
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 87

PUBLIC SERVICE PENSIONS

**The Local Government Pension Scheme
(Scotland) Amendment Regulations 2015**

Made - - - - 26th February 2015
*Laid before the Scottish
Parliament* - - - - 2nd March 2015
Coming into force - - 1st April 2015

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1 of the Public Service Pensions Act 2013⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 21 of that Act, the Scottish Ministers consulted the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

PART 1

Preliminary Provisions

Citation and commencement

1. These Regulations may be cited as the Local Government Pension Scheme (Scotland) Amendment Regulations 2015 and come into force on 1st April 2015.

Interpretation

2. In these Regulations—

“the Main Regulations” means the Local Government Pension Scheme (Scotland) Regulations 2014⁽²⁾; and

“the Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014⁽³⁾.

(1) 2013 c.25.
(2) S.S.I. 2014/164.
(3) S.S.I. 2014/233.

PART 2

Amendment of the Main Regulations

Amendment of the Main Regulations

3. The Main Regulations are amended in accordance with regulations 4 to 47.

Amendment of regulation 3

4. In regulation 3(6)(g) for “received from” substitute “paid to”.

Amendment of regulation 4

5. In regulation 4 omit paragraph (4).

Amendment of regulation 9

6. In regulation 9—
 - (a) in paragraph (2) after “membership” insert “and at the commencement of each scheme year”;
 - (b) in paragraph (3)(a) after “increased” insert “each year”;
 - (c) for the words in paragraph (3)(b) substitute “to be treated for the purposes of paragraph 3(a) as if they were pensions beginning on 1st April 2014”;
 - (d) in paragraph (4) for “may” substitute “must”;
 - (e) in paragraphs (5) omit “Where the active member is a part-time employee,”; and
 - (f) omit paragraph (6).

Amendment of regulation 10

7. In regulation 10—
 - (a) in paragraph (3) after “effect” insert “, and the scheme employer must notify the fund of the election”; and
 - (b) in paragraph (5)(b) after “result of” insert “long-term”.

Amendment of regulation 11

8. In regulation 11, omit the words from “and if” to the end.

Amendment of regulation 15

9. In regulation 15—
 - (a) in the header to the regulation omit “/Temporary reductions in contributions”;
 - (b) in paragraph (1) after “leave” insert “or on actual pay received where this is greater than assumed pensionable pay”;
 - (c) in paragraph (3)(a)(ii) for “during the absence” substitute “(additional pension contributions) or regulation 17 (additional voluntary contributions) during reserve forces leave”;
 - (d) in paragraph (4)(b) for “or additional paternity leave” substitute “additional paternity leave or shared parental leave”;

- (e) in paragraph (4)(d) after “(additional pension contributions)” insert “or regulation 17 (additional voluntary contributions)” and for the words after “(shared cost additional pension contributions)” substitute “or, as appropriate, to a shared cost AVC under regulation 17, remain payable if the relevant regulation applies”;
- (f) in paragraph (5) for “may” substitute “must” and after “(shared cost additional pension contributions)” insert “to meet two thirds of the cost of the arrangement”;
- (g) in paragraph (6) for “may” substitute “must” and omit “assumed” and after “36 months” insert “calculated in accordance with guidance to be issued by the Scottish Ministers where the amount of pensionable remuneration cannot readily be determined”; and
- (h) in paragraph (8) for “be reduced by 50%” substitute “remain at the full amount (100%)”.

Amendment of regulation 16

10. In regulation 16—

- (a) in paragraph (2)(e) omit “in whole or”;
- (b) in paragraph (4)(d) omit “in whole or”;
- (c) in paragraph (17)(a) for “or additional paternity leave” substitute “additional paternity leave or shared parental leave”; and
- (d) after paragraph (17) insert—

“(18) Where the member elects to pay an APC to cover the amount of pension that would otherwise have accrued but for an absence of the type mentioned in regulations 11(1), (3), (4)(b) or (4)(c), the amount of pension that would have accrued during that absence shall be calculated on the pensionable pay the member would have received but for the absence or in accordance with guidance to be issued by the Scottish Ministers where that amount of pensionable remuneration cannot readily be determined.”.

