

2006 No. 2008

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment) (No. 2)
Regulations 2006**

<i>Made</i> - - - -	<i>24th July 2006</i>
<i>Laid before Parliament</i>	<i>25th July 2006</i>
<i>Coming into force</i> - -	<i>1st October 2006</i>

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972(a).

In accordance with section 7(5) of that Act, the Secretary of State has consulted (a) such associations of local authorities as appeared to her to be concerned; (b) the local authorities with whom consultation appeared to her to be desirable; and (c) such representatives of other persons likely to be affected by the Regulations as appeared to her to be appropriate.

The Secretary of State makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2006.

(2) These Regulations apply in relation to England and Wales(b).

(3) These Regulations shall come into force on 1st October 2006, but—

(a) the amendment made by regulation 16 has effect from 29th March 2006;

(b) the amendment made by regulation 5 has effect from 1st April 2006; and

(c) the amendments made by regulations 3, 4, 6, 7, 8, 9, 10, 11, 15, 17 and 18 have effect from 6th April 2006.

(4) In these Regulations, “the principal Regulations” means the Local Government Pension Scheme Regulations 1997(c).

(a) 1972 c. 11.

(b) The Secretary of State’s functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

(c) S.I.1997/1612; the relevant amending instruments are S.I. 1999/1212, 2000/1164, 2001/1481, 2002/206, 2004/573, 2004/3372, 2005/1903 and 2006/966.

Amendment of Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 15 and 17 of these Regulations.

High earners

3.—(1) In regulation 11A(1), for the words “where a member’s pay” substitute “to a member who was subject to regulation 16(1) immediately before 6th April 2006 and whose pay”.

(2) In regulation 11A(2), omit the words “entitlement to any”.

(3) For regulation 11A(3), substitute—

“(3) That formula is $(M \text{ times } 105,600 \text{ divided by } P) + T$, where M is his period of membership after 5th April 1989 and before 6th April 2006 (excluding any membership credited by virtue of a transfer under regulation 121), P is his pay as mentioned in paragraph (1), and T is the aggregate of his period of membership before 6th April 1989 and any membership credited by virtue of a transfer under regulation 121.”.

Limit on total amount of benefits

4. In regulation 19A(1) at the end insert “except in accordance with guidance issued by the Government Actuary”.

Calculations

5.—(1) In regulation 20, for paragraph (3B) substitute—

“(3B) But the total amount of the member’s retirement grant, including any sum received—

(a) in accordance with an election under paragraph (3A);

(b) as benefits provided in the form of a lump sum in accordance with regulation 64;
or

(c) as additional lump sum benefits in accordance with regulation 66,

shall not exceed 25% of the capital value of his accrued rights.”.

(2) In regulation 20(3C), for the words “made by him” substitute “made by or for him”.

(3) After regulation 20(3D), insert—

“(3E) In paragraph (3A), “member” includes a deferred member to whom regulations 4 and 18A of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997(a) (Deferred members and pensioners: general) applies.

(3F) A member may make an election under paragraph (3A) in respect of his pension, or any part thereof, payable by virtue of an election under regulation 66 (Elections as to use of accumulated value of AVCs) notwithstanding any provision to the contrary in the former provisions of regulation 66 treated as continuing to have effect under paragraph (8) of that regulation.”.

Requirements as to time of payment

6. In regulation 35(1A), after the words “such benefits may”, insert “,with his employer’s consent,”.

(a) S.I. 1997/1613, to which there are amendments not relevant to these Regulations.

Children's long-term pensions

7. In regulation 46(7), at the end insert "or of his pension before any commutation under regulation 20(3A), whichever is the greater".

Power of employing authority to increase total membership

8. In regulation 52(11), for the words "1st October 2006" substitute "1st April 2008".

Retirement benefits

9. Omit regulation 64(6).

Elections as to use of accumulated value of AVCs

10. Omit regulation 66(6).

Employer's further payments

11. In regulation 80(5), for the words "or 31(6)" substitute "31(6) or 35(1A)".

Statements of policy concerning exercise of discretionary functions

12. In regulation 106, after the words "regulation 31 (early leavers)", insert ",35 (requirements as to time of payment)".

