
STATUTORY INSTRUMENTS

1998 No. 2118

PENSIONS

The Local Government Pension Scheme (Transitional Provisions etc.) (Amendment) Regulations 1998

Made - - - - 27th August 1998
Laid before Parliament 3rd September 1998
Coming into force - - 24th September 1998

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, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Local Government Pension Scheme (Transitional Provisions etc.) (Amendment) Regulations 1998 and shall come into force on 24th September 1998 but shall have effect from 1st April 1998.

Amendment of the Local Government Pension Scheme (Transitional Provisions) Regulations 1997

2. The Local Government Pension Scheme (Transitional Provisions) Regulations 1997⁽²⁾ (“the Transitional Regulations”) shall be amended in accordance with regulations 3 to 6.

Membership before 1st April 1972

3. In regulation 8(1)—
- (a) delete “married”; and
 - (b) in sub-paragraph (b) before “made a relevant election” insert “, being eligible to do so.”.

(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(2) S.I. 1997/1613.

Women with membership before 6th April 1988

4. In regulation 9—
- (a) in paragraph (4), after “C14 of the 1995 regulations” insert “or to give notice under paragraph 1 of Schedule F1 to those regulations” and after “make such an election” insert “or give such notice”; and
 - (b) in paragraph (6)(a), after “cessation” insert “of the effect”.

Continuity of rights within regulation 12(1)

5. Delete paragraph (3) of regulation 15.

Former NHS scheme members

6. In regulation 23—
- (a) in paragraph (1)(a) for “1 October 1994” substitute “1st August 1991”;
 - (b) in paragraph (1)(c) at the end add “or in respect of whom an election or determination is made under paragraph (1A)”;
 - (c) insert after paragraph (1) the following paragraphs—
 - “(1A) Subject to paragraph (1C), where a person who satisfies the provisions of paragraph (1)(a) and (b) has had a transfer value accepted by his fund authority before 28th March 1997, he may elect or, in the event of death, his appropriate administering authority may determine, that—
 - (a) the transfer value in respect of him shall be treated as an interim payment, and
 - (b) the provisions of paragraph (1) shall apply to him.
 - (1B) An election shall be made by notice in writing to the appropriate administering authority given within the period of three months beginning with the day on which the member or former member receives notice from his appropriate administering authority of his entitlement so to elect.
 - (1C) An election may be made by, or a determination made in respect of, a person who has ceased to hold a local government employment if he was entitled under regulations D5, D6, D7 or D9 of the 1995 regulations or regulations 25, 26, 27 or 31 of the 1997 regulations to the immediate payment of benefits upon such cessation.”;
 - (d) in paragraph (4)(a), delete “(a)” after “10(3)”⁽³⁾;
 - (e) in paragraph (5), delete “but for no other purpose”.

Amendment of the Local Government Pension Scheme Regulations 1995

7. For regulation F11(3) of the Local Government Pension Scheme Regulations 1995(4) substitute—

“(3) Where this regulation applies, it overrides any provision in these regulations, the 1997 regulations or the Transitional Regulations, to the extent to which that provision conflicts with this regulation, except that it does not override—

- (a) regulation H4 of these regulations, regulation 111 of the 1997 regulations or regulation 114 of the 1997 regulations (so far as it relates to regulation 111);
- (b) regulation H5 of these regulations or regulation 49 of the 1997 regulations.”.

(3) Paragraph 10(3) of Schedule M2 to the 1995 regulations was amended by [S.I. 1998/530](#), regulation 5.

(4) [S.I. 1995/1019](#); the relevant amending instrument is [S.I. 1997/1613](#) (see Schedule 3, paragraph 27).

(2) Paragraph 23 of Schedule 3 to the Transitional Regulations is revoked.

Amendment of the Local Government Pension Scheme Regulations 1997

8. In regulation 122A of the Local Government Pension Scheme Regulations 1997(5)—

(a) in paragraph (4), for sub-paragraph (a) substitute—

“(a) of the amount that would be necessary (as at the date on which the request for the calculation of the restitution amount is received by the appropriate administering authority) to purchase a period of membership for these regulations equal to the length of the personal pension period on the basis of a transfer from a scheme which is not a club scheme (including the value of rights under the Pensions (Increase) Act 1971 and the Pensions (Increase) Act 1974)”;

(b) in paragraph (4)(c), delete “on a daily basis”;

(c) in paragraph (5), for “value” substitute “amount”; and

(d) add the following new paragraphs—

“(7) Where a transfer value has been accepted in relation to a woman to whom this regulation applies and in respect of whom a transfer value had been paid previously by an administering authority to a personal pension scheme any part of which transfer value was attributable to membership before 5th April 1988, then the credited period shall be apportioned as membership before 6th April 1988 and as membership after 5th April 1988 in the same proportions as it would have been had the woman become or remained a member of the Scheme throughout the personal pension period.

(8) If in the opinion of the appropriate administering authority the transfer value does not satisfy the conditions specified in paragraph (2) for the reason only that it is less than the restitution amount, the appropriate administering authority may accept the transfer value on the basis that the credited period which the member may count is such proportion of the personal pension period as the appropriate administering authority determine.”.

Right to opt out

9.—(1) Where—

(a) apart from this regulation, the amendments made by these Regulations would place any relevant beneficiary in a worse position than he would otherwise be in, and

(b) that relevant beneficiary so elects by notice in writing given to the appropriate administering authority within the period of six months beginning with the date on which these Regulations come into force,

then the regulations amended by these Regulations shall have effect in relation to him as if those amendments had never been made.

(2) For the purposes of paragraph (1), a relevant beneficiary is a person to whom any benefit is or may become payable being a benefit payable to or in respect of a person who

(a) ceased to hold an employment in respect of which he was a member (whether or not he had subsequently recommenced any such employment), or

(b) died while in such employment,

before the date on which these Regulations come into force.

(5) [S.I. 1997/1612](#); for the insertion of regulation 122A see [S.I. 1997/1613](#), Schedule 3, paragraph 62.

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

Signed by authority of the Secretary of State

27th August 1998

Nick Raynsford
Parliamentary Under Secretary of State,
Department of the Environment, Transport and
the Regions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (“the Transitional Regulations”), the Local Government Pension Scheme Regulations 1995 (“the 1995 Regulations”) and the Local Government Pension Scheme Regulations 1997 (“the 1997 Regulations”). The Transitional Regulations make provision for the transition from the arrangements for the Local Government Pension Scheme which are set out in the 1995 Regulations to those set out in the 1997 Regulations.

The Regulations take effect on 1st April 1998, the date when the 1997 Regulations and the Transitional Regulations came into force. Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect.

Regulation 3 clarifies a provision dealing with the effect on periods of membership of membership before 1st April 1972.

Regulation 4 makes an amendment in connection with women with membership before 1st April 1988.

Regulation 5 removes a restriction in connection with rights under Schedule C6 to the 1995 Regulations.

Regulation 6 deals with changes that are required to provisions in connection with former National Health pension scheme members as a result of changes to provisions affecting them which were made after the Transitional Regulations were made but before those regulations came into force.

Regulation 7 substitutes changes to the 1995 Regulations in place of changes that were made by the Transitional Regulations which contained minor, incorrect cross references.

Regulation 8 makes amendments to provisions in the 1997 Regulations relating to transferring members with mis-sold pension rights. The amendments are necessary following amendments to the 1995 Regulations which were made before the Transitional Regulations came into force.

Regulation 9 allows certain persons who would be placed in a worse position by amendments made in these Regulations to elect for the amendments not to apply in their case.