Amendment of regulation 17

11. In regulation 17—

- (a) omit paragraph (6);
- (b) in paragraph (7) after “active members)” insert “or regulation 36 (Early payment of retirement pension on ill-health grounds: deferred members)”;
- (c) replace the words in paragraph (10) with “A member must transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 94 (rights to payment out of pension fund) of the rights in the pension account to which the AVC is attached, and can only transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 94 (rights to payment out of pension fund) of the rights in the pension account to which the AVC is attached.”; and
- (d) after paragraph (11) insert—

“(11A) An active member may, by notifying his or her administering authority in writing, transfer into the member’s additional voluntary contributions scheme constituted under this regulation the accumulated value of any other additional voluntary contributions scheme to which the member has subscribed.”.

Amendment of regulation 21

12. In regulation 21—

- (a) in paragraph (4)(b)(i)—
 - (i) for “13” substitute “12”; and
 - (ii) after “(death grants: active members),” insert “39(4)(b) (Survivor benefits: partners of active members),”; and
- (b) after paragraph (6) insert—

“(7) For the purposes of regulations 37(1)(a) (calculation of ill-health pension amounts), 38(3) (death grants: active members), 39(4)(b) (Survivor benefits: partners of active members), 40(4)(b), (5)(b), (9)(b) and (10)(b) (Survivor benefits: children of active members), the annual rate of assumed pensionable pay for an employment under regulation 102 (2) (separate employments etc.), is the annual average pensionable pay the member received relating to that employment in the three years preceding the commencement of the pay period in which the ill-health retirement or death occurred.”.

Amendment of regulation 22

13. In regulation 22—

- (a) at the end of paragraph (4)(e) omit “or”;
- (b) at the end of paragraph (4)(g), insert—

“or

 - (h) the member’s benefits are transferred to another Fund under regulation 100.”; and
- (c) at the end of paragraph (6) insert—

“(6A) Where an active member with concurrent employments ceases an employment with entitlement to a deferred pension, the benefits in the deferred member’s pension account must be aggregated with those in the on-going active member’s pension account and, if there is more than one such account, the one chosen by the member, unless—

 - (a) within 12 months of the date the concurrent employment ceased; or
 - (b) such longer time as the Scheme employer in relation to the relevant on-going active member’s pension account permits,

the member makes an election to the appropriate administering authority to retain the deferred member’s pension account.

(6B) Where a deferred member again becomes an active member, the benefits in the deferred member’s pension account must be aggregated with those in the active member’s pension account unless—

 - (a) within 12 months of the active member’s pension account being opened; or
 - (b) such longer time as the Scheme employer in relation to that active member’s pension account permits,

the member makes an election to the appropriate administering authority to retain the deferred member’s pension account.”.

Amendment of regulation 23

14. In regulation 23—

- (a) at the end of paragraph (6)(e) omit “or”; and
- (b) after paragraph (6)(f) insert—
 - “(g) an adjustment of the description mentioned in paragraph (10); or
 - (h) an adjustment resulting from a certificate of protection.”.

Amendment of regulation 29

15. In regulation 29(1), for the words after “age” substitute “is entitled to immediate payment of a retirement pension without reduction if the member is not an employer in local government service in employment from which the benefits arise.

Amendment of regulation 30

16. In regulation 30(1), omit “(including any additional pension purchased by the Scheme employer under regulation 16)”.

Amendment of regulation 34

17. In regulation 34, wherever occurring, for “age 65” substitute “normal pension age”.

Amendment of regulation 35

18. In regulation 35(1)(b), after “employment” insert “before normal pension age”.

Amendment of regulation 36

19. In regulation 36, wherever occurring, for “age 65” substitute “normal pension age”.

Amendment of regulation 37

20. In regulation 37—

- (a) wherever occurring, for “age 65” substitute “normal pension age”;
- (b) in paragraph (1)(a) after “regulation 21(4) (assumed pensionable pay)” insert “or, as appropriate, regulation 21(7),”; and
- (c) omit paragraph (7).

