



Local Government Pensions Committee  
Secretary, Terry Edwards

## LGPC Bulletin 73 – August 2010

This month's Bulletin contains a number of general items of information.

Please contact Dave Friend with any comments you might have on the contents of this Bulletin or to suggest other items that you would wish to see included in future Bulletins. [LGPC contact details](#) can be found at the end of this Bulletin.

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This month, [Bits and Pieces](#) includes an update on [LGPC Communications](#) and [the Timeline Regulations](#).

## **The Local Government Pension Scheme (Miscellaneous) Regulations 2010 [SI 2010/2090]**

[The Local Government Pension Scheme \(Miscellaneous\) Regulations 2010 \[SI 2010/2090\]](#) were laid before Parliament on 25 August 2010. Next month's bulletin will contain a more detailed review of the Statutory Instrument.

## **The Government's Independent Public Service Pensions Commission**

As mentioned in last month's bulletin, the LGA submitted [a response](#) to the Commission.

[The NAPF has also responded](#) to the Commission's request for evidence. Encouragingly, their response makes many of the same points as the LGA's response and, in particular, highlights the difference between the LGPS and other public sector schemes.

## **Restriction of pensions tax relief**

In his Budget statement on 22 April 2009 the Chancellor of the Exchequer announced that from 6 April 2011 higher rate pensions tax relief for individuals with an annual income of £150,000 or more would be tapered away so that for those earning over £180,000 tax relief would be worth 20 per cent. Further changes were announced in the Pre-Budget Report statement on 9 December 2009 where the Chancellor of the Exchequer announced that from 6 April 2011 the restriction of higher rate pensions tax relief would apply to those whose gross income was £150,000 and over. Gross income would incorporate all pension contributions, including those provided by or eventually funded by an employer, and before any deductions for charitable donations. However, individuals with pre-tax incomes, excluding employer pension contributions, of less than £130,000 would be unaffected (even if adding back employer pension contributions would take the gross income to £150,000 or more). These provisions were included in the Finance Act 2010.

In the June 2010 Emergency Budget, the Government announced that it wished to consider the reform of pensions tax relief as it had reservations about the approach adopted by the previous administration in the Finance Act 2010. As a result, HM Treasury issued a [discussion document](#) on an alternative approach to restricting pensions tax relief, with a closing date for responses of 27 August. The LGE has submitted a [response](#) to the discussion document.

## **LSC transfers**

In response to concerns and enquiries raised by councils, a [React Bulletin](#) has been issued in conjunction with Local Government Employers which advises councils on some of the issues surrounding reduction in area based grant. This includes some information on redundancy provisions for LSC transferees. The Secretariat is attempting to discover whether or not any of the PCSPS compensation terms have definitely come over under TUPE and what the terms actually are. As soon as the Secretariat has more information, it will be included in a future Bulletin.

## The Academies Act 2010 (c.32)

As a response to the Academies Act 2010, CLG have included an amendment in the LGPS (Miscellaneous) Regulations 2010 [SI 2010/2090]. Regulation 55 of that S.I. replaces the existing paragraph 21 of Part 1 of Schedule 2 to the LGPS (Administration) Regulations 2008 to permit non-teaching staff of new and converter academies to join or remain in the LGPS.

The Secretariat have raised a number of queries with CLG regarding the implications of the Academies Act 2010 and it is hoped that an explanatory note, being prepared by CLG, will cover these. At the time of writing, CLG were unable to give an expected date for publication of the note.

There is, however, some information on Academies on the [LGE website](#) and there are also useful documents on the [DfE website](#), including a [briefing note](#) on Academies and the LGPS.

As a consequence of the Academies Act 2010, the Government had announced yet another initiative under the heading of '[Free Schools](#)'. The term 'Free School' is merely a description of a new type of school which it is intended would be legally set up as an academy under the Academies Act 2010. Non-teaching staff within 'Free Schools' would therefore be eligible for membership of the LGPS (subject to the appropriate amendments to the Administration Regulations).

