

2001 No. 3401

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment
No. 2) Regulations 2001**

<i>Made - - - - -</i>	<i>15th October 2001</i>
<i>Laid before Parliament</i>	<i>23rd October 2001</i>
<i>Coming into force</i>	
<i>Except regulation 6(b)</i>	<i>13th November 2001</i>
<i>Regulation 6(b)</i>	<i>1st April 2002</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(a) 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 and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment No. 2) Regulations 2001.

(2) Subject to paragraph (3), these Regulations shall come into force on 13th November 2001 but regulation 3 shall have effect from 1st April 1998 and regulation 9 shall have effect from 2nd April 2001.

(3) Regulation 6(b) shall come into force on 1st April 2002.

Amendment of Regulations

2. The Local Government Pension Scheme Regulations 1997(b) shall be amended in accordance with regulations 3 to 9 of these Regulations.

Normal retirement

3. In regulation 25(c), after paragraph (3) insert—

“(3A) But the NRD of a member who was a member immediately before the commencement date is—

- (a) his 60th birthday if on the day before that day he has total membership of at least 25 years; or
- (b) the day after the date on which he first has such total membership if that date is on or after his 60th birthday but before his 65th birthday.”.

(a) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(b) S.I. 1997/1612; relevant amending instruments are S.I. 1998/1238, 1999/1212, 2000/3025, 2001/770.
(c) Regulation 25 was amended by S.I. 2001/770, regulation 6.

Elections as to use of accumulated value of AVCs

4. For regulation 66, substitute—

“66.—(1) subject to paragraph (8), this regulation applies where a person—

- (a) leaves his employment with the employer who was his employing authority when he made an election under regulation 60(1) or 60(11) without entitlement to the immediate payment of retirement benefits;
- (b) stops being an active member without leaving that employment;
- (c) leaves his employment with the employer who was his employing authority when he made an election under regulation 60(1) or 60(11) with entitlement to the immediate payment of retirement benefits—
 - (i) under regulation 25 (normal retirement) or 26 (redundancy etc.); or
 - (ii) by virtue of an election under regulation 31 (early payment); or
- (d) becomes entitled to an ill-health pension under regulation 27.

(2) Subject to paragraph (7), a person must elect to have the accumulated value used—

- (a) where paragraph (1)(a) applies to him, in one or more of the permissible ways; and
- (b) where paragraph (1)(b) applies to him, in the way mentioned in paragraph (3)(b).

(3) The permissible ways are—

- (a) to subscribe to an occupational pension scheme (other than the Scheme);
- (b) to subscribe to a personal pension scheme (including an additional voluntary contributions scheme, other than an FSAVC scheme);
- (c) to subscribe to a self-employed pension arrangement;
- (d) to purchase an appropriate policy from one or more AVC insurance companies.

(4) Where paragraph (1) (c) or (d) applies to a person, he may elect for the accumulated value to be used to provide additional pension for him under the Scheme, or partly to provide such pension for him.

(5) Where a member makes an election under paragraph (4), he becomes entitled to such additional pension as is shown as appropriate in guidance issued by the Government Actuary.

(6) The accumulated value may not be used to provide an additional lump sum benefit to the member unless it arises out of contributions made under any voluntary contributions scheme where the payments began before 8th April 1987.

(7) Where a person who has stopped being employed by an employing authority or being a member receives—

- (a) an ill-health grant under regulation 27(3),
- (b) a repayment of contributions under regulation 87, or
- (c) a payment under regulation 88(2),

he must immediately be paid the accumulated value.

(8) A person who made an election under regulation 60(1) prior to 13th November 2001 shall continue to have the rights to make elections as to the use of the accumulated value as under the provisions of this regulation prior to its amendment by the Local Government Pension Scheme (Amendment No. 2) Regulations 2001(a) and accordingly, so far as is necessary to give effect to those rights and to make provision for any matters incidental to them, those provisions shall be treated as if they had continued in effect.

(9) In this regulation, “the accumulated value” means the accumulated value of the additional contributions invested under regulation 64(1).”

(a) S.I. 2001/3401.

Cost of calculations for transfer of AVCs or SCAVCs into the Scheme where no transfer is requested

5. In regulation 86—
- (a) in paragraph (a), for “regulation 66(2)” substitute “regulation 66(4)” and for “to acquire transfer credits in the Scheme” substitute “to provide additional pension for him under the Scheme”; and
 - (b) for “transfer value” substitute “additional pension”.

First instance decisions

6. In regulation 97(a)—
- (a) in paragraph (9), after “on the ground of ill-health” insert “or infirmity of mind or body”; and
 - (b) after paragraph (9), insert the following new paragraph—
“(9A) The independent registered medical practitioner must be in a position to certify, and must include in his certification a statement, that—
 - (a) he has not previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested; and
 - (b) he is not acting, and has not at any time acted, as the representative of the member, the Scheme employer or any other party in relation to the same case.”.

Recovery or retention where former member has misconduct obligation

7. In regulation 113(3), for “regulation 66(5)” substitute “regulation 66(4)”.

Excluded membership

8. In the first column of paragraph 2 of the Table in Schedule 3, delete “by virtue of regulation 66(5) (including that regulation as it applies by virtue of regulation 72) or credited”.

Schedule 7 Former Members of the Metropolitan Civil Staffs Superannuation Scheme

9. In the heading of Schedule 7(b), for “Regulation 137A” substitute “Regulation 144A”.

Signed by authority of the Secretary of State

Nick Raynsford
Minister of State,
Department for Transport,
Local Government and the Regions

15th October 2001

(a) Regulation 97 was amended by S.I. 1998/1238, regulation 28, S.I. 1999/1212, regulation 15 and S.I. 2000/3025, regulation 3 and the Schedule, paragraph 8.
(b) Schedule 7 was added by S.I. 2001/770, regulation 27.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations 1997 (“the principal Regulations”) which comprise the Local Government Pension Scheme (“the Scheme”). Regulations 3 and 9 take effect on dates before the Regulations come into force (as set out in regulation 1(2)). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.

Regulation 3 amends regulation 25 of the principal Regulations (normal retirement) to ensure that certain members of the Scheme who were members before 1st April 1998 continue to have a normal retirement date between age 60 and 65 as provided in the regulations which were superseded by the principal Regulations.

Regulation 4 substitutes a new regulation 66 in the principal Regulations (elections as to accumulated value of additional voluntary contributions) only allowing the use of the accumulated value of the additional voluntary contributions to provide a scheme benefit when a member ceases to be an active member of the Scheme with immediate entitlement to a pension. The changes do not affect the rights of a member who entered into the additional voluntary contributions scheme before the change takes effect.

Regulation 5 makes an amendment to regulation 86 of the principal Regulations (cost of calculations for transfer of additional voluntary contributions or shared cost additional voluntary contributions into the Scheme) consequential on the changes to regulation 66.

Regulation 6(a) makes a clarifying amendment to regulation 97 of the principal Regulations (first instance decisions).

Regulation 6(b) introduces specific requirements in regulation 97 as to the independence of the registered medical practitioner who is required to produce a certificate in connection with ill-health retirements.

Regulation 7 makes a minor change to regulation 113 of the principal Regulations (recovery or retention where former member has misconduct obligation) consequential on the changes to regulation 66.

Regulation 8 makes an amendment to Schedule 3 of the principal Regulations (excluded membership) consequential on the amendments to regulation 66.

Regulation 9 corrects a drafting error in the heading of Schedule 7 to the principal Regulations.

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