Amendment of regulation 38

21. In regulation 38—

- (a) in paragraph (1), for “an administering authority” substitute “the appropriate administering authority”;
- (b) in each of paragraphs (1) and (2), for “to (7)” substitute “and (6)”;
- (c) in paragraph (2), omit “appropriate”; and
- (d) for words in paragraph (3) substitute “The death grant is the amount of three times the member’s annual assumed pensionable pay calculated in accordance with regulation 21(4) or, as appropriate, regulation 21(7), as at the date of the member’s death or, if higher, the aggregate of the amount of any death grant payable under regulation 41 and the amount of any death grant payable under regulation 44.”.

Amendment of regulation 39

22. In regulation 39—

- (a) in paragraph (4)(a)(iv), omit “and”;
- (b) at end of paragraph (4)(a)(v), insert—
“and

- (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”; and
- (c) in paragraph (4)(b) after “regulation 21(4)” insert “or, as appropriate, regulation 21(7),”.

Amendment of regulation 40

23. In regulation 40—

- (a) in paragraph (4)(a)(iv), omit “and”;
- (b) at end of paragraph (4)(a)(v), insert—
 - “and
 - (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/320.”;
- (c) in paragraph (4)(b) after “regulation 21(4)” insert “or, as appropriate, regulation 21(7),”
- (d) in paragraph (5)(a)(iv), omit “and”;
- (e) at end of paragraph (5)(a)(v), insert—
 - “and
 - (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”;
- (f) in paragraph (5)(b) after “regulation 21(4)” insert “or, as appropriate, regulation 21(7),”
- (g) in paragraph (9)(a)(iv), omit “and”;
- (h) at end of paragraph (9)(a)(v), insert—
 - “and
 - (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/240.”;
- (i) in paragraph (9)(b) after “regulation 21(4)” insert “or, as appropriate, regulation 21(7),”
- (j) in paragraph (10)(a)(iv), omit “and”;
- (k) at end of paragraph (10)(a)(v), insert—
 - “and
 - (vi) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/120.”; and
- (l) in paragraph (10)(b) after “regulation 21(4)” insert “or, as appropriate, regulation 21(7),”.

Amendment of regulation 41

24. In regulation 41—

- (a) in paragraph (1), for “an administering authority”; substitute “the appropriate administering authority”;
- (b) in paragraph (2), delete “appropriate”; and
- (c) in paragraph (5), for “3”; substitute “5”.

Amendment of regulation 42

25. In regulation 42—

- (a) in paragraph (4) delete sub-paragraph (d);
- (b) in paragraph (4)(e), omit “and”;
- (c) at end of paragraph (4)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”.

Amendment of regulation 43

26. In regulation 43—

- (a) in paragraph (4) delete sub-paragraph (d);
- (b) in paragraph (4)(e), omit “and”;
- (c) at end of paragraph (4)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/320.”;
- (d) in paragraph (5) delete sub-paragraph (d);
- (e) in paragraph (5)(e), omit “and”;
- (f) at end of paragraph (5)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”;
- (g) in paragraph (9) delete sub-paragraph (d);
- (h) in paragraph (9)(e), omit “and”;
- (i) at end of paragraph (9)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/240.”;
- (j) in paragraph (10) delete sub-paragraph (d);
- (k) in paragraph (10)(e), omit “and”; and
- (l) at end of paragraph (10)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/120.”.

Amendment of regulation 44

27. In regulation 44—

- (a) in paragraph (1), for “an administering authority”; substitute “the appropriate administering authority”;
- (b) in paragraph (2), delete “appropriate”; and
- (c) in paragraph (4), for “5”; substitute “10”.

Amendment of regulation 45

28. In regulation 45—

- (a) in paragraph (4)(e)—
 - (i) for “30.625%” substitute “49/160”;
 - (ii) after “contributions” insert “which included provision for a survivor’s pension”; and
 - (iii) at end omit “and”;
- (b) at end of paragraph (4)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”; and
- (c) after paragraph (7), insert—
 - “(8) For the purposes of paragraph (4)(a), earned pension also includes any amount awarded under regulations 37(1)(a) or (2)(a).”.

