

2010 No. 528

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment)
Regulations 2010**

<i>Made</i>	- - - -	<i>1st March 2010</i>
<i>Laid before Parliament</i>		<i>4th March 2010</i>
<i>Coming into force</i>	- -	<i>30th March 2010</i>

These Regulations are made in exercise of the powers conferred by section 7 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, extent and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2010.

(2) These Regulations extend to England and Wales(b).

(3) These Regulations shall come into force on 30th March 2010.

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 in accordance with regulations 3 to 7.

3. In regulation 4 (meaning of pensionable pay)(d)—

(a) for paragraph (2)(f) substitute—

“(f) the amount of any supplement paid—

(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. A relevant amending instrument is S.I. 2008/1083.

(d) Regulation 4 was amended by S.I. 2009/3150.

- (i) by the Environment Agency^(a); or
 - (ii) to an employee whose employment is transferred on 1st April 2010, under a staff transfer scheme, from the Learning and Skills Council for England to a local authority or to London Councils Limited^(b),
in recognition of the difference in contribution rates between members of the principal civil service pension scheme^(c) and the Scheme; or”;
- (b) after paragraph (3), add—
- “(4) In this regulation “local authority” has the same meaning as in regulation 16A.”.
4. In regulation 5 (benefits)^(d), in paragraph (1)—
- (a) in sub-paragraph (a), omit “or”; and
 - (b) in sub-paragraph (b), for “to him” substitute “to him; or”; and
 - (c) after sub-paragraph (b), insert—
- “(c) regulation 88 (bulk transfers in) of the Administration Regulations applies to him.”.
5. In regulation 6 (periods of membership)^(e), in sub-paragraph (c), for “87”, substitute “88”.
6. In regulation 16 (retirement benefits), for paragraph (2), substitute—
- “(2) Subject to regulation 16A, the normal retirement age of the Scheme is 65.”.
7. After regulation 16 insert—

“Normal retirement age: staff of the Learning and Skills Council for England

16A.—(1) Subject to paragraphs (2) and (3), the normal retirement age of a person to whom this regulation applies is 60 and—

- (a) regulations 16, 20, 29 and 31 shall be construed accordingly;
- (b) references to 55 in regulations 18(1) and 30(1) (but not in regulation 19(1)) shall be construed as references to 50 (“the age 50 protections”); and
- (c) references to 65th birthday in regulations 18(2) and 20(14) (but not in regulation 17(1)) shall be construed as references to 60th birthday.

(2) Any increases and enhancements under regulations 14(2) and 29(5)^(f) shall not apply to such a person in relation to benefits coming into payment before the age of 65.

(3) Regulation 30(2) shall not apply to such a person.

(4) Subject to paragraph (5), this regulation applies to a person who on 31st March 2010, is an employee of the Learning and Skills Council for England (“LSC”), and who on that date—

- (a) is an active member of the 1972 Section or the 2002 Section of the principal civil service pension scheme (“PCSPS”), or is eligible to join one of those Sections;
- (b) ceases to be a member of the PCSPS as a consequence of being named in a staff transfer scheme, providing for the transfer of their employment on 1st April 2010 from the LSC to a local authority or to London Councils Limited; and
- (c) on 1st April 2010 becomes an active member of the Scheme.

(a) For the definition of the Environment Agency, see section 1 of the Environment Act 1995 c. 25.

(b) As to which see Schedule 7 to the Apprenticeships, Skills, Children and Learning Act 2009 c.22; London Councils Limited is a company limited by guarantee (company number 03037449) and is a body representative of local authorities in London and a community admission body under regulation 5 of the Local Government Pension Scheme (Administration) Regulations 2008 (S.I. 2008/239).

(c) For the definition of the principal civil service pension scheme, see section 2(10) of the Superannuation Act 1972.

(d) Regulation 5 was amended by S.I. 2008/1083.

(e) Regulation 6 was substituted by S.I. 2008/1083.

(f) Regulation 29 was substituted by S.I. 2008/1083.

- (5) The age 50 protections and paragraph (3) shall only apply if the person either—
- (a) became an active member of the 1972 Section or the 2002 Section of the PCSPS before 6th April 2006;
 - (b) became an active member of the 1972 Section of the PCSPS after 5th April 2006, and rule 3.10aa (termination of pensionable service on resignation or option out of the scheme) of that Section did not apply to such a person; or
 - (c) became an active member of the 2002 Section of the PCSPS after 5th April 2006, and paragraph (3) of rule D.3 (early payment of pensions with actuarial reduction) of that Section applied to such a person.
- (6) In this regulation—
- (a) (i) subject to sub-paragraph (ii), “local authority” has the same meaning as in section 579(1) of the Education Act 1996(a); but
 - (ii) until an order under section 162 of the Education and Inspections Act 2006(b) (power to replace statutory references to local education authorities with references to local authorities) comes into force, “local authority”, means “local education authority” and “local education authority” shall be construed in accordance with section 12 of the Education Act 1996.
 - (b) “the principal civil service pension scheme (“PCSPS”)” has the same meaning as in section 2(10) of the Superannuation Act 1972;
 - (c) “the 1972 Section” means Section II of the PCSPS; and
 - (d) “the 2002 Section” means Section 1 of the PCSPS.”.

