
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 Pension Scheme Regulations 1997 (“the 1997 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”).

Section 12 of the Superannuation Act 1972 (“the 1972 Act”) provides that regulations made under section 7 may have effect from a date earlier than the making of the regulations.

The amendments contained in regulations 7, 9 and 10, 12 to 14(a), 16 to 18, 24, 31, 34 to 36 and 50 have effect from 1st April 2008. The amendments contained in regulations 25, 27 and 48 have effect from 1st October 2008. The amendment contained in regulation 41 has effect from 1st April 2009. The amendments contained in regulations 3 and 4 have effect from 6th April 2009 and the amendment contained in regulation 49 has effect from 31st December 2009. The remainder of the regulations have effect from 30th September 2010.

Regulation 2 introduces the amendments set out in regulations 3 and 4 relating to the 1997 Regulations.

Regulation 3 amends regulation 154 (payment of benefits) to enable pension credit members to elect to receive their benefits from the age of 60, with an appropriate actuarial reduction.

Regulation 4 amends regulation 155 (death grants) and is consequential on the amendment to regulation 154 which affects the calculation of death grant.

Regulation 5 introduces the amendments set out in regulations 6 to 31 relating to the Benefits Regulations.

Regulation 6 amends regulation 1 of the Benefits Regulations (which provides for the definition of certain terms) to provide a definition for the expression “IRMP”, and for the term “the Scheme” to include a reference to the Transitional Regulations and the Administration Regulations. The amendment also introduces a definition for the expression “local government employment”.

Regulation 7 amends regulation 2 (active members) to clarify eligibility for membership of the Local Government Pension Scheme 2008 in respect of members of the Local Government Pension Scheme 1997.

Regulation 8 amends regulation 3 (contributions payable by active members) to provide for a number of technical changes including the methodology used to increase contribution rates and the final date upon which a member may make contributions. The amendment also removes a provision which enables administering authorities to decide the intervals at which contributions may be made.

Regulation 9 amends regulation 4 (meaning of “pensionable pay”) to clarify that arrears of pay are not to be treated as compensation for the purpose of determining pensionable pay.

Regulation 10 amends regulation 7 (calculation of length of periods of membership) to clarify that part-time membership is calculated on the basis of a calendar month period for the purpose of determining whether a member has accrued at least three months membership.

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Regulation 11 amends regulation 11 (final pay: fees) to clarify how a variable-time employee's fees are to be calculated for the purpose of determining final pay.

Regulation 12 amends regulation 13 (power of employing authority to award additional pension), regulation 13 amends regulation 14 (election in respect of additional pension), and regulation 14 amends regulation 14A (election to pay additional contributions: survivor benefits). These amendments clarify that only active members may purchase or be awarded additional pension.

Regulation 15 amends regulation 15 (elections to pay AVCs) to insert a cross-reference to related provisions in the Administration Regulations.

Regulation 16 amends regulation 16 (retirement benefits), firstly to provide that the term "local government employment" is used consistently throughout the Regulations, and secondly to provide that where a member defers receipt of his or her pension beyond the age of 65, the member is entitled to an actuarially enhanced pension when it finally comes into payment.

Regulation 17 amends regulation 17 (retirement after normal retirement date), and regulation 18 amends regulation 18 (flexible retirement). These amendments entitle a member who joins after the age of 65 or who takes flexible retirement beyond that age, to an actuarially enhanced pension.

Regulation 19 amends regulation 20 (early leavers: ill-health) by replacing the term "obtaining" with "undertaking"; by inserting a new paragraph (11)(aa) which introduces a time limit; by inserting a new paragraph (11A) which places a limit on the overall amount of benefits payable; and by substituting paragraph (13).

Regulation 20 amends regulation 23 (death grant: active members) and regulation 21 amends regulation 24 (survivor benefits: active members). The amendments in both regulations provide that in the case of a member in part-time employment, the calculation of death grant or survivor benefits takes no account of any reduction in the member's pay caused as a result of the condition that led to or contributed to the member's death.

Regulation 22 amends regulation 27 (children's pensions) to provide for the day on which the pension is payable. Similar amendments are made in regulation 28 which amends regulation 33 (survivor benefits: deferred members), and regulation 30 which amends regulation 36 (survivor benefits: pensioners).

Regulation 23 makes a minor omission in regulation 29 (calculation on leaving early).

Regulation 24 amends regulation 30 (choice of early payment of pension) by adding two new paragraphs to enable members who had continuity of service as at 1 April 2008 to be eligible to apply for retirement at the age of 50.

