
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 438

**The Local Government Pension Scheme
(Increased Pension Entitlement) (Miscellaneous
Amendments) (Scotland) Regulations 2019**

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019.

(2) These Regulations come into force on 1 March 2020 and, subject to paragraph (3), have effect from 8 April 2019⁽¹⁾.

(3) Regulation 2 (in so far as required to give effect to regulation 4), regulation 7 (in so far as required to give effect to regulations 8 and 9), regulation 10 (in so far as required to give effect to regulation 11 and paragraph 1(2) of the schedule), regulations 4, 8, 9 and paragraph 1(2) of the schedule have effect from 12 November 1979 to 8 April 2019.

(4) Regulations 3, 5, 6 and 10 (in so far as required to give effect to regulation 11 other than paragraph 1(2) of the schedule) and paragraph 1(2) of the schedule have effect from 5 April 2009.

(5) These Regulations extend to Scotland only.

Amendment of the Local Government Superannuation (Scotland) Regulations 1987

2. The Local Government Superannuation (Scotland) Regulations 1987⁽²⁾ are amended in accordance with regulations 3 to 6.

3. In regulation U1, (interpretation)—

(a) in the definition of “the existing Orders”, after “Order 2009” insert—

““the Pensions Increase (Review) Order 2011⁽³⁾, the Pensions Increase (Review) Order 2012⁽⁴⁾, the Pensions Increase (Review) Order 2013⁽⁵⁾, the Pensions Increase (Review) Order 2014⁽⁶⁾, the Pensions Increase (Review) Order 2015⁽⁷⁾, the Pensions Increase (Review) Order 2017⁽⁸⁾, the Pensions Increase (Review) Order 2018⁽⁹⁾ and the Pensions Increase (Review) Order 2019⁽¹⁰⁾”

(b) after the definition of “guaranteed minimum pension”, insert—

““the reconciliation exercise” means the exercise undertaken by the relevant administering authority to check the scheme data on individual contracting-out records with that held by Her Majesty’s Revenue and Customs.”

(1) Retrospective effect is permitted by section 12(1) of the Superannuation Act 1972.

(2) [S.I. 1987/1850](#).

(3) [S.I. 2011/827](#).

(4) [S.I. 2012/782](#).

(5) [S.I. 2013/604](#).

(6) [S.I. 2014/668](#).

(7) [S.I. 2015/671](#).

(8) [S.I. 2017/417](#).

(9) [S.I. 2018/333](#).

(10) [S.I. 2019/546](#).

4. In regulation U2 (application of this Part)—
 - (a) after “5th April 2009” insert “or 7 April 2019”, and
 - (b) for “that date” substitute “either of those dates”.
5. After regulation U3 insert—

“ Authorisation of payment of GMP-related payments

U4. Where a relevant administering authority has paid GMP-related payments before 8 April 2019, the authority may not recover those payments on or after 8 April 2019.”.

6. In regulation U5 (Increased Pension Entitlement)—
 - (a) in paragraph (2) for “2009–10” substitute “2019–20”,
 - (b) in paragraph (7)(a), for “2009–10” substitute “2019–20”, and
 - (c) in paragraph (7)(b)—
 - (i) for “2009–10” in both places where it occurs, substitute “2019–20”, and
 - (ii) for “not entitled to a guaranteed minimum pension” substitute—

“—

 - (i) not entitled to a guaranteed minimum pension, or
 - (ii) entitled to the original guaranteed minimum pension awarded prior to the reconciliation exercise”.

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

7. The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008(11) are amended in accordance with regulations 8 and 9.

8. In regulation 2, (interpretation)—
 - (a) before the definition of “the 1998 regulations” insert—

““the 1971 Act” means the Pensions (Increase) Act 1971(12)
 - (b) after the definition of “appropriate fund” insert—

““basic rate” has the meaning given by the 1971 Act”,
 - (c) after the definition of “employing authority” insert—

““the existing Orders” means the Pensions Increase (Review) Order 1979(13), the Pensions Increase (Review) Order 1980(14), the Pensions Increase (Review) Order 1981(15), the Pensions Increase (Review) Order 1982(16), the Pensions Increase (Review) Order 1983(17), the Pensions Increase (Review) Order 1984(18), the Pensions Increase (Review) Order 1985(19), the Pensions Increase (Review) Order 1986(20), the Pensions Increase(Review) Order 1987(21), the Pensions Increase

(11) S.S.I. 2008/230.

