

Draft - The Local Government Pension Scheme (Scotland) Regulations 2018

Proposed consolidated amendments to the Local Government Pension Scheme 2014 (“the Regulations”)

Introduction

The Scottish Government is consulting on these proposed regulations which will be made under the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013. It is intended that these draft regulations consolidate all previous amendments and take into account the day to day experience of applying the 2014 Regulations since 1 April 2015 where areas for clarification have been sought or a change in approach has been requested. The recent UK Government Pension Schemes Act 2015 has been taken into account.

These draft regulations revise existing provisions to add clarity and address other issues raised as part of good stewardship of the regulatory framework of the Scheme created by the 2014 Regulations (“the Scheme”).

Changes to the 2014 Scheme Regulations

We are consulting on specific draft regulations that would provide members with more options for using their Additional Voluntary Contributions in the Scheme following the introduction of the UK Government’s ‘Freedom and Choice in Pensions, policy. Other draft regulations deal with how the Scheme operates within the Public Sector Transfer Club, while there are a number of draft amending regulations that are intended to improve the administration of the Scheme.

Active Membership – Draft Regulation 3

Amends “paid National Insurance contributions” to “paid contracted-out National Insurance contributions”.

Additional Voluntary Contributions (AVC) - Draft Regulation 17

In order to meet the policy aims of the UK Government’s ‘Freedom and Choice in Pensions’, it is proposed to amend regulation 17 to refer to the increased flexibility provided by the Taxation of Pensions Act 2014 which introduced a limited right for scheme trustees and managers pay flexible pensions and lump sums from defined contribution pension savings, and allow all of the funds to be taken as an authorised taxed lump sum.

Assumed Pensionable Pay - Draft Regulation 21

The amount of ill health pension payable to a member, or the amount of death grant payable to their survivor, is currently dependant on how much pay they received in the 12 weeks or 3 months before their death or illness. Regulation

21 is therefore being amended to allow the employer the discretion to use a different pensionable pay figure that more closely reflects the normal pay of the member over longer periods of time, resulting in a more equitable rate of ill health pensions and death grant.

Returning Officers - Draft Regulation

In addition, a new paragraph (5B) is proposed in regulation 21 which provides that returning officer fees are averaged over a three year period, as this will result in death grants and ill-health pensions that more accurately reflect the member's pay.

Retirement Benefits - Draft Regulation 29

Currently, regulation 29(7)(b) has the unintended consequence of requiring that a member with both deferred and active pensions accounts has to take benefits relating to both accounts where employment is terminated due to redundancy or business efficiency and the member is required to take retirement benefits because they are aged over 55. It is proposed to amend this requirement so that the member is required to take only benefits from the active pension account in those circumstances.

Regulation 29 (13) is being removed so that members who reach age 55 and to elect to take early payment of their pension, with an actuarial reduction, do not need their employer's consent.

Election for Lump Sum instead of pension – Draft Regulation 32

As a consequence of the introduction of new Regulation 17(11), it is proposed to amend Regulation 33 so that all lump sum payments are taken into account when identifying the limit on taking benefits in the form of a lump sum.

Survivor Benefits - Draft Regulations 45 & 46

Regulations 37(1)(a) and 37(2)(a) provide that a tier 1 or 2 ill health pension that a member may receive is based on the earned pension that the member would have received had they continued in work until normal pension age. It is proposed that regulations 45(4)(a), 46(4)(a), 46(9)(a) and 46(10)(a) are amended so that the amount of pension that a surviving partner or child of a member who was in receipt of a tier 1 or 2 pension before death is based on the pension the member received rather than on the amount of pay that the member earned before award of the ill health pension.

Limit on Total Amount of Benefits - Draft Regulation 48

We are updating regulation 48 in accordance with the changes made by the Finance Acts 2014 & 2016 when referring to primary, enhanced or fixed protections.

Accounts and Audit - Draft Regulation 54

We are updating regulation 54 in accordance with the changes made to the Finance Act 2004 by the Finance Bill 2015/16 & 2016 for the pensions input period.

Special Circumstances Where Revised Actuarial Valuations and Certificates Must Be Obtained - Draft Regulation

It is proposed to amend Regulation 62 to give more flexibility for administering authorities to manage liabilities when employers leave the Scheme and to provide for an 'exit credit' to exiting employers if appropriate.

Rights to payments out of the pension fund, and inward transfers of pension rights – Draft regulations

It is proposed to amend regulation 94 so that the relevant administering authority calculates the transfer in accordance with provisions in the guidance issued by Scottish Ministers.

Effect of acceptance of a transfer value – draft regulation

Where there has been an inward transfer of pension rights, Regulation 99 is being amended to require that the amount of earned pension is calculated in accordance with actuarial guidance issued by the Scottish Ministers.

Interpretation – Draft Regulation

The proposed amendments to Schedule 1 introduce the necessary definitions relating to the Public Sector Transfer Club and associated revaluation arrangements. In addition, the definition of "statutory pay" is amended to include statutory sick pay, and the definition of partner is no longer restricted to partners of active members. Also, the words "shared parental" have been added after the word "paternity".

You are invited to provide comments, on these draft regulations, in Annex B. The closing date for responses on the draft regulations is **Monday 1 January 2018**.

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6 November 2017