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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 315**

**PENSIONS**

**The Local Government Pension Scheme  
(Scotland) Amendment (No. 2) Regulations 2005**

<i>Made</i>	- - - -	<i>7th June 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th June 2005</i>
<i>Coming into force</i>	- -	<i>30th June 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 7 of the Superannuation Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf, after having considered that there are no associations of local authorities which appeared to them to be concerned, having consulted with such individual local authority with whom consultation appears to them to be desirable and after consultation with such representatives of other persons likely to be affected by the proposed regulations as appeared to them to be appropriate, all in accordance with section 7(5) of that Act, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 30th June 2005.

**Amendment to the Local Government Pension Scheme (Scotland) Regulations 1998**

2. In the Local Government Pension Scheme (Scotland) Regulations 1998<sup>(2)</sup>:-

(a) for paragraph 132(1) substitute the following-

“(1) Subject to paragraph (2) and (3A), until 30th June 2005, the Scheme applies to Scottish Homes and to persons who were employed by Scottish Homes as though Scottish Homes were a Scheme employer, and an administering authority, and it applies also to Scottish Homes and persons who were employed by the Scottish Special Housing Association but have not become employees of Scottish Homes as though Scottish Homes were an administering authority in respect of those persons.

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(1) 1972 c. 11. The functions of the Secretary of State were transferred to Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).  
(2) S.I. 1998/366 (“the principal Regulations”), of which Schedule 5 was amended by S.S.I. 2002/311. There are other amendments to the principal Regulations not relevant to these Regulations

(1A) On and after 1st July 2005, the Scheme applies to persons who were employed by Scottish Homes and persons who were employed by the Scottish Special Housing Association, but who have not become employees of Scottish Homes, as though the City of Edinburgh Council is the administering authority in respect of those persons and the pension fund maintained by Scottish Homes shall vest in the City of Edinburgh Council on 1st July 2005.

(1B) For the purposes of functions, duties and activities under these Regulations, to be exercised by the former employing authority on or after 1st July 2005 the former employing authority for persons who were employed by Scottish Homes or who were employed by the Scottish Special Housing Association is the Scottish Ministers.

(1C) Where the actuary determines, after having regard to the existing and prospective liabilities of the fund, that additional funding is necessary to maintain the solvency of the fund, then Scottish Ministers will make payments to the administering authority to maintain that solvency.

(1D) For the purposes of regulation (1C)–

- (a) the “actuary” is the actuary appointed by the administering authority;
- (b) the “administering authority” is the administering authority specified in paragraph (1A); and
- (c) the “fund” is that part of the fund maintained by the administering authority which is for the purpose of providing benefits to persons who were employed by Scottish Homes or the Scottish Special Housing Association.”.

(b) for paragraph 132(3) substitute the following–

“(3A) Until 30th June 2005, regulation 90 shall not apply in respect of benefits payable under these Regulations out of the fund maintained by Scottish Homes.”;

(c) at the end of Part II of Schedule 5 insert–

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“9. Former employee of Scottish Homes	Fund maintained by City of Edinburgh Council
10. Former employee of the Scottish Special Housing Association	Fund maintained by City of Edinburgh Council”.

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St Andrew’s House, Edinburgh  
7th June 2005

*TOM McCABE*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to the Local Government Pension Scheme (Scotland) Regulations 1998 (“the principal Regulations”) which are necessary as a result of the dissolution of Scottish Homes.

The functions and staff of Scottish Homes were transferred to the Scottish Executive on 1st November 2001. The staff of Scottish Homes includes some former employees of the Scottish Special Housing Association. The pension fund maintained by Scottish Homes transfers to the City of Edinburgh Council on 1st July 2005.

Regulation 2(a) amends the principal Regulations to specify that the City of Edinburgh Council is the administering authority. Scottish Ministers will carry out the functions, under the Regulations, of the former employing authority from 1st July 2005 for former employees of Scottish Homes and the Scottish Special Housing Association. Regulation 2(c) amends the principal Regulations to designate the fund maintained by the City of Edinburgh Council as the appropriate fund for these former employees. Regulation 2(b) removes an obsolete requirement, which need only apply until 30th June 2005, as there will be no fund maintained by Scottish Homes after 1st July 2005.

Regulation 2(1) also places an obligation on Scottish Ministers to make payments to that administering authority, should the actuary appointed by the administering authority determine that such payments are necessary to maintain the solvency of the fund.

A Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of businesses, charities or voluntary bodies.