

1999 No. 1212

PENSIONS

The Local Government Pension Scheme (Miscellaneous Provisions) Regulations 1999

<i>Made</i> - - - -	<i>22nd April 1999</i>
<i>Laid before Parliament</i> - - -	<i>29th April 1999</i>
<i>Coming into force</i>	
<i>Except regulations 15 and 21</i> -	<i>20th May 1999</i>
<i>Regulation 15</i> - - - -	<i>1st July 1999</i>
<i>Regulation 21</i> - - -	<i>1st September 1999</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 (Miscellaneous Provisions) Regulations 1999.

(2) These Regulations shall come into force as follows—

- (a) except for regulations 15 and 21, on 20th May 1999, but subject to paragraph (3);
- (b) regulation 15, on 1st July 1999;
- (c) regulation 21, on 1st September 1999.

(3) The following provisions shall have effect from the following dates—

- (a) regulations 7, 14, 24 and 25 from 1st April 1998;
- (b) regulation 22(a) from 1st September 1998;
- (c) regulations 3, 4, 5, 10, 12, 16, 17 and 22(b) from 1st April 1999.

Amendment of Regulations

2. The Local Government Pension Scheme Regulations 1997^(b) shall be amended in accordance with regulations 3 to 22 of these Regulations.

^(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, amended by S.I. 1998/1238.

General eligibility for membership: employees of Scheme employers etc.

3. In regulation 4(6), delete sub-paragraph (e).

Agreements to enable employees of non-Scheme employers to be members (“admission agreements”)

4. In regulation 5–

(a) after paragraph (6), insert as a new paragraph–

“(6A) An administering authority must notify the Commissioners of Inland Revenue of the admission of an admission body within the time prescribed in regulations made under section 605 of the Taxes Act(a) and provide such information as may be so prescribed.”; and

(b) in paragraph (8), after sub-paragraph (g) add as a new sub-paragraph–

“(h) a company for the time being subject to the influence of a local authority as described in section 69 of the Local Government and Housing Act 1989(b)”.

Further restrictions on eligibility

5. In regulation 6, after paragraph (2), insert as a new paragraph–

“(2A) A person who is not eligible for membership of a Teachers scheme because of the provisions of regulation B4(2) of the Teachers’ Pensions Regulations 1997(c) (re-employed teachers) is not entitled to be a member.”.

Periods of membership: “total membership”

6. In regulation 9, after paragraph (1), insert as a new paragraph–

“(1A) A person who remains in service after his 65th birthday as referred to in regulation 25A(1) may not count as a period of membership any period of service between age 65 and the date of his retirement from service but he shall be treated as an active member for the purposes of regulations 40 to 46 (surviving spouse’s and children’s pensions).”.

Meaning of “pay”

7. In regulation 13(d)–

(a) in paragraph (2), for sub-paragraph (f) substitute–

“(f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision (but see paragraphs (8) and (9));”;

(b) for paragraph (8) substitute–

“(8) Where–

(a) a member’s contribution under regulation C2 or C3 of the 1986 regulations for a period including 31st December 1992 was based on pay which for the 1986 regulations as then in force included an amount representing the money value to him of the provision of a motor vehicle or an amount in lieu of such provision and immediately before the commencement date his remuneration for the 1995 regulations included such an amount, or

(b) immediately before the commencement date his remuneration for the 1995 regulations included an amount in lieu of the provision of a motor vehicle as referred to in paragraph 7(2)(b) of Schedule C2 to the 1995 regulations(e),

then his pay includes such an amount.

(a) 1988 c. 1; section 605 was amended by section 105 of the Finance Act 1994 (c. 9). For the regulations, see S.I. 1995/3103.

(b) 1989 c. 42.

(c) S.I. 1997/3001.

(d) Regulation 13 was amended by S.I. 1998/1238.

(e) S.I. 1995/1019; relevant amending instrument is S.I. 1996/1428.

- (9) But paragraph (8) shall cease to apply if—
- (a) he leaves employment with the employing authority who were employing him—
 - (i) 31st December 1992; or
 - (ii) where appropriate under the provisions of paragraph 7 of Schedule C2 to the 1995 regulations, on the commencement date of the 1995 regulations, otherwise than as a result of a transfer to another Scheme employer which is beyond his control; or
 - (b) he is neither provided with a motor vehicle nor receives an amount representing the money value to him of the provision of such a vehicle.”.

Calculations

8. In regulation 20, after paragraph (4), insert as a new paragraph—

“(4A) Benefits payable to a person who remains in service after his 65th birthday as referred to in regulation 25A(1) shall be increased at such a rate as is shown as appropriate in guidance issued by the Government Actuary in respect of each day that payment of benefits is delayed between his 65th birthday and the date of his retirement.”.

Retirement after the normal retirement date

9. After regulation 25, insert as a new regulation—

“Retirement after the normal retirement date

25A.—(1) A member who with the consent of his employing authority remains in service after his 65th birthday is entitled to a pension and retirement grant when he retires from service.

- (2) The pension and retirement grant are payable immediately on retirement.”.

