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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 514**

**PENSIONS**

**The Local Government Pension Scheme  
(Scotland) Amendment (No. 3) Regulations 2006**

*Made - - - - 24th October 2006*  
*Laid before the Scottish*  
*Parliament - - - - 26th October 2006*  
*Coming into force in accordance with regulation 1(3)*

The Scottish Ministers, in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972<sup>(1)</sup> and of all other powers enabling them in that behalf, after consultation with such associations of local authorities as appeared to them to be concerned and such representatives of other persons likely to be affected by the proposed Regulations as appeared to them to be appropriate, and not having considered consultation with any individual local authority to be desirable, all in accordance with section 7(5) of that Act, hereby make the following Regulations:

**PART 1**

**General**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Scotland) Amendment (No. 3) Regulations 2006.

(2) These Regulations extend to Scotland only.

(3) These Regulations shall come into force on 1st December 2006 but regulations 10 and 11 shall have effect from 1st October 2006.

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(1) 1972 c. 11. The functions of the Secretary of State exercised in the making of these Regulations were transferred to the Scottish Ministers as regards Scotland by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I.1999/1750).

## **Amendment of Regulations**

2. The Local Government Pension Scheme (Scotland) Regulations 1998(2) (“the principal Regulations”) are amended in accordance with regulations 3 to 17.

## **PART 2**

### **The 85 year rule**

#### **Other early leavers: deferred retirement benefits and elections for early payment**

3. In regulation 30–
- (a) in paragraph (4), omit the words from the beginning of the paragraph up to and including “is less than 85 years,”; and
  - (b) in paragraph (7), omit the words from “or such earlier date” to the end.

#### **Re employed and rejoining deferred members**

4. In regulation 31(5)(a), for “, 27(1) and (2) and 30(4)” substitute “and 28”.

#### **Power of employing authority to increase total membership**

5. After regulation 51(10) insert–
- “(11) An additional period arising from a resolution under this regulation on or after 1st April 2008 shall be treated as a period of membership after that date.”.

#### **Commencement of pensions**

6. Omit regulation 92(2)(b).

#### **Right to count credited period**

7. In regulation 122–
- (a) in paragraph (4), omit the words “or, if earlier” to the end of the paragraph; and
  - (b) after paragraph (6), insert–
    - “(6A) A credited period arising from a request to accept a transfer value under regulation 121 which is made by a person who was an active member immediately before 1st December 2006 shall be treated as a period of membership before that date.
    - (6B) A credited period arising from a request to accept a transfer value under regulation 121 which is made by a person who becomes a member on or after 1st December 2006 shall be treated as a period of membership after that date.”.

#### **Rights as to service not matched by credited period**

8. In regulation 123(2), omit sub paragraph (b).

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(2) S.I. 1998/366; the relevant amending instruments are S.S.I. 2000/199, 2002/311, 2005/293, 315 and 554, and 2006/123 and 468.

### **Credited periods for transferring members with mis sold pension rights**

9. In regulation 124, at the end of paragraph (3) add “(and regulation 122(6B) does not apply to a transfer value credited under this regulation)”.

## **PART 3**

### **Miscellaneous**

#### **Correction of effective dates**

10. In regulations 10A, 19(3A) and 34(1A) for “1st October 2006” wherever it occurs substitute “6th October”.

#### **Tax simplification – transitional provision**

11. Schedule 4 to the principal Regulations, as it existed immediately prior to its revocation by the Local Government Pension Scheme (Scotland) Amendment (No. 2) Regulations 2006(3), is revived (and continues to have effect) for the purpose of calculating relevant additional membership under regulation 41(4)(c) of those Regulations counted by reason of a payment made under paragraph 7 of that Schedule for members who had paid a lump sum under that provision before 6th October 2006.

#### **Normal retirement**

12. In regulation 24, omit paragraphs (4) and (6).

#### **Effect of increases under this Chapter for older members**

13. Omit regulation 53.

#### **Effect of increases under this Chapter for older members**

14. Omit regulation 56.

#### **Election for pension in lieu of retirement grant**

15. Omit regulation 57.

#### **Scheme employers: Scottish Police Services Authority**

16. At the end of Schedule 2 (Scheme employers) insert–

“12. The Scottish Police Services Authority established under section 1(1) of the Police, Public Order and Criminal Justice (Scotland) Act 2006(4).”.

17. As new entries at the end of the Table in Part II of Schedule 5 (appropriate funds), insert–

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“14A. Employee of the Scottish Fund maintained by City of Glasgow Council. Police Services Authority, other than an employee who falls within entries 14B to 14H below.

