

**2008 No. 229**

**PENSIONS**

**The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008**

<i>Made</i> - - - -	<i>4th June 2008</i>
<i>Laid before the Scottish Parliament</i>	<i>6th June 2008</i>
<i>Coming into force</i> - -	<i>1st April 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a) and of all other powers enabling them to do so.

In accordance with section 7(5) of that Act, they have consulted such associations of local authorities as appeared to them to be concerned, such local authorities with whom consultation appeared to them to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to them to be appropriate.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008.

(2) These Regulations shall come into force on 1st April 2009.

(3) In these Regulations—

“the 1987 Scheme” means the occupational pension scheme constituted by the Local Government Superannuation (Scotland) Regulations 1987(b);

“the 1998 Regulations” means the Local Government Pension Scheme (Scotland) Regulations 1998(c);

“the 1998 Scheme” means the occupational pension scheme constituted by the 1998 Regulations;

“the 1998 Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998(d);

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(a) 1972 c.11. The Secretary of State’s functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

(b) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220 and 3025, 1993/1593, 2013 and 3044, 1994/531, 1995/214, 2865 and 3294, 1996/414 and 1241 and 1997/674, 1143, 1373, 1435 and 3048.

(c) S.I. 1998/366; relevant amending instruments are S.S.I. 2000/199, 2001/23, 2002/311, 2005/293, 315 and 554, 2006/123, 468 and 514 and 2007/71 and 514.

(d) S.S.I. 1998/364.

“the Administration Regulations” means the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008(a);

“the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008(b);

“the Scheme” means the Local Government Pension Scheme (Scotland) 2009 constituted by the Benefits Regulations; and

“scheme actuary” means the actuary appointed from time to time by the Scottish Ministers to provide a consulting service on actuarial matters relevant to the Benefits Regulations.

### **Revocation of Regulations**

2.—(1) Except where these Regulations provide otherwise, the regulations listed in Schedule 1 are revoked.

(2) Accordingly, no person may become a member of the 1998 Scheme after 31st March 2009 or accrue benefits in it in respect of any service after that date.

### **Membership accrued before 1st April 2009: active members**

3.—(1) This regulation applies to a person who was an active member of the 1998 Scheme and becomes a member of the Scheme by virtue of regulation 3(2) (active members) of the Benefits Regulations.

(2) Notwithstanding the revocations effected by regulation 2, the regulations listed in Schedule 1 continue to have effect so far as is necessary so that—

- (a) the member’s total membership accrued in the 1998 Scheme in respect of, or calculated by reference to, the member’s service before 1st April 2009, and the pension rights accrued at that date, are preserved; and
- (b) the member’s benefits accrued under the 1998 Scheme are payable immediately where benefits become payable without reduction under regulations 16 (retirement benefits), 17 (retirement after normal retirement date), 19 (early leavers: inefficiency and redundancy) or 20 (early leavers’ ill-health) of the Benefits Regulations, or with the appropriate actuarial reduction in line with guidance produced by the scheme actuary where benefits become payable under regulations 18 (flexible retirement) or 30 (choice of early payment of pension) of the Benefits Regulations.

(3) But the member’s pay, for the purposes of any calculation of benefits under paragraph (2), is calculated in accordance with regulations 9 (final pay: general) and 11 (final pay: fees) of the Benefits Regulations.

(4) And, for the purposes of regulations 24 (survivor benefits: active members), 33 (survivor benefits: deferred members) or 36 (survivor benefits: pensioner members) of the Benefits Regulations as they apply to nominated cohabiting partners or civil partners, only periods of membership after 5th April 1988 are to be taken into account.

(5) In paragraph (2) but subject to paragraph (3), references to total membership, pension rights and benefits accrued in or under the 1998 Scheme are to such membership, pension rights and benefits calculated in accordance with the regulations listed in Schedule 1.

### **Membership accrued before 1st April 2009: rejoining deferred members**

4.—(1) This regulation applies to a person—

- (a) who was a deferred member of the 1998 Scheme;
- (b) who becomes a member of the Scheme by virtue of regulation 10 (joining the scheme) of the Administration Regulations; and
- (c) whose preserved benefits under the 1998 Scheme have not yet come into payment.

