
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend three Scottish statutory instruments namely:

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Scotland) 2008 (“The Benefits Regulations”);

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

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

Regulation 1 provides that the Regulations come into force on 1st February 2013 but makes provision for regulation 30 to have effect from 6th April 2011.

Regulation 2 introduces the amendments set out in regulations 3 to 12 relating to the Benefits Regulations.

Regulation 3 amends regulation 2 (which provides for the definition of certain terms) by introducing a definition for the expression “Scheme employer”.

Regulation 4 makes an amendment to regulation 3 (active members) to provide that, although automatic membership of the Scheme does not apply to a person with an employment contract of less than three months, nevertheless it is open to such an employee to “opt-in” to the Scheme.

Regulation 5 amends regulation 9 (final pay: general) to provide clarification as to the meaning of “final pay” .

Regulation 6 amends regulation 14A (election to pay additional contributions: survivor benefits) to provide that an election to pay additional survivor benefits must be made within 12 months of making a declaration to nominate a cohabiting partner under regulation 25 of the Benefits Regulations.

Regulation 7 amends regulation 18 (flexible retirement) to clarify that where a member aged 55 or over has accrued benefits under the 1998 Local Government Pension Scheme in the current membership, the member shall receive payment of those benefits but also has the choice whether to request to receive payment of benefits accrued under the Benefits Regulations.

Regulation 8 amends regulation 26 (meaning of “eligible child”) to update a statutory reference.

Regulation 9 amends regulation 28 (children’s pensions: active members) to provide what the calculation of the pension takes into account. A similar amendment is made in regulation 11 which amends regulation 33 (survivor benefits: deferred members).

Regulation 10 amends regulation 30 (choice of early payment of pension) to provide that the appropriate administering authority for a deferred member may consent to the early payment of pension where the member’s former employing authority has ceased to be a Scheme employer.

Regulation 11 amends regulation 33 (survivor benefits: deferred members) to correct certain references to related regulations.

Regulation 12 amends regulation 39 (commutation: small pensions) to include an authorised commutation payment prescribed in Regulations made under section 164 of the Finance Act 2004.

Regulation 13 introduces the amendments set out in regulations 14 to 16 relating to the Transitional Regulations.

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Regulation 14 amends regulation 3 (membership accrued before 1st April 2009: active members) to clarify the circumstances where benefits become payable immediately under the 1998 Scheme.

Regulation 15 amends regulation 4 (membership accrued before 1st April 2009: rejoining deferred members) to extend the deadline by which a member may elect to aggregate past service to 31st January 2014.

Regulation 16 amends Schedule 2 to clarify how for the purposes of the rule of 85 transitional provisions total membership is to be calculated.

Regulation 17 introduces the amendments set out in regulations 18 to 33 relating to the Administration Regulations.

Regulation 18 amends regulation 5 (employees of non-Scheme employers: transferee admission bodies) by requiring a regulation 5(2)(a) transferee admission body and an administering authority to enter into separate admission agreements where the admission body is performing the functions of a Scheme employer under more than one contract.

Regulation 19 substitutes regulation 6 (admission agreements – further provisions) with a new regulation 6 which consolidates some of the provisions formerly contained in regulation 5 relating to admission agreements for transferee admission bodies so that these now apply to all categories of admission bodies. The amendments also add new requirements to be contained in admission agreements.

Regulation 20 makes a consequential amendment to regulation 9.

Regulation 21 substitutes a new regulation 10 (joining the Scheme) providing for automatic enrolment of eligible members apart from those with employment contracts of less than 3 months, where application for membership is required.

Regulation 22 amends regulation 11 to provide that a person is to be treated as not having been a member of the Scheme, if notice of ending of membership is given within three months of joining the Scheme.

Regulation 23 amends regulation 13 (re-employed and rejoining deferred members) to provide such members with a period of 12 months or to 31st January 2014, whichever is the later, in which to elect to aggregate past service

Regulation 24 amends regulation 15 (contributions during child related leave) so that additional paternity leave is included within the provisions.

Regulations 25, 26 and 27 respectively amend regulation 16 (contributions during reserve forces service leave), regulation 17 (contributions during trade dispute absence) and regulation 18 (contributions during absences with permission) so that additional contributions made in respect of survivor benefits under regulation 21A must continue to be paid during periods of absence.

Regulation 28 amends regulation 29 (admission agreement funds) by inserting what was formerly paragraph (1) of regulation 34 (special circumstances where revised actuarial valuations and certificates must be obtained) into regulation 29 of the Administration Regulations so that all matters relating to admission agreement funds are marshalled together.

Regulation 29 amends regulation 34 (special circumstances where revised actuarial valuations and certificates must be obtained) to clarify that it applies to all employing authorities and enables administering authorities to obtain a revised certificate in a wider range of circumstances.

Regulation 30 inserts a new regulation 62A (joint liability in respect of annual allowance charge) to provide that where an administering authority has discharged a member's tax charge, the authority must reduce the value of the member's accrued rights in accordance with guidance issued by the Scottish Ministers.

Regulation 31 amends certain of the definitions in Schedule 1.

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Regulation 32 amends Schedule 3 (matters to be included in admission agreements with transferee admission bodies) so that the matters to be contained in an admission agreement apply to all categories of admission body.

Regulation 33 amends Schedule 4 (appropriate funds) to allow greater flexibility in the use of directions by the Scottish Ministers.

Regulation 34 provides that the amendments made by regulations 19 and 20 do not affect admission agreements entered into before the date that these Regulations come into force.