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(3) S.S.I. 2006/468.

(4) 2006 asp 10

- 14B.** Former employee of Fife Police Authority who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Fife Council.
- 14C.** Former employee of Lothian and Borders Joint Police Board who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by City of Edinburgh Council.
- 14D.** Former employee of Dumfries and Galloway Police Authority who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Dumfries and Galloway Council.
- 14E.** Former employee of Tayside Joint Police Board who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Dundee City Council.
- 14F.** Former employee of Central Scotland Joint Police Board who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Falkirk Council.
- 14G.** Former employee of Northern Joint Police Board who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Highland Council.
- 14H.** Former employee of Grampian Joint Police Board who transferred to the Scottish Police Services Authority by virtue of a staff transfer order under paragraph 2 of Schedule 3 to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Fund maintained by Aberdeen City Council.”

### **Transitional provisions**

18. The Schedule to these Regulations (transitional provisions) has effect.

### **Right to opt out**

19.—(1) Where—

- (a) apart from this regulation, the amendments made by Part 3 of these Regulations would place any relevant beneficiary in a worse position than he would otherwise be; 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 1st December 2006,

then the principal 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 any employment in respect of which he was a member (whether or not he had subsequently recommenced any such employment); or
- (b) dies while in such employment,

before 1st December 2006.

St Andrew's House Edinburgh  
24th October 2006

*TOM McCABE*  
A member of the Scottish Executive

## SCHEDULE

Regulation 18

## TRANSITIONAL PROVISIONS

1. Where a member who was a member before 1st December 2006—
  - (a) elects to receive the immediate payment of retirement benefits under regulation 30(1) of the principal Regulations; and
  - (b) satisfies the 85 year rule,

that part of his retirement pension and grant which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 30(4) of the principal Regulations (as amended by regulation 3 of these Regulations).

2. For the purposes of paragraph 1, the relevant date is—
  - (a) in the case of a member who will be aged 60 or more on 31st March 2020, the earlier of—
    - (i) 1st April 2020; and
    - (ii) the date on the day after the day on which the member leaves local government employment; or
  - (b) in any other case, 1st April 2008.
3. For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of—
  - (a) his age in whole years on the date his local government service ends or the date he elects under regulation 30(1) of the principal Regulations if later;
  - (b) his total membership in whole years;
  - (c) in a case where he elects after his local government employment ends, the period beginning with the end of that employment and ending with the date he elects; and
  - (d) in the case of a person who was a member immediately before 1st April 1998, any qualifying period counted by virtue of regulation 123 which was awarded before 1st April 2008,

is 85 years or more.

4. Where a member who may elect under regulation 31(1) of the principal Regulations (re-employed and rejoining deferred members) does not do so or does not so elect as respects all periods of his membership, in applying paragraph 2 of this Schedule as respects any later membership, his total membership excludes unaggregated periods.

5.—(1) This paragraph applies to a member who was an active member before 1st December 2006 who—

- (a) before 1st December 2006 elected to make additional contributions to the Scheme to increase his total membership under regulation 54(1) of the principal Regulations (payments to increase total membership); and
- (b) was assumed to retire from a local government employment on a date before his 65th birthday (“the assumed date”) for the purposes of calculating his additional contributions under regulation 54(5) of the principal Regulations.

(2) Where a member to whom this paragraph applies—

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

he shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of his total membership.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make a number of amendments to the Local Government Pension Scheme (Scotland) constituted by the Local Government Pension Scheme (Scotland) Regulations, as amended (“the principal Regulations”).

Part 2 deals with the so called “85 year rule”. This term refers to the current provisions of the Scheme which allow members to retire early and take their pension entitlements without actuarial reduction if the sum of their age and their length of service exceeds 85 years. Members over 60 can do so as of right; members over 50 but under 60 require their employer’s consent. This rule is removed by these Regulations, although it will continue to have effect for a transitional period in respect of existing Scheme members by virtue of the transitional provisions contained in the Schedule.

Part 3 makes various miscellaneous amendments to the principal Regulations. These include the addition of the Scottish Police Services Authority (“SPSA”) as a Scheme employer. Schedule 5 to the principal Regulations sets out the appropriate fund for each member of the Scheme. Employees of the SPSA will generally be in the fund administered by City of Glasgow Council. Regulation 17 makes provision so that civilian employees of certain police forces who transfer to the SPSA remain with the fund which previously administered their pension. Regulations 10 and 11 correct previous drafting errors concerning effective dates.