
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme (Scotland) Regulations 1998 (S.I.1998/366) (“the 1998 Regulations”) and the Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850) (“the 1987 Regulations”) to authorise the payments made by administering authorities between 12th November 1979 and 5th April 2009 of annual increases to certain persons who are entitled to a guaranteed minimum pension. They also introduce a new entitlement to an Increased Pension Entitlement (“IPE”).

Regulations 4, 5 and 6 introduce a new Part VII (Increased Pension Entitlement) into the 1998 Regulations. Regulations 9, 10 and 11 introduce a new Part U into the 1987 Regulations which mirrors new Part VII of the 1998 Regulations. New regulation 162 provides that Part VII applies only to persons who, on 5th April 2009, were entitled to a pension (under the scheme established by the 1998 Regulations) and to a guaranteed minimum pension (“GMP”), and who have in any tax year since entitlement to that GMP began, received a GMP-related payment. New regulation U2 makes the same provision in relation to the 1987 Regulations.

Section 5 of the Pensions (Increase) Act 1971 (“the 1971 Act”) requires pensions authorities to increase annually pensions to which that Act applies. The 1971 Act is modified by sections 59 and 59A of the Social Security Pensions Act 1975 (“the 1975 Act”). Pensions authorities pay annual increases on pensions in accordance with the annual Pensions (Increase) Review Orders (“the annual PIROs”) which are made under section 59 of the 1975 Act. The combined effect of section 59(5) of the 1975 Act, Directions by the Treasury made under section 59A of the 1975 Act and relevant provisions of the annual PIROs is that the amount of increase payable by a pensions authority under the annual PIROs is reduced by the amount equal to the rate of the GMP which is paid by the Department of Work and Pensions (“DWP”). Affected pensioners (to whom Part VII of the 1998 Regulations or Part U of the 1987 Regulations applies) have received duplicate payments, from both DWP and the administering authority.

New regulation 163 of the 1998 Regulations and new regulation U3 of the 1987 Regulations define a GMP-related payment as a payment made by the administering authority applying the annual PIROs as if no reduction fell to be made in relation to the person’s GMP.

New regulation 164 of the 1998 Regulations and new regulation U4 of the 1987 Regulations authorise the past payment of GMP-related payments. This provision has effect from 12th November 1979 until 5th April 2009. Paragraph (2) provides that where an administering authority has made such payments to an affected pensioner, it may not recover them.

New regulation 165 of the 1998 Regulations and new regulation U5 of the 1987 Regulations set out the entitlement to IPE. Although entitlement to IPE begins on 6th April 2009, the effect of the 1971 Act is that annual increases must apply to IPE from the beginning date of the pension (usually the day after the person’s date of retirement). IPE is therefore defined as the amount a pension would have to be at the beginning date of a pension in order for that amount, after annual increases have been applied under the annual PIROs, to equal the GMP-related payment for the tax year 2009-2010. The effect is that for the tax year 2009–10 the IPE that the affected pensioner will receive is equal to the GMP-related payment he or she would have received were the administering authority to apply the 2009 PIRO as if no reduction fell to be made in relation to the person’s GMP. Thereafter, IPE will continue to be increased in line with the annual PIROs although future PIROs will no longer be applied as if no reduction fell to be made.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 3 amends regulation 39(5) of the 1998 Regulations and regulation 8 amends regulation E6 of the 1987 Regulations so that the IPE is included in the widow's short term pension following the death of a member who is entitled to an IPE.