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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 164**

**The Local Government Pension  
Scheme (Scotland) Regulations 2014**

**PART 1**

**Membership, contributions and benefits**

*Adjustments of benefits*

**No double entitlement**

**47.**—(1) Where apart from this regulation any member would be entitled to a pension or lump sum under two or more regulations by reason of the same period of membership—

- (a) that member is entitled to benefits under only one regulation;
- (b) the member may choose under which provision benefits are to be paid; and
- (c) if the member does not choose, the administering authority must choose and notify the member in writing of the provision under which benefits are to be paid.

(2) A member's choice must be by notice in writing given to the administering authority before the expiry of three months beginning with the day on which the member becomes entitled to choose under which provision the pension or lump sum is to be paid.

(3) Paragraph (1) does not affect the member's rights under the Pension Schemes Act 1993<sup>(1)</sup>.

**Limit on total amount of benefits**

**48.**—(1) No person is entitled under any provision of these Regulations to receive benefits the capital value of which exceed that person's lifetime allowance, except in accordance with actuarial guidance issued by the Scottish Ministers and any benefits to which a person is entitled are restricted accordingly.

(2) In this regulation "lifetime allowance" is to be construed in accordance with section 218 of and Schedule 36 to the Finance Act 2004<sup>(2)</sup> and, where applicable, is to include primary protection, enhanced protection or fixed protection within the meaning of those provisions.

(3) The capital value of a person's benefits shall be calculated in accordance with actuarial guidance issued by the Scottish Ministers.

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<sup>(1)</sup> 1993 c.48.

<sup>(2)</sup> 2004 c.12; section 218 was amended by the Finance Act 2011 (c.11). There are numerous amendments to Schedule 36 which are not relevant to these regulations.

### **Guaranteed minimum pensions**

**49.**—(1) Where a member’s local government service is contracted-out employment and that member has a guaranteed minimum, the member is entitled from the date of attaining pensionable age to payment of a pension at a weekly rate equal to not less than that guaranteed minimum.

(2) But if the member attains pensionable age while in local government service, the member is not so entitled until leaving that employment, unless paragraph (3) or (4) applies.

(3) If the member—

(a) continues in local government service for a further period of five years after attaining pensionable age; and

(b) does not then leave that service,

the member is entitled from the end of the period mentioned in sub-paragraph (a) to payment of so much of the retirement pension as equals that guaranteed minimum.

(4) If the member attains pensionable age while in local government service but subsequently changes employment to employment which is not local government service, the member is entitled.

(5) If the member changes employment to employment which is not local government service and the member attains pensionable age while in that employment, the member is entitled.

(6) Subject to regulation 29(3) (retirement after normal retirement date), where paragraph (3), (4) or (5) applies, the member may consent to a postponement of the entitlement.

(7) For the purposes of this regulation, a person has a guaranteed minimum if they have such a minimum under section 14 (earner’s guaranteed minimum) of the Pension Schemes Act 1993<sup>(3)</sup> in relation to benefits under these Regulations, and references to entitlement are to the entitlement to payment of a pension in accordance with paragraph (1).

(8) In this regulation “contracted out employment” shall be construed in accordance with section 8 of the Pension Schemes Act 1993.

### **Pension debits**

**50.**—(1) Administering authorities shall have regard to actuarial guidance issued by the Scottish Ministers as to reduction of benefits payable under these Regulations in consequence of a pension debit.

(2) An administering authority shall make such adjustments to a member’s pension accounts as are required to give effect to a pension debit.

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(3) 1993 c.48; section 14 was amended by the Proceeds of Crime Act 2002, the Pensions Act 1995, and the Social Security Contributions (Transfer of Functions, etc) Act 1999.