8. After regulation 18 (flexible retirement)(c), insert—

“Flexible retirement: staff of the Learning and Skills Council for England

18A.—(1) In relation to a person to whom this regulation applies, paragraph (1), of regulation 18 shall apply as if, for the words “and such benefits may, with his employer’s consent be paid” there were substituted “and such benefits shall be paid”.

(2) This regulation applies to a person who on 31st March 2010, is an employee of the Learning and Skills Council for England (“LSC”), and who on that date—

- (a) is an active member of the 1972 Section or the 2002 Section of the principal civil service pension scheme (“PCSPS”), or is eligible to join one of those Sections;
- (b) ceases to be a member of the PCSPS as a consequence of being named in a staff transfer scheme, providing for the transfer of their employment on 1st April 2010 from the LSC to a local authority or to London Councils Limited(d); and
- (c) on 1st April 2010 becomes an active member of the Scheme.

(3) In this regulation “local authority”, “the principal civil service pension scheme (“PCSPS”)”, “the 1972 Section” and “the 2002 Section” have the same meaning as in regulation 16A.”.

9. In regulation 19 (early leavers: inefficiency and redundancy), in paragraph (2) for “before 31st March 2010” substitute “before 1st April 2010”.

(a) 1996 c. 56.

(b) 2006 c. 40.

(c) Regulation 18 was amended by S.I. 2008/1083.

(d) As to which see Schedule 7 to the Apprenticeships, Skills, Children and Learning Act 2009 c.22; London Councils Limited is a company limited by guarantee (company number 03037449) and is a body representative of local authorities in London and a community admission body under regulation 5 of the Local Government Pension Scheme (Administration) Regulations 2008 (S.I. 2008/239).

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

10. The Local Government Pension Scheme (Administration) Regulations 2008(a) are amended in accordance with regulations 11 to 13.

11. After regulation 87 (changes of fund and variable time employees), add—

“Part 10 Special cases

Bulk transfers in: the Learning and Skills Council for England

88.—(1) This regulation applies to a person who on 31st March 2010, is in the employment of the Learning and Skills Council for England (“LSC”), and—

- (a) is an active member of the principal civil service pension scheme (“PCSPS”)(b);
- (b) ceases to be a member of the PCSPS as a consequence of being named in a staff transfer scheme, providing for the transfer of his or her employment on 1st April 2010, from the LSC to a local authority or to London Councils Limited(c);
- (c) on 1st April 2010 becomes an active member of the Scheme ; and
- (d) opts to transfer his or her accrued rights from the PCSPS to the Scheme under special transfer arrangements.

(2) The actuaries representing the PCSPS and the actuaries representing the appropriate administering authorities shall agree—

- (a) the transfer value payment in respect of a person to whom this regulation applies; and
- (b) the special transfer arrangements mentioned in paragraph ((1)(d).

(3) In this regulation—

- (a) subject to paragraph (b), “local authority” has the same meaning as in section 579(1) of the Education Act 1996(d); but
- (b) until an order under section 162 of the Education and Inspections Act 2006(e) (power to replace statutory references to local education authorities with references to local authorities) comes into force, “local authority”, means “local education authority” and “local education authority” shall be construed in accordance with section 12 of the Education Act.

Former staff of the Learning and Skills Council for England

89. Except for the purposes of regulation 84(4), the normal retirement age of a person to whom regulation 16A of the Benefits Regulations (normal retirement age: staff of the Learning and Skills Council for England), applies is 60; and—

- (a) regulations 19(7), 23(4) and 68(3) shall be construed accordingly; and
- (b) in regulation 50(2) the reference to 65th birthday shall be construed as a reference to 60th birthday.”.

(a) S.I. 2008/239; Schedule 4 was amended by S.I. 2008/3245.

(b) For the definition of the principal civil service pension scheme, see section 2(1) of the Superannuation Act 1972.

(c) As to which see Schedule 7 to the Apprenticeships, Skills, Children and Learning Act 2009 c.22; London Councils Limited is a company limited by guarantee (company number 03037449) and is a body representative of local authorities in London and a community admission body under regulation 5 of the Local Government Pension Scheme (Administration) Regulations 2008 (S.I. 2008/239).

(d) 1996 c. 56.

(e) 2006 c.40.

