
SCOTTISH STATUTORY INSTRUMENTS

2019 No. 161

PUBLIC SERVICE PENSIONS

The Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2019

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| <i>Made</i> | - - - - | <i>30th April 2019</i> |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>2nd May 2019</i> |
| <i>Coming into force</i> | - - | <i>28th June 2019</i> |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 7 of the Superannuation Act 1972⁽¹⁾ and sections 1, 2 and 3 and schedule 2, paragraph 3(b) of the Public Services Pensions Act 2013⁽²⁾ and all other powers enabling them to do so.

In accordance with section 7(5) of the Superannuation Act 1972, they have consulted such associations of local authorities as appeared to them to be concerned, such local authorities with whom consultation appeared to them to be desirable, and such representatives of other persons likely to be affected by these Regulations as appeared to them to be appropriate.

In accordance with section 21(1) of the Public Services Pensions Act 2013, the Scottish Ministers consulted such persons or the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2019, and come into force on 28 June 2019.

(2) Regulations 2 (other than paragraph (18)(b)) and 3 have effect from 1 June 2018.

(3) Regulations 2(18)(b) and 4 have effect from 1 April 2015.

Amendment of the Local Government Pension Scheme (Scotland) Regulations 2018

2.—(1) The Local Government Pension Scheme (Scotland) Regulations 2018⁽³⁾ are amended in accordance with paragraphs (2) to (28).

(2) In regulation 1(2)—

(1) 1972 c.11; section 7 was amended by the Public Service Pensions Act 2013, schedule 8, paragraph 8; the functions of the Secretary of State under section 7 were transferred to the Scottish Ministers by virtue of S.I. 1999/1750.
(2) 2013 c.25.
(3) S.S.I. 2018/141.

- (a) after “29(11),” insert “29(13),” and
 - (b) for “transfer” substitute “Transfer”.
- (3) For regulation 2(1) substitute “These Regulations consolidate with certain amendments the provisions of the Local Government Pension Scheme (Scotland) Regulations 2014, which established a scheme for the payment of pensions and other benefits to or in respect of persons employed by Scheme employers, and constitute “the Scheme””.
- (4) In regulation 2(2) for “scheme” substitute “Scheme”.
 - (5) In regulation 8(1) for “Pension” substitute “Pensions”.
 - (6) In regulation 9—
 - (a) in paragraph (4) for “affect” substitute “affects”,
 - (b) in paragraph (5) for “meaning of “actual pensionable pay”” substitute “meaning of “pensionable pay””, and
 - (c) in paragraph (6) for “on or after” substitute “on or after the day prior to”.
 - (7) In regulation 10(1) for “scheme” substitute “Scheme”.
 - (8) In regulation 11, after paragraph (4) insert—

“(5) An active member, who is absent from work with permission from the member’s Scheme employer (otherwise than by reason of illness or injury) for a continuous period of less than 31 days and is receiving reduced or no pay, must pay contributions on the pensionable pay the member would have received during that period but for the absence.”.
 - (9) In regulation 16—
 - (a) in paragraph (11)(e) for “29(6)” substitute “29(7)”, and
 - (b) in paragraph (16) after “applies,” insert “an”.
 - (10) In regulation 17—
 - (a) in paragraph (6)—
 - (i) remove “(2),”,
 - (ii) for “(7)”, substitute “(6), (8),”,
 - (iii) for “29(6)” substitute “29(7)”, and
 - (iv) in (b)(ii) after “annuity” insert “or additional pension”,
 - (b) in paragraph (8), after “conditions” insert “; and this provision applies also to members of Earlier Schemes”, and
 - (c) in paragraph (12)(e) after “annuity” insert “or additional pension”.
 - (11) In regulation 21—
 - (a) in paragraph (4)(a)(v) for “12 weeks” substitute “3 months”, and
 - (b) in paragraph (4)(b)(v) for “3 months” substitute “12 weeks”.
 - (12) In regulation 22—
 - (a) in paragraph (6) in penultimate line for “and” substitute “or”, and
 - (b) in paragraph (7) in penultimate line for “and” substitute “or”.
 - (13) In regulation 23(8) for “29(6)” substitute “29(7)”.
 - (14) In regulation 25(8) for “29(6)” substitute “29(7)”.
 - (15) In regulation 27—
 - (a) in paragraph (1) for “29(6)” substitute “29(7)”, and
 - (b) in paragraph (5) for “29(6)” substitute “29(7)”.

