
STATUTORY INSTRUMENTS

1996 No. 1428

PENSIONS

**The Local Government Pension Scheme
(Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>3rd June 1996</i>
<i>Laid before Parliament</i>		<i>7th June 1996</i>
<i>Coming into force</i>	- -	<i>28th June 1996</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 1996 and shall come into force on 28th June 1996 but the regulations specified in column 1 of the Schedule to these Regulations shall have effect from the date specified in column 2 of that Schedule.

(2) In these Regulations “the principal Regulations” means the Local Government Pension Scheme Regulations 1995(2).

Applications for membership

2. Regulation B10(2) of the principal Regulations is amended by substituting for the reference “paragraph (3)” the reference “paragraphs (3) and (4)”.

Meaning of “remuneration”

3. Regulation C2 of the principal Regulations is amended—
- (a) by deleting sub-paragraph (b) of paragraph (1); and
 - (b) by adding after sub-paragraph (g) in paragraph (2) the following—

(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(2) S.I.1995/1019, amended by S.I. 1995/1985, 2249, 2953, 1996/185, 711.

- “(h) any compensation payable to an employee under the Local Government Reorganisation (Compensation for Loss of Remuneration) Regulations 1995(3).”.

Maximum length of additional periods to be purchased under regulation C9

4. Regulation C10(5) of the principal Regulations is amended by deleting sub-paragraph (iii).

Refund of return of member’s contributions

5. Part C of the principal Regulations is amended by inserting after regulation C21 the following—

“Restoration of right to count service in transitional cases where there has been a return of contributions

C21A.—(1) This regulation applies where—

- (a) a member who ceased to be employed in a local government employment (“the previous employment”) on or after 1st April 1974 and before 1st January 1980 subsequently becomes employed in another local government employment;
- (b) on the cessation of the previous employment his total period of membership (or, if he was subject to a local Act scheme, the service which would have been taken into account in determining whether or not he was entitled to benefits) amounted to less than 5 years; and
- (c) a return of contributions was made in relation to the previous employment by the administering authority of the pension fund to which he was a contributor (“the previous fund authority”).

(2) Where this regulation applies then, notwithstanding paragraph 4 of Schedule B6, the member shall be entitled to count as a period of membership any period in respect of which the return of contributions referred to in paragraph (1)(c) has been received if the member makes payment as required by paragraph (3).

(3) The member must pay by not later than the relevant date to the previous fund authority for the credit of their pension fund—

- (a) a sum equal to the contributions returned to him net of any tax deducted under regulation C21(7) (but together with any increase under regulation K17 and any interest he was paid); and
- (b) compound interest on that sum calculated in accordance with regulation K21(8) for the period beginning with the date on which he received the return of contributions and ending on the date of the payment of that sum.

(4) The relevant date is the expiry of 6 months after his return to local government employment.

(5) The previous fund authority may in any particular case extend the period mentioned in paragraph (4).”.

References to members leaving employment to include optants-out

6. Regulation D4 of the principal Regulations is amended by deleting the words “ceasing to hold that employment”.

Further entitlement to deferred pension benefits

7. Part D of the principal Regulations is amended by inserting after regulation D11 the following—

“**D11A.** Where a member—

- (a) transfers from an employment to another employment with the same employing authority at a reduced remuneration, or
- (b) transfers from employment with an employing authority to employment with a different employing authority

by reason of or in consequence of—

- (i) an order made under section 17 of the Local Government Act 1992, (a) or
- (ii) any provision made by or under the Local Government (Wales) Act 1994(4),

he shall be treated for the purposes of regulation D11 as having ceased to hold a local government employment.”.

Reduction of pensions payable early by virtue of elections etc

8. Regulation D13(1) of the principal Regulations is amended by deleting the words “and the member’s or former member’s pension advancement period is at least one year”.