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(a) S.S.I. 2008/228.

(b) S.S.I. 2008/230.

(2) The person may choose, by notice in writing to the appropriate administering authority within 12 months of becoming a member of the Scheme under paragraph (1)(b), to be treated as if regulation 3 applied.

#### **Deferred members and pensioner members**

5.—(1) Notwithstanding the revocations effected by regulation 2 the regulations listed in Schedule 1 continue to have effect in relation to the persons specified in paragraph (2).

(2) These persons are—

- (a) any person who immediately before 1st April 2009 was a deferred member or pensioner member of the 1987 Scheme or the 1998 Scheme and does not on or after that date choose under regulation 4(2) to be treated as if regulation 3 applied;
- (b) any person who is or may become entitled to any benefit under the 1987 Scheme or the 1998 Scheme in respect of such a person;
- (c) any other person whose entitlement to the payment of any pension or other benefit has arisen before that date or who may become so entitled by virtue of the death of any person who has died before that date.

#### **Membership accrued before 1st April 2009: concurrent employments**

6. Where a member to whom regulation 3 applies has membership to which regulation 14 (concurrent employments) of the Administration Regulations also applies, the calculation of any period for the purposes of the latter provision is carried out separately in respect of periods of employment before 1st April 2009 as if regulation 31A of the 1998 Scheme still applied and in respect of periods of employment after 31st March 2009 in accordance with regulation 14.

#### **Survivor benefits**

7.—(1) Subject to paragraph (2), any survivor benefits payable in respect of a person to whom regulation 3 or 4 applies are calculated as if the Benefits Regulations applied to all of the membership, whether accrued before or after 1st April 2009.

(2) The survivor benefits payable in respect of a deferred member to whom regulation 4 does not apply are calculated as if the total membership before 1st April 2009 was a separate period of membership to which the conditions in force at the time the person became a deferred member apply.

(3) Regulation 41 of the 1998 Regulations continues to apply to a deferred or pensioner member who marries or enters into a civil partnership after becoming such a member.

#### **Deferred members: limit on death grant**

8. Where a person to whom regulation 3 applies becomes a deferred member after 31st March 2009 and dies before the person's pension comes into payment, the sum of any death grants to which the person is entitled under any provision of the Scheme or of the 1998 Scheme, as continued in effect by regulation 3, shall be the person's retirement pension multiplied by five.

#### **Members' contributions: information**

9. The employing authority of a person to whom regulation 3(3) (active members) of the Benefits Regulations applies shall inform the person as soon as practicable after 1st April 2009 of the contribution rate applicable to the person in accordance with regulation 4(2) (contributions payable by active members) of those Regulations.

## **The 85 year rule**

**10.**—(1) This regulation applies to a person—

- (a) to whom regulation 3 applies; and
- (b) where—
  - (i) the appropriate administering authority must pay benefits following a request made by the person under regulation 18 (flexible retirement) of the Benefits Regulations; or
  - (ii) subject to regulation 30(2) of the Benefits Regulations, the person has chosen to receive immediate payment of retirement benefits under regulation 30 (choice of early payment of pension) of those Regulations.

(2) Schedule 2 (which makes transitional provision relating to the so-called “85 year rule”) has effect in relation to such a person.

## **Appropriate funds**

**11.** The pension funds which are appropriate pension funds for members of the 1998 Scheme who do not become members of the Scheme shall continue to be the appropriate funds for those members.

## **Application of abatement policy in individual cases**

**12.** Notwithstanding the revocation of regulation 110 of the 1998 Regulations, paragraph (5) of that regulation shall continue to apply to a person who was a member of the Local Government Pension Scheme constituted under the Local Government Superannuation Scheme (Scotland) Regulations 1987(a) immediately before 1st April 1998.

## **Civil Servants transferred to the Scottish Environment Protection Agency**

**13.**—(1) The Administration Regulations and the Benefits Regulations apply with the following modifications to a member who is employed by the Scottish Environment Protection Agency as a result of a relevant statutory transfer immediately before which the member was a pensionable civil servant.

