

# TECHNICAL BULLETIN

NO.24

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**TO ALL EMPLOYERS WITH MEMBERS IN THE LOCAL GOVERNMENT PENSION SCHEME. PLEASE ENSURE COPIES ARE PASSED TO RELEVANT STAFF.**

## **The Local Government Pension Scheme (Scotland) Amendment Regulations 2007**

### **An important notice to all scheme employers**

The purpose of this Technical Bulletin is to clarify some of the amendments made by Scottish Statutory Instrument 2007/514 as these continue to cause some confusion.

The above regulations came into force on 15<sup>th</sup> December 2007 and made the following changes to the Local Government Pension Scheme (Scotland) Regulations 1998 with effect from that date.

#### **Amendment Regulation 3 – Further restrictions on eligibility**

This amends Regulation 5(9) of the 1998 regulations to make it clear that a retained fire-fighter who is or may be required to engage in fire fighting duties is not eligible to be a member of the Local Government Pension Scheme.

#### **Amendment Regulation 4 – Buy Back Facility for Civil Partners**

This regulation introduces a new regulation 17A to the 1998 regulations permitting members who are Civil Partners to make additional contributions to reckon pre 6/4/1988 membership for Civil Partners pensions. The regulation also introduces Schedule 8 to the 1998 regulations where the conditions and method for purchase of this service are contained

#### **Amendment regulation 5 – Limit on total amount of benefits**

Generally, benefits exceeding the lifetime allowance (increased by any primary or enhanced protection where applicable) cannot be paid from the scheme. However, Regulation 18A of the 1998 regulations is amended to the extent that an administering authority can pay a commuted pension to a member equal to 5 x pension where that member's life expectancy is less than 1 year, even if that payment would result in the member exceeding his or her lifetime allowance.

This amendment also specifies that the calculation of the capital value of a member's benefits under any regulation is to be carried out in accordance with GAD guidance.

### **Amendment Regulation 6 – Calculations**

This introduces a qualifying statement at the end of regulation 19 (3A) of the Principal Regulations to the effect that where a member elects to commute pension for a greater lump sum, it is permissible for that election to be made after the member's retirement date. The member is still able to commute pension for lump sum at that stage provided the administering authority possesses all the necessary information required to complete the calculation of benefits for that member. It is still the case however that the member's election to commute is not considered by HMRC to be the last piece of information required to enable the administering authority to complete the calculation of the member's benefits.

### **Amendment Regulation 7 – Retirement after age 65**

This makes minor amendments to Regulation 24A of the 1998 Regulations to remove any age discriminatory elements from the LGPS and to accommodate the provisions of the Finance Act 2004.

Paragraph 24A(1) is amended by removing the requirement for a member to have his employer's consent to remain in employment after age 65.

A new paragraph 24A(3) is introduced to emphasise that scheme membership must cease on the day before the member's 75<sup>th</sup> birthday and no further service can be accrued after that date.

### **Amendment Regulation 8 – Amounts of ill health pension and grant**

Regulation 8 amends regulation 27 of the 1998 Regulations by removing the 40 years restriction on ill health enhancement. However the member remains restricted to the service that could have been attained at age 65.

### **Regulation 9 – Re-employed Pensioners**

Regulation 28 of the 1998 regulations is amended to the extent that previous service of re-employed pensioners does not form part of that member's total membership for the purposes of determining how much additional service the employing authority may award under regulation 51 (power of employing authorities to increase total membership).

Paragraph 2 is added to regulation 28 and applies to cases where a member takes flexible retirement and continues to accrue further service in the LGPS. The service to date of retirement is only taken into account to qualify the member for retirement benefits in relation to the continuing period of scheme membership; it is not included in the calculation of benefits for the continuing period of membership after flexible retirement.

### **Regulation 10 – Death Grant**

A minor amendment is made to Regulation 37 (Death Grants) to accommodate the provisions of the Finance Act 2004. A death grant cannot be made to a member who dies after age 75.

### **Regulation 11 – Commutation: small pensions**

Regulation 48 of the 1998 regulations is amended by replacing the existing wording in paragraph 1 with a new paragraph referring to section 168 of the Finance Act 2004 in setting the limits for payment of such trivial commutation lump sums and trivial commutation death benefits. The Limit set under section 168 and schedule 29 of that act is 1% of the standard lifetime allowance.

### **Regulation 12 – Commutation: exceptional ill health.**

Regulation 49 of the 1998 regulations is amended and now permits the commutation of full retirement benefits, including the member's GMP, in cases of exceptional ill health and also permits the resulting lump sum payment to exceed the member's lifetime allowance; a provision that was also included in amendment regulation 5 above.

### **Regulation 13 – Elections to pay AVCs**

Regulation 59 of the 1998 regulations is amended to emphasise that a member may elect to pay AVCs in respect of each employment in which he is a member.

### **Regulation 14 – Payment of AVCs**

Regulation 60 of the 1998 regulations is amended and AVCs must now be deducted from pay. It is no longer permissible to pay AVC's as a single lump sum.

### **Regulation 15 – Death Benefits**

Regulation 62 of the 1998 regulations refers to AVCs payable on the death of a member and is amended to ensure payments resulting from the death of a member with AVC s are made in accordance with the Finance Act 2004.

### **Regulation 16 – Employer's further payments.**

Regulation 79 of the 1998 regulations is amended requiring employers to make additional payments to the fund in cases where flexible retirement is granted to an employee that results in a strain on the fund cost.

### **Regulation 17 – Interpretation**

Additional interpretations are added to schedule 1 of the 1998 regulations for retained or volunteer fire-fighter and Scheme managers for Police and Fire authorities.

### **Regulation 18 – Additional Contributions for Civil Partners**

Inserts schedule 8 into the 1998 regulations.

The Local Government Pension Scheme Regulations in their entirety can be accessed via [http://www.sppa.gov.uk/local\\_gov/regs.htm](http://www.sppa.gov.uk/local_gov/regs.htm)

If you have any questions or require any further information on the contents of this bulletin please contact Sarah Mallon on 0141 287 7348

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