid to the appropriate pension fund in respect of him, paragraph (3) shall continue to apply in the case of that person.

(3) Where—

- (a) a transfer value in relation to a person to whom this regulation applies—
- (i) is paid by the trustees or managers of a personal pension scheme,
- (ii) has been calculated in a manner consistent with the methods adopted and assumptions made by the administering authority in determining the restitution payment,
- (iii) is paid following an application made to the administering authority before the expiry of the period of twelve months beginning with the date on which the individual joins or rejoins the Scheme or such longer period as the administering authority may allow; and
- (b) the administering authority of the pension fund to which the transfer value is paid is satisfied that—
- (i) it is adequate to restore the position in relation to that individual to what it would have been if the individual has been a member of the Scheme throughout the period he was eligible to be a member of the Scheme but instead was a member of a personal pension scheme or made contributions to a retirement annuity contract or retirement benefits scheme referred to in regulation K15A(1)(b) (“the relevant period”); or

(4) 1988 c. 1.
(5) 1986 c. 60.

- (ii) it represents an amount which will provide such period of service as the administering authority may approve in respect of the relevant period then—
 - (c) the period mentioned in regulation K14(1)(a) shall be equal to the period which the individual would have been entitled to count as his period of membership if he had been a member of the Scheme throughout the relevant period or such shorter period as the administering authority may approve; and
 - (d) the individual shall be entitled to count as a period to which Part II of Schedule B6 applies the whole of the relevant period or such shorter period as the administering authority may approve.
- (4) In the case of a member to whom this regulation applies who has been credited with an additional period of membership calculated as specified in regulation K15 (transfers from non-club schemes), the administering authority may adjust the amount of the period of membership or period of total membership referred to in paragraph (3)(c) and (d) on account of the transfer value payment by reference to which that additional period of membership was credited.
- (5) In this regulation “restitution payment” has the same meaning as in regulation K29(5)(a).”; and
- (c) by inserting the following after regulation K28—

“Provision of information, charging and prescribed persons

K29.—(1) For the purposes of section 172(1) of the Pensions Act 1995 (“the Pensions Act”)(6) (prescribed circumstances in which information may be provided) (“the prescribed circumstances”) the prescribed circumstances are that the individual to whom the information relates, or, where he has died, his personal representatives, has requested or consented in writing to the provision of the information.

(2) For the purpose of section 172(1) of the Pensions Act (persons to whom information may be provided and the imposition of reasonable fees in respect of expenses incurred in providing that information) the prescribed persons are those persons described in paragraph 1 of Schedule K2.

(3) For the purposes of section 172(2) of the Pensions Act (persons on whom fees may be imposed in respect of administrative expenses incurred in connection with admission, readmission or payment) the prescribed persons are the persons referred to in paragraph 2 of Schedule K2.

(4) For the purposes of section 172(4) of the Pensions Act (person prescribed in place of the Secretary of State in the case of an occupational pension scheme under section 7 of the Superannuation Act 1972) an administering authority is a prescribed person.

(5) Where—

- (a) information is requested by a prescribed person in the prescribed circumstances in relation to an individual to whom regulation K15A applies for the purpose of establishing what payment would need to be made to the Scheme in respect of the individual to restore the position to what it would have been if the individual had been an active member of the Scheme throughout the period in question (“the restitution payment”), or

- (b) an individual to whom regulation K15A applies, applies to become a member of the Scheme or applies to have a restitution payment accepted having become a member of the Scheme after the period in question

the administering authority who maintain the pension fund which would be the appropriate pension fund for that individual shall calculate the restitution payment in accordance with the provisions of paragraphs 3 to 5 of Schedule K2.”.

Limitations on contributions and benefits

5. Schedule C5 to the principal Regulations is amended—

- (a) by inserting after paragraph 1(5) the following—

“(5A) Where a member who was eligible to become a member at a time when he would have become a Class B member or a Class C member as the case may be applies for membership after that date by virtue of being a person to whom regulation K15A applies, he shall be treated as a Class B or a Class C member as the case may be at any time if—

- (a) he continues to be a member throughout the period beginning with the date when he becomes a member of the Scheme and ending with that time; or
 (b) the conditions mentioned in sub-paragraph (6) are satisfied in relation to the part of that period when he was not a member.”; and

- (b) in paragraph 1(6)—

(i) by deleting the word “or” at the end of paragraph (c); and

(ii) by adding at the end of paragraph (d) the following—

“; or

(e) that his membership ceased by reason of the member opting out of the Scheme as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986.”.

