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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 141**

**The Local Government Pension  
Scheme (Scotland) Regulations 2018**

**PART 2**

**Administration**

*Certificates of protection*

**Certificate of protection**

**90.**—(1) Where, otherwise than by virtue of a member's own circumstances—

- (a) the member's rate of pay is permanently reduced; or
- (b) the rate at which it may be increased is restricted in such a way that it is likely that the rate of the member's pension will be adversely affected,

the member is entitled to be issued with a certificate to that effect by the Scheme employer, (but see paragraph (3)).

(2) A certificate of protection issued by a Scheme employer after the coming into force of these Regulations has effect for 10 years from the date the member's pay is reduced or restricted and, where the member elects, the member's pay for the purposes of calculating the member's pension (and other benefits under these Regulations) is the member's pay but as if the reduction or other restriction specified in the certificate had not come into effect.

(3) A member is not entitled to be issued with a certificate under this regulation if the reduction in the member's rate of pay—

- (a) is temporary; or
- (b) consists of the termination of, or a reduction in, a temporary increase in the rate of pay.

(4) A certificate issued under this regulation must specify the date of the reduction or restriction.

(5) The Scheme employer may issue a certificate without an application of the member, but need not issue a certificate if the member does not apply for one within 12 months after the date of reduction or restriction.

(6) The Scheme employer must send a copy of the certificate to the member's appropriate administering authority.

(7) The Scheme employer must keep a record of the certificate including such information as would be necessary for applying paragraph (2) for the period of 10 years beginning with the date of reduction or restriction specified in it.

(8) If the member ceases to be an active member with the Scheme employer that issued the certificate, the certificate does not carry forward in relation to any further period of membership with another Scheme employer except where the member transfers employment from the Scheme

employer that issued the certificate to employment with another Scheme employer as a result 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 regulation 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.
- (9) If the member leaves the employment under which the certificate was issued, without becoming entitled to immediate or deferred pension benefits, the certificate lapses.
- (10) The operation of a certificate issued under this regulation is subject to guidance issued by the Scottish Ministers.