(2) At the end of regulation 5(2) of the Benefits Regulations (meaning of pensionable pay) add—  
“; or

- (f) the amount of any supplement paid by the Scottish Environment Protection Agency in recognition of the difference in contribution rates between members of the Principal Civil Service Pension scheme and the Scheme”.

(3) In regulation 30 of the Benefits Regulations (choice of early payment of pension)—

- (a) in paragraph (1) for the words “may choose to receive payment of them immediately” substitute the words “is entitled, on so requesting the administering authority in writing, to receive payment of those benefits in respect of the member’s SEPA service immediately or, at the member’s option, at any time before the member attains the age of 60”;
- (b) omit paragraphs (2) and (3);
- (c) in paragraph (4), for “Subject to paragraph (5)” substitute “If the member has not attained the age of 60,”; and
- (d) at the end add—

“(7) In this regulation “SEPA service” means—

  - (a) the period during which the person concerned has remained an active member and in continuous employment of the Scottish Environment Protection Agency

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(a) 1987/1850.

following a relevant statutory transfer (as defined in regulation 13(6) of the Transitional Regulations); and

- (b) where a transfer value has been accepted from the Principal Civil Service Pension Scheme made under section 1 of the Superannuation Act 1972 and referred to as such in section 2(10) of that Act, the period of membership which the member was entitled to count under regulation J9(1)(a) of the 1987 Regulations.”.

(4) The employment with the Scottish Environment Protection Agency referred to in paragraph (1) does not count as new employment for regulation 64 (statements of policy concerning abatement of retirement pensions in new employment) or regulation 65 (application of abatement policy in individual cases) of the Administration Regulations.

(5) The Benefits Regulations, the Administration Regulations and these Regulations shall have effect, so long as the member remains an active member (within the meaning of regulation 3 of the Benefits Regulations (active members)) and in continuous employment of the Scottish Environment Protection Agency, as if they conferred on the member the same rights relating to service overseas as the member would have enjoyed if the member had remained subject to the Principal Civil Service Pension scheme.

(6) A relevant statutory transfer in relation to a member is a transfer of the member’s employment—

- (a) which took place on 1st April 1996 as a consequence of a transfer of functions on that date to the Scottish Environment Protection Agency; or
- (b) which took place as a consequence of a transfer to the Scottish Environment Protection Agency of the undertaking in which the member was formerly employed to which the Transfer of Undertakings (Protection of Employment) Regulations 1981(a) applied.

(7) A pensionable civil servant is a person who is employed in the civil service of the State and is a member, or is eligible to be a member, of the Principal Civil Service Pension Scheme.

#### **Former members of NHS Superannuation Scheme for Scotland**

**14.—**(1) The Administration Regulations and the Benefits Regulations apply with the modifications mentioned in paragraphs (2) and (3) to a member—

- (a) who became an active member of the 1987 Scheme immediately after being transferred to employment by the governing body of a university or designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992(b) or by the board of management of a college of further education within the meaning of Part I of that Act as a consequence of a transfer to the governing body or board of management on 1st September 1996, or in the case of a transfer to the governing body of the Robert Gordon University on 1st December 1996, of the undertaking in which the member was employed, to which transfer the Transfer of Undertakings (Protection of Employment) Regulations 1981 applied;
- (b) who immediately before that transfer was employed by a health board and was a member, or was eligible to be a member, of the pension scheme the rules of which are set out in the National Health Service Regulations; and
- (c) who since that transfer has been an active member in relevant local government employment.

(2) In regulation 30 of the Benefits Regulations (choice of early payment of pension)—

- (a) in paragraph (1) for the words “may choose to receive payment of them immediately” substitute the words “is entitled, on so requesting the administering authority in writing, to receive payment immediately of those benefits in respect of his or her relevant local government employment and transferred service”;
- (b) omit paragraphs (2) and (3);

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(a) S.I. 1981/1794; the definition of “undertaking” was amended by the Trade Union Reform and Employment Rights Act 1993 (c.19), section 33.  
(b) 1992 c.37.