Death grant: members in service

9. Regulation E1 of the principal Regulations is amended by substituting for paragraph (2) the following—

“(2) Where paragraph (1) applies the amount of the death grant is the greater of—

- (a) twice the deceased’s pensionable remuneration; or
- (b) three eightieths of his pensionable remuneration multiplied by the length in years of his period of membership

less, in a case where a surviving spouse’s long-term pension is payable under Part F, the appropriate amount to be calculated under regulation E5.”.

Death grant

10. Regulations E1(1), E2(1), E3(1) and E4(1) of the principal Regulations are amended by substituting for the words “his personal representatives are entitled to receive a lump sum death grant” the words “there shall be paid a lump sum death grant in accordance with regulation E8.”

Nomination of beneficiary of death grant

11. Part E of the principal Regulations is amended by adding the following after regulation E7—

“Nomination of beneficiary of death grant

E8.—(1) A lump sum death grant payable under regulation E1(1), E2(1), E3(1) or E4(1) may be paid—

- (a) to or for the benefit of the member’s nominated beneficiary or beneficiaries; or

- (b) in the absence of a valid nomination or, pursuant to paragraph (3), in a case in which a nomination is treated as not being in force, to the member’s personal representatives.
- (2) If the lump sum death grant has not been paid by the expiry of the period of two years following the death of the member, it shall be paid to his personal representatives.
- (3) A nomination shall be treated by the administering authority as not being in force at the time of the member’s death if—
 - (a) the nominated beneficiary has died;
 - (b) the nominated beneficiary was the member’s spouse at the time the nomination was made or subsequently but has subsequently ceased to be the member’s spouse; or
 - (c) the administering authority are of the opinion that payment of the death benefit to the nominated beneficiary is not reasonably practicable in all the circumstances.
- (4) A nomination or a revocation of a nomination must be made by notice in writing from a member to his employing authority in such form as the administering authority may from time to time require.
- (5) A nomination may be revoked by a subsequent nomination which complies with the requirements referred to in paragraph (4).
- (6) For the purposes of this regulation—
 - (a) “nominated beneficiary” means an individual or an unincorporated or incorporated body nominated by the member in any nomination made by him in respect of the lump sum death grant which was in force at the time of his death; and
 - (b) “member” includes a former member who is a person referred to in regulation E2(1), E3(1) or E4(1).”.

Decision as to status of employees

12. Regulation J2(1)(b) of the principal Regulations is amended by adding after the words “part-time employee” the words “and whether his employment is of a casual nature”.

Requests for transfer payments: regulation K23 employees and employees of ineligible employers

13. Regulations K24 of the principal Regulations is amended—
- (a) in paragraph (1)(a)(i) by deleting the words “or is eligible to enter”;
 - (b) in paragraph (1)(a)(ii) by substituting for the words “which has entered or is eligible to enter into” the words “who is a party to”; and
 - (c) in paragraph (3)(b) by substituting for the words “three months” the words “twelve months or such longer period as is agreed by those persons”.

Application of regulation K24 in certain other cases

14. Part K of the principal Regulations is amended by the addition of the following after regulation K25—

“Application of regulation K24 in the case of the amalgamation of magistrates' court committees or probation committees

25A. Where, as a consequence of the amalgamation of magistrates' court committees or probation committees, a person who is an employee of the amalgamated committee is required to contribute to a different appropriate pension fund from the fund to which he contributed before the amalgamation, then regulation K24 applies (and regulations K20 to K22 do not apply) as if—

- (a) the person were a person within paragraph (1)(a) of that regulation,
- (b) the pension fund to which the amalgamated committee contributes were the transferee scheme,
- (c) the administering authority of that pension fund were the scheme managers, and
- (d) the date the amalgamation takes effect were the transfer date.”

Actuary's certificates

15. Regulation L11(1) of the principal Regulations is amended by inserting after the reference “L10(1)” the reference “or (4)”.

General definitions

16. Schedule A1 to the principal Regulations is amended by substituting for the definition of “Grant-maintained school” the following—

““Grant-maintained school” means

- (a) a grant-maintained school within the meaning given to that expression by section 22(1) of the Education Act 1993⁽⁵⁾; and
- (b) a grant-maintained special school within the meaning given to that expression by sections 182(3) or 187(3)(b) of the Education Act 1993;”.