(12) 1971 c.56.

(13) S.I. 1979/1047.

(14) S.I. 1980/1302.

(15) S.I. 1981/1217.

(16) S.I. 1982/1178.

(17) S.I. 1983/1264.

(18) S.I. 1984/1307.

(19) S.I. 1985/1575.

(20) S.I. 1986/1116.

(21) S.I. 1987/130.

(Review) Order 1988**(22)**, the Pensions Increase (Review) Order 1989**(23)**, the Pensions Increase (Review) Order 1990**(24)**, the Pensions Increase (Review) Order 1991**(25)**, the Pensions Increase (Review) Order 1992**(26)**, the Pensions Increase (Review) Order 1993**(27)**, the Pensions Increase (Review) Order 1994**(28)**, the Pensions Increase (Review) Order 1995**(29)**, the Pensions Increase (Review) Order 1996**(30)**, the Pensions Increase (Review) Order 1997**(31)**, the Pensions Increase (Review) Order 1998**(32)**, the Pensions Increase (Review) Order 1999**(33)**, the Pensions Increase (Review) Order 2000**(34)**, the Pensions Increase (Review) Order 2001**(35)**, the Pensions Increase (Review) Order 2002**(36)**, the Pensions Increase (Review) Order 2003**(37)**, the Pensions Increase (Review) Order 2004**(38)**, the Pensions Increase (Review) Order 2005**(39)**, the Pensions Increase (Review) Order 2006**(40)**, the Pensions Increase (Review) Order 2007**(41)**, the Pensions Increase (Review) Order 2008**(42)**, the Pensions Increase (Review) Order 2009**(43)**, the Pensions Increase (Review) Order 2011**(44)**, the Pensions Increase (Review) Order 2012**(45)**, the Pensions Increase (Review) Order 2013**(46)**, the Pensions Increase (Review) Order 2014**(47)**, the Pensions Increase (Review) Order 2015**(48)**, the Pensions Increase (Review) Order 2017**(49)**, the Pensions Increase (Review) Order 2018**(50)** and the Pensions Increase (Review) Order 2019**(51)**

(d) after the definition of “financial year” insert—

““guaranteed minimum pension” has the same meaning as in section 181(1) of the Pension Schemes Act 1993,”

(e) after the definition of “pensioner member” insert—

““the reconciliation exercise” means the exercise undertaken by the relevant administering authority to check the scheme data on individual contracting-out records with that held by Her Majesty’s Revenue and Customs,

“relevant administering authority” means the body maintaining the appropriate fund”

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- (22) S.I. 1988/217.
 - (23) S.I. 1989/477.
 - (24) S.I. 1990/483.
 - (25) S.I. 1991/684.
 - (26) S.I. 1992/198.
 - (27) S.I. 1993/779.
 - (28) S.I. 1994/776.
 - (29) S.I. 1995/708.
 - (30) S.I. 1996/800.
 - (31) S.I. 1997/634.
 - (32) S.I. 1998/503.
 - (33) S.I. 1999/522.
 - (34) S.I. 2000/672.
 - (35) S.I. 2001/664.
 - (36) S.I. 2002/699.
 - (37) S.I. 2003/681.
 - (38) S.I. 2004/758.
 - (39) S.I. 2005/858.
 - (40) S.I. 2006/741.
 - (41) S.I. 2007/801.
 - (42) S.I. 2008/711.
 - (43) S.I. 2009/692.
 - (44) S.I. 2011/827.
 - (45) S.I. 2012/782.
 - (46) S.I. 2013/604.
 - (47) S.I. 2014/668.
 - (48) S.I. 2015/671.
 - (49) S.I. 2017/417.
 - (50) S.I. 2018/333.
 - (51) S.I. 2019/546.

(f) after the definition of “scheme employer” insert—

““tax year” means a period of 12 months beginning on 6 April and ending on the following 5 April”.

9. After regulation 44 insert—

“Increased Pension Entitlement

45. Regulations 46 to 49 apply to a person who—

- (a) was entitled to a pension under the scheme on 7 April 2018,
- (b) was entitled to a guaranteed minimum pension on that date, and
- (c) has in any tax year since entitlement to the guaranteed minimum pension commenced received a GMP-related payment.