Amendment of regulation 46

29. In regulation 46—

- (a) at end of paragraph (4)(e), omit “and”;
- (b) in paragraph (4)(f)—
 - (i) for “15.3125%” substitute “49/320”; and
 - (ii) after “contributions” insert “which included provision for a survivor’s pension”;
- (c) at end of paragraph (4)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/320.”;
- (d) at end of paragraph (5)(e), omit “and”;
- (e) in paragraph (5)(f)—
 - (i) for “30.625%” substitute “49/160”; and
 - (ii) after “contributions” insert “which included provision for a survivor’s pension”;
- (f) at end of paragraph (5)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/160.”;

- (g) at end of paragraph (9)(e), omit “and”;
- (h) in paragraph (9)(f)—
 - (i) for “20.41667%” substitute “49/240”; and
 - (ii) after “contributions)” insert “which included provision for a survivor’s pension”;
- (i) at end of paragraph (9)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/240.”;
- (j) at end of paragraph (10)(e), omit “and”;
- (k) in paragraph (10)(f)—
 - (i) for “40.8333%” substitute “49/120”; and
 - (ii) after “contributions)” insert “which included provision for a survivor’s pension”;
- (l) at end of paragraph (10)(f), insert—
 - “and
 - (g) the amount of any pension credited under regulation 4(4) (underpin) of the Transitional Provisions and Savings Regulations 2014 had been multiplied by 60/120.”; and
- (m) after paragraph (13), insert—
 - “(14) “For the purposes of paragraph 46(4)(a), (5)(a), (9)(a) and (10)(a), earned pension also includes any amount awarded under regulations 37(1)(a) or (2)(a).”.

Amendment of regulation 48

- 30.** In regulation 48—
 - (a) in paragraph (1) for the words after “capital value” substitute “(calculated in accordance with actuarial guidance issued by Scottish Ministers) of which exceed that person’s lifetime allowance and any benefits to which a person is entitled are restricted accordingly”; and
 - (b) in paragraph (2) after “Finance Act 2004” insert “and Schedule 6 to the Finance Act 2014(4)”.

Amendment of regulation 51

- 31.** In regulation 51(4), for “pensions” substitute “pension”.

Amendment of regulation 54

- 32.** In regulation 54(2), for “2015” substitute “2016”.

Amendment of regulation 56

- 33.** In regulation 56(4), for sub-paragraph (a) substitute—
 - “(a) the guidance set out in the document published in October 2012 by CIPFA, the Chartered Institute of Public Finance and Accountancy and called “Preparing and

Maintaining a Funding Strategy Statement in the Local Government Pension Scheme 2012.”.

Amendment of regulation 58

34. In regulation 58(1), after sub-paragraph (a) insert “(aa) 29(5)(early retirement);”.

Amendment of regulation 60

35. In regulation 60(6)(b) for “common” substitute “primary”.

Amendment of regulation 65

36. In regulation 65—

- (a) in paragraph (4)(a), for “and 14”; substitute “14 and 15”; and
- (b) in paragraph (4)(b), after “certificate” insert “except where actual pay received during child-related leave is greater than assumed pensionable pay”.

Amendment of regulation 66

37. In regulation 66—

- (a) in paragraph (1), omit “or 36 (early payment of retirement pension on ill-health grounds: deferred members)”; and
- (b) in paragraph (2) after “member under” insert “regulation 29(5) (early retirement) or”.

Amendment of regulation 67

38. In regulation 67(1)—

- (a) at end of sub-paragraph (c), omit “and”; and
- (b) at end of sub-paragraph (d), insert—
 - “and
 - (e) all amounts received from time to time from the Ministry of Defence in respect of employee and employer contributions for a member on reserve forces service leave.”.

Amendment of regulation 87

39. In regulation 87—

- (a) in paragraph (4), for “Services” substitute “Service”; and
- (b) omit paragraph (5).

Amendment of regulation 88

40. In regulation 88(2)(a), for “local government employment” substitute “membership of a public service pension scheme (including the Local Government Pension Scheme)”.