LGPS Employers

17. Schedule B1 to the principal Regulations is amended—

- (a) in Part I by adding at the end the item “a National Park authority established under Part III of the Environment Act 1995⁽⁶⁾”; and
- (b) in paragraph 5 of Part II by adding after the words “voluntary school” the words “or an independent school (within the meaning of the Education Act 1944).”⁽⁷⁾.

Further provision concerning meaning of “remuneration”

18. Paragraph 7 of Schedule C2 to the principal Regulations is amended—

- (a) by inserting after the words “of such a vehicle” the words “or a payment accepted by him at any time after 31st December 1992 in lieu of such provision” and after the words in sub-paragraph (b) “a motor vehicle” the words “or a payment accepted by him at any time in lieu of such provision”;
- (b) by adding the following as new sub-paragraphs—
 - “(2) Where—

(5) 1993 c. 35.
(6) 1995 c. 25.
(7) 1944 c. 31.

- (a) a member's contribution under regulation C2 or C3 of the 1986 regulations was based on remuneration which, for the purposes of the 1986 regulations, included a payment accepted by him in lieu of the provision of a motor vehicle, or
- (b) arrangements were being made before the commencement date of these regulations to make a payment to a member in lieu of the provision of a motor vehicle in circumstances where such payment would have been included in the member's remuneration for the purposes of the 1986 regulations and such arrangements were effected before 1st July 1995,

then such payment shall continue to be included in the member's remuneration for the purposes of these regulations until the earlier of—

- (i) the date on which he ceases to be employed by the employing authority who were employing him on the commencement date; or
- (ii) the date on which the payment is no longer provided for him.

(3) Where a member's cessation of employment is by reason of a transfer to employment with a different employing authority and the transfer is caused by circumstances beyond the member's control, sub-paragraphs (1)(a) and (2)(i) shall not apply and, for the purposes of this paragraph, the member shall be deemed to continue in the employment of the employing authority who were employing him before the transfer.

(4) Where a member to whom paragraph (1) applies ceased to be employed before the commencement date by the employing authority who were employing him on 31st December 1992 and the cessation of employment was by reason of a transfer caused by circumstances beyond the member's control, then he shall be treated as having left his employment after the commencement date for the purpose of the application of paragraph (3)."

Appropriate percentages: calculation of additional payments

19. Schedule C3 to the principal Regulations is amended—

- (a) in Table B in the column headed "61 and under 62" by substituting for the number "21.15" the number "22.15";
- (b) in Table C in the column headed "62 and under 63" by substituting for the number "22.32" the number "22.23";
- (c) in Table H in the first column by substituting for the number "50" where it appears for the second time the number "59"; and
- (d) in Table H in the column headed "Over 62 and under 63" by substituting for the number "22.10" where it appears for the second time the number "22.30".

Additional voluntary contributions

20. Paragraph 16(1)(b)(ii) of Schedule C4 to the principal Regulations is amended by substituting for the reference "(ii) and (v)" the reference "(b) and (e)".

Limitations on contributions

21. Paragraph 4 of Schedule C5 to the principal Regulations is amended by substituting for the words "calculated by the Government Actuary" to "Part II of Schedule C3" the following—

"determined in such manner as may be approved by the Government Actuary having regard to such factors as he considers appropriate (and he may issue such Tables as he considers appropriate for the purposes of such determinations)".

Further provision about pensionable remuneration

22. Paragraph 4(4) of Schedule D1 to the principal Regulations is amended—
- (a) in paragraph (c)(ii) by adding after the words “The Local Government (Wales) Act 1994” the words “or Part III of the Environment Act 1995 in relation to the establishment of a National Park authority for a National Park in Wales”; and
 - (b) in paragraph II by substituting for the date “31st March 1997” the date “30th September 1997”.

Additional membership in cases of ill-health

23. Paragraph 4 of Schedule D3 to the principal Regulations is amended by substituting for the word “section” where it appears in sub-paragraphs (1)(b) and (3)(a) the word “regulation”.

