
STATUTORY INSTRUMENTS

1998 No. 366

**The Local Government Pension
Scheme (Scotland) Regulations 1998**

PART IV

ADMINISTRATION

CHAPTER IV

DETERMINATIONS, INFORMATION AND RECORDS

Initial determinations of questions

First instance decisions

96.—(1) Any question concerning the rights or liabilities under the Scheme of any person other than a Scheme employer must be decided in the first instance by the person specified in this regulation.

(2) Any question whether a person is entitled to a benefit under the Scheme must be decided by the Scheme employer who last employed him.

(3) That decision must be made as soon as is reasonably practicable after the employment ends.

(4) Where a person is or may become entitled to a benefit payable out of a pension fund, the administering authority maintaining that fund must decide its amount.

(5) That decision must be made as soon as is reasonably practicable after the event by virtue of which the entitlement arises or may arise.

(6) In relation to any employment in which a person is a member or prospective member, the appropriate administering authority must decide—

- (a) any questions concerning his period of membership or his previous service or employment;
- (b) what rate of contribution he is liable to pay to the appropriate fund;
- (c) any questions about counting added years or additional periods as membership; and
- (d) whether he is a Class A member, a Class B member or a Class C member.

(7) Those decisions must be made as soon as is reasonably practicable after the person becomes a member in the employment.

(8) Other questions in relation to any member or prospective member must be decided by his Scheme employer as soon as is reasonably practicable after he becomes a member or a material change affects his employment.

(9) Before making a decision as to whether a member may be entitled under regulation 26 or 30 on the ground of ill-health, the Scheme employer must obtain a certificate from an independent registered medical practitioner as to whether in his opinion the member is permanently incapable of

discharging efficiently the duties of the relevant local government employment because of ill-health or infirmity of mind or body.

(10) If the Scheme employer is not the member's appropriate administering authority, before referring any question to any particular registered medical practitioner under paragraph (9) the Scheme employer must obtain that authority's approval.

(11) In paragraphs (2) and (4) "benefit" includes a return of contributions.

(12) In paragraph (4) benefit includes a benefit specified in regulation F6(11) or (15) of the 1987 Regulations.

(13) For this Chapter, references to the Scheme employer or the appropriate administering authority of a prospective member are references to the body that would be his employer or appropriate administering authority if he were to become an active member in the employment by virtue of which he would be eligible to join the Scheme.

Notification of decisions under regulation 96

97.—(1) Every person whose rights or liabilities are affected by a decision under regulation 96 must be notified of it in writing by the body who made it as soon as is reasonably practicable.

(2) A notification of a decision that the person is not entitled to a benefit must include the grounds for the decision.

(3) A notification of a decision as to the amount of a benefit must include a statement showing how it is calculated.

(4) Every notification must contain a conspicuous statement giving the address from which further information about the decision may be obtained.

(5) Every notification must also—

- (a) refer to the rights available under regulations 99 and 101;
- (b) specify the time limits within which those rights may be exercised; and
- (c) specify the name and address of the appointed person and the appropriate administering authority to whom applications under regulation 99 may be made.