Amendment of regulation 93

41. In regulation 93—

- (a) in paragraph (2) for “reduced, and” substitute “reduced or restricted, and, where the member elects,”;
- (b) after paragraph (4) insert—
 - “(4A) The employing authority may issue a certificate without an application from the member, but need not issue a certificate if the member does not apply for one within 12 months after the date of reduction or restriction.”; and
- (c) after paragraph (7) insert—
 - “(8) If the member leaves the employment under which the certificate was issued, without becoming entitled to immediate or deferred pension benefits, the certificate shall lapse.
 - (9) The operation of a certificate issued under this regulation is subject to guidance issued by Scottish Ministers.”.

Amendment of regulation 96

- 42. In regulation 96(2), for “Pensions” substitute “Pension”.

Amendment of regulation 98

- 43. In regulation 98(6)—
 - (a) omit “and the Scheme employer”; and
 - (b) after “as the Scheme employer” omit “ and administering authority”.

New regulation 102

- 44. After regulation 101, insert—

“Separate employments

Separate employments etc.

45.—(1) Where a person holds separate employments under one Scheme employer, these Regulations apply as if each of them were under a different employer.

(2) This regulation also applies where an employee of a Scheme employer is also employed to carry out one or more of the additional duties.

- (3) The additional duties are duties as—
 - (a) a returning officer at—
 - (i) local government elections; or
 - (ii) elections for the Scottish Parliament; or
 - (b) a returning officer (including as a regional or local returning officer at a European Parliamentary election).”.

Amendment of Schedule 1

- 45. Schedule 1 is amended as follows —
 - (a) under the definition of “child-related leave”—
 - (i) after “(d) paternity leave;” omit “or”;
 - (ii) in (e) after “pensionable pay;” insert—

“or

- (c) shared parental leave during which the member receives some pensionable pay;”;
- (b) in the definition of “cohabiting partner”, for “husband and wife” twice occurring substitute “a married couple”;
- (c) in the definition of “partner”, after “spouse” insert “(including a same sex spouse)”; and
- (d) after the definition of “Scheme year” insert as a definition ““shared parental leave” means leave as defined in regulation 3 of the Shared Parental Leave Regulations 2014(5).

Amendment of Schedule 4

46. Part 1 of Schedule 4 is amended as follows—

- (a) omit paragraph 2;
- (b) before paragraph 3 insert—
 - “**2A.** This paragraph applies where an employing authority—
 - (a) has members in respect of whom but for this paragraph, it would be required to contribute to more than one fund;
 - (b) merges or amalgamates with another employing authority and in respect of which there is specified a different fund for the respective members of each employing authority; or
 - (c) moves its main place of business to a different geographical area.
 - 2B.** Where paragraph 2A applies, the Scottish Ministers may upon application by the employing authority, by direction substitute another fund (“the substituted fund”).”;
- (c) in paragraph 3 for “2” substitute “2B”;
- (d) for the words in paragraph 5 substitute “The direction may also contain provision as to the transfer of liabilities to the substituted fund, may require a revised rates and adjustment certificate in respect of each employing authority concerned, to take account of the effect of the direction, and may make provision for any other consequential or incidental matters.”; and
- (e) in respect of item 2 in the first column of the table in paragraph 6 for Part II” substitute “Part 2”.

Amendment of Schedule 5

47. Schedule 5 is amended as follows—

- (a) after paragraph 6 insert—
 - “(6A) Omit regulation 22(6) (Concurrent employment aggregation of active and deferred pension accounts).
 - (6B) Regulation 22(7) (Aggregation of deferred and active pension accounts) shall only apply to a councillor member in respect of any councillor membership where both the former membership and the membership as an active member referred to in that paragraph are councillor membership in the same appropriate fund.”; and
- (b) in paragraph 9(a) for “paragraph (3)” substitute “paragraphs (3) and (4)”.

PART 3

Amendment of the Transitional Regulations

Amendment of the Transitional Regulations

48. The Transitional Regulations are amended in accordance with regulations 49 to 62.

Amendment of regulation 1

49. In regulation 1—

(a) in paragraph (4)—

(i) the definition of “the 1998 Transitional Regulations” for “the Local Government Pension Scheme (Scotland) (Transitional Provisions) Regulations 1998” substitute “the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998”;

(ii) after the definition of “the Benefits Regulations” insert as a new definition ““certificate of protection” means a certificate issued under regulation 22 of the 1998 Regulations, regulation 43 of the Administration Regulations or regulation 93 of the 2014 Regulations;” and

(b) omit paragraph (6).