Re-employed pensioners and combined benefits

24. Paragraph 10(1) of Schedule D5 to the principal Regulations is amended by substituting for the reference “sub-paragraph (1)” the reference “sub-paragraph (2)”.

Modification in special circumstances

25. Paragraph 9 of Schedule M2 to the principal Regulations is amended—
- (a) in sub-paragraphs (5), (12), (15) and (16) by substituting for the initials “PSCPS” where they appear the initials “PCSPS”; and
 - (b) in sub-paragraph (11) by substituting for the word “pension” the words “standard retirement pension and standard retirement grant”.

Transitional and transitory provisions

26. Schedule M4 to the principal Regulations is amended by adding the following after paragraph 14—

“14A. The provisions of paragraph 4 of Schedule D3 to these regulations (additional membership in cases of ill-health for part-timers) shall not affect the rights of a member in respect of part-time service prior to the commencement date and accordingly, so far as is necessary to give effect to those rights, the additional membership period in respect of a member shall be determined as if regulation E3(12) of the 1986 regulations (additional period of reckonable service in cases of permanent ill-health etc) and the provisions of those regulations which relate to the determination of benefits by virtue of that regulation or are incidental to it had continued in effect in relation to part-time service prior to the commencement date.”.

National Park authorities in Wales

27.—(1) Prior to 1st April 1996, regulations L12 and L13 of the principal Regulations (employer’s contributions and employer’s further payments) shall not apply to a National Park authority in Wales established under Part III of the Environment Act 1995 and such an authority shall contribute to their appropriate pension fund, at such intervals as the administering authority of that fund shall determine, for each of their employees who is a member of the Scheme at the rate of 8 per cent. of his remuneration in the employment until and including 31st March 1996.

(2) If all or any part of any sum due under this regulation remains unpaid at the end of the period of one month after it becomes due, the administering authority may require the National

Park authority to pay interest, calculated and compounded as mentioned in regulation L12(4) of the principal Regulations.

The Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995

28. Regulation 1(2) of the Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995⁽⁸⁾ is amended—

- (a) by substituting for paragraph (a) in the definition of “designated fund” the following—
 - “(a) a transferred member, the pension fund which is the appropriate pension fund for him after 31st March 1996 by virtue of regulation 3 or otherwise”; and
- (b) by substituting for the definition of “transferred member” the following—
 - ““transferred member” means—
 - (a) a person referred to in regulation 3(1) or (2);
 - (b) a person employed by a previous fund authority who after 31st March 1996 by virtue of any provision made by or under the Local Government (Wales) Act 1994 is employed by a new principal council which is not—
 - (i) the successor authority in relation to the previous fund authority which employed him, or
 - (ii) an employing authority which contributes to the pension fund maintained by that successor authority; or
 - (c) a person employed by a fire authority in Wales or a police authority in Wales before 1st April 1996 who, as a consequence of the North Wales Fire Services (Combination Scheme) Order 1995⁽⁹⁾, the Mid and West Wales Fire Services (Combination Scheme) Order 1995⁽¹⁰⁾, the South Wales Fire Services (Combination Scheme) Order 1995⁽¹¹⁾ or the Police Areas (Wales) Order 1995⁽¹²⁾, as the case may be, is required to contribute after 31st March 1996 to an appropriate pension fund different from the fund to which he contributed before 31st March 1996.”.

Rights to opt out

29.—(1) This regulation shall apply in the case of any person (“a relevant beneficiary”) to whom any benefit (including a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender) is or may become payable, being a benefit (“a relevant benefit”) payable to, or in respect of, a person who before the date on which the relevant regulation of these Regulations has effect—

- (a) ceased to hold an employment in respect of which he was a member (whether or not he has subsequently recommenced any such employment); or
 - (b) died while in such employment.
- (2) If, in relation to a relevant benefit, a relevant beneficiary—
- (a) would be placed by any amendment made by these Regulations in a worse position than he would have been in if that amendment had not been made, and

(8) S.I. 1995/1985.
 (9) S.I. 1995/3218.
 (10) S.I. 1995/3229.
 (11) S.I. 1995/3230.
 (12) S.I. 1995/2864.

