
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 448

**The Local Government Pension Scheme
(Scotland) Amendment (No. 2) Regulations 2015**

PART 2

Amendment of the Main Regulations

Amendment of the Main Regulations

3. The Main Regulations are amended in accordance with regulations 4 to 31.

Amendment of regulation 9

4. In regulation 9—
- (a) in paragraph (4), for “employing authority” and “authority” substitute “Scheme employer”; and
 - (b) in paragraph (10), for “employing authority” substitute “Scheme employer”.

Amendment of regulation 15

5. In regulation 15—
- (a) in paragraph (3)(a)(ii), after “forces” insert “service”;
 - (b) in paragraph (4)(b), omit “, additional paternity leave”; and
 - (c) in paragraph (4), for “to a shared cost AVC” substitute “under an SCAVC”.

Amendment of regulation 16

6. In regulation 16—
- (a) in paragraph (17)(a), omit “, additional paternity leave”; and
 - (b) in paragraph (18)—
 - (i) for “regulations 11(1), (3), (4)(b) or (4) (c)” substitute “regulation 11(4)(b) or (c)”; and
 - (ii) for “that amount” substitute “the amount”.

Amendment of regulation 17

7. In regulation 17—
- (a) omit paragraph (10); and
 - (b) in paragraph (11A), for “additional voluntary contributions” (in both places) substitute “AVC”.

Amendment of regulation 21

8. In regulation 21(7)—

- (a) after “partners of active members”, for “,” substitute “and”; and
- (b) after “the three years”, insert “(or the period of membership in that employment, if less than three years)”.

Amendment of regulation 22

9. In regulation 22—

- (a) for paragraph (4)(g), substitute—
 - “(g) a payment under regulation 33 has been made;”;
- (b) in paragraph (4)(h), for “Fund” substitute “fund”;
- (c) in paragraph (6A)—
 - (i) after “unless” insert “within”; and
 - (ii) in sub-paragraph (a), omit “within”;
- (d) in paragraph (6B)—
 - (i) after “unless” insert “within”; and
 - (ii) in sub-paragraph (a), omit “within”; and
- (e) after paragraph (7), insert—
 - “(8) The option under paragraphs (6A) and (6B) to elect to retain the deferred member’s pension account does not apply to a member who is the subject of a transfer—
 - (a) to which the TUPE Regulations apply; or
 - (b) which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and (3) of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.”.

Amendment of regulation 29

10. In regulation 29—

- (a) in paragraph (1), for “employer” substitute “employee”; and
- (b) in paragraph (13), for “employing authority” (in each place) substitute “Scheme employer”.

Amendment of regulation 31

11. In regulation 31(9), for “of the determination that the member is permanently incapable” substitute “the member makes a request”.

Amendment of regulation 37

12. In regulation 37—

- (a) in paragraph (1), for “(5) to (7)” substitute “(5) and (6)”;
- (b) in paragraph (2), for “(5) to (7)” substitute “(5) and (6)”;
- (c) in paragraph (3), for “from which benefits are awarded” substitute “the member made a request under regulation 36”.

Amendment of regulation 39

13. After regulation 39(4), insert—

“(4A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraph (4)(a)(iii) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 40

14. After regulation 40(10), insert—

“(10A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraphs (4)(a)(iii), (5)(a)(iii), (9)(a)(iii) and (10)(a)(iii) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 42

15. After regulation 42(4), insert—

“(4A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraph (4)(c) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 43

16. After regulation 43(10), insert—

“(10A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraphs (4)(c), (5)(c), (9)(c) and (10)(c) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 45

17. After regulation 45(4), insert—

“(4A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraph (4)(d) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 46

18. After regulation 46(10), insert—

“(10A) Additional pension purchased under regulation 16 is not excluded for the purposes of paragraphs (4)(e), (5)(e), (9)(e) and (10)(e) where the member has elected to purchase that additional pension to cover the amount of pension which would otherwise have accrued but for—

- (a) an absence from work with no pensionable pay in consequence of a trade dispute; or
- (b) an absence from work with permission with no pensionable pay, otherwise than because of—
 - (i) illness or injury;
 - (ii) child related leave; or
 - (iii) reserve forces special leave.”.

Amendment of regulation 48

19. For regulation 48(1), substitute—

“(1) Except to the extent that actuarial guidance issued by the Scottish Ministers provides otherwise, no person is entitled under any provision of these Regulations to receive benefits

the capital value of which exceeds that person's lifetime allowance and any benefits to which a person is entitled are restricted accordingly.”.