(c) In paragraph (4), for “Subject to paragraph (5)”, substitute “If the member has not attained the age of 60,”; and

(d) at the end add—

“(7) In this regulation—

“relevant local government employment” has the meaning given in regulation 14(3) of the Transitional Regulations;

“transferred service” means, where on the transfer referred to in regulation 14(1)(a) of the Transitional Regulations a transfer value has been accepted in respect of a person’s accrued rights from the National Health Service Superannuation Scheme for Scotland constituted under the National Health Service Superannuation Scheme (Scotland) Regulations 1995, the period of membership which the person was entitled to count under regulation J9(1)(a) of the 1987 Regulations.”.

(3) In this regulation—

“the National Health Service Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 1995(a);

“relevant local government employment” means a continuous period of employment as an active member comprising—

(a) the period, immediately following the transfer to employment by a governing body or board of management in terms of paragraph (1)(a), of employment by that governing body or board of management during which the member was continuously engaged in the work of the undertaking in which the member was previously employed or in the work of another undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a); and

(b) any further periods, immediately following the period described in sub-paragraph (a) and each other, of employment by another governing body or board of management of the kind specified in paragraph (1)(a) during which the member was continuously engaged in the work of an undertaking transferred to that governing body or board of management as mentioned in paragraph (1)(a).

### **Communities scheme transferees**

**15.—**(1) Communities scheme transferees and their surviving spouses, dependants and children are entitled to such rights under the Scheme as are specified in guidance issued by the scheme actuary.

(2) A Communities scheme transferee is a person—

(a) who became employed by a Community institution after having been employed in local government employment;

(b) in respect of whom the scheme managers of the Communities’ scheme were paid a transfer value under Chapter IV or Part IV of the Pension Schemes Act 1993(b) or Part J of the 1987 Regulations or any corresponding earlier provisions; and

(c) whose fund authority (as defined in regulation 73 of the Administration Regulations (application of Chapter 4 etc.)) have been repaid for the credit of their pension fund an amount which in accordance with that guidance may be treated as equivalent to that transfer value.

(3) The rights to which any person is entitled by virtue of guidance under this regulation must not be less valuable than those to which the person would have been entitled if regulation J6 of the 1987 Regulations still applied to that person.

(4) In this Regulation—

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(a) S.I. 1995/365, amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649 and 2005/2011 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/512 and 544, 2006/307 and 561 and 2008/92 and 226

(b) 1993 c.48.

“the Communities scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities; and

“Community institution” includes a body treated as one of the Communities’ institutions for the purposes of the Communities’ scheme.

St Andrew’s House,  
Edinburgh  
4th June 2008

*JOHN SWINNEY*  
A member of the Scottish Executive

## REGULATIONS REVOKED

The Local Government Pension Scheme (Scotland) Regulations 1998, except for the provisions listed below.

Regulation 12(2)(f), (8) and (9);

Regulation 41, as continued in force by regulation 7(3);

Regulation 54, as it applies to a member who has elected, before 1st April 2009, to make additional contributions to increase the member's total membership by an additional period.

Regulation 65(8);

Regulation 75, as it applies to the year ending 31st March 2009;

Regulation 82;

Regulation 87(2);

Regulations 131, 134, 135 and 137;

Schedule 6.

The Local Government Superannuation (Scotland) Regulations 1987**(a)**

The Local Government Superannuation (Scotland) Amendment Regulations 1988**(b)**

The Housing (Scotland) (Superannuation Fund) Regulations 1989**(c)**

The Local Government Superannuation (Scotland) Amendment Regulations 1989**(d)**

The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1989**(e)**

The Local Government Superannuation (Scotland) Amendment Regulations 1990**(f)**

The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1990**(g)**

The Local Government Superannuation (Scotland) Amendment Regulations 1991**(h)**

The Local Government Superannuation (Reserve Forces) (Scotland) Regulations 1992**(i)**

The Local Government Superannuation (Scotland) Amendment Regulations 1992**(j)**

The Local Government Superannuation (Scotland) Amendment Regulations 1993**(k)**

The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1993**(l)**

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- (a)** S.I. 1987/1850.
  - (b)** S.I. 1988/625.
  - (c)** S.I. 1989/422.
  - (d)** S.I. 1989/802.
  - (e)** S.I. 1989/967.
  - (f)** S.I. 1990/422.
  - (g)** S.I. 1990/1284.
  - (h)** S.I. 1991/78.
  - (i)** S.I. 1992/1220.
  - (j)** S.I. 1992/3025.
  - (k)** S.I. 1993/1593.
  - (l)** S.I. 1993/2013.

