
STATUTORY INSTRUMENTS

1998 No. 366

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

PART IV

ADMINISTRATION

CHAPTER III

PAYMENT OF BENEFITS ETC.

Pension increases and cash equivalents under the Pension Schemes Act 1993

89. Any increase in a pension required by reason of Chapter III of Part IV of the Pension Schemes Act 1993⁽¹⁾ (protection of increases in guaranteed minimum pensions: anti-franking) must be paid from the appropriate fund.

Pension increases under the Pensions (Increase) Acts

90.—(1) Where a pension to which the Pensions (Increase) Act 1971⁽²⁾ (“the 1971 Act”) applies is payable out of an appropriate fund, any increase under that Act or the Pensions (Increase) Act 1974⁽³⁾ (“the 1974 Act”) must be paid from that fund.

(2) Schedule 3 to the 1971 Act has effect only in relation to any such increase where—

- (a) the last employing authority is not a body required by regulation 78 to contribute to that fund; or
- (b) the last employing authority is such a body and the increase was payable before 1st April 1990.

(3) In a case where the last employing authority ceases after 31st March 1990 to be such a body, Schedule 3 to the 1971 Act has effect only so far as the cost of the increase has not, in the opinion of an actuary appointed by the administering authority of the fund, already been provided for by contributions under regulation 78.

(4) The amounts due under Schedule 3 to the 1971 Act must be paid on or before such dates falling at intervals of not more than 12 months as the appropriate administering authority may determine.

(5) The administering authority shall credit to the appropriate fund any amounts paid to them under Schedule 3 to the 1971 Act and any interest paid on them.

(6) The last employing authority has the same meaning as in paragraph 1(2) of Schedule 3 to the 1971 Act, except that if the pension became payable by reason of service with a relevant body, it means that body.

(7) Relevant bodies are—

(1) 1993 c. 48.
(2) 1971 c. 56.
(3) 1974 c. 9.

- (a) an admission body which has made an admission agreement; or
- (b) a body employing persons deemed to be in employment by regulation 128.

Contributions equivalent premiums

91.—(1) Where a Scheme employer pays a contributions equivalent premium under section 55 of the Pension Schemes Act 1993(4) in respect of a member, that employer may recover, or if an administering authority retain, from the appropriate fund a sum not exceeding the premium.

(2) However, if the Scheme employer may recover or retain any sum under section 61 of that Act in respect of the premium, then only the balance may be recovered or retained under paragraph (1).

(3) Where a contributions equivalent premium is refunded under regulation 54(1)(c) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(5) (re-entry into employment which is contracted-out by reference to the same scheme), the authority to whom it is refunded must pay to the appropriate fund a sum equal to the amount of the premium.

Commencement of pensions

92.—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable begins with the day after the date on which his employment ends.

(2) The first period for which any retirement pension under regulation 30 is payable begins—

- (a) in a case where he elects under paragraph (1) of that regulation, with the day on which he elects; and
- (b) otherwise, with his NRD.

(3) Any short-term pension payable on the death of a member is payable in respect of a period beginning with the day after the date on which he dies.

(4) The first period for which any long-term pension is payable on the death of a member in a case where no short-term pension is payable begins with the day after the date on which he dies.

Interest on late payment of certain benefits

93.—(1) Where all or part of a pension or lump sum payment due under these Regulations or the 1987 Regulations is not paid on the due date, the appropriate administering authority must pay interest on the unpaid amount to the person to whom it is payable—

- (a) in the case of a pension from one year after the due date; and
- (b) in any other case from one month after the due date.

(2) In the case of a pension the due date is one month after the amount becomes payable.

(3) In the case of a retirement grant, the due date is the date on which it becomes payable.

(4) In the case of a death grant, other than a payment made under regulation 37(1), the due date is the date on which—

- (a) confirmation, probate or letters of administration is or are produced to the administering authority; or
- (b) the authority become satisfied that the grant may be paid as provided in regulation 94.

(5) In the case of a payment made under regulation 37(1), the due date is the date one month after the expiry of the two year period referred to in paragraph (9) of that regulation.

(4) 1993 c. 48; section 55 was amended by section 141 of the Pensions Act 1995 (c. 26).

(5) S.I.1996/1172, amended by S.I. 1996/1977 and 1997/786 and 819.

(6) In the case of an ill-health grant, the due date is the day after the member ceased to hold his employment.

(7) In the case of a payment of a lump sum under regulation 48 or 49, the due date is the day after the member would otherwise become entitled to payment of a pension.

Payments due in respect of deceased persons

94.—(1) If when a person dies the total amount due to his executors under the Scheme (including anything due to him at his death) (“the amount due”) does not exceed the small payments amount, the appropriate administering authority may pay the whole or part of the amount due from their pension fund—

- (a) to his executors; or
- (b) to the person, or to or among any one or more of any persons, appearing to the authority to be beneficially entitled to the estate,

without the production of confirmation, probate or letters of administration of his estate.

(2) The small payments amount is the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965⁽⁶⁾ and applying in relation to his death.

(3) Such a payment discharges the appropriate administering authority from accounting for the amount paid.

Non-assignability

95.—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for him.

(2) No such benefit is assignable or chargeable with his or any other person’s debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to the permanent trustee, except in accordance with an order made under section 32(2) of the Bankruptcy (Scotland) Act 1985⁽⁷⁾.

⁽⁶⁾ 1965 c. 32.
⁽⁷⁾ 1985 c. 66.