

GN16: Retirement Benefit Schemes– Bulk Transfers

Classification

Practice Standard

Legislation or Authority

Occupational Pension Schemes (Preservation of Benefit)
Regulations 1991. SI 1991/167.

Occupational and Personal Pension Schemes (Miscellaneous Amendments)
Regulations 1992. SI 1992/1531.

Occupational Pension Schemes (Preservation of Benefit)
Amendment Regulations 1993. SI 1993/1822.

Occupational Pension Schemes (Consequential Amendments)
Regulations 1994. SI 1994/1062.

Application

Any actuary responsible for giving advice to the trustees of any UK pension scheme.

Author

Pensions Board

Status

Approved prior to Due Process being introduced.

<i>Version</i>	<i>Effective from</i>
1.0	28.02.91
2.0	01.09.93
2.1	01.02.96

1 Introduction

- 1.1 On occasion the trustees of a retirement benefit scheme may wish to pay a bulk transfer value. The transfer can take place with or without the members' consents. Where the trustees require the transfer to take place without the members' consents the transfer is governed by the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 as amended, and this Guidance Note must be read in conjunction with those Regulations.
- 1.2 The Regulations are designed to protect the rights and any discretionary benefits or increases in benefits which have become an established practice of being paid from the scheme at the discretion of the trustees or the employer of the members who are being transferred without their consents. These

discretionary benefits or increases in benefits are referred to in Regulation 12(3)(b) and Regulation 12(4A).

- 1.3 Regulation 12(3) sets out the conditions that need to be satisfied before the certificate can be provided.
- 1.4 The general principles are that the members who are to be transferred will acquire transfer credits (as referred to in the Regulations and the Certificate and as defined under section 181(1) of the Pension Schemes Act 1993) and discretionary benefits or increases in benefits in the receiving scheme broadly no less favourable than those rights and discretionary benefits or increases in benefits given up in the transferring scheme and that there will not be a significant loss of security for members being transferred.
- 1.5 For the purpose of the certificate that is required to be given under Regulation 12(3), the Regulations do *not* require the actuary to give an opinion on the reasonableness or otherwise of the amount of the bulk transfer value.
- 1.6 The certificate which will be addressed to the trustees should be given by the actuary of the transferring scheme on the request of the trustees. In the absence of such a certificate, the trustees of the transferring scheme will not be permitted to pay a bulk transfer value without members' consents.
- 1.7 The actuary has an obligation to explain to the trustees of the transferring scheme the scope and the limitations of the certificate. In particular, the trustees must be made aware that it is *their* decision to pay a bulk transfer value without members' consents and that the certificate should not be taken as giving them authority so to do. The trustees have to satisfy themselves that the payment of a bulk transfer is consistent with their responsibilities under trust law and their duties to both the transferring and the remaining members.
- 1.8 The certificate may cover only certain categories of members who are to be transferred without their consent, eg current pensioners, deferred pensioners or a specific group of active members. Some members may not be transferred whilst others may be transferred with their consent and the certificate would not be required in respect of these members. The actuary should take instructions from the trustees as to which categories are to be included in the certificate.

2 Certification

- 2.1 The actuary giving the certificate is likely to know what the benefits, terms and practices are within the transferring scheme but will need to determine what these are in the receiving scheme.
- 2.2 It is the responsibility of the actuary of the transferring scheme to obtain such information as is necessary, including information about benefit provisions and funding levels, concerning the receiving scheme. In signing the

certificate, the actuary, having taken reasonable steps to obtain this information, will only be able to accept responsibility for the certificate based on the information that has been provided, the nature of which should be summarised on the certificate. If, in the opinion of the actuary, insufficient information has been provided to permit a proper assessment to be carried out, the actuary should not give the certificate.

- 2.3 If the receiving scheme is a newly established scheme or a scheme where there has been no established custom of awarding discretionary benefits or increases in benefits the actuary, having regard to Regulation 12(4A), may take account of these in giving the certificate if
- (i) such intended practice has been notified to the Pension Schemes Office, as for the purposes of Regulation 5(2) (c) (iii) of the Pension Scheme Surpluses (Valuation) Regulations 1987 (SI 1987/412), under a declaration of intent made jointly by the administrator of the scheme and the employer to pay such discretionary benefits or increases in benefits (subject to availability of funds), and
 - (ii) the extent to which these discretionary benefits or increases in benefits are included in the certificate is disclosed to the transferring members.
- 2.4 The actuary need not consider, in giving the certificate, the pension terms and conditions for future service benefits under the receiving scheme compared with those that would have existed under the transferring scheme.
- 2.5 Before giving the certificate the actuary of the transferring scheme will need to be satisfied that for and in respect of each member
- (i) the value of the transfer credits to be granted in the receiving scheme is not less than the value of the member's past service rights in the transferring scheme, and
 - (ii) the value of any discretionary benefits or increases in benefits to be granted in the receiving scheme is not less than the value of any discretionary benefits or increases in benefits in the transferring scheme. In this regard the actuary should make allowance for any amount by which the value of the transfer credits under the receiving scheme is greater than the value of the rights to be transferred.
- 2.6 The benefits in the receiving scheme do not need to mirror those of the transferring scheme for the actuary to give the certificate. However, the actuary will need to be satisfied that no member, beneficiary or contingent beneficiary is to be given materially inferior benefits in the receiving scheme.
- 2.7 The actuary should draw to the attention of the trustees the effects of any differences in the winding-up rules of the two schemes, including the priority rules and the rules regarding the disposal of surplus. Furthermore, the actuary should only give the certificate if he is satisfied that the benefits of the

