STATUTORY INSTRUMENTS

2018 No. 537

PUBLIC SERVICE PENSIONS

The Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2018

Made - - - -	*26th April 2018*
Laid before Parliament	*30th April 2018*
Coming into force - -	*21st May 2018*

The Minister for the Civil Service makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1) and 3(1), (2) and (3) of, and Schedule 3 to the Public Service Pensions Act 2013(**1**).

In accordance with section 21 of that Act, the Minister has consulted the representatives of such persons as appear to the Minister likely to be affected by these Regulations.

The retrospective provisions contained in these Regulations do not appear to the Minister to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by the Public Service (Civil Servants and Others) Pensions Regulations 2014(**2**), nor in any other way in relation to members of that scheme. Accordingly, the procedures set out in section 23 of the Public Service Pensions Act 2013 are not applicable in respect of these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

Citation and Interpretation

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2018.

(2) These Regulations come into force on 21st May 2018 and have effect—

(a) in respect of regulations 6,7,8,18 and 19 retrospectively from the 1st April 2018;

(b) in all other respects, retrospectively from 1st April 2015.

Amendments to the Public Service (Civil Servants and Others) Pensions Regulations 2014

2. The Public Service (Civil Servants and Others) Pensions Regulations 2014 are amended as follows.

(**1**) 2013 c.25.
(**2**) S.I. 2014/1964, as amended by S.I. 2015/372 and S.I. 2015/602.

Amendment of regulation 2

3. In regulation 2 (interpretation)—

(a) for the definition of "active member", substitute ""active member" has the meaning given in regulation 2A;";

(b) at the appropriate place insert—

""additional adoption leave" means additional ordinary adoption leave under section 75B of the Employment Rights Act 1996(**3**);";

(c) at the appropriate place insert—

""additional maternity leave" has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations 1999(**4**);";

(d) omit the definition of "additional paternity leave";

(e) for the definition of "adoption leave", substitute—

""adoption leave" means ordinary adoption leave or additional adoption leave;";

(f) at the appropriate place insert—

""child-related leave" means adoption leave, maternity leave, parental leave, paternity leave or shared parental leave;";

(g) for the definition of "connected scheme", substitute—

""connected scheme" has the meaning given in regulation 2B;";

(h) in the definition of "index adjustment"—

(i) in paragraph (a), for "that scheme year" substitute "the previous scheme year";

(ii) in paragraph (b), for "that scheme year" substitute "the previous scheme year";

(i) in the definition of "maternity leave", omit the words after "additional maternity leave";

(j) at the appropriate place insert—

""ordinary adoption leave" means ordinary adoption leave under section 75A of the Employment Rights Act 1996(**5**);";

(k) for the definition of "partnership pension account", substitute—

""partnership pension account" has the meaning given in regulation 2C;";

(l) at the appropriate place insert—

""PCSPS partial retirement option" means the option exercisable under rule—

(a) D.1A of Section I of the PCSPS;

(b) 3.3b of Section II of the PCSPS; or

(c) E.4 of Section III of the PCSPS;";

(m) at the appropriate place insert—

""shared parental leave" has the meaning given in regulation 3(1) of the Shared Parental Leave Regulations 2014(**6**);";

(n) in the definition of "statutory pay"—

(**3**) 1996 c. 18. Section 75B was inserted by the Employment Act 2002 (c. 22), section 3, and amended by the Work and Families Act 2006 (c. 18), Schedule 1, paragraph 34, and the Children and Families Act 2014 (c. 6), sections 118(1), 118(5) and 122(2).

(**4**) Section 73 was replaced by the Employment Relations Act 1999 (c. 26), Schedule 4, part 1, and amended by the Work and Families Act 2006, Schedule 1, paragraph 32, and the Children and Families Act 2014, section 118(3).

(**5**) Section 75A was inserted by the Employment Act 2002, section 3, and amended by the Work and Families Act 2006, Schedule 1, paragraph 33, and the Children and Families Act 2014, sections 118(1), 118(4), 121(1) and 122(1).

(**6**) S.I. 2014/3050, to which there are amendments not relevant to these Regulations.

(i) in paragraph (c), omit "ordinary";

(ii) for paragraph (d) substitute—

"(d) statutory shared parental pay within the meaning of section 171ZU (entitlement: birth) or section 171ZV (entitlement: adoption) of the Social Security Contributions and Benefits Act 1992(**7**);";

(o) omit the definition of "surviving nominated partner";

(p) at the appropriate place insert—

""surviving partner" has the meaning given in regulation 101;".

New regulations 2A and 2B

4. After regulation 2 (interpretation), insert—

"**Active Membership**

2A.—(1) A person (P) is an active member of this scheme if—

(a) P is in pensionable service under this scheme; or

(b) P is not in pensionable service under this scheme and paragraph (2) or (3) applies.

(2) This paragraph applies if P is on unpaid authorised absence.

