

Local Government Pensions Committee  
Secretary, Mike Walker

## LGPC BULLETIN NO. 44 – APRIL 2006

### PREPARING FOR NEW HMRC RULES FROM 6 APRIL 2006

#### Purpose of the Bulletin

1. This Bulletin has been issued to provide administering authorities with some last minute, hopefully, helpful guidance to assist in preparing for the new HMRC tax rules from 6 April 2006.

#### Refunds of contributions

2. Claiming a refund of contributions from the LGPS in England and Wales on or after 6 April 2006 will negate all pension rights in the LGPS in England and Wales. Similarly, claiming a refund in Scotland will negate all pension rights in the LGPS in Scotland. For example, if a person claims a refund which is made as an authorised payment, having failed to disclose that they already have a frozen LGPS refund, or hold a concurrent employment in the LGPS, or hold a deferred LGPS benefit or an LGPS Pension Credit, or are in receipt of an LGPS pension, the payment of the refund will “wipe out” those benefits. It is vitally important, therefore, that refund application forms include a relevant disclaimer e.g. I certify that I do / do not have other pension rights in the LGPS in [enter either England and Wales, or Scotland, whichever is appropriate]. I acknowledge that if I do have such pension rights, I am not entitled to make a claim for a refund of contributions and that, if I make a false statement, the payment of a refund will mean that I cease to be entitled to any other pension benefits I have in the LGPS in [enter either England and Wales, or Scotland, whichever is appropriate] and that I will have no further claim on the relevant pension Fund, administering authority or employing authority in respect of those pension benefits.

Email [info@lge.gov.uk](mailto:info@lge.gov.uk)  
[www.lge.gov.uk](http://www.lge.gov.uk)

Managing Director Jan Parkinson

## Sample forms

3. It will be necessary to ascertain from scheme members whose benefits come into payment on or after 6 April 2006 whether or not they:
  - have pension benefits in payment from other schemes and, if so, the proportion of the Lifetime Allowance that those benefits represent;
  - have an enhanced LTA (for example, as a result of primary protection or pension credit protection) or enhanced protection certificate
  - have had a transfer out to an overseas pension scheme and, if so, the amount of the transfer.
4. Pension application forms and notes of guidance will need to be updated to cover the above.
5. Guidance on this matter is included in the Guide to Tax Simplification (see [www.hymans.co.uk/LGPStaxguide/](http://www.hymans.co.uk/LGPStaxguide/)). Sample forms are included in that Guide, separately on the website or, alternatively, see [www.spc.uk.com](http://www.spc.uk.com)

## Enhanced Protection

6. Scheme members who are applying / thinking of applying for Enhanced protection should be reminded that they will lose the Enhanced protection if, after 5 April 2006, they make an AVC contribution (other than a life assurance AVC contribution) or make a contribution to any other money purchase arrangement.
7. It is also important that those applying for / thinking of applying for Enhanced protection realise that they may have to surrender part of the value of their benefits as at 5 April 2006 – see the Registered Pension Schemes (Surrender of Relevant Excess) Regulations 2006 [SI 2006/211]. Further information on this will be provided in the LGPC Guide to Tax Simplification.

## Overseas transfers

8. New rules will apply to transfers to an overseas scheme where the transfer is made after 5 April 2006. Such transfers will give rise to an unauthorised payments charge and a scheme sanction charge if the receiving scheme is not a "qualifying recognised overseas pension scheme" (QROPS).
9. Transfers to schemes established in Ireland, the Isle of Man, Jersey and Guernsey will be subject to the new rules in the same way as other overseas schemes. It was announced on 22 February 2006 that the reciprocal transfer agreements with those jurisdictions will be terminated with effect from 6 April 2006 – see <http://www.hmrc.gov.uk/pensionschemes/termination.htm>
10. An overseas scheme can become a QROPS by notifying HMRC that it meets certain conditions and by providing certain undertakings. Those conditions are specified in the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 [SI 2006/206] – see <http://www.hmrc.gov.uk/si/2006-0206.pdf> and The Pension Schemes (Information Requirements

– Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006 (S.I. 2006/208) – see <http://www.hmrc.gov.uk/si/2006-0208.pdf>. A notification cannot be made until 6 April so it will not be possible to know if an overseas scheme is a QROPS before then. But after that UK scheme administrators and members will be able to check if a scheme is a QROPS with HMRC by writing to Audit and Pension Scheme Services, Yorke House, Castle Meadow Road, Nottingham NG2 1BG.

11. So, if administering authorities are in the process of arranging overseas transfers, these need to be completed by 5 April 2006 if they are to fall under the current rules governing overseas transfers (see Bulletin 43). Any overseas transfers that are not completed by 5 April 2006 will need to be put on hold until the administering authority has been able to obtain confirmation from HMRC that the relevant pension scheme is a QROPS.

12. There is guidance on transfers to overseas schemes at <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM14100000.htm>. There is also guidance on the effective date of a transfer at <http://www.hmrc.gov.uk/manuals/rpsmmanual/rpsm11104860.htm>. Guidance will also be included in the LGPC Guide to Tax Simplification.

13. A transfer to a QROPS will be a benefit crystallisation event and the sums and assets transferred will be tested against the individual's lifetime allowance to see if a lifetime allowance charge arises. The amount of the lifetime allowance is £1.5 million during 2006/07.