The Local Government Superannuation (Scotland) Amendment (No. 3) Regulations 1993**(a)**  
The Local Government Superannuation (Scotland) Amendment Regulations 1994**(b)**  
The Local Government Superannuation (Scotland) Amendment Regulations 1995**(c)**  
The Local Government (Superannuation and Compensation for Premature Retirement) (Scotland) Amendment Regulations 1995**(d)**  
The Local Government (Superannuation and Compensation for Redundancy or Premature Retirement) (Scotland) Amendment Regulations 1995 (except regulation 12)**(e)**  
The Local Government Superannuation (Scotland) Amendment Regulations 1996**(f)**  
The Local Government (Superannuation and Compensation for Premature Retirement) (Scotland) Amendment Regulations 1996**(g)**  
The Local Government Superannuation (Scottish Environment Protection Agency) (Scotland) Regulations 1997**(h)**  
The Local Government Superannuation (Scotland) Amendment Regulations 1997**(i)**  
The Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1997**(j)**  
The Local Government Superannuation (Scotland) Amendment (No. 3) Regulations 1997**(k)**  
The Local Government Superannuation (Scotland) Amendment (No. 4) Regulations 1997**(l)**  
The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998**(m)**  
The Local Government Pension Scheme (Scotland) (Amendment) Regulations 2000**(n)**  
The Local Government Pension Scheme (Scotland) (Pension Sharing on Divorce) (Scotland) Regulations 2001 (except regulation 2)**(o)**  
The Local Government Pension Scheme (Scotland) Amendment Regulations 2001**(p)**  
The Local Government Pension Scheme (Scotland) Amendment Regulations 2002**(q)**  
The Local Government Pension Scheme (Scotland) Amendment Regulations 2005**(r)**  
The Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2005**(s)**  
The Local Government Pensions Etc. (Civil Partnership) (Scotland) Amendment Regulations 2005**(t)**  
The Local Government Pension Scheme (Scotland) Amendment Regulations 2006**(u)**

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- (a)** S.I. 1993/3044.  
**(b)** S.I. 1994/531.  
**(c)** S.I. 1995/214.  
**(d)** S.I. 1995/750.  
**(e)** S.I. 1995/3294.  
**(f)** S.I. 1996/414.  
**(g)** S.I. 1996/1241.  
**(h)** S.I. 1997/1143.  
**(i)** S.I. 1997/674.  
**(j)** S.I. 1997/1373.  
**(k)** S.I. 1997/1435.  
**(l)** S.I. 1997/3048.  
**(m)** S.I. 1998/364.  
**(n)** S.S.I. 2000/199.  
**(o)** S.S.I. 2001/23.  
**(p)** S.S.I. 2001/460.  
**(q)** S.S.I. 2002/311.  
**(r)** S.S.I. 2005/293.  
**(s)** S.S.I. 2005/315.  
**(t)** S.S.I. 2005/554.  
**(u)** S.S.I. 2006/123.

The Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2006**(a)**

The Local Government Pension Scheme (Scotland) Amendment (No. 3) Regulations 2006**(b)**

The Local Government Pensions Etc. (Councillors and VisitScotland) (Scotland) Amendment Regulations 2007**(c)**

The Local Government Pension Scheme (Scotland) Amendment Regulations 2007**(d)**

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**(a)** S.S.I. 2006/468.

**(b)** S.S.I. 2006/514.

**(c)** S.S.I. 2007/71.

**(d)** S.S.I. 2007/514.

## THE 85 YEAR RULE: TRANSITIONAL PROVISIONS AND SAVINGS

1. Subject to paragraph 7, where a member—

- (a) makes a request to receive the immediate payment of retirement benefits under regulation 18(1) (flexible retirement) or 30(1) (choice of early payment of pension) of the Benefits Regulations; and
- (b) satisfies the 85 year rule,

that part of the member's retirement pension and grant which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 18(2) or, as the case may be, 30(4) of the Benefits Regulations.

