
STATUTORY INSTRUMENTS

1991 No. 78 (S.7)

PENSIONS

**The Local Government Superannuation
(Scotland) Amendment Regulations 1991**

<i>Made</i>	- - - -	<i>18th January 1991</i>
<i>Laid before Parliament</i>		<i>28th January 1991</i>
<i>Coming into force</i>	- -	<i>18th February 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate in accordance with section 7(5) of that Act, and not having considered consultation with any individual local authority desirable, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Superannuation (Scotland) Amendment Regulations 1991.

(2) These Regulations shall come into force on 18th February 1991; regulation 3 shall have effect from 1st April 1990, regulations 4 and 6 shall effect from 1st April 1989 and regulation 5 shall have effect from 18th February 1991.

Interpretation

2. In these Regulations “the principal Regulations” means the Local Government Superannuation (Scotland) Regulations 1987⁽²⁾.

Application of the Regulations to Scottish Homes, their employees, and former employees of the Scottish Special Housing Association

3. In regulation A3 of the principal Regulations—

(1) 1972 c. 11; section 7(3) was extended by the Pensions (Increase) Act 1974 (c. 9), section 2(2); section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 10.
(2) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284.

- (a) in paragraph (1) for the words “, (4) and (5),” there shall be substituted the words “and (4),”; and
- (b) paragraph (5) shall be deleted.

Pensions increase

- 4. In regulation P3A of the principal Regulations—
 - (a) in paragraph (1) the words “Subject to paragraph (2), and to regulation A3(5)” shall be deleted and there shall be substituted the words “Subject to paragraphs (2) and (3)”;
 - (b) after paragraph (2) there shall be added the following paragraph:—
 - “(3) Where the last employing authority, within the meaning given in paragraph 1(2) of Schedule 3 to the Pensions (Increase) Act 1971(3), is not a body which is required by regulation P12 to contribute to the superannuation fund, Schedule 3 to that Act shall continue to have effect in relation to any increase under that Act.”.

Use and investment of superannuation funds' moneys

5.—(1) Regulation P6 of the principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (4), after the word “or” at the end of sub-paragraph (b), there shall be inserted the words “so as to result in more than 20% of that value being represented by investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body, or”.

- (3) For paragraph (6) there shall be substituted the following paragraphs:—
 - “(5A) Subject to paragraph (5B), an administering authority may appoint one or more investment managers to manage and invest fund moneys on their behalf.
 - (5B) An administering authority shall not make an appointment under paragraph (5A) unless—
 - (a) they have considered the value of the fund moneys to be managed by the investment manager or, as the case may be, by each of the investment managers to be appointed, and are satisfied that it will not be excessive, having regard to proper advice, to the desirability of securing diversification of the management of the fund, and to the value of the assets of the fund; and
 - (b) the terms of the appointment—
 - (i) provide for the appointment to be terminable by not more than 1 month’s notice given by the administering authority;
 - (ii) require the investment manager to provide the administering authority at least once every 3 months with a report setting out the action he has taken under the appointment;
 - (iii) require the investment manager to comply with such instructions as the administering authority may give;
 - (iv) require the investment manager to have regard to the need for diversification of investments of fund moneys, and to the suitability of investments of any description of investment proposed as an investment of that description;
 - (v) prohibit the investment manager from making investments which would contravene paragraph (4).

(5C) Where an administering authority have made an appointment under paragraph (5A) they shall, at least once every 3 months, review the investments made by the investment manager and from time to time consider the desirability of continuing or terminating the appointment.

(6) Subject to paragraph (6A), in the discharge of their functions under paragraph (1) an administering authority shall have regard—

- (a) to the need for diversification of investments of fund moneys; and
- (b) to the suitability of investments of any description of investment which they propose to make and of any investment proposed as an investment of that description; and
- (c) to proper advice, obtained at reasonable intervals.

(6A) Where an administering authority appoint an investment manager under paragraph (5A) they shall have regard—

- (a) in determining the terms of the appointment, to proper advice; and
- (b) in exercising their functions under paragraph (5C)—
 - (i) to the need for diversification of investments of fund moneys;
 - (ii) to the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description; and
 - (iii) to proper advice.”.

(4) In paragraph (10)—

(a) after the definition of “companies”, there shall be inserted the following:—

““investment manager” means a person—

- (a) who is authorised under the Financial Services Act 1986(4) and entitled by virtue of that authorisation to manage the assets of occupational pension schemes; or
- (b) who—
 - (i) does not transact investment business (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom and whose head office is situated in a member State other than the United Kingdom;
 - (ii) is recognised by the law of that member State as a national of that or another member State; and
 - (iii) is for the time being authorised under that law to engage in one or more of the activities falling within Part II of Schedule 1 to that Act, and is not precluded by that law from managing the assets of occupational pension schemes or assets belonging to another person,

and who is reasonably believed by the administering authority to be suitably qualified to make investment decisions on their behalf, but who is not an employee of that authority.”;

(b) in the definition of “single holding”, there shall be substituted for sub-paragraph (a) the following:—

“(a) in securities of, or in loans to or deposits with, any one body, other than investments in unit trust schemes; or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (aa) in units or other shares of the investments subject to the trusts of any one unit trust scheme; or”.

Pensions increase for certain employees admitted to the fund or further fund

6. In Schedule 20 to the principal Regulations there shall be added—
- (a) in column (1), “A company formed by a regional council under powers given by section 67 of the Transport Act 1985⁽⁵⁾ where the company is no longer under local authority ownership but continues to provide a service which is the same or substantially the same as that previously provided by the company whilst under local authority ownership.”;
 - (b) in column (2), “Date of incorporation.”.

St Andrew’s House,
Edinburgh
18th January 1991

Michael B. Forsyth
Minister of State, Scottish Office

(5) 1985 c. 67.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Superannuation (Scotland) Regulations 1987 (“the principal Regulations”)(S.I.1987/1850) as follows:—

(1) to provide that pensions increase costs for former employees of Scottish Homes and the Scottish Special Housing Association are from 1st April 1990 to be paid out of the superannuation fund maintained by Scottish Homes. This brings that body into line with the requirement placed on local authorities on 1st April 1989 by regulation P3A of the principal Regulations (regulation 3);

(2) to restore the recharging of pensions increase costs in the case of persons who retired from local government and whose functions were later transferred to another body (regulation 4);

(3) to amend regulation P6 of the principal Regulations, which regulates the manner in which superannuation funds may be invested, as follows:—

(a) paragraph (4) is amended to permit up to 20% of the value of a fund to be invested in unit trust schemes managed by any one person, but the existing 5% limit on any individual unit trust scheme is retained. The provisions also make consequential amendments;

(b) a new paragraph (5A) expressly authorises administering authorities to appoint investment managers to manage and invest superannuation fund moneys on their behalf, provided that the appointment satisfied the conditions set out in paragraph (5B) and the authority complies with the requirements specified in paragraphs (5C)([^]) and (6A) (regulation 5);

(4) to amend Schedule 20 to the principal Regulations so as to allow a public transport company which is no longer under local authority ownership to continue to be admitted to the Local Government Superannuation Scheme and thereby also allow pensions increase to be paid out of the superannuation fund in respect of the former employees of such a body (regulation 6).

Regulations 3, 4 and 6 have retrospective effect as authorised by section 12 of the Superannuation Act 1972.