
STATUTORY INSTRUMENTS

1998 No. 366

**The Local Government Pension
Scheme (Scotland) Regulations 1998**

PART II

PRIMARY PROVISIONS

CHAPTER IV

BENEFITS

Preliminary

Other final pay periods

21.—(1) Where the whole or part of a member's pay consists of fees, his final pay period for them is not the period specified in regulation 20(2) but—

- (a) the period of three years ending with the last day on which he was an active member; or
- (b) any other period he may with the consent of his employing authority elect, being a period of not less than three nor more than five years—
 - (i) ending with a day which is that last day or of which that last day is the anniversary, and
 - (ii) falling within the period of 13 years ending with that last day.

(2) However, if he was only entitled to receive fees during part of the period mentioned in paragraph (1)(a), that part is substituted for the period referred to in that paragraph.

(3) If a member has been absent from work during any part of the year specified in regulation 20(2), his final pay period is the last 365 days he is entitled to count as a period of active membership.

(4) A member to whom paragraph (5) applies may elect that instead of his final pay period being determined under regulation 20(2) or paragraph (1), (2) or (3) above, it should be—

- (a) as respects so much of his pay as does not consist of fees, a year ending with a day—
 - (i) falling within the period of three years ending with the last day on which he was an active member, and
 - (ii) of which that last day is the anniversary; and
- (b) as respects so much of his pay as consists of fees, that period of three years.

(5) This paragraph applies to a member whose pay in the period which he would elect as his final pay period if he made an election under paragraph (4) is higher than his pay in a final pay period determined under regulation 20(2) or paragraph (1), (2) or (3).

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(6) Where paragraph (1) or (2) applies or a member elects for the period specified in paragraph (4) (b), as respects so much of his pay as consists of fees his final pay is the annual average of his fees during his final pay period.

(7) An election under this regulation by a member must be made by notice in writing given to the appropriate administering authority before the expiry of the period of one month beginning with the day on which he is notified of his entitlement to a benefit.

(8) Where a member has died without having made an election under this regulation, the appropriate administering authority may make an election on his behalf (whether or not the period within which he could have elected has expired).