Amendment of regulation 58

20. In regulation 58(1)(aa), for “29(5)” substitute “29(13)”.

Amendment of regulation 62

21. In regulation 62—

(a) for paragraph (1) substitute—

“(1) Subject to paragraph (2A), if a person—

(a) ceases to be a Scheme employer (including ceasing to be an admission body participating in the Scheme); or

(b) is or was a Scheme employer but, irrespective of whether that employer employs active members contributing to one or more other funds, no longer has an active member contributing towards a fund (“a relevant fund”) which has liabilities in respect of benefits in respect of current and former employees of that employer,

that person becomes “an exiting employer” in relation to the relevant fund for the purposes of this regulation and is liable to pay an exit payment.”; and

(b) after paragraph (2) insert—

“(2A) An administering authority may by written notice (“suspension notice”) to an exiting employer suspend that employer’s liability to pay an exit payment for a period of up to 3 years starting from the date when that employer would otherwise become an exiting employer, if the condition in paragraph (2B) is met.

(2B) The condition mentioned in paragraph (2A) is that in the reasonable opinion of the administering authority the employer is likely to have one or more active members contributing to the fund within the period specified in the suspension notice.

(2C) If an administering authority serves a suspension notice on an employer, unless that suspension notice is withdrawn, paragraph (2) does not apply in respect of that employer, but the employer must continue to make such contributions towards the liabilities of the fund in respect of benefits in respect of the employer’s current and former employees as the administering authority reasonably requires.”.

Amendment of regulation 72

22. In regulation 72(6)(b), for “employing authority” substitute “Scheme employer”.

Amendment of regulation 74

23. In regulation 74(5), for “employing authority” substitute “Scheme employer”.

Amendment of regulation 77

24. In regulation 77—

(a) in paragraph (2), for “employing authority” substitute “Scheme employer”; and

(b) in paragraph (8), for “listed” substitute “sisted”.

Amendment of regulation 83

25. In regulation 83(1), for “must” substitute “may”.

Amendment of regulation 93

26. In regulation 93—

- (a) in paragraph (4A), for “employing authority” substitute “Scheme employer”;
- (b) for paragraph 7(a), substitute—
 - “(a) to which the TUPE Regulations apply;”;
- (c) in paragraph (9), before “Scottish Ministers” insert “the”.

Amendment of regulation 94

27. In regulation 94—

- (a) in paragraph (1), for “Chapter 4 or 5 of Part 4” substitute “Chapter 1 or 2 of Part 4ZA”; and
- (b) omit paragraph (4).

Amendment of regulation 102

28. In regulation 102(3)(b), for “ a returning officer” substitute “an acting returning officer”.

Amendment of Schedule 1

29. In Schedule 1—

- (a) in the definition of “child-related leave”, omit paragraph (e);
- (b) in the definition of “eligible child”, in paragraph (b), omit sub-paragraphs (iii) and (iv) of Condition C;
- (c) after the definition of “eligible child”, insert—
 - ““employment” for the purposes of these Regulations only shall include holding an office, with necessary modifications to these Regulations, if any, in respect of a person holding an office;
 - “enactment” has the same meaning as in section 126(1) of the Scotland Act 1998(1);”;
- (d) in the definition of “pensions board”, for ““pensions board”” substitute ““pension board””; and
- (e) at the end, insert—
 - ““the Transitional and Savings Regulations 2014” means the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014(2);
 - “the TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006(3).”.

Amendment of Schedule 4

30. In Schedule 4, for “employing authority” (in each place) substitute “Scheme employer”.

(1) 1998 c.46.
(2) S.S.I. 2014/233.
(3) S.I. 2006/246.

Amendment of Schedule 5

31. In Schedule 5—

- (a) omit paragraph 6A;
- (b) omit paragraph 6B;
- (c) after paragraph 6B, insert—

“**6C.** After regulation 22(8) insert—

“(9) In the case of a deferred member who has been a councillor member, an election under paragraph 6A or 6B may only aggregate councillor membership with former councillor membership and, as the case may be, membership which is not councillor membership with former membership which is not councillor membership.””

- (d) omit paragraph 8; and
- (e) for paragraph 9(a), substitute—

“(a) for paragraph (1) substitute—

“(1) Where a councillor member ceases to be a member of the member’s local authority on the grounds of ill-health or infirmity of mind or body before reaching normal pension age, the member is entitled to and must take early payment of a retirement pension if that member satisfies the condition in paragraph (3) of this regulation.””