### Change to SPA: Summary

The Secretariat has received a number of queries regarding whether the change to SPA affects the dates from which GMP, N.I. Modification and EPB are applicable. The following table summarises the Secretariat's current understanding. The detailed rationale is set out in the following three articles.

<b>Benefit / Adjustment</b>	<b>Date Payable From</b>
GMP	Age 60 (f) / Age 65 (m)
N.I. Modification	Adjusted SPA
EPB	Adjusted SPA

### Change to SPA: the date the GMP is payable

#### Conclusion:

The GMP is payable from 60 for women and 65 for men.

#### Rationale:

Paragraph 17 of Part III of Schedule 4 to the Pensions Act 1995 introduced changes to the State Pension Age (SPA) for females born after 5 April 1950 and before 6 April 1955. The SPA for these women will gradually increase from age 60 to 65 as detailed in paragraph 1 of Schedule 4 to the Pensions Act 1995. All females born after 5 April 1955 will have a SPA of age 65. The Pensions Act 2007 further amended the SPA for everyone born after 5 April 1959 so that by 2046, the SPA for both men and women will be age 68.

Despite the changes to the SPA, the age at which the GMP is payable remains at age 60 for women and age 65 for men. This is set out in section 181(1) of the Pension Schemes Act 1993 which says:

*"pensionable age-*

*(a) so far as any provisions (other than sections 46 to 48) relate to guaranteed minimum pensions, means the age of 65 in the case of a man and the age of 60 in the case of a woman, and*

*(b) in any other case, has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995."*

### **Change to SPA: the date that NI Modification is applied to a pension**

#### **Conclusion:**

N.I. Modification is applied from the new state pension age for men and women.

#### **Rationale:**

Regulation 4 of the LGPS (Transitional Provisions) Regulations 1997 provides that for pre 1 April 1998 leavers the "saved provisions" shall continue to apply. The "saved provisions" are the LGPS Regulations 1995, apart from "the replaced provisions". Regulation H2 of the LGPS Regulations 1995 is one of the "saved provisions", not a "replaced provision". So, regulation H2 of the LGPS Regulations 1995 continues to apply to those who were in the scheme before 1 April 1980 (i.e. who had paid modified contributions at any time between 1 September 1947 and 31 March 1980) and who left prior to 1 April 1998. That regulation says

*"Where, but for the revocation of the 1974 regulations, the amount of a benefit would have fallen to be reduced under Part F of those regulations, the amount shall be reduced as if that Part had not been revoked."*

Regulations F7(7) and F13(8) require that the NI Modification is applied from the later of the date the pension becomes payable under the LGPS or the date the person reaches "pensionable age" within the meaning of the National Insurance Act 1965. Section 114 of that Act defined "pensionable age" as meaning

*(a) in the case of a man, the age of sixty-five ;*

*(b) in the case of a woman, the age of sixty ;*

The National Insurance Act 1965 was repealed by the Social Security (Consequential Provisions) Act 1975 (but with certain savings). Schedule 20 of the Social Security Act 1975 defined "pensionable age" as:

*"In the case of a man, 65; in the case of a woman, 60."*

The Social Security Act 1975 was repealed by the Social Security (Consequential Provisions) Act 1992. The Social Security Contributions and Benefits Act 1992 defined "pensionable age" in section 122 as:

*(a) the age of 65, in the case of a man; and*

*(b) the age of 60, in the case of a woman;*

Schedule 4 of the Pensions Act 1995 amended the definition of "pensionable age" contained in The Social Security Contributions and Benefits Act 1992 to the following:

*(1) A man born before 6th April 1959 attains pensionable age when he attains the age of 65 years.*

*(2) A woman born before 6th April 1950 attains pensionable age when she attains the age of 60.*

*(3) A woman born on any day in a period mentioned in column 1 of table 1 attains pensionable age at the commencement of the day shown against that period in column 2.*

*(4) A woman born after 5th April 1955 but before 6th April 1959 attains pensionable age when she attains the age of 65.*