Ill health

10. In regulation 27—

- (a) in paragraph (1), after “the duties of that employment” insert “or any other comparable employment with his employing authority”;
- (b) add as a new paragraph (5)—

“(5) In paragraph (1)—

“comparable employment” means employment in which, when compared with the member’s employment—

- (a) the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the member’s ill-health or infirmity of mind or body; and
- (b) the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the member’s employment; and

“permanently incapable” means incapable until, at the earliest, the member’s 65th birthday.”.

Death grants

11. In regulation 38, after paragraph (5), insert as a new paragraph—

“(5A) The multiplier for the death grant of a member who remains in service after his 65th birthday as referred to in regulation 25A(1) is whichever of—

- (a) 2, or
- (b) $\frac{3 \times \text{the member's total membership}}{80}$

gives the greater amount.”.

Power of employing authority to increase total membership of members leaving employment at or after 50

12. In regulation 52(9), after “under regulation 8” insert “, or been paid compensation under regulation 32,”.

Elections to pay Additional Voluntary Contributions

13. In regulation 60, after paragraph (10), add as a new paragraph–

“(11) A member who is in active service may elect to transfer into his additional voluntary contributions scheme constituted under this Chapter the accumulated value of any other additional voluntary contributions scheme to which he has subscribed.”.

Special circumstances where revised actuarial valuations and certificates must be obtained

14. In regulation 78–

(a) in paragraph (2), for sub-paragraphs (a) and (b) substitute–

“(a) an actuarial valuation as at the date it ceases of the liabilities of the admission body which is a party to that admission agreement (“the outgoing admission body”), and

(b) a revision of any rates and adjustments certificate for any fund which is affected, showing the revised contributions due from the outgoing admission body.”; and

(b) after paragraph (2), insert as a new paragraph–

“(2A) But where it is not possible for any reason to obtain revised contributions from the outgoing admission body, the administering authority may obtain a further revision of any rates and adjustments certificate for the fund, showing the revised contributions due from each employing authority who contributes to that fund.”.

First instance decisions

15. In regulation 97–

(a) in paragraph (9), after “independent registered medical practitioner” insert “who is qualified in occupational health medicine”; and

(b) after paragraph (13), add as a new paragraph–

“(14) In paragraph (9)–

(a) “permanently incapable” has the meaning given by regulation 27(5), and

(b) “qualified in occupational health medicine” means holding a diploma in occupational medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (which has the meaning given by the European Specialist Medical Qualifications Order 1995)(a) or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.”.

Eligibility for active membership: employees etc. of non-Scheme employers

16.—(1) In regulation 127(1)–

(a) for sub-paragraph (a) substitute–

“(a) the governing body of a voluntary school”; and

(b) insert after sub-paragraph (a) as a new sub-paragraph–

“(aa) the governing body of a grant-maintained or grant-maintained special school or, from 1st September 1999, of a foundation or foundation special school (within the meaning of the School Standards and Framework Act 1998(b)) maintained by a local education authority; or ”;

(a) S.I. 1995/3208, amended by S.I. 1997/2928.

(b) 1998 c. 31; section 20.

- (2) In regulation 127, after paragraph (1), insert as a new paragraph–
“(1A) During the period beginning on 1st April 1999 and ending immediately before 1st September 1999 a grant-maintained or grant-maintained special school shall, for the purpose of this regulation, be treated as a school maintained by a local education authority.”;
- (3) In regulation 127(2), delete “governors or”; and
- (4) In regulation 127, after paragraph (2), insert as new paragraphs–
“(2A) A person may be an active member if he is an employee of the governing body of a school which prior to 1st April 1999 passed a resolution under regulation 4(5) and he is either–
(a) an employee specified in such resolution, or
(b) within the class of employees specified in that resolution.
(2B) A person may be an active member if he is an employee of the governing body of a school which prior to 1st April 1999 was a Scheme employer.”.

Supplementary provisions about employees within regulation 127

17. In regulation 128(1), after “regulation 127(1)” insert “, (2A) or (2B)”.

Members employed by magistrates’ courts committees

18. In regulation 133–
(a) after paragraph (3), insert as new paragraphs–
“(3A) In regulation 9(1A) for “65th birthday” and “65” substitute “70th birthday” and “70” respectively.
(3B) In regulations 20(4A) (in both places), 25A(1) and 27(5), for “65th birthday” substitute “70th birthday”.”; and
(b) after paragraph (4), insert as a new paragraph–
“(4A) In regulation 38(5A), for “65th birthday” substitute “70th birthday”.”

Certain employees of the committee of magistrates for the inner London area

19. In regulation 134–
(a) after paragraph (3), insert as new paragraphs–
“(3A) In regulation 9(1A) for “65th birthday” and “65” substitute “70th birthday” and “70” respectively.
(3B) In regulations 20(4A) (in both places), 25A(1), and 27(5) for “65th birthday” substitute “70th birthday”.”; and
(b) after paragraph (4), insert as a new paragraph–
“(4A) In regulation 38(5A), for “65th birthday” substitute “70th birthday”.”.

