STATUTORY INSTRUMENTS

2018 No. 493

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The Local Government Pension Scheme (Amendment) Regulations 2018

Made - - - -	*17th April 2018*
Laid before Parliament	*19th April 2018*
Coming into force - -	*14th May 2018*

These Regulations are made in exercise of the powers conferred by sections 1, 3 and 25 of, and Schedule 3 to, the Public Service Pensions Act 2013(**1**).

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

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

The Secretary of State makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2018.

(2) These Regulations come into force on 14th May 2018 but the provisions listed in paragraph (3) have effect from 1st April 2014.

(3) The provisions are—

(a) regulations 5 to 8;

(b) regulations 10 and 11;

(c) regulation 14;

(d) regulation 15(b);

(e) regulations 16 and 17;

(f) regulation 20 apart from paragraph (b);

(**1**) 2013 c. 25.

(g) regulation 21 apart from paragraph (b)(i);

(h) regulation 22;

(i) regulation 24(b);

(j) regulation 26;

(k) regulation 28.

(4) These Regulations extend to England and Wales.

Amendment of the Local Government Pension Scheme Regulations 2013

2. The Local Government Pension Scheme Regulations 2013(**2**) are amended in accordance with regulations 3 to 22.

3. In regulation 2 (introductory) after paragraph (1) insert—

"(1A) In these Regulations "local government service" means employment with a body specified in Part 1 of Schedule 2.

(1B) A person is deemed to be in local government service for the purpose of these Regulations—

(a) if that person is employed by a body specified in Part 2 of Schedule 2 and is designated, or belongs to a class of employees that is designated, by that body as being eligible for membership of the Scheme; or

(b) if that person is specified in column 1 of the table in Part 4 of Schedule 2.

(1C) The Scheme may potentially relate to a person employed by an admission body.".

4.—(1) In regulation 3(**3**) (active membership) for paragraph (1) substitute—

"(1) Subject to regulation 4 (restriction on eligibility for active membership), a person is eligible to be an active member of the Scheme—

(a) if working in local government service; or

(b) if—

(i) by virtue of regulation 2(1C) (introductory: potential eligibility for membership) the Scheme may potentially relate to that person;

(ii) a determination under section 25(5) of the Public Service Pensions Act 2013 has been made in respect of that person; and

(iii) that person's employer has designated that person, or a class of employees to which that person belongs, as being eligible for membership of the Scheme.".

(2) After paragraph (1) insert—

"(1A) The following functions are delegated to administering authorities—

(a) the function of making a determination under section 25(5) of the Public Service Pensions Act 2013 ("a determination"), in relation to persons of the description in regulation 2(1C); and

(b) the function of publishing a list under section 25(9) of that Act of the persons to whom the Scheme relates by virtue of a determination.".

(**2**) S.I. 2013/2356; those Regulations have been amended by S.I. 2014/44, S.I. 2014/525, S.I. 2014/1146, S.I. 2015/57 and S.I. 2015/755.

(**3**) There are amendments to regulation 3 which are not relevant to these Regulations.

(3) In paragraph (2) for "by virtue of paragraph 1(d)" substitute "by virtue of regulation 2(1B)(b)".

5. In regulation 10(5) (temporary reduction in contributions) at the end of sub-paragraph (a) for "and" substitute "or".

6. In regulation 11(4) (contributions during absence from work) omit the words after sub-paragraph (c).

7. In regulation 21(**4**) (assumed pensionable pay)—

(a) in paragraph (4), for "Subject to paragraph (4A)" substitute "Subject to paragraphs (4A), and (5A) to (5C)"; and

(b) after paragraph (5) insert—

"(5A) Where the pensionable pay received by a member during any period specified in paragraph (4)(a)(i) or (4)(b)(i) was, in the opinion of the Scheme employer, materially lower than the level of pensionable pay that member normally received, for the purposes of this regulation the Scheme employer may substitute for the pensionable pay the member received, a higher level of pensionable pay to reflect the level of pensionable pay that the member would normally have received.

(5B) In determining what the level of pensionable pay a member normally receives for the purposes of paragraph (5A) a Scheme employer must have regard to the level of pensionable pay received by the member in the previous 12 months.

(5C) Where any pensionable pay that has been received by a member includes fees of the kind listed in regulation 20(2)(j)(i) to (iv) (returning officer fees), for the purposes of paragraph (4)(a)(i) or (4)(b)(i) the annual rate of pensionable pay in respect of the fees in that employment that the member received is the annual average of the pensionable pay relating to those fees during the three years preceding the date the absence, the ill-health retirement or death occurred, or during the membership in that employment if less than three years.".

8. In regulation 30 (retirement benefits)—

(a) in paragraph (7)(b) for "that employment" substitute "that active member's pension account";

(b) after paragraph (12) insert—

"(12A) In this regulation references to an employee in local government service include—

(a) a person who satisfies the conditions in regulation 3(1)(b); and

(b) a person who has been a member of the Scheme in an employment and would be eligible for membership of the Scheme in that employment but whose active membership has ceased as a consequence of a notice served under regulation 5(2) in relation to that employment.".

9. In regulation 33(2) (election for lump sum instead of pension) for "excluding" substitute "including".

10. In regulations 47(4)(a), 48(4)(a), 48(5)(a), 48(9)(a) and 48(10)(a) (survivor benefits: partners and children of pensioner members) after the words "earned pension" insert "(including any amount added under regulations 39(1)(a) or 39(2)(a) (enhancement of member's Tier 1 and Tier 2 benefits))".

11. In regulation 50(2) (limit on total amount of benefits) for "or fixed protection" substitute ", fixed protection or individual protection".

(**4**) Regulation 21 was amended by S.I. 2015/755.