- (16) After regulation 29(13) insert—
- “(14) A deferred member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service.”
- (17) In regulation 30(2) after “limit” insert “for the purposes of paragraph (1)”.
- (18) In regulation 37—
- (a) in paragraph (7) for “21(6)” substitute “21(8)”, and
- (b) after paragraph (7) insert—
- “(8) For the purposes of this regulation, regulations 38, 39 and 40, in calculating assumed pensionable pay in accordance with regulation 21(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member incurred if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.”
- (19) In regulation 39(4)(a)(iii) after “excluded” insert “any”.
- (20) In regulation 43—
- (a) in paragraph (5)(c) after “30” insert “(award of additional pension)”, and
- (b) in paragraph (11) for “paragraph (4)(c)” substitute “paragraphs (4)(c), (5)(c), (9)(c) and (10)(c)”.
- (21) In regulation 61(8) for “paragraph (7)” substitute “paragraph (9)”.
- (22) In regulation 63(3) for “61(6)” substitute “61(8)”.
- (23) In regulation 64(2)(b) for “4(6)” substitute “4(4)”.
- (24) In regulation 98 for “is” substitute “are”.
- (25) In regulation 99(3)(a), add at the end—
- “(iii) UK Parliamentary elections;”.
- (26) In schedule 1—
- (a) in the definition of “co-habiting partner” in paragraph (a) for “(b)” substitute “(b)(i), and the conditions in (b)(ii) to (iv)”, and
- (b) after the definition of “dependant” insert—
- ““Earlier Schemes” has the meaning in regulation 1(4) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (S.S.I. 2014/233).”.
- (27) For paragraph 2 of schedule 4, substitute—
- “2. The Scottish Ministers may, on the application of a Scheme employer, by a written direction substitute a different administering authority as the appropriate administering authority for a person or class of persons.”.
- (28) In schedule 4 —
- (a) for paragraph 2, substitute “Scottish Ministers may, on application by a Scheme employer, by a written direction substitute a different administering authority as the appropriate administering authority for a person or class of person”,
- (b) omit paragraph 3, and
- (c) in paragraph 4 for “3” substitute “2”.

Amendment of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

3.—(1) The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014⁽⁴⁾ are amended in accordance with paragraphs (2) to (4).

(2) In regulation 1(4)—

(a) after the definition of the 2015 Scheme, insert—

““the 2018 Regulations” means the Local Government Pension Scheme (Scotland) Regulations 2018 (S.S.I. 2018/141),”, and

(b) in the definition of “the Earlier Schemes” for “and the 2009” substitute “, the 2009 and the 2015”.

(3) After regulation 3(12) insert—

“(13) A person who is a deferred member of one of the Earlier Schemes whose benefits under those Schemes have not come into payment and the member is not an active member in local government service in employment from which the benefits arise and who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service.”.

(4) In schedule 2—

(a) in paragraph 1(1)(b) after “2014 Regulations” insert “or regulation 29(6) (retirement benefits: early retirement) of the 2018 Regulations”,

(b) in paragraph 1(1)(c) after “2014 Regulations” insert “or regulation 29(6) (retirement benefits: early retirement) of the 2018 Regulations”,

(c) in paragraph 1(1)(d) after “2014 Regulations” insert “or regulation 29(7) (retirement benefits: flexible retirement) of the 2018 Regulations”,

(d) in paragraph 1(3)(a) after “2014 Regulations” insert “or regulation 29(6) or (7) of the 2018 Regulations”,

(e) in paragraph 2(2) after “2014 Regulations” insert “or regulation 58 of the 2018 Regulations”,

(f) in paragraph 4(2)(a)(ii) after “2014 Regulations” insert “or regulations 9 or 10 of the 2018 Regulations”,

(g) in paragraph 4(2)(a)(iii) after “2014 Regulations” insert “or regulation 16 of the 2018 Regulations”,

(h) in paragraph 4(2)(b)(iii) after “2014 Regulations” insert “or regulation 31(4) of the 2018 Regulations”,

(i) in paragraph 5(1) after “2014 Regulations” insert “or regulation 29(7) of the 2018 Regulations”, and

(j) in paragraph 6(2) after “2014 Regulations” insert “or regulation 22 of the 2018 Regulations”.

Amendment of the Local Government Pension Scheme (Scotland) Regulations 2014

4.—(1) The Local Government Pension Scheme (Scotland) Regulations 2014⁽⁵⁾ are amended in accordance with paragraph (2).

(4) S.S.I. 2014/233.

(5) S.S.I. 2014/164 as amended by S.S.I. 2015/87.

(2) In regulation 37 after paragraph (7) insert—

“(8) For the purposes of this regulation, regulations 38, 39 and 40, in calculating assumed pensionable pay in accordance with regulation 21(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member received if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.”.

St Andrew’s House, Edinburgh
30th April 2019

KATE FORBES
Authorised to sign by the Scottish Ministers

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a) the Local Government Pension Scheme (Scotland) Regulations 2018 (“the 2018 regulations”); b) the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (“the transitional regulations”); and c) the Local Government Pension Scheme (Scotland) Regulations 2014 (“the 2014 regulations”). The 2018 regulations were a consolidation with some limited amendments of the 2014 regulations and this is stated for clarification purposes only by an amendment to regulation 2(1) the 2018 regulations by regulation 2(3) of these Regulations.

There are two principal substantive amendments to the 2018 regulations. First there is an amendment to regulation 29 by regulation 2(16) which provides that a deferred member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service. Secondly there is an amendment to schedule 4 of the 2018 regulations which widens the scope of the direction making power of Scottish Ministers to determine by direction which local government pension fund any members or class of members should belong to. The other amendments to the 2018 regulations are of a minor nature including ones to correct drafting errors in those regulations.

The main amendment to the transitional regulations is by regulation 3(3) which provides that a person who is a deferred member of one of the Earlier Schemes (as defined in those Regulations) whose benefits under those Schemes have not come into payment and the member is not an active member in local government service in employment from which the benefits arise and who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service.

Regulation 4 of these Regulations amends retrospectively the 2014 regulations to provide that in the various provisions of the 2014 regulations that deal with assumed pensionable pay no account is to be taken of any reduction in the pensionable pay the member received if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.