Coroners

20. In regulation 135–
(a) after paragraph (2) insert as new paragraphs–
“(2A) In regulation 9(1A) for “65th birthday” and “65” substitute “70th birthday” and “70” respectively.
(2B) In regulations 20(4A) (in both places), 25A(1), and 27(5) for “65th birthday” substitute “70th birthday”.”; and
(b) after paragraph (3) add as a new paragraph–
“(4) In regulation 38(5A), for “65th birthday” substitute “70th birthday”.”.

Interpretation

21. In Schedule 1, in the definition of “Voluntary school”, for “the Education Act 1996” substitute “the School Standards and Framework Act 1998”.

Scheme Employers

22. In Schedule 2—

(a) add at the end—

“An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998”; and

(b) delete—

“The governing body of a grant-maintained school which immediately before becoming such a school was a county school”.

Right to opt out

23.—(1) Where—

(a) apart from this regulation, the amendments made by any provisions of regulations 2 to 20 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 the date on which that provision comes into force,

then the Local Government Pension Scheme Regulations 1997 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 an employment in respect of which he was a member (whether or not he had subsequently recommenced any such employment), or

(b) died while in such employment,

before the date on which the relevant provision comes into force.

The Local Government Pension Scheme (Transitional Provisions) Regulations 1997

24. The Local Government Pension Scheme (Transitional Provisions) Regulations 1997^(a) are amended as follows—

(a) in regulation 22(3), insert before sub-paragraph (a) as a new sub-paragraph—

“(aa) after paragraph (1) add the following as a new paragraph—

“(1A) If a member leaves a local government employment (or is treated for these Regulations as if he had done so) on or after age 50 he may elect to receive payment of his retirement benefits immediately.”;” and

(b) In Schedule 2—

(i) in paragraph 1, before the definition of “active pensioner” insert—

“ “active deferred member” means any person who was a deferred member and an active member immediately before the commencement date and continues as an active member on that date by virtue of regulation 3.”;

(ii) in paragraph 4(1), at the beginning insert “An active deferred member.”;

(iii) in paragraph 5(1), for “a rejoining pensioner or” substitute “a rejoining pensioner, an active deferred member or a”;

(iv) in paragraph 8(1), after “a rejoining pensioner” insert “, an active deferred member”; and

(v) in paragraph 8(2), after “ceases to apply to” insert “an active deferred member or”.

^(a) S.I. 1997/1613, amended by S.I. 1998/2118.

The Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997

25. In regulation 3 of the Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997(a) for “regulation 8(9)” substitute “regulation 7(9)”.

Signed by authority of the Secretary of State

22nd April 1999

Hilary Armstrong
Minister of State,
Department of the Environment,
Transport and the Regions

(a) S.I. 1997/954; regulation 3 was substituted by S.I. 1997/1613, Schedule 3, paragraph 62(2).

EXPLANATORY NOTE

(This note does not form part of these Regulations)

These regulations make various amendments to the Local Government Pension Scheme Regulations 1997 (“the principal Regulations”), the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 and the Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997.

Regulations 3 to 22 amend the principal Regulations which regulate the Local Government Pension Scheme (“the Scheme”). Certain of the regulations take effect on various dates before the Regulations come into force (as set out in regulation 1). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.

Regulation 23 allows certain persons who would be placed in a worse position by amendments made in these Regulations to elect for the amendments not to apply in their case.

Regulations 3, 16, 17, 21 and 22 make changes in connection with schools necessitated by the Schools Standards and Framework Act 1998.

Regulation 4 makes certain provisions in connection with admission bodies.

Regulation 5 provides that re-employed teachers who are not eligible to join the Teachers’ Pension Scheme are also not eligible to be members of the Scheme.

Regulations 6, 8, 9 and 11 make provision in connection with the payment of retirement benefits and death grants for persons who retire after age 65. Regulations 18–20 make adjustment for those members whose normal retirement date is 70. Copies of the guidance referred to in regulation 20(4A) of the principal Regulations as inserted by regulation 8 can be obtained free of charge from the Local Government Pensions Division, Department of the Environment, Transport and the Regions, Zone 2/E8, Ashdown House, 123 Victoria Street, London SW1E 6DE.

Regulation 7 clarifies the definition of pay and the money value of the provision of a car.

Regulations 10 and 15 make provision in connection with ill-health retirements.

Regulation 12 amends the provision in connection with the increase of membership of members leaving employment after age 50 to provide that no increase may be made where the person is paid lump sum compensation under the Local Government (Discretionary Payments) Regulations 1996 (as amended).

Regulation 13 makes a change to allow the transfer into a member’s additional voluntary contributions scheme of the accumulated value from other additional voluntary contribution schemes.

Regulation 14 makes changes in connection with the revision of actuarial valuations and certificates when an admission body ceases to be a Scheme employer.

Regulation 24 amends the Local Government Pension Scheme (Transitional Provisions) Regulations 1997. Paragraph (a) makes a clarifying amendment in connection with employees of the Environment Agency. Paragraph (b) introduces a definition of and references to “active deferred pensioners”.

Regulation 25 makes a minor drafting amendment to regulation 3 of the Local Government Pension Scheme (Provision of Information, Administrative Expenses and Restitution) Regulations 1997.

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