(3) This paragraph applies if—

(a) P is in scheme employment;

(b) P is on unpaid sick leave or on unpaid child-related leave; and

(c) P was an active member of this scheme, the PCSPS or another permitted pension scheme immediately before that leave began.

(4) In this regulation "another permitted pension scheme" means, in relation to P, a pension scheme approved by the scheme manager for the purposes of this regulation.

Connected Schemes

2B.—(1) Subject to paragraph (2), "connected scheme" means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme.

(2) The following schemes are not connected schemes—

(a) an injury or compensation scheme established under section 1 of the Act;

(b) an injury or compensation scheme established under section 1 of the SA 1972;

(c) a statutory pension scheme that is a defined contributions scheme; and

(d) a public body pension scheme which relates to members of staff of a body, or the holder of an office, listed in Schedule 10 to the Act.

Partnership Pension Account

2C.—(1) In these Regulations, "partnership pension account", in relation to a person in scheme employment, means a pension scheme that has been approved by the scheme manager for the purposes of this regulation.

(2) The scheme manager must not approve a pension scheme for the purposes of this regulation unless it is an—

(**7**) 1992 c.4. Sections 171ZU and 171ZV were inserted by the Children and Families Act 2014, section 119.

(a) an occupational pension scheme, a stakeholder pension scheme or a personal pension scheme;

(b) a defined contributions scheme; and

(c) a pension scheme to which the person's employer is—

(i) paying contributions; or

(ii) not paying contributions because the person is not receiving earnings which are pensionable earnings for the purposes of the person's pension scheme (other than because the person is on an unauthorised absence); or

(iii) not paying contributions because the person received benefits under section 2 (compulsory and redundancy category (1972 Section members)) of the Civil Service Compensation Scheme or section 3 (flexible category (1972 Section members)) of that Scheme on the basis that the person's reckonable service within the meaning of those sections was enhanced and the period by which that service was enhanced exceeds the period beginning with the day on which the person's retirement under those sections began and ending with the day before the person was re-employed in the scheme employment.".

Amendment of regulation 4

5. In regulation 4 (scheme manager), omit paragraph (3).

Amendment of regulation 21

6. In regulation 21(1) (when does an option in take effect), for paragraph (a) substitute—

"(a) P becomes an active member of this scheme in relation to that service on the first day of the first pay period—

(i) after the period of two months beginning with the date on which the option is exercised; or

(ii) after any shorter period the scheme manager considers appropriate;".

Amendment of regulation 23

7. In regulation 23(opting out of this scheme)—

(a) in paragraph (1)(b), for "opens" substitute "opts to join";

(b) in paragraph (2), after "(1)(a)" insert "or (b)".

Amendment of regulation 25

8. In regulation 25 (opting out after one month), for paragraph (3) substitute—

"(3) If P opts to join a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that employment on the last day of the first pay period—

(a) after the period of two months beginning on the date on which the option is exercised; or

(b) after any shorter period the scheme manager considers appropriate.".

Amendment of regulation 26

9. In regulation 26(4) (pensionable earnings), in the definition of "permanent pensionable earnings" at the end add of paragraph (a) insert "(not including pay received in respect of a period of sick leave on reduced pay at a rate determined by the member's employer to be appropriate because it is equivalent to the annual rate of an ill-health pension.)".

Amendment of regulation 27

10. In regulation 27(3) (meaning of "assumed pay")—

(a) for paragraph (b), substitute—

"(b) P is on ordinary adoption leave, ordinary maternity leave or paternity leave;";

(b) in paragraph (c), after "statutory pay" insert "whilst on additional adoption leave, additional maternity leave, shared parental pay or parental leave".

Amendment of regulation 32 and new regulation 32A

11.—(1) In regulation 32(1) (calculation of "retirement index adjustment"), at the beginning insert "Subject to regulation 32A,";

(2) After regulation 32, insert—

"**Modification of the retirement index adjustment**

32A.—(1) Where this regulation applies, the retirement index adjustment must equal 0.

(2) This regulation applies where—

(a) the leaving year is the scheme year ending on 31st March 2016; and

(b) the retirement index adjustment would otherwise be less than 0.".

Amendment of regulation 41

12. In regulation 41(2) (receipt of a transfer value payment), for "153" substitute "152".

Amendment of regulation 42

13. In regulation 42(2) (receipt of a club transfer value payment), for "152" substitute "153".

Amendment of regulation 43

14. In regulation 43 (amount of pension for a scheme year), after paragraph (8), insert—

"(9) For the purpose of paragraph (4), in respect of a period of assumed pay under this scheme, "pensionable earnings" means the member's assumed pay.".

Amendment of regulation 59

15. In regulation 59(1) (qualifying service)—

(a) in paragraph (a), for "pensionable service under" substitute "active membership of";

(b) after (a), insert—

"(aa) the member's service in another occupational pension scheme that the Minister has determined should be counted for the purposes of this regulation;".