

## **Local Government Pension Scheme - Scotland**

### **Protected Regulation 65(8)**

### **Adjustment of Transfer Credits granted from accumulated AVCs**

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## Introduction and Legislative Background

1. Regulation 65(8) of the Local Government Pension Scheme (Scotland) Regulations 1998 (SI 1998/366) (“the 1998 Regulations”), which is protected by virtue of Schedule 1 of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229), provided for members who made an election under regulation 59(1) or 59(11) of the 1998 Regulations prior to 30 June 2005 to have the right to make an election under regulation 65 of those regulations, as they stood prior to 30 June 2005.
2. Protected regulations 65(1)(c) and 65(5) provided for a member who becomes entitled to an ill-health pension to elect to have the accumulated value of their additional voluntary contributions (‘AVCs’) used to acquire a transfer credit in the LGPS. Similarly protected regulations 65(1)(d) and 65(5) permitted an active member who has attained age 50, and who has stopped paying AVCs, to use the accumulated value of these AVCs to acquire a transfer credit in the LGPS.
3. In the 1998 regulations, protected regulation 65(6) provided for the transfer credit to be calculated on the same basis as if a transfer value were being accepted for the member under Regulation 121, except that, under protected regulation 65(8), transfer credits acquired under 65(5) must not entitle the member to benefits in the form of a lump sum payable at retirement. In view of this, protected regulation 65(8) also provided that the period of membership with which the member would be credited should be calculated - in accordance with guidance issued by the Government Actuary - subject to an adjustment to the standard transfer calculation methodology reflecting the fact that the credit will not apply in calculation of the retirement grant.
4. This note provides the guidance required by protected regulation 65(8). The note has been prepared for the Scottish Public Pensions Agency (SPPA) and is issued to them for onward transmission to administering authorities. This note, which is effective from 25 October 2011, replaces the guidance note dated 26 March 2010. The methodology described in this guidance note may be reviewed once the transitional protection of retirement age under Schedule 2 of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229) runs-off (or reviewed sooner if necessary)

## Caveats

5. This note should not be used for any purpose other than to determine transfer credits for members who have elected under protected regulation 65(8) to convert their AVC fund into a transfer credit.
6. This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
7. This note only covers the actuarial principles around the calculation of such transfer credits. Any legal advice in this area should be sought from an appropriately qualified person or source.

### Calculation of Transfer Credits

8. Transfer credits should be calculated based on an assumed pension age of 65. If the member subsequently retires before (after) age 65, the relevant early (late) retirement factor, taken from the GAD guidance on early (late) retirement, should be applied to the benefits derived from the calculated transfer credit, as required by protected Regulation 65(7).
9. The adjustment described in paragraph 3 is achieved by using the standard non-Club incoming transfer methodology applicable at the relevant date to produce a transfer credit expressed in “60ths” form payable at pension age 65.
10. The relevant date (which determines age, rate of LGPS pensionable pay and the yield) for the final transfer credit calculations should be the date the AVC fund is received. If the AVC fund is received after the member has left service then the relevant date should be the date of exit but the yield is that applicable to the month in which the AVC fund is received. The relevant date for estimate purposes should be the date the calculation is carried out but the resultant transfer credit should not be guaranteed.
11. SPPA have confirmed that the transfer credit does count towards the membership for the purposes of paragraph 3(1)(b) of Schedule 2 to the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229). However, as the transfer credit is based on an assumed pension age of 65, the credit will need to be actuarially reduced for the period between age 65 and the resultant Critical Retirement Age (CRA) using the reduction factors contained in the GAD guidance on Early Retirement before it is counted towards the membership.
12. The transfer credit so calculated should be used in the calculation of the member's pension, spouse's long-term pension and children's long-term pension. No period of transfer credited under Protected Regulation 65(5) should be included in the calculation of the retirement grant. However, SPPA have confirmed that the member can commute pension for lump sum under Regulation 21 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (SSI 2008/230).



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**Example**

Female, age exact at the relevant date	61 years 30 days
Rate of pensionable pay at relevant date	£30,000 pa
Accumulated AVC fund at relevant date	£50,000
Yield at relevant date	1.20%
AMC (interpolated from table 5.1)	1.1380 [(0.80 x 1.15) + (0.20 x 1.09)]
60ths incoming non-club Pension factor (table 4.4)	18.26
Pension adjustment factor (table 3.1)	0.8133 [(0.85 x 30/365) + (0.81 x 335/365)]
Survivor's pension factor (table 4.4)	1.05

$$\text{Cost of one year} = 1/60^{\text{th}} \times \text{£}30,000 \times [(18.26 \times 0.8133) + (1.05 \times 3/8)] = \text{£}7,622.30$$

$$1/60\text{ths transfer credit based on NRA 65} = (\text{£}50,000 / 1.1380) / \text{£}7,622.30 = 5.7642 \text{ years}$$

$$= 5 \text{ years } 279 \text{ days}$$

**Notes**

- i. The references in the example are to the tables of factors in Version 3.1 of the Scotland transfer factor suite dated 14 December 2010.
- ii. The relevant date is defined in paragraph 10 of this guidance note.
- iii. Benefits in respect of the transfer credit should be actuarially reduced if taken before age 65 (except in cases of ill health retirement) or increased for late retirement after age 65 (see paragraph 8)
- iv. Guidance on the rule of 85 and CRA protection is contained in paragraph 11.