(b) so elects, by notice in writing given to the appropriate administering authority within the six month period beginning with the date on which these Regulations come into force, then, in the case of that beneficiary and in relation to that benefit, the principal Regulations shall have effect, subject to paragraph (3), as if these Regulations had not been made.

(3) If such an election as is mentioned in paragraph (2) is made in relation to a benefit which is or may become payable in respect of a person who is employed in local government employment, or if that person subsequently recommences service in such an employment, then

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued—

(i) by virtue of periods of service rendered before the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the date on which the relevant regulation of these Regulations has effect); or

(ii) by virtue of contributions paid in respect of any such periods of service; and

(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall (without prejudice to the application of this paragraph) be treated as if he had never recommenced service in such employment at any time after the cessation referred to in sub-paragraph (a); and the principal Regulations shall apply accordingly.

Signed by authority of the Secretary of State

3rd June 1996

Paul Beresford
Parliamentary Under Secretary of State,
Department of the Environment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

(Regulation 1(1))

Regulation number	Effective date
2, 3(a), 4 to 9, 12 to 16, 17(b), 18 to 21, 23, 24 and 26	2nd May 1995
3(b)	28th November
10 and 11	1st September 1996
17(a) and 22	1st November 1995
25 and 28	1st April 1996

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations make various amendments to the Local Government Pension Scheme Regulations 1995 (“the principal Regulations”) which constitute the Local Government Pension Scheme (“the Scheme”).

Regulations 2, 4, 6, 8, 9, 12, 13, 15, 16, 17(b), 19, 20, 21, 23, 24 and 25 make minor or drafting amendments. Regulation 25 takes effect from 1st April 1996.

Regulation 3 makes amendments to the definition of “remuneration”.

Regulation 5 reintroduces a provision which was contained in the Local Government Superannuation Regulations 1986 prior to their revocation by the principal Regulations in connection with the right of certain members to count service where there has been a return of contributions.

Regulation 7 allows a member to freeze his pension entitlement, without having to leave the Scheme, on changing jobs within local government employment as a consequence of Local Government Reorganisation.

Regulations 10 and 11 introduce the right for a person to nominate the recipient or recipients of his death benefits. These two regulations have effect from 1st September 1996.

Regulation 14 allows for the bulk transfer provisions on interfund transfers to apply where the merger of magistrates' court committees or probation committees necessitates a change of appropriate pension fund for Scheme members involved in the amalgamation.

Regulation 17(a) adds National Park authorities to the list of LGPS employers. This regulation has effect from 1st November 1995.

Regulation 18 amends the provisions dealing with the treatment of leased cars and the provision of a cash sum in lieu of a leased car for the purposes of the meaning of “remuneration”.

Regulation 22 adds a reference to National Park authorities for National Parks in Wales in the schedule dealing with certificates for material reduction in remuneration and extends the period in connection with local government reorganisation in Wales from 31st March 1997 to 30th September 1997. This regulation has effect from 1st November 1995.

Regulation 26 protects the rights of members with part-time service who were members of the Scheme before the principal Regulations came into force where the provisions of the principal Regulations are less favourable than the regulations which they revoked.

Regulation 27 provides that until 1st April 1996 National Park authorities for National Parks in Wales shall make employer contributions at a set rate which is the same as for new principal councils in Wales until that date.

Regulation 28 makes an amendment to the definition of “transferred member” in the Local Government Pension Scheme (Local Government Reorganisation in Wales) Regulations 1995 to cover county council employees and employees of Fire Services and Police authorities who transfer to a different appropriate pension fund as a result of local government reorganisation. This regulation has effect from 24th August 1995, the date the regulations referred to above came into force.

Regulation 29 makes a savings provision for cases where rights in relation to ex-employees could be adversely affected.

Unless otherwise stated, the regulations take effect on 2nd May 1995, the commencement date of the principal Regulations.