GMP-related payment

46.—(1) Where, in any tax year, the relevant administering authority has—

- (a) increased the annual rate of an official pension in accordance with the existing Order relevant to that tax year, but
- (b) the amount by reference to which that increase is calculated is not reduced by the GMP-related reduction,

the GMP-related payment for that tax year is the amount equal to the GMP-related reduction in that tax year.

(2) The GMP-related reduction for any tax year is the reduction in the amount by reference to which any increase in the rate of an official pension is calculated by the amount calculated in accordance with—

- (a) the existing Order for that tax year,
- (b) section 59(5) and (5ZA) of the Social Security Pensions Act 1975(a), as modified by section 59A of that Act, as these sections have effect in relation to that tax year, and
- (c) any direction made under section 59A of that Act which has effect in relation to that tax year.

Authorisation of GMP-related payments

47.—(1) The relevant administering authority may pay GMP-related payments to—

- (a) a person to whom sections 45 to 49 apply, and
- (b) a deceased entitled member.

(2) Where a relevant administering authority has paid GMP-related payments before 8 April 2019, the authority may not recover those payments on or after 8 April 2019.

(3) In this regulation, a deceased entitled member is a person who—

- (a) at the date of his death was entitled to a pension under the scheme,
- (b) at that date was entitled to a guaranteed minimum pension, and
- (c) has in any tax year since entitlement to the guaranteed minimum pension commenced received a GMP-related payment.

Increased Pension Entitlement

48.—(1) Subject to paragraphs (3), (4) and (5), a person to whom regulations 46 to 49 apply is entitled to an Increased Pension Entitlement calculated in accordance with paragraph (2).

(2) The Increased Pension Entitlement is an amount equal to the basic rate of a pension which, if that pension had been increased by the amount of any increase under section 1 of the 1971 Act and the existing Orders, would result in an annual amount being paid to the person in relation to the tax year 2019-20 which equals the Protected Sum.

(3) Where the person's pension is terminated under the scheme, the person is not entitled to receive any payment of an amount of the Increased Pension Entitlement in respect of any period after the date on which the pension is terminated.

(4) Where a person's pension is not payable to the person, the person is not entitled to receive any payment of an amount of the Increased Pension Entitlement during any period when the pension is not payable to the person.

(5) Where the person's pension, or any proportion of the pension, is forfeited, either permanently or temporarily, the same proportion of the person's Increased Pension Entitlement is forfeited for the same period of time.

(6) For the purposes of paragraph (2) of this regulation, "pension" has the meaning given by section 8 of the 1971 Act and begins at the time stated in section 8(2) of that Act.

(7) In this regulation—

- (a) "Protected Sum" is the amount equal to the annual amount of the GMP-related payment for the tax year 2019-20, and
- (b) the annual amount of the GMP-related payment for the tax year 2019-20 is the amount equal to the GMP-related payment that the relevant administering authority would have paid to the person in the tax year 2019-20 if that authority had, in relation to that complete tax year, applied the existing Orders as if the person was not entitled to a guaranteed minimum pension or was entitled to the original guaranteed minimum pension awarded prior to the reconciliation exercise.

Increased Pension Entitlement – further provision

49.—(1) An Increased Pension Entitlement is payable by the relevant administering authority and shall be paid out of the appropriate fund.

(2) An Increased Pension Entitlement is payable for life and shall be discharged by payments at such reasonable intervals as the administering authority may, in their discretion, determine except that payment on account of an Increased Pension Entitlement may be delayed, in whole or in part, pending the determination of any question as to the liability of the administering authority in respect thereof, including any question as to the continuance of that liability.

(3) Neither the Increased Pension Entitlement nor any portion of that entitlement may be commuted for a lump sum."

Amendment of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

10. The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014(**52**) are amended in accordance with regulation 11.

11. In regulation 1 (citation, extent, commencement and interpretation) insert at the end—

“(7) The 1998 Regulations as saved by regulation 3(1), which saves for certain purposes the regulations listed in schedule 1 are to be read as if the amendments set out in the schedule are made.

(8) Sections 45 to 49 of the Benefits Regulations cease to have effect on 8 April 2019.”.

St Andrew’s House,
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