12. In Schedule 1, for the definition of “normal retirement age”, substitute—
““Normal retirement age”, except in regulation 89, is 65.”.
13. After Note 6 to the Table in Part 2 of Schedule 4, insert—

“Part 3

Appropriate funds: probation trusts

1. This paragraph applies to—
- (a) any deferred or pensioner member affected on or after 1st April 2010, by the abolition of a local probation board (“LPB”); and
 - (b) any active member who transfers on or after 1st April 2010 to a probation trust in accordance with a staff transfer scheme made under Schedule 2 to the Offender Management Act 2007(a).
- 2.—(1) These Regulations apply to a member to whom paragraph 1 applies (“a LPB member”) subject to the modifications to regulation 30 (appropriate funds) set out in subparagraph (2).
- (2) For paragraph (1) of regulation 30, substitute—
- “(1) The appropriate fund for a LPB member or a person who is entitled to any benefit in respect of a person who has been a LPB member is—
- (a) in the case of an active member, the fund identified by applying paragraph 8 of the Table in Part 1 of Schedule 4;
 - (b) in the case of a deferred or pensioner member, the fund managed by the administering authority for the probation trust to which that member would have transferred had the member not ceased to be an active member before 1st April 2010;
 - (c) in the case of a person who is entitled under the Benefits Regulations in respect of a LPB member, the fund managed by the administering authority for the probation trust to which that member would have transferred had the member not ceased to be an active member before 1st April 2010.”.
3. Where the effect of a modification under paragraph 2 is that an administering authority ceases to manage a LPB member’s appropriate fund, regulation 86 (changes of fund) shall apply in respect of a deferred or pensioner member as it applies in respect of an active member.”.

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

Rosie Winterton
Minister of State

1st March 2010

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England and Wales, amend the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (“the Benefits Regulations”) (S.I. 2007/1166), and the Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”) (S.I. 2008/239).

(a) 2007 c. 21.

Regulation 2 introduces the amendments to the Benefits Regulations set out in regulations 3 to 9.

Regulation 3 amends regulation 4 (meaning of “pensionable pay”) by inserting into the list of exclusions to the meaning of “pensionable pay”, the pay uplift paid to former staff of the Learning and Skills Council for England (“LSC”) in recognition of the higher contribution rates paid under the Local Government Pension Scheme (“LGPS”) compared to the principal civil service pension scheme (“PCSPS”).

Regulation 4 amends regulation 5 (benefits) by inserting a reference to regulation 88 (bulk transfers in) of the Administration Regulations, so that former LSC staff are not subject to an initial qualifying period before entitlement to benefits under the LGPS.

Regulation 5 similarly amends regulation 6 (periods of membership) by inserting a reference to regulation 88, so that the bulk transfer in of former LSC staff will enable their membership of the PCSPS to be counted towards their period of membership in the LGPS.

Regulation 6 makes a minor amendment to regulation 16 (retirement benefits) by introducing a reference to new regulation 16A.

Regulation 7 inserts a new regulation 16A into the Benefits Regulations, to enable staff of the LSC, on transfer to the Local Government Pension Scheme, to retain the benefit of the normal retirement age of 60 offered under the PCSPS to which they previously belonged.

Regulation 8 inserts a new regulation 18A into the Benefits Regulations, which modifies regulation 18 (flexible retirement) to enable former staff of the LSC to receive their benefits without their employer’s consent.

Regulation 9 makes a minor amendment to regulation 19 (early leavers: inefficiency and redundancy), to clarify that the date on which the circumstances listed in regulation 19(1) apply to a member, includes 31st March 2010.

Regulation 10 introduces the amendments to the Administration Regulations set out in regulations 11 to 13.

Regulation 11 introduces a new Part 10 comprising two new regulations 88 and 89:

Regulation 88 provides for the bulk transfer in of the pension rights of former LSC staff, accrued under the PCSPS.

Regulation 89 provides that references to normal retirement age in relation to former staff of the LSC are references to 60 instead of 65. There is an exception relating to regulation 84(4), where normal retirement age is still 65.

Regulation 12 amends the definition of “normal retirement age” in Schedule 1 to take account of the exception made by new regulation 89.

Regulation 13 amends Schedule 4 by the insertion of a new Part 3. Paragraph 2 of the new Part modifies regulation 30 (appropriate funds) in order to identify the appropriate fund for active, deferred and pensioner members on the abolition of local probation boards. The effect of paragraph 3 of the new Part is to apply regulation 86 (changes of fund) to the former administering authorities for the abolished boards, so that appropriate payments will be made to the new administering authorities in respect of the liabilities for deferred and pensioner members of the abolished boards.

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

STATUTORY INSTRUMENTS

2010 No. 528

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The Local Government Pension Scheme (Amendment)
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£5.50