

**EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) (No.2)
REGULATIONS**

2006 No. 2008

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Select Committee on the Merits of Statutory Instruments.

2. Description

2.1 The Regulations amend the Local Government Pension Scheme Regulations 1997 (the “principal Regulations” - S.I. 1997/1612) and the Local Government Pension Scheme (Amendment) Regulations 2006 (S.I. 2006/966) and the constituent parts of these Regulations will have effect from 29th March 2006, 1st April 2006, 6th April 2006 and 1st October 2006. They make further provision relating to the removal of the “85 year rule” and further changes consequent on the simplification of the tax regime relating to pensions.

3. Matters of special interest to the Select Committee on the Merits of Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The principal Regulations are made under sections 7 and 12 of the Superannuation Act 1972. Section 12 permits regulations made under section 7 to be framed so as to have effect as from a date earlier than the making of the regulations.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Following the making of the Local Government Pension Scheme (Amendment) Regulations 2006, which provided for the removal of the rule of 85 from 1 October 2006 and provided transitional protection to 31 March

2013, a statement was made to the House inviting interested parties, employers and trades unions, to look further at the possible scope for extending the transitional protection. Any proposals needed to be both legal and affordable, and if submitted in time could be introduced prior to the Summer recess.

- 7.2 Separate but similar proposals were received and formed the basis of a statutory consultation which ran from 26 May to 3 July 2006. A shorter period of consultation was used as the issues had been open to consultation since March and the main interested parties had indicated their agreement to the changes.
- 7.3 Transitional protection has now been extended to 31 March 2008 for all members who are in the Scheme on 30 September 2006, thus providing protection up to the date immediately before the new Scheme is intended to come into force. The protection for those members who would have satisfied the rule of 85 by their 60th birthday before 31 March 2013 has been extended to 31 March 2016, to cover members who are within ten years of retirement from the date the rule of 85 is removed in October 2006. A further tapering of protection will apply between 1 April 2016 and 31 March 2020, to overcome the cliff edge reduction affect on members whose birthdays are within days of each other. The date of 2020 has been used as it coincides with the equalisation of state retirement ages for men and women.
- 7.4 The following gives a breakdown of responses received on the transitional protections:-

SUMMARY TABLE

GROUP	NUMBER	IN SUPPORT	AGAINST	OTHER
Individuals	2291	2191	78	22
E/ers etc	59	39	17	2
TUs	84	79	3	0
TOTAL	2434	2309	98	24
		95%	4%	1%

A further 11 responses were received making comments on the tax changes.

- 7.5 As well as taking action relating to protections linked to the removal of the rule of 85 these regulations also make some clarificatory changes to provisions permissible under the new tax regime which applies to all pension scheme from 6 April 2006. These are mainly of a technical nature and are intended to assist Scheme administrators in applying the regulations in the way the overall policy was intending.

8. Impact

- 8.1 No separate Regulatory Impact Assessment has been prepared for this Regulation as the Final RIA for SI 2006/966 covered the cost and policy implications of the options which we have now incorporated.

9. Contact

- 9.1 Brian Town at the Office of the Deputy Prime Minister Tel: 020 7944 6015 or e-mail: brian.town@odpm.gsi.gov.uk can answer any queries regarding the instrument.