
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 87

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

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.”