<b>Table 1</b>	
<i>(1)</i>	<i>(2)</i>
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th April 1950 to 5th May 1950	6th May 2010
6th May 1950 to 5th June 1950	6th July 2010
6th June 1950 to 5th July 1950	6th September 2010
6th July 1950 to 5th August 1950	6th November 2010
6th August 1950 to 5th September 1950	6th January 2011
6th September 1950 to 5th October 1950	6th March 2011
6th October 1950 to 5th November 1950	6th May 2011
6th November 1950 to 5th December 1950	6th July 2011
6th December 1950 to 5th January 1951	6th September 2011
6th January 1951 to 5th February 1951	6th November 2011
6th February 1951 to 5th March 1951	6th January 2012
6th March 1951 to 5th April 1951	6th March 2012
6th April 1951 to 5th May 1951	6th May 2012
6th May 1951 to 5th June 1951	6th July 2012
6th June 1951 to 5th July 1951	6th September 2012
6th July 1951 to 5th August 1951	6th November 2012
6th August 1951 to 5th September 1951	6th January 2013
6th September 1951 to 5th October 1951	6th March 2013
6th October 1951 to 5th November 1951	6th May 2013
6th November 1951 to 5th December 1951	6th July 2013
6th December 1951 to 5th January 1952	6th September 2013
6th January 1952 to 5th February 1952	6th November 2013
6th February 1952 to 5th March 1952	6th January 2014

<b>Table 1</b>	
<i>(1)</i>	<i>(2)</i>
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th March 1952 to 5th April 1952	6th March 2014
6th April 1952 to 5th May 1952	6th May 2014
6th May 1952 to 5th June 1952	6th July 2014
6th June 1952 to 5th July 1952	6th September 2014
6th July 1952 to 5th August 1952	6th November 2014
6th August 1952 to 5th September 1952	6th January 2015
6th September 1952 to 5th October 1952	6th March 2015
6th October 1952 to 5th November 1952	6th May 2015
6th November 1952 to 5th December 1952	6th July 2015
6th December 1952 to 5th January 1953	6th September 2015
6th January 1953 to 5th February 1953	6th November 2015
6th February 1953 to 5th March 1953	6th January 2016
6th March 1953 to 5th April 1953	6th March 2016
6th April 1953 to 5th May 1953	6th May 2016
6th May 1953 to 5th June 1953	6th July 2016
6th June 1953 to 5th July 1953	6th September 2016
6th July 1953 to 5th August 1953	6th November 2016
6th August 1953 to 5th September 1953	6th January 2017
6th September 1953 to 5th October 1953	6th March 2017
6th October 1953 to 5th November 1953	6th May 2017
6th November 1953 to 5th December 1953	6th July 2017
6th December 1953 to 5th January 1954	6th September 2017
6th January 1954 to 5th February 1954	6th November 2017
6th February 1954 to 5th March 1954	6th January 2018
6th March 1954 to 5th April 1954	6th March 2018
6th April 1954 to 5th May 1954	6th May 2018
6th May 1954 to 5th June 1954	6th July 2018
6th June 1954 to 5th July 1954	6th September 2018
6th July 1954 to 5th August 1954	6th November 2018
6th August 1954 to 5th September 1954	6th January 2019
6th September 1954 to 5th October 1954	6th March 2019
6th October 1954 to 5th November 1954	6th May 2019
6th November 1954 to 5th December 1954	6th July 2019
6th December 1954 to 5th January 1955	6th September 2019
6th January 1955 to 5th February 1955	6th November 2019
6th February 1955 to 5th March 1955	6th January 2020
6th March 1955 to 5th April 1955	6th March 2020

*(5) A person born on any day in a period mentioned in column 1 of table 2 attains pensionable age at the commencement of the day shown against that period in column 2.*

<b>Table 2</b>	
<i>(1)</i>	<i>(2)</i>
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th April 1959 to 5th May 1959	6th May 2024
6th May 1959 to 5th June 1959	6th July 2024

<b>Table 2</b>	
(1)	(2)
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th June 1959 to 5th July 1959	6th September 2024
6th July 1959 to 5th August 1959	6th November 2024
6th August 1959 to 5th September 1959	6th January 2025
6th September 1959 to 5th October 1959	6th March 2025
6th October 1959 to 5th November 1959	6th May 2025
6th November 1959 to 5th December 1959	6th July 2025
6th December 1959 to 5th January 1960	6th September 2025
6th January 1960 to 5th February 1960	6th November 2025
6th February 1960 to 5th March 1960	6th January 2026
6th March 1960 to 5th April 1960	6th March 2026

(6) A person born after 5th April 1960 but before 6th April 1968 attains pensionable age when the person attains the age of 66.