Regulation 25 introduces new regulation 30A (choice of payment of pension: pensioner member with deferred benefits). This regulation provides that a pensioner member with deferred benefits is eligible to receive his or her retirement pension at age 65, or with the permission of the member's former employer, to receive an actuarially reduced pension at age 55.

Regulation 26 amends regulation 31 (early payment of pension: ill-health) so that it is consistent with regulation 20(5) (early leavers: ill-health).

Regulation 27 amends regulation 32 (death grants: deferred members) consequential on the introduction of new regulation 30A (choice of payment of pension: pensioner member with deferred benefits).

Regulation 29 amends regulation 35 (death grants: pensioner members) to provide that any abatement of pension is not taken into account when calculating death grant.

Regulation 31 amends regulation 38 (pension increases under the Pensions (Increase) Acts) by inserting provisions to enable administering authorities to seek payment of employer contributions arising from pensions increase costs.

Regulation 32 introduces the amendments set out in regulations 33 to 37 relating to the Transitional Regulations.

Regulation 33 amends regulation 1 of the Transitional Regulations (citation, commencement, interpretation and application), regulation 34 amends regulation 3 (membership accrued before 1st April 2008: active members), regulation 35 amends regulation 10 (the 85 year rule), and regulation 37 amends Schedule 1 (regulations revoked). These are minor corrective amendments.

Regulation 36 introduces new regulation 15 (civil servants transferred to the Environment Agency) which restores retirement age transitional provisions for this particular group of members.

Regulation 38 introduces the amendments set out in regulations 39 to 56 relating to the Administration Regulations.

Regulation 39 amends regulation 7 of the Administration Regulations (admission agreements-further provisions) by removing a power of the Secretary of State to determine questions arising in respect of admission agreements.

Regulation 40 amends regulation 8 (eligibility for membership of employees of other bodies not listed in Schedule 2) by adding the governing body of a federated school to the list of specified bodies.

Regulation 41 amends regulation 10 (supplementary provisions for certain members). This is an updating amendment to reflect a machinery of Government change affecting the appointment of rent officers.

Regulation 42 amends regulation 13 (joining the Scheme) to clarify the procedure to be followed in the case of a person joining the Scheme on a date after his or her employment first began.

Regulation 43 amends regulation 16 (re-employed and rejoining deferred members) to provide time limited options to enable rejoining and existing members to aggregate former periods of employment.

Regulation 44 amends regulation 17 (concurrent employments) to enable members subject to certain conditions, to aggregate periods of membership in concurrent employments.

Regulation 45 amends regulation 26 (use of accumulated value of AVCs and SAVCs) by specifying an additional way in which a member is permitted to use the accumulated value of his or her additional voluntary contributions.

Regulation 47 amends regulation 47 (exclusion of rights to return of contributions) by adding a further exclusion.

Regulation 48 amends regulation 50 (commencement of pensions) to provide for the commencement of a pension in the case of a pensioner member with deferred benefits who is entitled to receive his or her pension under regulation 30A of the Benefits Regulations.

Regulation 49 amending regulation 50A (guaranteed minimum pensions) and regulation 50 amending regulation 51 (interest on late payment of certain benefits) are minor technical and corrective amendments.

Regulation 51 inserts new regulation 52A (payments for persons incapable of managing their affairs), to enable an administering authority to determine how and to whom benefits may be paid for the benefit of the person entitled.

Regulation 52 amends regulation 56 (first instance determinations: ill-health) to enable an independent registered medical practitioner (“IRMP”) who has previously been involved in an ill-health retirement case to advise on the same case if a request is made to issue a certificate under regulation 20(7) of the Benefits Regulations. The amendment also clarifies that an IRMP is required to have regard to guidance issued by the Secretary of State when exercising the IRMP’s functions under regulation 20(5) or 31(2) of the Benefits Regulations.

Regulation 53 makes a minor corrective amendment to regulation 58 (applications to resolve disagreements).

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Regulation 54 amends regulation 87 (changes of fund and variable-time employees) by replacing it with a new provision which includes a formula for calculating membership in the case of a member who transfers from variable-time employment to whole-time employment.

Regulation 55 amending Schedule 2 (Scheme Employers) updates the statutory references to Academies as a result of the coming into force of the Academies Act 2010. The Greater London Authority is also added to the list of employers in Part 1 of that Schedule.

Regulation 56 makes minor amendments to Schedule 4 (Appropriate Funds).

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