
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 87

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

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(1)”.

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(2).”.

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)”.