(7) A person born on any day in a period mentioned in column 1 of table 3 attains pensionable age at the commencement of the day shown against that period in column 2.

<b>Table 3</b>	
(1)	(2)
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th April 1968 to 5th May 1968	6th May 2034
6th May 1968 to 5th June 1968	6th July 2034
6th June 1968 to 5th July 1968	6th September 2034
6th July 1968 to 5th August 1968	6th November 2034
6th August 1968 to 5th September 1968	6th January 2035
6th September 1968 to 5th October 1968	6th March 2035
6th October 1968 to 5th November 1968	6th May 2035
6th November 1968 to 5th December 1968	6th July 2035
6th December 1968 to 5th January 1969	6th September 2035
6th January 1969 to 5th February 1969	6th November 2035
6th February 1969 to 5th March 1969	6th January 2036
6th March 1969 to 5th April 1969	6th March 2036

(8) A person born after 5th April 1969 but before 6th April 1977 attains pensionable age when the person attains the age of 67.

(9) A person born on any day in a period mentioned in column 1 of table 4 attains pensionable age at the commencement of the day shown against that period in column 2.

<b>Table 4</b>	
(1)	(2)
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th April 1977 to 5th May 1977	6th May 2044
6th May 1977 to 5th June 1977	6th July 2044
6th June 1977 to 5th July 1977	6th September 2044
6th July 1977 to 5th August 1977	6th November 2044

<b>Table 4</b>	
(1)	(2)
<i>Period within which woman's birthday falls</i>	<i>Date pensionable age attained</i>
6th August 1977 to 5th September 1977	6th January 2045
6th September 1977 to 5th October 1977	6th March 2045
6th October 1977 to 5th November 1977	6th May 2045
6th November 1977 to 5th December 1977	6th July 2045
6th December 1977 to 5th January 1978	6th September 2045
6th January 1978 to 5th February 1978	6th November 2045
6th February 1978 to 5th March 1978	6th January 2046
6th March 1978 to 5th April 1978	6th March 2046

*(10) A person born after 5th April 1978 attains pensionable age when the person attains the age of 68.*

So, in consequence, N.I. Modification should be deducted from the date the member attains the new SPA.

### **Change to SPA: the date that EPBs are payable**

#### **Conclusion:**

EPBs are payable from the new state pension age for men and women.

#### **Rationale**

Section 57 of the National Insurance Act 1965 said:

*57. Equivalent Pension Benefits, etc.*

*(1) For the purposes of this Part of this Act ..... equivalent pension benefits, in relation to any period of service in an employment, comprise, and comprise only, retirement benefits by way of pension as respects which the following conditions are satisfied, that is to say -*

*(a) the benefits consist of or include a pension which (subject to any condition as to retirement) commences not later than pensionable age, and there is no condition postponing beyond pensionable age the age at which retirement on pension is allowed ;*

Section 114 of the Act defined "pensionable age" as follows:

*Interpretation*

*" pensionable age " means-*

*(a) in the case of a man, the age of sixty-five ;*

*(b) in the case of a woman, the age of sixty ;*

The National Insurance Act 1965 was repealed by the Social Security (Consequential Provisions) Act 1975 (but with certain savings). Schedule 20 of the Social Security Act 1975 defined "pensionable age" as:



*"In the case of a man, 65; in the case of a woman, 60."*

The Social Security Act 1975 was repealed by the Social Security (Consequential Provisions) Act 1992. The Social Security Contributions and Benefits Act 1992 defined "pensionable age" in section 122 as:

*(a) the age of 65, in the case of a man; and*

*(b) the age of 60, in the case of a woman;*

Schedule 4 of the Pensions Act 1995 amended the definition of "pensionable age" contained in the Social Security Contributions and Benefits Act 1992 to that shown above under the NI Modification heading. Thus, the EPB is payable from the date the member attains the new SPA. This is also backed up under the LGPS Regulations. Regulation 18 of the LGPS (Transitional Provisions) Regulations 1997 requires that any EPB is to be paid from the first date on which the member:

*(a) has attained state pensionable age, and*

*(b) is no longer in any local government employment.*

Regulation 2(4) of the LGPS (Transitional Provisions) Regulations 1997 provides that expressions used should have the same meaning as in the LGPS Regulations 1997 (unless the context requires otherwise).

