
STATUTORY INSTRUMENTS

1998 No. 366

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

PART V

SPECIAL CASES

CHAPTER II

MODIFICATIONS FOR CERTAIN EMPLOYEES ETC.

Conversion of Discretionary Payments Regulations periods into membership

Rights under section 12 of the Superannuation Act 1972

137.—(1) If, apart from this regulation, any provision of these Regulations, which re-enacts with any modification any provision of the Scheme which ceases to have effect by virtue of the Transitional Regulations in relation to any person to whom a relevant benefit is or may become payable, would place him in a worse position in relation to that benefit than that he would have been in if that modification had not been made and he makes an election under this paragraph, these Regulations shall have effect, in relation to him and to that benefit, as if these Regulations had re-enacted that provision of the Scheme without modification (but see paragraph (4)).

(2) An election under paragraph (1) must be made by notice in writing given to the appropriate administering authority within the period of six months beginning with the commencement date.

(3) In this regulation—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

- (a) ceased to hold an employment in which he was an active member (whether or not he has subsequently become an active member again); or
- (b) died while in such employment; and

“benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.

(4) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is an active member, or subsequently becomes an active member again—

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

- (i) of periods of membership before the cessation referred to in paragraph (3)(a) (or, if there has been more than one such cessation, the last of them before the commencement date); or

- (ii) of contributions paid in respect of such periods of membership; and

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(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become an active member again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph); and these Regulations shall have effect accordingly.