12. In regulation 51 (guaranteed minimum pension) at the end insert—

"(9) In this regulation "local government service" includes employment in respect of which the member satisfies the conditions in regulation 3(1)(b).".

13. In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained)—

(a) in paragraph (1)(**5**) at the end add "or entitled to receive an exit credit";

(b) in paragraph (2)(b) after "exit payment due from the exiting employer" insert "or exit credit payable to the exiting employer";

(c) after paragraph (2) insert—

"(2ZA) If an exit credit is payable to an exiting employer, the appropriate administering authority must pay the amount payable to that employer within three months of the date on which that employer ceases to be a Scheme employer, or such longer time as the administering authority and the exiting employer may agree.

(2ZB) When an administering authority has paid an exit credit to an exiting employer, no further payments are due from that administering authority in respect of any surplus assets relating to the benefits in respect of any current or former employees of that employer as a result of these Regulations.";

(d) in paragraph (8) after the definition of "exiting employer" insert—

""exit credit" means the amount required to be paid to the exiting employer by the administering authority to meet the excess of assets in the fund relating to that employer over the liabilities specified in paragraph (2).".

14. In regulation 68(2) (employer's further payments) for "regulation 30(6) (flexible retirement) or (7) (early leavers on grounds of redundancy or business efficiency)" substitute "regulation 30(5) (early retirement), (6) (flexible retirement) or (7) (early leavers on grounds of redundancy or business efficiency)".

15. In regulation 96 (rights to payments out of pension fund) in paragraph (1)—

(a) for "Chapter 4 or 5 of Part 4" substitute "Chapters 1 or 2 of Part 4ZA(**6**)"; and

(b) after paragraph (1) insert—

"(1A) Where a transfer under paragraph (1) is a Club Transfer, the administering authority must comply with the provisions in the Club Memorandum in relation to that transfer.".

16. In regulation 100 (inward transfers of pension rights), at the end insert—

"(8) Where a relevant transfer is a Club Transfer, the administering authority must comply with the provisions in the Club Memorandum in relation to that transfer.".

17. In regulation 101 (effect of acceptance of transfer value) for paragraph (2) substitute—

"(2) The appropriate amount of earned pension for the purposes of paragraph (1) is calculated—

(a) in the case of a Club Transfer, in accordance with the Club Memorandum; and

(b) in any other case in accordance with actuarial guidance issued by the Secretary of State.".

18. In regulation 102 (EU scheme transfers) in paragraph (3)—

(**5**) Regulation 64(1) was substituted by S.I. 2015/755.
(**6**) Part 4ZA was inserted into the Pension Schemes Act 1993 (c. 48) by section 67 of and Schedule 4, Part 1, paragraphs 3 and 4 to, the Pension Schemes Act 2015 (c. 8).

(a) omit the word "and" at the end of paragraph (a);

(b) insert the word "and" at the end of paragraph (b); and

(c) at the end, insert—

"(c) "local government service" includes employment in respect of which a person satisfies the conditions in regulation 3(1)(b).".

19. In regulation 103 (changes of administering authority) in paragraph (7) after "local government service" insert "(including employment in respect of which the member satisfies the conditions in regulation 3(1)(b))".

20. In Schedule 1(**7**) (interpretation)—

(a) after the definition of "children's pension" insert—

""Club Memorandum" means—

(a) in respect of a Club Transfer completed before 1st April 2015, the memorandum published by the Cabinet Office under the title "The Public Sector Transfer Club – memorandum by the Cabinet Office" effective from 1st March 2012;

(b) in respect of a Club Transfer completed in the period from 1st April 2015 to 28th February 2017, the memorandum published by the Cabinet Office under the title "The Public Sector Transfer Club – memorandum by the Cabinet Office" effective from 1st April 2015;

(c) in respect of a Club Transfer completed on or after 1st March 2017, the memorandum published by the Cabinet Office under the title "The Public Sector Transfer Club – memorandum by the Cabinet Office" effective from 1st March 2017(**8**);

"Club Transfer" means a transfer of employment between members of the Public Sector Transfer Club in respect of which an employee is entitled under the terms of the Club Memorandum to benefit from the terms of the Club Memorandum;"

(b) for the definition of "local government service" substitute ""local government service" has the meaning given in regulation 2(1A)";

(c) in the definition of "partner" omit "in relation to an active member";

(d) after the definition of "permanently incapable" insert—

""Public Sector Transfer Club" means the arrangements approved by the Secretary of State and detailed in the Club Memorandum as providing reciprocal arrangements between the Scheme and other registered occupational pension schemes for making and receiving transfer value payments; ";

(e) for the definition of "revaluation adjustment"(**9**) substitute—

""revaluation adjustment" means—

(a) in the case of a balance transferred under a Club Transfer, the adjustment that would have applied to that balance if it had not been transferred; and

(b) in any other case the percentage specified as the change in prices in the relevant Treasury order made under section 9(2) of the Public Service

(**7**) There are amendments to Schedule 1 which are not relevant to these Regulations.

(**8**) The Club Memorandums can be accessed at the following addresses http://lgpsregs.org/timelineregs/UK%20Wide%20Guidance/Public_Sector_Transfer_Club_Mar2012.pdf; http://www.civilservicepensionscheme.org.uk/media/95419/club-memorandum-december-2015.pdf and http://www.civilservicepensionscheme.org.uk/media/213390/club-memorandum-march-2017.pdf; hard copies may be obtained from : The Secretary, Public Sector Transfer Club, Cabinet Office, Lower Ground Floor. Priestley House' Priestley Road, Basingstoke, Hampshire, RG24 9NW.

(**9**) The definition of "revaluation adjustment" was amended by S.I. 2015/755.