

2014 No. 23

PENSIONS

**The Local Government Pension Scheme (Miscellaneous
Amendments) (Scotland) Regulations 2014**

Made - - - - - *22nd January 2014*

Laid before the Scottish Parliament *24th January 2014*

Coming into force - - - *3rd March 2014*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7, 12 and 24 of, and Schedule 3 to, the Superannuation Act 1972(a) and 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 proposed regulations as appeared to them to be appropriate.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2014.

(2) These Regulations come into force on 3rd March 2014, but regulations 3 and 5 have effect from 1st February 2013.

Amendment of the Local Government (Pension Scheme) (Administration) (Scotland) Regulations 2008

2. The Local Government (Pension Scheme) (Administration) (Scotland) Regulations 2008(b) are amended in accordance with regulations 3 to 5.

3. In regulation 10—

- (a) omit paragraphs (2), (3) and (5);
- (b) in paragraph (1), for “paragraph (2)” substitute “paragraph (7)”; and
- (c) in paragraph (6), for “paragraphs (3) and (5)” substitute “paragraphs (7) and (8)”; and

(a) 1972 c.11. The functions of the Secretary of State exercised in making these Regulations were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).

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

(d) after paragraph (6), insert—

“(7) A person who would, apart from this paragraph, be an active member of the Scheme by virtue of paragraph (1) and who is employed under a contract of employment of less than three months does not become a member on the day specified in paragraph (1) but becomes an active member—

- (a) on the member’s automatic enrolment date;
- (b) if the person applies to become a member, on the first day of the payment period following an application to become a member; or
- (c) on the first day of the payment period following an extension to the contract of employment to be for three months or more,

whichever is the earliest.

(8) A person who is eligible to be an active member in an employment, but who is not an active member in that employment—

- (a) may apply in writing to the person’s Scheme employer to join the Scheme, and becomes an active member in that employment on the first day of the payment period following the application; but in any event;
- (b) becomes an active member in an employment on the automatic enrolment date or automatic re-enrolment date relating to that employment.”.

4. In regulation 23, for paragraph (4) substitute—

“(4) A person mentioned in paragraph (1)(a)(ii) or (c) may notify his or her employing authority in writing that the person wishes the accumulated value to be used in one or more of the following ways—

- (a) to be used, in whole or part, to provide additional pension for the person under the Scheme;
- (b) to be used, in whole or part, to purchase an appropriate policy from one or more insurance companies (within the meaning of section 275 of the Finance Act 2004(a));
- (c) to be transferred, in whole or part, to a registered pension scheme (other than the Scheme).”.

5. In Schedule 1, after the definition of “ASBCs” insert—

““automatic enrolment date” means the automatic enrolment date within the meaning of section 3 of the Pensions Act 2008(b);

“automatic re-enrolment date” means the automatic re-enrolment date chosen by a member’s employer in accordance with section 5 of the Pensions Act 2008 and regulation 12 of the Occupational and Personal Pensions Schemes (Automatic Enrolment) Regulations 2010(c) for those of its eligible jobholders who are not active members;”.

(a) 2004 c.12.

(b) 2008 c.30; section 3(1) was substituted by the Pensions Act 2011 (c.19), section 5(1) and there have been further amendments which are not relevant to this instrument.

(c) S.I. 2010/772.

Amendment of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008

6. In regulation 35 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008^(a), after paragraph (3) insert—

“(4) If the administering authority has not made payments under paragraph (1) equalling in aggregate the member’s death grant before the expiry of 2 years beginning with the member’s death, it must pay an amount equal to the shortfall to the member’s executors.”.

JOHN SWINNEY

A member of the Scottish Government

St Andrew’s House,
Edinburgh
22nd January 2014

^(a) S.S.I. 2008/230.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 and the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008.

Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have effect from a date earlier than the making of the Regulations. Regulation 1 provides that the Regulations come into force on 3rd March 2014, but that regulations 3 and 5 have effect from 1st February 2013.

Regulations 3 and 5 make provision for the circumstances in which a person who is on a contract of less than 3 months or who is not an active member are to be enrolled in the Local Government Pension Scheme.

Regulation 4 makes provision to allow a person who has paid additional voluntary contributions to transfer the accumulated value to an alternative pension scheme.

Regulation 6 provides that where an administering authority has not paid the full amount of a member's death grant before the expiry of 2 years from the date of the member's death, the authority must pay any shortfall to the member's executors.

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