2. For the purposes of paragraph 1, the relevant date, for a member who was a member before 1st December 2006 is—

- (a) in the case of a member who will be aged 60 or more on 31st March 2020, the earlier of—
  - (i) 1st April 2020; and
  - (ii) the date on the day after the day on which the member leaves local government employment; or
- (b) in any other case, 1st April 2008.

3.—(1) For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of—

- (a) the member's age in whole years on the date the member's local government service ends or the date the member makes a request under regulation 18(1) or, as the case may be, 30(1) of the Benefits Regulations if later;
- (b) the member's total membership in whole years;
- (c) in a case where the member makes a request after the member's local government employment ends, the period beginning with the end of that employment and ending with the date the member makes a request; and
- (d) in the case of a person who was a member immediately before 1st April 1998, any qualifying period counted by virtue of regulation 123 of the 1998 Regulations which was awarded before 1st April 2008,

is 85 years or more.

(2) But, in calculating the total membership, no account is to be taken of any increase in membership awarded under regulation 12 (power of employing authority to increase total membership) of the Benefits Regulations.

4.—(1) This paragraph applies to a member to whom regulation 4 of these Regulations or regulation 14 of the Administration Regulations (Re-employed and rejoining deferred members) applies.

(2) Where such a member does not choose, or does not so choose as respects all periods of the member's membership, to be treated as if regulation 3 of these Regulations applied, or to have the member's membership aggregated under regulation 14, as the case may be, then in applying paragraph 2 of this Schedule as respects any later membership, the member's total membership excludes unaggregated periods.

**5.**—(1) This paragraph applies to a member who was a member before 1st December 2006 who—

- (a) before 1st December 2006 elected to make additional contributions to the Scheme to increase the total membership under regulation 54(1) of the 1998 Regulations (payments to increase total membership); and
- (b) was assumed to retire from a local government employment on a date before the member's 65th birthday ("the assumed date") for the purposes of calculating the member's additional contributions under regulation 54(5) of the 1998 Regulations.

(2) Where a member to whom this paragraph applies—

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

the member shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of the member's total membership.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

**6.**—(1) Paragraphs 1 to 5 apply to a person who was a member before 1st December 2006 and who—

- (a) leaves local government employment and ceases to be a member of the 1998 Scheme or the Scheme (whether before or after that date); and
- (b) resumes such employment before the relevant date for the purposes of paragraph 1.

(2) And any period of membership after that resumption is aggregated with the period of membership accrued in the member's previous local government employment for the purposes of paragraph 1.

(3) But any increase in the member's total membership under regulation 12 of the Benefits Regulations is not counted for the purpose of paragraph 3(b).

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set out transitional provisions relating to members of the Local Government Pension Scheme 1998 (“the 1998 Scheme”), which is to be replaced by the new Local Government Pension Scheme (Scotland) (“the Scheme”) with effect from 1st April 2009.

Their effect is to protect the benefits accrued by members of the 1998 Scheme before 1st April 2009, and to protect their rights.

Regulation 2 provides for the revocation of the Local Government Superannuation (Scotland) Regulations 1987 (“the 1987 Regulations”) (so far as they continue to operate) and the Local Government Pension Scheme Regulations 1998 (“the 1998 Regulations”) and of a number of Regulations that amend the 1987 Regulations or the 1998 regulations or make provision dependent on them, which are set out in Schedule 1. It follows that, after 1st April 2009, no person may become a member of the previous Local Government Pension Scheme, or accrue benefits in it (regulation 2(2)).

Regulations 3 to 6 preserve the membership and benefits accrued in the previous Scheme for active and deferred members and for members in concurrent employment.

Regulation 7 provides for survivor benefits and regulation 8 for limits on death grants for deferred members.

Regulation 9 requires employing authorities to inform certain members of the contribution rates applicable to them.

Regulation 10, and Schedule 2, make provision relating to the so-called “85 year rule” about early retirement.

Regulation 11 identifies the appropriate funds for the Scheme.

Regulation 12 saves provisions about abatement policy contained in the 1998 Regulations.

Regulations 13 to 15 continue the special position of certain groups of members as to whom the Scheme has effect with particular modifications.

A regulatory impact assessment has not been prepared for these Regulations as they have no impact on business, charities or voluntary bodies.





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**£3.00**

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