Schedule 1 of the LGPS Regulations 1997 defines state pensionable age as the "pensionable age within the meaning of section 122 of the Social Security Contributions and Benefits Act 1992". As has been shown above, Schedule 4 of the Pensions Act 1995 applies the new state pension ages to the Social Security Contributions and Benefits Act 1992.

So, EPBs are payable from the new state pension age.

## Bits and Pieces

### LGPC Communications

The Local Government Pensions Committee (LGPC) has produced a leaflet covering the changes to pension provisions announced by the Government in the June 2010 budget that may impact on members of the Local Government Pension Scheme (LGPS).

The leaflet is available on the [LGE website](#).

This information has also been placed in [the "Latest News and Updates" section of the LGPS members' website](#).

Funds may wish to use the text of the leaflet as it is, as part of their own communications or as an addendum to their scheme guides.

### Timeline Regulations

There was no update of the Timeline Regulations website in August.

## Legislation

### United Kingdom

SI Reference	Title
2010/1794	The Social Security(Exemption from Claiming Retirement Pension) Regulations 2010
2010/1825	The Transfer of State Pensions and Benefits (Amendment) Regulations 2010
2010/1925	The State Pension Credit Pilot Scheme Regulations 2010
2010/1929	The Pensions Regulator (Contribution Notices) (Sum Specified following Transfer) Regulations 2010
2010/1930	The Occupational Pension Schemes (Levies) Regulations 2010

### Northern Ireland

SR Reference	Title
2010/249	The Occupational Pension Schemes (Levies) Regulations (Northern Ireland) 2010
2010/259	The Pensions Regulator (Contribution Notices) (Sum Specified following Transfer) Regulations (Northern Ireland) 2010

## Useful Links

[The LGE Pensions page](#)

[The LGPS members' website](#)

[LGPS Discretions](#) lists all the potential discretions available within the LGPS in England and Wales, and Scotland.

[Qualifying Recognised Overseas Pension Schemes](#) approved by HMRC and who agreed to have their details published.

[Tax Guide \(Version 11\)](#)

[The Timeline Regulations](#)

## LGPC Contact Details

### **Terry Edwards (Head of Pensions)**

Telephone: 01954 202 787 or 0207 187 7346

Email: [terry.edwards@local.gov.uk](mailto:terry.edwards@local.gov.uk)

### **Tim Hazlewood (LGPC Training & Development Manager)**

Telephone: 01455 824 850

Email: [tim.hazlewood@local.gov.uk](mailto:tim.hazlewood@local.gov.uk)

### **Irene Wass (LGPC Communications Officer)**

Telephone: 01246 414 902

Email: [irene.wass@local.gov.uk](mailto:irene.wass@local.gov.uk)

### **Elaine English (LGPC Executive Officer)**

Telephone: 0207 187 7344

Email: [elaine.english@local.gov.uk](mailto:elaine.english@local.gov.uk)

### **Dave Friend (LGPC Pensions Adviser)**

Telephone: 01457 859 016

Email: [david.friend@local.gov.uk](mailto:david.friend@local.gov.uk)

### **Alison Hazlewood (Part-time Administration Assistant - Training & Development)**

Email: [alison.hazlewood@local.gov.uk](mailto:alison.hazlewood@local.gov.uk)

## Distribution sheet

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LGPC  
Local Government Employers  
Local Government House  
Smith Square  
London, SW1P 3HZ

or email: [david.friend@local.gov.uk](mailto:david.friend@local.gov.uk)  
tel: 01457 859016