



Department for
Communities and
Local Government

The Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2014

Government response to the Consultation

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Introduction

The Department for Communities and Local Government consulted on these Regulations from 27 March to 24 May 2013. They formed part of a package for consultation with two other sets of draft Regulations relating to the new Local Government Pension Scheme from April 2014.

The provisions contained within these Regulations make amendments to both the Local Government Pension Scheme Benefits and Administration Regulations as part of the ongoing stewardship of the current 2008 Scheme. They remain necessary to clarify certain measures already introduced in earlier sets of amending regulations but where change is required now.

Summary of main consultation responses

Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2014

Type of Respondent	Total Number	% of Total
County Councils	8	42%
Metropolitan Borough Councils	3	16%
Borough Councils	1	5%
Professional Associations & Societies	5	26%
Arms Length Bodies	2	11%
TOTAL	19	100%

Regulation 3 – adds to the categories of small payments authorised for commutation into lump sums.

Comments

There were two comments that Regulation 3 of the Statutory Instrument is welcome. There was also one suggestion that this provision should be amended to extend its use to members who left prior to 1 April 2008.

Government response

The regulations which preceded the 2008 Scheme have already been revoked and no amendment is possible.

Regulation 5 - makes provision to permit the Housing Ombudsman, as a corporation sole, to be eligible for membership.

Comments

One response made the following suggestions:-

(a) that the backdating element is removed in respect of the London Legacy Development Corporation in Regulation 1;

(b) that sub paragraph (7E) is expanded to stipulate that a person appointed as Chairman or Deputy Chairman of a Mayoral Development Corporation cannot be an active member of

the Local Government Pension Scheme if that person is the Mayor of London, a Member of the London Assembly or a member of staff of the Greater London Authority.

(c) that Regulation 5 refers to “Mayoral Development Corporations” in generic terms rather than “London Legacy Development Corporation” specific – as it would be administratively more straightforward and consistent with the Localism Act which could save future amendments; and

(d) that the words “in writing by the Chairman of the Corporation” are deleted with regard to the appointment of a Deputy Chairman. Although the words are stipulated in standing orders – these may change in future.

Government response on London Legacy Development Corporation proposal

The Department for Communities and Local Government has decided not to proceed with the London Legacy Development Corporation elements of the provision, as, currently, both the Chairman and Deputy Chairman of the London Legacy Development Corporation are already members of the Local Government Pension Scheme via their roles at the Greater London Authority.

Comments on Housing Ombudsman proposal

One response advised that the Housing Ombudsman as a Corporation Sole came into effect on 2 April 2013. The employees, assets and liabilities of the Independent Housing Ombudsman Limited were transferred to the Corporation Sole on that date.

Government response

The Department for Communities and Local Government has amended the date in regulation 1 so it comes into force from 2 April 2013 accordingly.

Other Comments

One response queried the following points:-

(a) whether the Housing Ombudsman and London Legacy Development Corporation should be added to the list of Scheme employers in Part 1 of Schedule 2 of the Administration Regulations;

(b) whether there is a need to delete some obsolete provisions Regulation 9 of the 2008 Regulations.

Government response

The Housing Ombudsman staff gain access to the Local Government Pension Scheme through an admission agreement with Westminster City Council. The London Legacy Development Corporation staff gain access to the Scheme because they are already listed in Part 1 to Schedule 2 to the Administration Regulations. So the Department for Communities and Local Government believes nothing further is needed for staff. The elements contained in Regulation 5 deals with non-employees where agreement is to provide the appointee with a pension. As regards deleting obsolete provisions contained

within Administration Regulation 9, Part 4 in Schedule 2 of the new Scheme Regulations takes this forward.

Regulation 6 - clarifies the provisions relating to joining the Scheme following the introduction of the employer duties for automatic enrolment and re-enrolment. In particular, affected eligible members with a contract of less than three months will have no barrier to automatic entry to the scheme.

Comments

There were five indications that Regulation 6 of the Statutory Instrument is welcome.

Two responses requested that education-related employees in alternative pension schemes should be allowed to remain in those schemes.

Government response

Provided that individuals are already members of a recognised pension scheme, they would be subject to the automatic enrolment or re-enrolment process of that Scheme.

Comments

There were two suggestions that the proposals are an example of over-regulation.

Government response

The amendment is being made in order to comply with the relevant primary legislation. The Pensions Regulator expressed the view that the Local Government Pension Scheme was not a fully compliant scheme, as the scheme rules contained a barrier to automatic enrolment. They prevented an eligible jobholder with a contract of less than three months from being automatically enrolled into the scheme, which is contrary to s.17(2)(a) of the Pensions Act 2008. As a consequence, the amendment makes individuals with a contract of less than three months subject to the requirements of auto-enrolment.

Comments

Two responses indicated that the phrase “in relation to that employment” should be inserted as appropriate.

Government response

The Department considers that there are already sufficient appropriate references in new paragraphs 5A and 7.

Comments

One response suggested that wording should be modified along the lines of the draft Statutory Instrument for the new Scheme.

Government response

The wording of the consultation draft introduced provisions which were broadly along the lines of Regulation 3 of the Local Government Pension Scheme Regulations 2013. The amendment has been changed to reflect the equivalent provisions in Regulation 3, and the addition of a new sub-paragraph (4)(c) dealing with members automatically enrolled when their contracts are extended.

Comments

One response suggested that already-submitted opt-out forms should be respected.

Government response

This will be the case, but under the terms of automatic enrolment, it is only possible with regard to notices submitted before 1st October 2012.

Regulation 7 – recasts regulation 38 of the Administration Regulations to make it clear that all employers in the Local Government Pension Scheme are subject to this Regulation. It sets out the action to be taken when an employer ceases to participate in the Local Government Pension Scheme or, in the opinion of the administering authority, participation is likely to cease at some point, so that any unmet liabilities can be better managed before the employer leaves the Scheme.

The effect of Regulation 7 is to also revoke the provisions in Regulation 38(3A) to (3G) of the Administration Regulations relating to the liability of the former Housing Corporation. These provisions are no longer required following the restructuring of the Homes and Communities Agency and the closure of the Tenant Services Authority.

Government response

Twelve specific consultation responses have been considered and there was a further statutory consultation in June 2013 for a similar provision for the Local Government Pension Scheme Regulations 2013. There were helpful suggestions from both consultations. Specifically, a request to make it clear that an employer has a duty to make an exit payment if this becomes due and for flexibility for the spreading of any exit payment over a reasonable period. The regulation has been revised to reflect the consultation responses where possible and the provision has been carried forward as Regulation 64 of the Local Government Pension Scheme Regulations 2013.