## Annual allowance

14. If a scheme member is currently entitled to:

- repay a previous refund of contributions where the refund was made from a Fund in England or Wales and the member is again in a Fund in England or Wales, or
- repay a previous refund of contributions where the refund was made from a Fund in Scotland and the member is again in a Fund in Scotland, or
- aggregate a concurrent employment in England or Wales that has ceased with a concurrent employment in England or Wales that is continuing, or
- aggregate a concurrent employment in Scotland that has ceased with a concurrent employment in Scotland that is continuing, or
- aggregate an earlier deferred benefit in England or Wales with a current period of membership in England or Wales (including via an interfund adjustment), or
- aggregate an earlier deferred benefit in Scotland with a current period of membership in Scotland (including via an interfund adjustment), or
- transfer in an in-house AVC

it is important to note that, if these are not concluded before 6 April 2006, they may lead to the Annual Allowance charge if the value of benefits at 31 March 2007 in your Fund (including any of the above which occur during the period 6 April 2006 to 31 March 2007) when compared to the value of benefits at 6 April 2006 in your Fund increases by more than £215,000 (apart from where the person leaves or dies before 31 March 2007). However, we are trying to get HMRC to acknowledge that in the situations covered above (apart from that contained in the first two bullet

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points) it should be the total value of the LGPS benefits (not just those in your Fund) at 6 April 2006 which should be compared to the total value of the LGPS benefits at 31 March 2007 (on the grounds that all Funds in England and Wales are part of the same Scheme, and all Funds in Scotland are part of the Scottish LGPS).

### **End date for pension input period**

15. The period over which the pension input amount is ascertained (referred to as the 'pension input period') for the purposes of the annual allowance check does not have to coincide with a tax year. The default period is each successive 12-month period beginning with accrual starting (i.e. if a scheme member joined on 1 August 2007, the pension input periods would always finish on 31 July).
16. For scheme members who are already in the LGPS as at 6 April 2006, the start date of the first pension input period is 6 April 2006 and, therefore, the default end date would be 5 April.
17. However, for convenience, the administering authority (or member in the case of a money purchase arrangement) may nominate an earlier date to which savings growth should be considered (i.e. the end of the pension input period). The next pension input period would then be the 12 month period immediately following this nominated end-date, and so on. If the administering authority nominates the date, they must notify the individual of the nominated date, and vice versa. There is no time restriction on when such a date may be nominated.
18. In the case of the LGPS Regulations in England and Wales, regulation 76(2) nominates 31 March as the end of the input period. As a result, the first pension input period for existing scheme members in the LGPS in England and Wales will run from 6 April 2006 to 31 March 2007. Future input periods will run from 1 April to 31 March.
19. As in-house AVCs are treated as separate arrangements for the purposes of the annual allowance checks, the default pension input period will be from the date of the commencement of the AVCs, or 6 April 2006 if later. As this is a money purchase arrangement, the individual or the scheme administrator has the right to nominate a different period (in defined benefit arrangements it is just the scheme administrator that can nominate). However, if more than one nomination is received (i.e. if both the individual and the administrator nominate), then it is the first nomination that counts. As the pension input period has been nominated within the LGPS Regulations in England and Wales, this is classed as the first nomination so, in all cases, the pension input periods will run to 31 March.
20. It should, however, be noted that the Registered Pensions (Splitting of Schemes) Regulations 2006 [SI 2006/569] have delegated the responsibility (under Section 238(3) of the Finance Act 2004) for nominating the pension input end date from the Secretary of State (the scheme administrator) to the administering authority (the sub-scheme administrator). In practice, the inclusion of regulation 76(2) in the LGPS Regulations in England and Wales means that the administering authority (the sub-scheme administrator) has no option but to comply with the regulation.

21. However, in Scotland (and Northern Ireland) there is currently no equivalent of regulation 76(2). Administering authorities in Scotland (and NILGOSC) should, therefore, act quickly to nominate a pension input period end date of 31 March (to ensure that in-house AVC payers don't make an earlier nomination for a different date to apply). The nomination will need to specify that it applies to existing and future members and AVC payers (existing and future). Due to the time constraint, Pension Managers might wish to check whether a decision can be made under delegated powers or, if the decision has to be made by the Pensions Committee, whether the Chair can make a decision which can be homologated / ratified later.
22. Note that, as the Finance Act 2004 requires the 'nominated date' to be notified to individuals, it is essential that all existing and future LGPS active members are made aware of the nominated date. Scheme guides should include this information.

### **Members over 75**

23. If any administering authorities have members who are already over 75 to whom they have not yet paid benefits (for example, because the purchase an annuity is still in the process of being completed), every effort should be made to ensure payment is arranged on or before 6 April 2006 as, if benefits commence after that date and after age 75, this would be an unauthorised payment that would incur a tax charge and, potentially, a sanction charge.

### **Surrender**

24. Members wishing to surrender part of their pension in favour of a spouse, civil partner or dependant will need to retire before 5 May 2006 and have made an election to surrender by 5 April 2006.

Terry Edwards, Assistant Director (Pensions)  
1 April 2006

### **Distribution sheet**

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