

2009 No. 1025

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment)
Regulations 2009**

<i>Made</i>	- - - -	<i>20th April 2009</i>
<i>Laid before Parliament</i>		<i>23rd April 2009</i>
<i>Coming into force</i>	- -	<i>15th May 2009</i>

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972(a).

In accordance with section 7(5) of that Act, the Secretary of State has consulted (a) such associations of local authorities as appeared to the Secretary of State to be concerned; (b) the local authorities with whom consultation appeared to the Secretary of State to be desirable; and (c) such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2009.

(2) These Regulations shall come into force on 15th May 2009 but the amendments which they make shall have effect from 1st April 2009.

(3) These Regulations apply in relation to England and Wales(b).

Amendment of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

2. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007(c) are amended by the omission of regulation 40 (guidance on future costs).

(a) 1972 c.11.

(b) The Secretary of State's functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

(c) S.I. 2007/1166, to which there are amendments not relevant to these Regulations.

Amendment of the Local Government Pension Scheme (Administration) Regulations 2008

3. The Local Government Pension Scheme (Administration) Regulations 2008(a) are amended—

- (a) after regulation 36 (actuarial valuations and certificates), by the insertion of—

“Future costs

36A.—(1) Administering and employing authorities shall have regard to guidance issued by the Secretary of State about how the future costs of the Scheme will be met.

(2) To enable the Secretary of State to calculate those costs for the purposes of that guidance, each administering authority shall provide to the Secretary of State by 31st August 2010, and in every third year afterwards, all the data used for the purposes of providing an actuarial valuation under regulation 36.

(3) For the purposes of that guidance, the Government Actuary shall provide to the Secretary of State by 31st October 2010 and in every third year afterwards—

- (a) an actuarial valuation of the assets and liabilities of the Scheme as at 31st March 2010 and in every third year afterwards, based on the information provided to the Secretary of State under paragraph (2);
- (b) a report in respect of the valuation (“the valuation report”); and
- (c) an overall cost certificate.

(4) The valuation report must contain a statement of the financial and demographic assumptions used in making the valuation; and the statement must show how the assumptions relate to the events which have actually occurred in relation to the members of the Scheme since the last valuation.

(5) An overall cost certificate is a certificate—

- (a) specifying the cost of the future accrual of pension liabilities; and
- (b) adjusted where appropriate to reflect surpluses or deficits arising from variations between events which have actually occurred in relation to the members of the Scheme and the assumptions used in making valuations for each year beginning with 31st March 2007.”;

and

- (b) after regulation 38 (special circumstances where revised actuarial valuations and certificates must be obtained), by the insertion of—

“Future costs: revised certificates

38A. Where, as a result of the valuation exercise under regulation 36A, the Secretary of State amends the Benefits Regulations, an administering authority must consider whether the rates and adjustment certificate obtained under regulation 36(1)(a) should be revised to take account of the amendment; and if, in the authority’s view the certificate should be so revised—

- (a) the authority must ensure that the certificate is revised accordingly and as soon as possible; and
- (b) the revised certificate must cover the period beginning with 1st April in the second year following that in which the valuation date falls under regulation 36.”.

(a) S.I. 2008/239, to which there are amendments not relevant to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

20th April 2009

John Healey
Minister of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to England and Wales and contain amendments relating to the new Local Government Pension Scheme which came into existence on 1st April 2008 and replaced the Local Government Pension Scheme 1997. The amendments have effect from 1st April 2009. Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have effect as from a date earlier than the making of the regulations.

Regulation 2 revokes regulation 40 (guidance on future costs) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.

Regulation 3(a) inserts a new regulation 36A into the Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”). This regulation requires administering authorities to have regard to guidance about how the costs of the Local Government Pension Scheme will be met in future years. In order for the Secretary of State to produce that guidance, administering authorities are required to produce by 31st August 2010 (and triennially thereafter) the data supplied to their own fund actuary to carry out the triennial actuarial valuation required by regulation 36. The Government Actuary is also required for the purposes of that guidance, to produce by 31st October 2010 (and triennially thereafter) an actuarial valuation, a valuation report and an overall cost certificate.

Regulation 3(b) inserts a new regulation 38A into the Administration Regulations, which requires administering authorities to consider obtaining a revised rates and adjustment certificate where the Secretary of State amends the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 as a result of the valuation exercise completed by virtue of regulation 36A.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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