Right to count credited period

13. In regulation 122, in paragraphs (6C) and (6D), for the words "1st October 2006" substitute "1st April 2008".

Credited periods for transferring members with mis-sold pension rights

14. In regulation 122A(1), at the end of paragraph (1) add "(and regulation 122(6C) does not apply to a transfer value credited under this regulation)".

Councillor members

15. In Schedule 8, after paragraph 20(2), insert—

"(2A) A councillor member in respect of whom a benefit crystallisation event occurs on or after 6th April 2006 may elect in writing to the appropriate administering authority before any benefits become payable to increase the retirement grant payable under paragraph (3) by commuting his pension, or a part thereof, at a rate of £12 for every £1 of annual pension entitlement surrendered.

(2B) But the total amount of the member's retirement grant, including any sum received in accordance with an election under paragraph (3A), shall not exceed 25% of the capital value of his accrued rights.

(2C) For the purposes of this regulation, a member's accrued rights include rights accrued in respect of any payments made by him in accordance with Chapter IV of Part III (Additional Voluntary Contributions).

(2D) The capital value of a member's accrued rights shall be calculated as shown in guidance issued by the Government Actuary."

Amendment of the Local Government Pension Scheme (Amendment) Regulations 2006

16. Omit regulation 42 of the Local Government Pension Scheme (Amendment) Regulations 2006(a).

Transitional provisions and savings

17. The Schedule to the Local Government Pension Scheme (Amendment) Regulations 2006 (Transitional provisions and savings) shall be amended as follows—

- (a) for “2013” in paragraph 2, in both places where it occurs, substitute “2016”;
- (b) for “1st October 2006” in paragraphs 2(b), 3(d) and 5(3) substitute “1st April 2008”;
- (c) in paragraph 5(1), after “member” insert “who was an active member before 1st October 2006”;
- (d) after paragraph 5 insert—

“6.—(1) This paragraph applies to a member who retires, having reached the age of 60, on or after 1st April 2016 and before 1st April 2020, and who would (but for the provisions of paragraphs 1 and 2) have satisfied the 85 year rule before the latter date.

(2) That part of his retirement pension and grant which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with guidance issued by the Government Actuary.”.

Right to opt out

18.—(1) Where—

- (a) apart from this regulation, the amendments made by these Regulations would place any relevant beneficiary in a worse position than he would otherwise be, and
- (b) that relevant beneficiary so elects by notice in writing given to the appropriate administering authority within the period of six months beginning with 1st October 2006,

then the principal Regulations shall have effect in relation to him as if those amendments had never been made.

(2) For the purposes of paragraph (1), a relevant beneficiary is a person to whom any benefit is or may become payable being a benefit payable to or in respect of a person who—

- (a) ceased to hold any employment in respect of which he was a member (whether or not he had subsequently recommenced any such employment), or
- (b) dies while in such employment,

before—

- (i) 1st April 2006, in respect of amendments made by regulation 5;
- (ii) 6th April 2006, in respect of amendments made by regulations 3, 4, 6, 7, 8, 9, 10, 15, 17 and 18; and
- (iii) 1st October 2006, in respect of amendments made by regulations 11, 12, 13 and 14.

Signed by authority of the Secretary of State

24th July 2006

Angela Smith
Parliamentary Under Secretary of State
Department for Communities and Local Government

(a) S.I. 2006/966.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of amendments to the Local Government Pension Scheme constituted by the Local Government Pension Scheme Regulations, as amended (“the principal Regulations”). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect: some of these amendments do have such effect.

Regulation 5, which deals with the commutation of annual pension entitlements, takes effect from 1st April 2006.

Regulations 3, 4, and 6 to 111 make a number of amendments to address changes in the tax regime consequent on the Finance Act 2004. These amendments take effect from 6th April 2006.

Regulation 12 requires employers to have and publish a statement of their policy concerning the exercise of their discretionary functions under regulation 35 of the principal Regulations (Requirements as to time of payment).

Regulations 14 and 16 correct an erroneous cross-reference in an amendment to regulation 122 of the principal Regulations made by the Local Government Pension Scheme (Amendment) Regulations 2006 (S.I. 2006/966).

Regulation 15 provides for the commutation of annual pension entitlement of councillors.

Regulations 17 and 18 make transitional and savings provisions.

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