
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 228

**The Local Government Pension Scheme
(Administration) (Scotland) Regulations 2008**

PART 8

SPECIAL ADJUSTMENTS

Transfer of sums from the pension fund to compensate for former member's misconduct

70.—(1) This regulation applies where—

- (a) a person has left an employment in which the person was a member because of—
 - (i) an offence involving fraud; or
 - (ii) grave misconduct,in connection with that employment;
- (b) the person's former employing authority in that employment has suffered direct financial loss by reason of the offence or misconduct; and
- (c) either—
 - (i) the former employee became entitled to benefits under the Benefits Regulations and these Regulations or the 1998 Regulations and a forfeiture direction has been given; or
 - (ii) the former employee did not become so entitled and on leaving the employment became entitled to a return of contributions under regulation 41 (rights to return of contributions) (whether or not the former employee has waived his or her right).

(2) If the former employing authority is an administering authority, it may transfer an appropriate amount from its pension fund to the appropriate fund or account.

(3) Otherwise, the appropriate administering authority must pay the former employing authority an appropriate amount out of the pension fund, if requested to do so.

(4) But if a payment in lieu of contributions is due or has been made in respect of the former employee, the administering authority may reduce a payment under paragraph (3) by half the amount of the payment in lieu of contributions.

(5) An appropriate amount is an amount not exceeding—

- (a) the amount of the direct financial loss; or
- (b) the amount of any contributions which could have been returned to the former employee, or paid to his spouse, civil partner or a dependant, under regulation 42(2) (exclusion of rights to return of contributions) of these Regulations or regulation 87(2) of the 1998 regulations, less the amount of any which have been so returned or paid,

whichever is the less.

(6) If after making a payment under paragraph (3) the appropriate administering authority is required to make any transfer payment under Chapter 4 or Chapter 5 of Part 4 of the 1993 Act or to

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make a payment under regulation 81 (changes of fund) for a former employee, the former employing authority must repay it, if requested to do so.