STATUTORY INSTRUMENTS

2007 No. 1488

PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2007

Made - - - -	*17th May 2007*
Laid before Parliament	*24th May 2007*
Coming into force - -	*21st June 2007*

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972 (**a**).

In accordance with section 7(5) of that Act, the Secretary of State has consulted (a) such associations of local authorities as appeared to her to be concerned; (b) the local authorities with whom consultation appeared to her to be desirable; and (c) such representatives of other persons likely to be affected by the Regulations as appeared to her to be appropriate.

The Secretary of State makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) (No.2) Regulations 2007.

(2) These Regulations apply in relation to England and Wales(**b**).

(3) These Regulations shall come into force on 21st June 2007 but—

(a) the amendments made by regulations 3, 4(2), 5 to 10 and 15 shall have effect from 6th April 2006,

(b) the amendment made by regulation 13 shall have effect from 1st April 2007,

(c) the amendments made by regulations 4(1) and 11, 12 and 14 shall have effect from 6th April 2007, and

(d) the amendments made by regulation 16 shall have effect from 1st April 2008.

(**a**) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

(**b**) The Secretary of State's functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

Amendments to the Local Government Pension Scheme Regulations 1997

2. The Local Government Pension Scheme Regulations 1997(**a**) shall be amended in accordance with regulations 3 to 15 of these Regulations.

Members' contributions

3. In regulation 12—

(a) in paragraph (1), omit "(but see regulation 15)"; and

(b) in paragraph (7) for "Regulations 16 to 18 affect" substitute "Regulations 17 and 18 affect".

Limits on total amount of benefits

4.—(1) In regulation 19A(1)(**b**), at the beginning insert "Except as provided in regulation 50(1),".

(2) In regulation 19A(3), after "member's benefits" insert "for the purposes of this or any other regulation".

Calculations

5. In regulation 20(3A)(**c**), at the end add "but the entitlement to the benefit shall not arise until the date on which the member's appropriate administering authority receives the information it requires to calculate the increase".

Revenue Limits

6. Omit regulation 24.

Retirement after the normal retirement date

7. In regulation 25A(**d**)—

(a) in paragraph (1), omit "with the consent of his employing authority"; and

(b) after paragraph (2) add —

"(3) A member is not entitled to count any period of service on or after the day before his 75th birthday as a period of membership and is not an active member after that day.".

Amounts of ill-health pension and grant

8. In regulation 28(3), omit "40 years or" and "whichever is the shorter".

Re-employed pensioners

9. In regulation 29(**e**)—

(a) omit the word "and" after "enhanced membership period" and omit sub-paragraph (b); and

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(**a**) S.I. 1997/1612; the relevant amending instruments are S.I. 1998/1238, 1999/1212, 2004/573, 2005/3069, 2006/966 and 2008.
(**b**) Regulation 19A was inserted by S.I. 2006/966 and paragraph (1) was amended by S.I. 2006/2008.
(**c**) Paragraph (3A) was added by S.I. 2006/966.
(**d**) Regulation 25A was added by S.I. 1999/1212 and was amended by S.I. 2006/966.
(**e**) Regulation 29 was substituted by S.I. 2004/573.

(b) add the following paragraph—

"(2) Where a member to whom benefits are paid in accordance with regulation 35(1A) continues to accrue membership after the date on which payment of such benefits takes effect ("the payment date"), his membership prior to the payment date shall only be taken into account after the payment date for the purpose of making the calculations referred to in paragraph (1).".

Death Grant

10. In regulation 38(1)(**a**), after "If a member dies" insert "before his 75th birthday".

Commutation: small pensions

11. In regulation 49(**b**)—

(a) for paragraph (1) substitute the following paragraph—

"(1) A lump sum which is a trivial commutation lump sum within the meaning of section 166 of the Finance Act 2004(**c**) or a trivial commutation lump sum death benefit within the meaning of section 168 of that Act may be paid in accordance with the rules relating to the payment of such benefits under that Act.";

(b) omit paragraphs (2) to (6);

(c) in paragraph (7), for "and, where the payment is made to a member, for any short-term or long-term pensions which may become payable on his death" substitute "or any other benefit payable under the Scheme in respect of the member"; and

(d) omit paragraph (8).

Commutation: exceptional ill-health

12. In regulation 50(1), for "by which the annual rate of the retirement pension exceeds his guaranteed minimum" substitute "of his annual rate of retirement pension, notwithstanding that such lump sum may exceed his lifetime allowance".

Power of employing authority to increase total membership

13. In regulation 52(2)(a)(**d**), for "6 243/365 years" substitute "ten years".

Elections to pay AVCs

14.—(1) In regulation 60—

(a) after paragraph (2), insert the following paragraphs—

"(2A) An election may be made in respect of each employment in respect of which he is a member.

(2B) The maximum a person may specify under paragraph (2) in respect of each employment for which he makes such an election is 50 per cent of the remuneration of that employment or an amount equal to 50 per cent of the remuneration of that employment."; and

(b) in paragraph (3), for "It" substitute "The election".

(2) In regulation 61(1), after the words "usual pay day" add "and must be paid from his pay".

(**a**) Regulation 38(1) was amended by S.I.1998/1238.
(**b**) Regulation 49 was amended by S.I. 2005/3069.
(**c**) 2004 c.12.
(**d**) Regulation 52(2)(a) was amended by S.I. 2004/573 and S.I. 2006/966.

Death benefits

15. In regulation 63(3), at the end add "and must meet the conditions imposed under Part 2 of Schedule 28 to the Finance Act 2004".

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

16. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007(**a**) shall be amended—

(a) in regulation 8, by inserting after paragraph (2) the following new paragraph—

"(2A) But a member may choose instead to treat as his final pay period either of the two preceding years ending with a day that is the anniversary of the last day he was an active member."; and

(b) in regulation 10(1), by omitting the words "who is in whole-time employment and".

Signed by authority of the Secretary of State

Phil Woolas
Minister of State
Department for Communities and Local Government

17th May 2007

(**a**) S.I. 2007/1166.

EXPLANATORY NOTE

(This note is not part of the Order)

Regulations 2 to 15 make amendments to the Local Government Pension Scheme constituted by the Local Government Pension Scheme Regulations 1997, as amended, ("the principal Regulations"). Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have retrospective effect: these amendments do have such effect.

The amendments made by regulations 3 and 4 are minor drafting amendments.

The amendments made by regulations 5 to 12 and 15 are to ensure that the principal Regulations comply with the requirements of the Finance Act 2004 and other legislation regulating registered pension schemes.

The amendment made by regulation 13 increases the maximum period of augmentation of a member's membership of the Scheme from 6 2/3 years to ten years.

The amendment made by regulation 14 clarifies provisions in connection with the payment of additional voluntary contributions and provides that the maximum a person may elect to pay is 50 per cent of remuneration in that employment or an amount equal to 50 per cent of that remuneration.

Regulation 16 makes two amendments to the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.Those Regulations, and regulation 16, come into force on 1st April 2008. The first amendment is to provide for alternative periods as the final pay period, if more favourable, and the second amendment is to remove a requirement for the member to be in whole-time employment.

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