STATUTORY INSTRUMENTS

# 2008 No. 239

# The Local Government Pension Scheme (Administration) Regulations 2008

## PART 5

## PAYMENT OF BENEFITS ETC

### Pension increases under the Pension Schemes Act 1993

**48.** Any increase in a pension required by reason of Chapter 3 of Part 4 of the Pension Schemes Act 1993(**1**) (protection of increases in guaranteed minimum pensions: anti-franking) must be paid from the appropriate fund.

### Contributions equivalent premiums

**49.**—(1) Where an employing authority pays a contributions equivalent premium under section 55 of the Pension Schemes Act 1993 in respect of a member, that employer may recover or, if an administering authority, may retain from the appropriate fund a sum not exceeding the premium.

(2) But if the employing authority may recover or retain any sum under section 61 of that Act in respect of the premium, only the balance may be recovered or retained under paragraph (1).

(3) Where a contributions equivalent premium is refunded under regulation 54(1)(c) of the Occupational Pension Schemes (Contracting-out) Regulations 1996 (re-entry into employment which is contracted-out by reference to the same scheme)(**2**), the authority to which it is refunded must pay to the appropriate fund a sum equal to the amount of the premium.

### Commencement of pensions

**50.**—(1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable begins with the day after the date on which his employment ends.

(2) In the case of a member who leaves local government employment and is not entitled to immediate payment of retirement pension under any of regulations 16 to 20 of the Benefits Regulations and does not make a choice under regulation 30 of those Regulations (choice of early payment of pension), the first period for which any retirement pension is payable begins, unless he asks by notice in writing to his administering authority to defer payment, with his 65th birthday (but any such deferral shall not extend beyond the day before his 75th birthday).

(3) The first period for which any retirement pension under regulation 30 of the Benefits Regulations is payable begins with the day on which the member chooses under paragraph (1) of that regulation.

(**1**) 1993 c.48.
(**2**) S.I.1996/1172.

(4) The first period for which any retirement pension under regulation 31 (early payment of pension: ill-health) of the Benefits Regulations is payable begins on the date when the member became permanently incapable as determined under regulation 31 of those Regulations.

(5) The first period for which any survivor's benefits are payable under regulation 24 (survivor benefits: active members), 27 (children's pensions), 33 (survivor benefits: deferred members), 34 (children's pensions: deferred members), 36 (survivor benefits: pensioners) or 37 (children's pensions: pensioner members) of the Benefits Regulations on the death of a member begins with the day after the date on which he dies.

(6) A person who is entitled to a retirement pension under regulation 16 (retirement benefits) or 17 (retirement after normal retirement date) of the Benefits Regulations may choose to defer payment until a date no later than the day before his 75th birthday.

(7) He must notify his appropriate administering authority in writing of his choice of date and such notice must be given not less than three months before the beginning of the first period for which the benefit would otherwise be payable.

(8) A person may by notice in writing to his administering authority alter the date specified in a notice referred to in paragraph (7) or in any subsequent notice under this paragraph but any such subsequent notice must be given not less than three months before the date specified in the preceding notice in order for the change of payment date to take effect.

### Interest on late payment of certain benefits

**51.**—(1) Where all or part of a pension or lump sum payment due under these Regulations, the Benefits Regulations or the Earlier Regulations is not paid within the relevant period after the due date, the appropriate administering authority must pay interest on the unpaid amount to the person to whom it is payable (see regulation 44(4)).

(2) The relevant period is—

(a) in the case of a pension under regulation 24(1), 27(1), 33(1) or 36(1) of the Benefits Regulations, the period ending one month after the date on which the administering authority receives notification of the member's death;

(b) in the case of any other pension, one year;

(c) otherwise, one month.

(3) The due date is—

(a) in the case of a pension, the date on which it becomes payable;

(b) in the case of a lump sum under the Transitional Regulations or regulation 21 of the Benefits Regulations (election for lump sum in lieu of pension), the benefit crystallisation date;

(c) in the case of a death grant under regulation 23, 32 or 35 of the Benefits Regulations, the date on which the member dies or, where notification of death is received more than two years after the date of death, the date of notification; and

(d) in the case of a payment of a lump sum under regulation 39 (commutation: small pensions) of the Benefits Regulations, the date of the commutation election or, if later, the nominated date (within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the Finance Act 2004).

### Payments due in respect of deceased persons

**52.**—(1) Paragraph (2) applies if, when a person dies, the total amount due to his personal representatives under the Scheme (including anything due to him at his death) ("the amount due")

does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act 1965(**3**) and applying in relation to his death.

(2) The appropriate administering authority may pay the whole or part of the amount due from its pension fund to—

(a) his personal representatives, or

(b) any person or persons appearing to the authority to be beneficially entitled to the estate,

without the production of probate or letters of administration of his estate.

(3) Such a payment discharges that authority from accounting for the amount paid.

**Non-assignability**

**53.**—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for him.

(2) No such benefit is assignable or chargeable with his or any other person's debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order under section 310 or 310A of the Insolvency Act 1986(**4**).

(**3**) 1965 c.32.

(**4**) 1986 c.45; section 310 was amended by the Pensions Act 1995 (c. 26), section 122, the Welfare Reform and Pensions Act 1999 (c.30), section 18 and the Enterprise Act 2002 (c. 40), section 259 and section 310A was inserted by the Enterprise Act 2002, section 260.