Amendment of regulation 3

50. In regulation 3—

(a) in paragraph (1) omit “e” before “Local Government”;

(b) in paragraph (5) after “if” insert “, subject to paragraph (12) and to paragraph 2(1) of Schedule 2,”; and

(c) after paragraph (11) insert—

“(12) The employer may waive any actuarial reduction in whole or in part, where benefits are payable under regulation 29(5) of the 2014 Regulations.”.

Amendment of regulation 5

51. In regulation 5(1) after “in an employment” insert “(or in the case of a councillor member, office)”.

Amendment of regulation 7

52. In regulation 7—

(a) in paragraph (3) for “from” substitute “to”; and

(b) after paragraph (4) insert—

“(5) A person who became a member of the 2015 Scheme by virtue of regulation 5(1) of these Regulations (membership of the 2015 Scheme), and for whom a transfer value was credited under the Earlier Regulations, who ceases to be an active member of the 2015 Scheme before achieving qualifying service for a period of two years may elect—

(a) to have regulation 18 of the 2014 Regulations (rights to return of contributions) deemed to apply to the contributions paid both into the Earlier Schemes and the 2015 Scheme (where the period in respect of which contributions to the Earlier

Schemes were paid has been aggregated with membership of the 2015 Scheme);
or

- (b) to be a deferred member of the 2015 Scheme notwithstanding regulation 6(1) of the 2014 Regulations (deferred members); or
- (c) if the member has reached the normal retirement age applicable to that member under the 2009 Scheme, to draw retirement pension immediately upon cessation of local government service, notwithstanding regulation 6(1) (deferred members) of the 2014 Regulations.

(6) An election under paragraphs (5)(a) or (b) must be made in writing to the member’s administering authority within the period of six months beginning with the date on which the active membership ceased and an election under paragraph (5)(c) must be made to that authority within the period of six months beginning with the date of the cessation of local government service, and in default of any election being made the member shall be awarded a deferred benefit in the 2015 Scheme, or an immediate pension, as appropriate.”.

Amendment of regulation 9

53.—(1) In regulation 9—

- (a) at the end of paragraph (1) insert “since ceasing active membership in the scheme from which the transfer payment is received”;
- (b) for paragraph (3) substitute—

“(3A) This paragraph applies where a transfer payment is received in respect of a member of the 2015 Scheme from—

- (a) a registered pension scheme which is not a public service pension scheme,
- (b) a registered pension scheme which is a public service pension scheme and the person in respect of whom the transfer payment is received has had a continuous break in active membership of any public service pension scheme of more than five years since ceasing active membership in the scheme from which the transfer payment is received,
- (c) a registered pension scheme which is a public service pension scheme and the transfer payment is not a Club transfer payment (under the rules of the Public Sector Transfer Club), or
- (d) a European Pensions Institution.

(3B) Where paragraph (3A) applies and the relevant date was before 1st April 2015, that transfer payment shall be dealt with by the appropriate administering authority as if it had been received in respect of membership of the 2009 Scheme.”; and

- (c) in paragraph (4) for “(3)” substitute “(3B)”.

Amendment of regulation 10

54. In regulation 10(6) after “2015 Scheme, may” insert—

“, within 12 months of the active member’s account being opened or within such longer time as the Scheme employer in relation to that active member’s account permits,”.

Amendment of regulation 11

55. In regulation 11(4)(b) after “Schemes” insert “, where the member makes an election to draw the realisable value in the AVC arrangement at the same time”.

Amendment of regulation 14

56. In regulation 14(2) after “is entitled to a refund of contributions” insert “, including any additional contributions.”.