transferring members in the event of a winding up of the receiving scheme immediately following the transfer would not be materially less than those payable in the event of the winding up of the transferring scheme immediately before the transfer.

- 2.8 In giving the certificate, the actuary needs to take into account the financial strengths of the transferring and receiving schemes but only to the extent that the financial strengths affect the rights and any discretionary benefits or increases in benefits of the transferring members. The actuary should make it known to the trustees that he has taken no account of the financial strengths of the principal and participating employers in giving the certificate.
- 2.9 A transfer from a defined benefit scheme to a defined contribution scheme, or vice versa, would represent a major change in the nature of the rights of members. A certificate is therefore unlikely to be given, other than in exceptional circumstances, for transfers where one of the schemes is a defined contribution scheme.

3 Disclosure

- 3.1 The certificate should be in the form shown in the Appendix and should also list the documents and summarise the information that has been taken into account in giving the certificate. The information that should be disclosed is:
- (a) a brief explanation of the different categories of members and beneficiaries that have been taken into account;
 - (b) the benefits provided as rights under the transferring scheme and transfer credits under the receiving scheme;
 - (c) any discretionary benefits or increases in benefits in both the transferring and receiving schemes which have been taken into account;
 - (d) any other benefits which have been taken into account; and
 - (e) the key actuarial assumptions that have been used to value the rights, transfer credits and any discretionary benefits or increases in benefits.

Appendix: Actuarial Certificate

To: The Trustees of the Transferring Scheme

Name of Transferring Scheme

PSO Reference Number (if any)

Name of Receiving Scheme

PSO Reference Number (if any)

I hereby certify that, in my opinion:

- (a) the transfer credits to be acquired for each member under the receiving scheme are broadly no less favourable than the rights to be transferred; and
- (b) where it is the established custom for discretionary benefits or increases in benefits to be awarded under the transferring scheme, there is good cause to believe that the award of discretionary benefits or increases in benefits under the receiving scheme will, making allowance for any amount by which transfer credits under the receiving scheme are more favourable than the rights to be transferred, be broadly no less favourable.

This certificate is given in accordance with the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 as amended dealing with bulk transfers without members' consents and has been prepared taking account of Guidance Note GN16 issued jointly by the Faculty of Actuaries and the Institute of Actuaries and must be read taking account of the information and notes listed overleaf.

This certificate is valid only in respect of the above Regulations and so long as:

- (a) there are no changes in the benefits and the basis of the transfer described overleaf, and
- (b) the said bulk transfer takes place within 3 months of the date of signing of this certificate.

SignatureDate

NameQualification

AddressName of Employer

.....(if applicable)

Data

The Actuarial Certificate overleaf has been based on the documents and information listed below:

- (a) The different categories of members and beneficiaries that have been taken into account.
- (b) The benefits provided as rights under the transferring scheme and transfer credits under the receiving scheme.
- (c) Any discretionary benefits or increases in benefits in both the transferring and the receiving schemes which have been taken into account.
- (d) Any other benefits which have been taken into account.
- (e) The key actuarial assumptions that have been used to value the rights, transfer credits and any discretionary benefits or increases in benefits.

Notes

1. This certificate must not be taken by the trustees as their authority to pay a bulk transfer without members' consents. Trustees will need to satisfy themselves that the payment of a bulk transfer without members' consents is consistent with their responsibilities under trust law and their duties to both the transferring and the remaining members.
2. In giving this certificate, the actuary is not expressing an opinion as to the reasonableness or otherwise of the amount of the bulk transfer value.
3. In giving this certificate, the actuary has taken account of the financial strengths of the transferring and receiving schemes but only to the extent that the financial strengths affect the rights and any discretionary benefits or increases in benefits of the transferring members. The actuary has taken no account of the financial strengths of the principal and participating employers in giving the certificate.