
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 141

**The Local Government Pension
Scheme (Scotland) Regulations 2018**

PART 1

Membership, contributions and benefits

Benefits

Retirement benefits

29.—(1) Subject to paragraph (3), a member who attains normal pension age is entitled to immediate payment of a retirement pension without reduction if the member is not an employee in local government service in employment from which the benefits arise.

(2) A member to whom paragraph (1) applies and who has concurrent employments may draw a pension in relation to an employment so long as the member is not an employee in local government service in relation to that employment.

(3) A member to whom paragraph (1) applies may elect to defer payment of a retirement pension to a date after that member's normal pension age up to the date when that member attains the age of 75.

(4) A member who is an employee in local government service on the day before attaining age 75 must have their retirement pension paid from age 75 even if the member remains in local government service beyond that age.

(5) A member who starts to receive payment of a retirement pension from a date after that member's normal pension age is entitled to enhancement of the pension by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers.

(6) A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, but the amount of the retirement pension must be reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers.

(7) An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the scheme employer's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers.

(8) Where an active member who has attained the age of 55 or over is dismissed from an employment by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency, that member is entitled to, and must take immediate payment of—

- (a) retirement pension relating to that employment payable under regulation 16 (additional pension contributions), adjusted by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers; and
- (b) any other retirement pension relating to that active membership payable under these Regulations, without reduction.

(9) A Scheme employer, former employer which is a Scheme employer, or, where a member's employer or former employer has ceased to be a Scheme employer, the appropriate administering authority, may agree to waive in whole or in part any reduction that would, apart from this paragraph, be required by paragraph (6) or (7).

(10) In paragraphs (1) to (8) of this regulation the expression "member" means a member with qualifying service for a period of 2 years and does not include a pension credit member.

(11) Subject to paragraph (12), a pension credit member who attains normal pension age or who is, at the effective date of the pension sharing order, already at or over normal pension age is entitled to, and must take, immediate payment of a retirement pension deriving from the pension credit, without reduction, irrespective of whether that pension credit member is also an employee in local government service.

(12) A pension credit member may, before reaching normal pension age, elect to defer payment of a retirement pension deriving from a pension credit to a date after that member's normal pension age and, if the member does so, is entitled to immediate payment of a retirement pension from any date up to the date when that member attains the age of 75, enhanced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the pension credit member is also an employee in local government service.

(13) A pension credit member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension deriving from the pension credit, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the pension credit member is also an employee in local government service.

Award of additional pension

30.—(1) A Scheme employer may resolve to award—

- (a) an active member; or
- (b) a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total, not more than the additional pension limit payable from the same date as any pension payable under other provisions of these Regulations from the pension account to which the additional pension is attached, provided that, in the case of a member falling within sub-paragraph (b), the resolution to award additional pension is made within 6 months of the date the member's employment ended.

(2) The additional pension limit is £5,000 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2015 to which the Pensions (Increase) Act 1971(1) applied.

(3) An award of additional pension under—

- (a) paragraph (1)(a) is to be credited to the relevant active member pension account in the Scheme year in which the resolution to award the additional pension is made; and
- (b) paragraph (1)(b) is to be treated as credited to the relevant active member pension account on the day before the date of termination of employment.

Commencement of pensions

31.—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable, begins with the day after the date on which the employment ends.

(2) The first pay period for which any retirement pension is payable in accordance with regulation 29(4) begins with the member's 75th birthday.

(3) Subject to paragraphs (4) and (5), in the case of a deferred member, the first period for which payment begins is the member's normal pension age unless that member gives written notice to the appropriate administering authority to defer payment (but any such deferral shall not extend beyond the day before the member's 75th birthday).

(4) Where a member elects under regulation 29(3), (6), (12) or (13) to have a pension paid from a date other than normal pension age, the first period for which retirement pension is payable begins on the date the member specifies in a written notice to the appropriate administering authority.

(5) Where, in a written notice to the appropriate administering authority, a member elects under regulation 29(7) (flexible retirement) to receive immediate payment of all or part of that member's benefits, if the member's Scheme employer consents to the payment, the first period for which retirement pension is payable begins on the date of the reduction in hours or grade.

(6) A notice given under paragraph (4) must be given not less than 3 months before the beginning of the period specified and a notice given under paragraph (5) must be given within one month of the reduction in hours or grade.

(7) A member may give a further notice under paragraph (4) altering the date specified in an earlier notice, but any such further notice must be given not less than 3 months before the beginning of the period specified in the further notice.

(8) An administering authority may agree to amend the time limits specified in paragraphs (6) and (7).

(9) Where a member is entitled to early payment of pension due to ill-health under regulation 34 (early payment of retirement pension on ill-health grounds: active members) the first period for which retirement pension is payable is the day after the date on which the member's employment is terminated.

(10) Where a member is entitled to early payment of pension due to ill-health under regulation 36 (early payment of retirement pension on ill-health grounds: deferred members), the first period for which retirement pension is payable begins on the date the member makes a request under that regulation.

Election for lump sum instead of pension

32.—(1) Subject to paragraph (4), a member entitled to a retirement pension under the Scheme may by written notice given to the appropriate administering authority before the benefit crystallisation event in respect of which any benefits are payable, commute the retirement pension payable (including any revaluation adjustment), or part thereof, at a rate of £12 for every £1 of annual pension commuted.

(2) But the total amount of the member's commuted sum shall not exceed 25% of the capital value of the member's accrued rights under all local government pension provision in relation to that benefit crystallisation event, including those under regulation 17(6)(a) (additional voluntary contributions).

(3) The capital value of a member's accrued rights shall be calculated in accordance with actuarial guidance issued by the Scottish Ministers.

(4) Paragraph (1) does not apply to—

- (a) a pension credit member where the member of the Scheme to which the Pension Sharing Order applied has made an election under this regulation before the valuation date used when implementing the Pension Sharing Order; or
- (b) any additional pension purchased by the member under regulation 17(6)(b)(i) (additional voluntary contributions).

Commutation and small pensions

33.—(1) Any authorised payments within the meaning of section 164 (authorised member payments) of the Finance Act 2004⁽²⁾ listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

- (a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of that Act;
- (b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of that Act; or
- (c) a commutation payment under regulation 6 (payment after relevant accretion), 11 (*de minimis* rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009⁽³⁾.

(2) Any payment under paragraph (1) shall be calculated in accordance with actuarial guidance issued by the Scottish Ministers.

(3) If a member receives a payment under this regulation, any pension account relating to that payment must be closed, the member is entitled to no further benefits in relation to that account and no survivor benefits are subsequently payable upon the death of the member.

(2) 2004 c.12; section 164 was amended by the Finance Act 2008 (c.9), schedule 29, paragraph 1(2), the Finance Act 2009 (c.10), the Finance Act 2009 (c.10), section 75(2), the Taxation of Pensions Act 2014 (c.30), schedule 1(5), paragraph 85 and the Finance Act 2016 (c.24), schedule 5, paragraph 3(1).

(3) S.I. 2009/1171; regulations 11 and 12 were amended by S.I. 2011/1751, the Finance Act 2014 (c.26), section 42 and the Taxation of Pensions Act 2014 (c.30), schedule 1(5), paragraph 73(3).