Amendment of regulation 15

57. In regulation 15—

- (a) at the end of paragraph (1)(c) omit “and”;
- (b) at the end of paragraph (1)(d) insert—
“and
- (e) regulations C9A of the 1987 Regulations (additional voluntary contributions), 59 of the 1998 Regulations (elections to pay AVCs) and 22 of the Administration Regulations (additional voluntary contributions and shared cost additional voluntary contributions) in respect of an election made by a person to whom regulation 5(1) (membership of the 2015 Scheme) applies.”; and
- (c) after paragraph (3) insert—
“(4) The limit in regulation 30(2) of the 2014 Regulations (award of additional pension) must include the amounts of any additional pension awarded under regulation 13 of the Benefits Regulations.
(5) The limit in regulation 16(6) of the 2014 Regulations (additional pension contributions) must include the amount of any additional pension that is to be credited under regulation 14 of the Benefits Regulations.”.

Amendment of regulation 17

58.—(1) In regulation 17—

- (a) for paragraph (3) substitute—
“(3) 2015 Scheme survivor pensions for the purposes of paragraph (1) are calculated in accordance with the 2014 Regulations, or where it would provide a higher amount, the pension calculated where the deceased member would have benefited from the protection in regulation 20(5) of the Benefits Regulations (transitional protection for persons who were members immediately before 1st April 2009) if that regulation had applied on the date of the member’s death.”;
- (b) in paragraph (11)(d) after “cohabiting partner” insert “where the cohabiting partnership was entered into after the member’s active membership ceased”;
- (c) in paragraph (13)(a) after “41” insert “(4)”;
- (d) in paragraph (13)(a)(i) after “civil partnership” insert “with the deceased”; and
- (e) in paragraph (13)(b) after “Administration Regulations” insert—
“,
and, for the purposes of paragraph (12), the reference in regulation 41(4)(a) of the 1998 Regulations to “5 April 1988” shall be to “5 April 1978””.

Amendment of regulation 21

59.—(1) In regulation 21—

- (a) at the beginning insert “Provisions in the same terms as”; and
- (b) for “are preserved” substitute “apply”.

Amendment of regulation 24

60. In regulation 24, omit paragraph (6).

New regulation 26

61. After regulation 25, insert a new regulation as follows—

“Final Pay and Certificate of Protection

26.—(1) In these Regulations, where final pay is to be calculated in accordance with regulations 9 to 11 of the Benefits Regulations (calculation of final pay) and a Certificate of Protection has been issued, that certificate continues to have effect in accordance with the relevant regulation under which it was issued.

(2) The operation of a such a certificate is, notwithstanding sub-paragraph (1), subject to guidance issued by Scottish Ministers.

(3) Where a Certificate of Protection has been issued under regulation 22 of the 1998 Regulations or regulation 43 of the Administration Regulations that certificate will have effect in respect of benefits accrued under the 2014 Regulations in accordance with guidance issued by Scottish Ministers.”.

Amendment of Schedule 2

62. Schedule 2 is amended by substituting for paragraph 8 as follows—

“8.—(1) This paragraph applies to a person who was an active member of one of the Earlier Schemes before 1st December 2006 and who—

- (a) ceases to be an active member of the 1998 Scheme, the 2009 Scheme or the 2015 Scheme (whether before, on, or after that date); and
- (b) resumes active membership.

(2) If a member to whom this paragraph applies aggregates any period of membership after the resumption of employment with the period of membership accrued in the previous local government employment—

- (a) where the member resumed active membership in the 2015 Scheme and has had a disqualifying break, this Schedule does not apply to the earlier period, except in applying this Schedule to the later period of membership, for the purposes of paragraph 4 (determining whether the member satisfies the 85 year rule); or
- (b) where the member resumed active membership in an Earlier Scheme, or resumed active membership in the 2015 Scheme without a disqualifying break, this Schedule applies to the whole period of the aggregated membership.

(3) A disqualifying break for the purposes of paragraph (2) is a continuous break in active membership of a public service pension scheme of more than five years.”.

St Andrew’s House,
Edinburgh
26th February 2015

JOHN SWINNEY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to the main regulations which shall constitute the Local Government Pension Scheme in Scotland, namely the Local Government Pension Scheme (Scotland) Regulations 2014, and to the transitional and savings provisions in relation to that scheme contained in the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014. These Regulations and the other two instruments come into force on 1st April 2015.