

POLICY NOTE

THE LOCAL GOVERNMENT PENSION SCHEME (TRANSITIONAL PROVISIONS AND SAVINGS) (SCOTLAND) REGULATIONS 2014

SSI 2014/233

1. Purpose of the instrument

In these Regulations, the bulk of the proposed amendments are to preserve transitional protections for certain groups and ensure that active members within 10 years of normal pension age under the 2009 pension scheme on 1st April 2012 remain entitled to draw benefits on retirement which are no less than they would have been able to draw if the 2009 Scheme had continued to exist when the new local government pension scheme (“the Scheme”) comes into existence on 1st April 2015.

2. Legislative context

2.1 Reform to the Local Government Pension Scheme (Scotland) Regulations 2014 follows recommendations by the Independent Public Service Pensions Commission which was led by Lord Hutton of Furness. This instrument provides protection for those members within 10 years of retirement as at April 2012.

3. Territorial Extent and Application

This instrument applies to Scotland.

4. Policy background

4.1 The reform of the LGPS follows Lord Hutton of Furness’ report of March 2011 and the resulting Public Service Pensions Act 2013. The policy intention is for the new scheme to continue to provide valued benefits for scheme members, and is affordable, sustainable and fair to employers, scheme members and tax payers.

4.2 The objectives for the reform of the LGPS were to ensure the sustainability of the scheme by encouraging existing members remain in the scheme and non-members to join. Levels of contribution rates which will ensure protection of the lowest paid within the workforce and to continue to provide quality benefits to scheme members.

Consultation

5. A six week technical consultation exercise on the draft The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 commenced on 26 June and ending on 7 August 2014.

Impact Assessment

6. No impact assessment has been produced for this instrument as the amendments are to preserve transitional protections for certain groups and ensure that active members within 10 years of normal pension age under the 2009 pension scheme on 1st April 2012 remain entitled to draw benefits on retirement which are no less than they would have been able to draw if the 2009 Scheme had continued to exist when the new local government pension scheme (“the Scheme”) comes into existence on 1st April 2015. The impact on voluntary sectors was assessed for the new local government pension scheme regulations 2014 and provided at the time of signing (copy attached).

Contact

7. If you have any queries regarding this instrument, please contact Kimberly Linge at the Scottish Public Pensions Agency (Tel: 01896 893229 or email: Kimberly.linge@scotland.gsi.gov.uk).

Scottish Public Pensions Agency
An Agency of the Scottish Government

August 2014

Annex A contains an overview of the main features of the regulations.

Annex A

Executive Summary of New Scheme

Regulation 2 and Schedule 1 revoke, subject to savings, the regulations which constitute the 2009 Scheme and its predecessor Schemes.

Regulation 3 preserves the membership and benefits accrued in the previous Schemes.

Regulation 4 ensures that an active member who was within 10 years of normal pension age under the 2009 Scheme on 1st April 2012 is entitled to draw benefits on retirement which are no less than they would have been able to draw if the 2009 Scheme had continued to exist.

Regulation 5 provides for automatic transfer into the 2015 Scheme of persons who are members of the 2009 Scheme on 31st March 2015.

Regulation 6 preserves the status of admission agreements entered into before the 2015 Scheme commences, meaning that membership of the Scheme is maintained for employees who became members by virtue of an admission agreement.

Regulation 7 provides that membership of the 2009 Scheme and its predecessor Schemes, and transfers from different pension schemes into those Schemes counts as membership of the 2015 Scheme. This is relevant for identifying when members of the 2015 Scheme have reached the two year vesting period required to be entitled to benefits under the 2015 Scheme.

Regulation 8 identifies elements of remuneration which are not to count as pensionable pay under the 2015 Scheme.

Regulations 9 and 10 make provision as regards transfers into the 2015 Scheme of benefits from other public service pension schemes and between funds in the 2015 Scheme. The effect of the provisions is to enable certain members to benefit from the provisions in Schedule 7 to the Public Services Pension Act 2013 which provide for the calculation of final salary to be based on the remuneration a person receives at the date of retirement rather than the date of transfer.

Regulation 11 provides for the dates on which benefits under the 2009 Scheme and its predecessor Schemes may and must be drawn.

Regulation 12 preserves transitional protection for certain groups as regards entitlement to ill-health benefits and makes provision for how recipients of ill-health benefits under the 2009 Scheme are to be dealt with under the 2015 Scheme.

Regulation 13 provides for amounts of pension deriving from the 2009 Scheme and its predecessor Schemes taken as a lump sum to be brought into account when a member commutes pension under the 2015 Scheme into a lump sum.

Regulations 14 and 15 make provision in respect of contributions and the purchase of additional pension. Arrangements for the purchase of added membership and additional pension entered into before 1st April 2015 are preserved and purchase benefits under the 2009 Scheme.

Regulation 16 makes provision for payments to be taken from benefits accrued under the 2009 and predecessor Schemes where appropriate when a member has a tax charge to pay under the Finance Act 2004.

Regulation 17 makes provision for survivor pensions and death grants where the deceased member was entitled to benefits under both the 2009 Scheme and the 2015 Scheme.

Regulation 18 and Schedule 2 preserve the so-called “rule of 85” for qualifying members, enabling them to draw benefits without actuarial reduction when the sum of their age and the years membership of the local government pension scheme equals or exceeds 85.

Regulation 19 preserves any directions issued by the Scottish Ministers changing the appropriate administering authority for a member.

Regulation 20 makes provision in respect of pension sharing orders to ensure they have appropriate impact on pre-2015 Scheme benefits.

Regulation 21 preserves regulations entitling members to obtain information necessary to enable them to pursue claims relating to the miss-selling of pensions.

Regulation 22 requires Scheme employers to provide information to administering authorities to enable them to carry out their functions.

Regulation 23 provides for the procedures for the resolution of disputes under the 2015 Scheme to apply in respect of any unresolved disputes under the 2009 Scheme.

Regulation 24 applies to various bodies that have for historical reasons come within the local government pension scheme with modifications as to how the Scheme regulations apply to their employees. The effect of the regulation is to carry over those modifications into the 2015 Scheme with the exception of any modification of the normal retirement age of members, which is to be changed where necessary to come into line with the provisions applying to all members of the 2015 Scheme.

Regulation 25 preserves provisions relating to the application of the Pensions (Increase) Acts which can lead to a requirement on Scheme employers to make additional payments into the fund clarifying where liability for any such requirements lies in the case of certain employers.

Removed

Councillor members – all reference omitted as these members are treated as members in the main LGPS 2014 Scotland Regulations (with exemptions in schedule 5 of those regs).