

LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND)
REGULATIONS REQUIRING CHANGE

Periods of membership: "total membership": Regulation 8(1A) currently prevents a member from counting service after their 65th birthday as a period of membership. From April 2006 this restriction is to be removed. Members will be entitled to accrue membership in relation to any relevant employment, at any age. There is currently an Inland Revenue and Department of Trade and Industry limit of further accrual up to the age of 75.

Employers' discretion to reduce members' contribution rate: Regulation 14 Inland Revenue will no longer impose a restriction on maximum membership contribution (currently 40 years for class A members). The ability for an employer to resolve to waive a member's contributions where they have attained 40 years membership will be removed.

For extant members, provision will be considered to either let employers still waive the contributions but count the period of membership or to allow members whose contributions have been waived to now make the necessary contributions (+ interest) in order that any period of membership which would not have counted under the principal regulations may now be counted for the purpose of calculating benefits.

Inland Revenue Limits on Contributions: Regulation 15 there will no longer be a limit on the amount of contributions a member may make. Instead, the new regime provides an annual tax free allowance on the amount of contributions (initially £215,000 or total salary, whichever is the lower). A tax charge becomes payable where the amount of pensions benefits a member may accrue in any financial year, exceeds this limit. Regulation 15 will therefore be deleted.

Calculations: Regulations 19 (3) and (4A) There is no intention at present to replace the calculation of lump sum. But see also regulation 58. Membership after a members 65th birthday will now count for the purposes of calculating their LGPS benefits. It is proposed that membership prior to age 65 will be actuarially increased post the 65th birthday where pension is not released.

Revenue Limits: Regulation 23 The new regime does not provide a limit in terms of a maximum replacement rate on the amount of benefits that a member may become entitled to under the LGPS. Regulation 23 will therefore be deleted, but see Schedule 4.

Amounts of Ill-Health Pension and Grant: Regulation 27(3) There is no need for the retention of a 40 year limit for calculating enhanced membership and therefore it is proposed that this regulation will be amended accordingly.

Re-employed and Rejoining Members: Regulation 31(2) References to class B and C members will no longer be relevant and will therefore be deleted.

Requirements as to Time of Payment: Regulation 34 This regulation will be amended in order to accommodate flexible retirement - i.e. the capacity for members to draw a pension without "retiring" completely.

Meaning of Eligible Child: Regulation 43 The new regime introduces a new definition of "dependant child" which has to be reflected by all registered pension schemes. This prohibits the payment of a child's pension after the age of 23 unless the child was dependent on the scheme member at the date of their death by virtue of a physical or mental disability which arose whilst they were a child.

Purchase of Added Years: Regulation 54 Although the maximum referred to under regulation 54(2) will no longer necessarily apply under the new regime - it is necessary to consider whether added years contracts should be restricted. This is because of individual choice impacting on employer costs, and this is particularly relevant in view of the fact that they are treated as paid in full where a member retires on ill health grounds. In due course under proposals for changes from 2008 this problem may resolve itself, but at present it may be appropriate to consider a scheme limit on added years, and therefore consultees may feel it is necessary to retain this provision.

Election for Lump Sum in lieu of Pension: Regulation 58 The maximum lump sum references in regulation 58(5) will be incorrect under the new tax regime and will therefore need amending so it makes reference to the maximum allowable under Inland Revenue overall limits. A decision will need to be made that this is over and above the three times pension that is now payable.

Elections to pay AVCs: Regulation 59 Employers will be able, at their discretion, to allow employees to contribute to a registered additional voluntary contributions scheme. But there will be no requirement for them to do so. The new regime will allow members to contribute to any concurrent registered pension arrangement, for example a personal pension.

For extant contributors of AVC schemes, an election made before the amendment regulations come into effect shall continue to apply as though the regulations had not been amended.

Elections as to use of accumulated value of AVCs Regulation 65 (as per replacement paragraph inserted by reg 25 of the LGPS(S) Amendment Regs 2005 – SSI 2005 No. 293) There is an issue regarding this regulation which might impact on the total lump sum payable (eg do we combine the value of pension and AVC and allow members to take 25% of the total?) .

Over-provision: Regulation 84 Over provision as currently applying will no longer be applicable under the new regime as Inland Revenue will cease to restrict such benefits, subject to satisfactory annual and life timer limits.

Annual Benefit Statements: Regulation 105A (as per the new provision added by Reg 38 of the LGPS(S) Miscellaneous Amendment Regulations – SSI 2005 No. 293). These provisions will be updated to provide annual benefit statements in accordance with the new annual allowance provisions and to show the Inland Revenue value of benefits accrued in the relevant financial year.

Schedule 4: In its current format this will become redundant and will be replaced with a schedule to reflect the new regime as introduced by Finance Act 2004.