
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales, amend four statutory instruments namely: The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“the Compensation Regulations”);

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (“the Benefits Regulations”);

The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (“the Transitional Regulations”); and

The Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”).

These Regulations also make a new freestanding provision in respect of the London Pension Fund Authority.

Sections 12 and 24 of the Superannuation Act 1972 (“the 1972 Act”) provide that regulations made under sections 7 and 24 may have effect from a date earlier than the making of the regulations.

The amendments made by regulations 2 to 6, regulations 7 to 10; regulation 11 in so far as it relates to new regulation 12A of the Benefits Regulations; regulations 15, 17, 18, 21 and 22 have effect from 1st April 2008. The amendment made by regulation 23 has effect from 8th May 2009. The remainder of the regulations have effect from 31st December 2009.

Regulation 2 introduces the amendments set out in regulations 3 to 6 and relating to the Compensation Regulations.

Regulations 3 and 4 substitute former references to the “Pension Regulations” with references to the relevant corresponding Regulations that constitute the 2008 Scheme.

Regulation 5 amends regulation 6 (discretionary compensation) to include a reference to regulation 13 (power of employing authority to award additional pension) of the Benefits Regulations.

Regulation 6 substitutes former references to the “Pension Regulations” with references to the relevant corresponding Regulations that constitute the 2008 Scheme.

Regulation 7 introduces the amendments set out in regulations 8 to 16 relating to the Benefits Regulations.

Regulation 8 makes a minor technical amendment to regulation 1 (citation, interpretation and application).

Regulation 9 inserts into regulation 4 (“meaning of pensionable pay”) two additional exclusions to the meaning of “pensionable pay”.

Regulation 10 amends regulation 10 (final pay: reductions) by the addition of four further circumstances in which final pay may be reduced or restricted for the purpose of calculating a member’s pension, and extends the application of this regulation to members who transfer employment in circumstances where the provisions of TUPE would not otherwise apply.

Regulation 11 inserts new regulations 12A and 12B. Regulation 12A provides for additional periods of membership to be awarded to members who have had their period of membership reduced in consequence of applying for enhanced protection under the Finance Act 2004. Regulation 12B

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

provides that an award of discretionary compensation by way of a credited period in respect of a former employment may be converted into additional periods of membership, subject to a maximum of ten years.

Regulation 12 makes a consequential amendment to regulation 13 (power of employing authority to award additional pension) to insert a reference to regulation 12B.

Regulation 13 inserts new regulation 13A to enable compensation that has been awarded in respect of a former employment, to be converted into additional pension.

Regulation 14 inserts new regulation 14A which enables members to make additional contributions in respect of periods of membership before 6th April 1988, to provide additional pension for a surviving nominated cohabiting partner.

Regulation 15 amends regulation 27 (children's pensions) to enable the payment of a children's pension to a person such as a surviving parent or legal guardian to be applied for the benefit of an eligible child.

Regulation 16 amends regulation 38 (pension increases under the Pensions (Increase) Acts) to enable the Environment Agency to discharge its liabilities for pension increases relating to former employees of Water Act companies.

Regulation 17 introduces the amendments set out in regulations 18 to 20 relating to the Transitional Regulations.

Regulation 18 amends regulation 3(4) (membership accrued before 1st April 2008: active members) to enable periods of membership accrued before 6th April 1988 to be taken into account for the purposes of a surviving civil partner's entitlement to a pension under regulations 24, 33 or 36 of the Benefits Regulations.

Regulation 19 amends regulation 7 (deferred members: limit on death grant) to clarify the amount of death grant payable.

Regulation 20 amends paragraph 3(2) in Schedule 2, which relates to the so called "85 year rule" about early retirement, to insert a reference to regulation 12B of the Benefits Regulations.

Regulation 21 introduces the amendments set out in regulations 22 to 31 relating to the Administration Regulations.

Regulation 22 makes a minor consequential amendment to regulation 4 (general eligibility for membership).

Regulation 23 adds the Chair of the Olympic Park Legacy Company to the list in regulation 9 of persons eligible to be active members.

Regulation 24 makes a consequential amendment to regulation 13 (joining the scheme) to insert a reference to new regulation 24A introduced by regulation 24 of these Regulations.

Regulation 25 inserts new regulation 24A (payment of additional contributions: survivor benefits (ASBCs)), and new regulation 24B (discontinuance of ASBCs). These new regulations set out the process for making, ending and calculating additional contributions to provide a pension for a surviving nominated cohabiting partner.

Regulation 26 makes consequential amendments to regulation 38 (special circumstances where revised actuarial valuations and certificates must be obtained) relating to the Environment Agency Pension Fund.

Regulation 27 amends regulation 40 (employer's payment following resolution to increase membership or award additional pension) to insert references to new regulations 12B, 13A and 40A and makes provision about payments by the Environment Agency to meet the costs of any increase in membership.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 28 inserts new regulation 40A (Water Act Company pensions: Environment Agency payments) to enable the Environment Agency to discharge certain liabilities from the Closed Water Authorities Fund, in respect of Water Act Company pensioners.

Regulation 29 inserts new regulation 50A (guaranteed minimum pensions) which specifies the circumstances in which a guaranteed minimum pension is paid.

Regulation 30 amends regulation 74 (recovery or retention where former member has misconduct obligation), to insert a reference to ARCs and ASBCs.

Regulation 31 inserts some new definitions into Schedule 1.

Regulation 32 provides for the transfer to the London Pension Fund Authority of certain sums relating to London County Council and Greater London Council stocks which were transferred to the London Pension Fund Authority from the London Residuary Body, and in respect of which the Authority has now discharged its liabilities.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.