Prescribed persons and transfer values

6. The principal Regulations are amended by the insertion of the following as a Schedule—

“Schedule K2

(Regulation K29)

MIS-SOLD PENSIONS

Prescribed persons

1. For the purposes of regulation K29(2) (prescribed persons to whom information may be provided) the persons are:—

- (a) a person who is or has been an authorised person within the meaning of the Financial Services Act 1986 (“the 1986 Act”) (“an authorised person”);
 (b) an appointed representative within the meaning of section 44 of the 1986 Act (“an appointed representative”);
 (c) a recognised self-regulating organisation within the meaning of the 1986 Act;
 (d) a recognised professional body within the meaning of the 1986 Act;
 (e) the Securities and Investments Board;
 (f) the Investors Compensation Scheme Limited;

- (g) a professional indemnity insurer of an authorised person or an appointed representative;
 - (h) The Chartered Accountants Compensation Scheme Limited;
 - (i) The Solicitors Indemnity Fund Limited;
 - (j) a person or body arbitrating or adjudicating in, or investigating or considering, a complaint brought by such an individual as is mentioned in section 172(1) of the Pensions Act against an authorised person or an appointed representative;
 - (k) a person or body appointed to act on behalf of any of the above.
2. For the purposes of regulation K29(3) (persons on whom fees may be imposed) the persons are any person listed in sub-paragraphs (a) to (d) and (f) to (i) of paragraph 1 and any person or body appointed to act on behalf of any of those persons.
3. A restitution payment in relation to an individual shall be an amount equal to the total of:—
- (a) the capitalised value of the rights which would have accrued to him under these regulations at the material date if he had been a member of the Scheme throughout the relevant period including the capitalised value of any rights under the Pensions (Increase) Act 1971(7) and the Pensions (Increase) Act 1974(8), and
 - (b) the transfer value (if any) previously paid out of the Scheme under regulation K2 to the personal pension scheme in respect of the transferred-out service increased by interest at a rate approved from time to time by the Government Actuary for that purpose on a daily basis over the period from the date on which such a transfer value was paid out of the Scheme to the date on which it is assumed, for the purpose of calculating the restitution payment, that a transfer value will be paid to the Scheme (“the calculation date”).
4. The amount, if any, calculated by virtue of paragraph 3(b) shall be at least equal to the amount of the cash equivalent transfer value which would be payable by the Scheme in respect of the transferred-out service if the Scheme were to pay a cash equivalent transfer value in respect of that service immediately after the calculation date.
5. In this Schedule—
- (a) “capitalised value” means the capitalised value at the material date as determined by the fund authority in such manner as shall be approved by the Government Actuary and using the current tables of factors issued by the Government Actuary for calculating cash equivalent individual transfer values;
 - (b) “material date” means the date on which the administering authority is asked to provide the calculation of the restitution payment;
 - (c) “relevant period” has the same meaning as in regulation K15A(3) ((b)(i)); and
 - (d) “transferred-out service” means the period of service which the member transferred out of the Scheme by exercising a right to a cash equivalent under regulation K2.”.

(7) 1971 c. 56.

(8) 1974 c. 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by the authority of the Secretary of State

18th March 1997

Paul Beresford
Parliamentary Under-Secretary of
State, Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 1995 (“the principal Regulations”) and make provision in connection with persons who have been eligible to be members of the Local Government Pension Scheme (“the Scheme”) but have instead made contributions to a personal pension scheme and have suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986 (“the affected persons”).

Regulation 4 amends Part K of the principal Regulations which deals with transfers. It adds a new regulation K15A which provides for the calculation of the period of membership allowed under regulation K14(1)(a) and the period of total membership credited in respect of an affected person who has joined or rejoined the Scheme after a period of membership of a personal pension plan.

It also adds a new regulation K29 which—

- * sets out, for the purposes of section 172 of the Pensions Act 1995 (“the Act”), the prescribed circumstances in which information about such persons may be given;
- * defines by reference to a new Schedule, K2, added to the principal Regulations by regulation 6 of these Regulations, the “prescribed persons” for the purposes of—
 - (i) section 172(1) of the Act (prescribed persons to whom information may be given and fees imposed in respect of expenses incurred in giving that information); and
 - (ii) section 172(2) of the Act (persons who may be charged fees in respect of administrative expenses incurred in connection with admission, readmission or the payment of a restitution payment to the Scheme);
- * prescribes administering authorities in place of the Secretary of State as the persons who may provide the information and impose fees; and
- * makes provision for the calculation of the amount which would need to be made to the Scheme in respect of an affected person to restore the position in relation to him to what it would have been if he had been a member of the Scheme throughout the period when he made contributions to the personal pension scheme.

Regulation 2, 3 and 5 make consequential amendments to the principal Regulations.

Regulation 6 adds Schedule K2 as a schedule to the principal Regulations.