

To All Members

November 2005

Dear Member

GN16: Retirement Benefit Schemes – Transfers Without Consent

Introduction

GN16: Retirement Benefits Schemes – Transfers Without Consent gives guidance on the actuarial Certificate that is normally required if members of an occupational pension scheme are to be transferred to another occupational pension scheme without their consent. The Guidance Note has been revised following the issue of an Exposure Draft in March 2005 which took into account legal advice that the Profession had received.

Detail

Version 3.1 of *GN16: Retirement Benefits Schemes – Transfers Without Consent*, is being issued following a period of consultation under Due Process on Version 3.0 which was exposed simultaneously as a Fast Track Guidance Note and an Exposure Draft. It comes into effect on 29.11.2005.

The changes made to version 3.0 are minor clarifications and restructurings, including:

- Reference has been included to parts of the regulations relating to the transfer of 9(2B) rights and protected rights which require a GN16 Certificate to be provided in certain circumstances. The requirements of GN16 should be followed, with such adjustments as the actuary considers appropriate in these particular circumstances.
- Reference has been included to part of the regulations relating to the debt on the employer. In the situation of an approved withdrawal arrangement a deduction must be made from the immediate debt in respect of a transfer out, if certain requirements are met. One of the requirements is that there must be a GN16 certificate in respect of the transfer, irrespective of whether it is made with or without members' consents. In this situation GN16 should be followed, with such adjustments as the actuary considers appropriate in these particular circumstances.
- Part of paragraph 1.2 and paragraphs 3.3, 3.3.1, 3.3.2, 3.3.3, 3.3.4, 3.3.5 and 3.4 have been moved to a new section 2.
- Paragraph 3.3.5 (now 2.2.5) has been clarified to refer to the need for particular care in relation to proposed transfers between schemes with different risk characteristics.
- Paragraphs 2.3, 2.4 and 2.5 (now 3.3, 3.4 and 3.5) have been reworded in order to improve clarity.

Faculty of Actuaries
Maclaurin House
18 Dublin Street
Edinburgh EH1 3PP
Tel: +44 (0)131 240 1300
Fax: +44 (0)131 240 1313
e-mail: faculty@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Staple Inn Hall
High Holborn
London WC1V 7QJ
Tel: +44 (0)20 7632 2100
Fax: +44 (0)20 7632 2111
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

Institute of Actuaries
Napier House
4 Worcester Street
Oxford OX1 2AW
Tel: +44 (0)1865 268200
Fax: +44 (0)1865 268211
e-mail: institute@actuaries.org.uk
www.actuaries.org.uk

- In paragraph 3.7 (now 4.5), the requirement to include on the Certificate any assumptions made regarding future discretionary benefits or discretionary increases in benefits in the transferring scheme has been changed to a requirement to include a description of any customary practice of discretionary benefits or discretionary increases in benefits under the transferring scheme that has been taken into account for the purposes of Regulation 12(3)(b).

Members are reminded that guidance must be read in conjunction with the relevant legislation. Members are also reminded that the Profession has obtained an Opinion from Counsel on a number of issues relating to the certification process which is available on the Profession's website:

<http://www.actuaries.org.uk/files/pdf/pensions/GN16V3-0-Opinion.pdf>

While only the Courts can give a definitive interpretation of the regulations, actuaries with GN16 certificates to sign are strongly recommended to read the Opinion to ensure that they have considered the issues that it discusses when exercising their professional judgement. However, it must be stressed that this legal advice must not be relied upon as being legal advice to individual actuaries or their firms. Each actuary should consider the extent to which it may be necessary to take his or her own legal advice on the meaning of the regulations.

Supplements to the Manual of Actuarial Practice are only sent to those members who have requested them. If therefore you have requested a hard copy of Guidance Notes, the revised version 3.1 of GN16 will be attached to this letter.

Covering letters are also only being sent to those members who have requested them. Should you wish to stop receiving these letters in hard copy and receive an e-alert instead, please alter your despatch preferences in the members' only part of the profession's website, or contact the MAP Editor, Sarah Gander sarah.gander@actuaries.org.uk

Version 3.1 of GN16 can be found on the Profession's website at:

<http://www.actuaries.org.uk/files/pdf/map/Contents.pdf>

Or at: http://www.actuaries.org.uk/link/pensions/pensions_gns.xml

A copy of version 3.1 of GN16 that tracks the changes which have been made since Version 3.0 can be found at: http://www.actuaries.org.uk/link/pensions/pensions_gns_track.xml

Yours sincerely

Wendy M Beaver
Chairman, Pensions Board

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Faculty of Actuaries
Maclaurin House
18 Dublin Street
Edinburgh EH1 3PP
Tel: +44 (0)131 240 1300
Fax: +44 (0)131 240 1313
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