
SCOTTISH STATUTORY INSTRUMENTS

2009 No.

PENSIONS

The Local Government Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Regulations 2009

Made - - - - - [] *February 2009*

Laid before the Scottish Parliament [13th] *February 2009*

Coming into force - - - [6th] *April 2009*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a), and of all other powers enabling them to do so.

In accordance with section 7(5) of that Act, they have consulted such associations of local authorities as appeared to them to be concerned, such local authorities with whom consultation appeared to them to be desirable, and such representatives of other persons likely to be affected by the proposed regulations as appears to them to be appropriate.

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the Local Government Pensions (Increased Pension Entitlement) (Scotland) Regulations 2009.

(2) These Regulations come into force on [6th April 2009] and, subject to paragraph (3), have effect from that date(b).

(3) Regulation 3, in so far as required to give effect to regulation 4, and regulation 4 have effect from [] April 1979 to [5th April 2009].

(4) These Regulations extend to Scotland only.

Amendment of the Local Government Pension Scheme

2.The Local Government Pension Scheme (Scotland) Regulations 1998(c) are amended in accordance with regulations 3 to 6.

(a) 1972 c.11. The functions of the Secretary of State exercised in the making of these Regulations were transferred to the Scottish Ministers as regards Scotland by virtue of the Scotland Act (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).

(b) Retrospective effect is permitted by section 12(1) of the Superannuation Act 1972.

(c) S.I. 1998/366, relevant amending instruments are S.S.I. 2000/199, 2001/23, 2002/311, 2005/293, 315 and 554, 2006/123, 468 and 514, and 2007/71.

3. After regulation 160 (application of Part VI to deferred members and pensioner members under the 1987 Regulations), insert–

“PART VII INCREASED PENSION ENTITLEMENT

Interpretation

161. In this Part–

“administering authority” means a body required to maintain a pension fund under these Regulations [and/or the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008(a)];

“appropriate fund”, in relation to a person to whom these regulations apply, has the meaning given in regulation 73 of the 1998 Regulations (appropriate funds);

“the existing Orders” means the Pensions Increase (Annual Review) Order 1978(b), the Pensions Increase (Review) Order 1979(c) the Pensions Increase (Review) Order 1980(d), the Pensions Increase (Review) Order 1981(e), the Pensions Increase (Review) Order 1982(f), the Pensions Increase (Review) Order 1983(g), the Pensions Increase (Review) Order 1984(h), the Pensions Increase (Review) Order 1985(i), the Pensions Increase (Review) Order 1986(j), the Pensions Increase (Review) Order 1987(k), the Pensions Increase (Review) Order 1988(l), the Pensions Increase (Review) Order 1989(m), the Pensions Increase (Review) Order 1990(n), the Pensions Increase (Review) Order 1991(o), the Pensions Increase (Review) Order 1992(p), the Pensions Increase (Review) Order 1993(q), the Pensions Increase (Review) Order 1994(r), the Pensions Increase (Review) Order 1995(s), the Pensions Increase (Review) Order 1996(t), the Pensions Increase (Review) Order 1997(u), the Pensions Increase (Review) Order 1998(v), the Pensions Increase (Review) Order 1999(w), the Pensions Increase (Review) Order 2000(x), the Pensions Increase (Review) Order 2001(y), the Pensions Increase (Review) Order 2002(z), [the Pensions Increase (Review) Order 2003(aa), the Pensions Increase (Review) Order 2004(bb)], the Pensions Increase (Review) Order 2005(cc), the Pensions Increase (Review) Order 2006(dd), the Pensions Increase

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- (a) S.S.I. 2008/228.
 - (b) S.I. 1978/1211.
 - (c) S.I. 1979/1047.
 - (d) S.I. 1980/1302.
 - (e) S.I. 1981/1217.
 - (f) S.I. 1982/1178.
 - (g) S.I. 1983/1264.
 - (h) S.I. 1984/1307.
 - (i) S.I. 1985/1575.
 - (j) S.I. 1986/1116.
 - (k) S.I. 1987/130.
 - (l) S.I. 1988/217.
 - (m) S.I. 1989/477.
 - (n) S.I. 1990/483.
 - (o) S.I. 1991/684.
 - (p) S.I. 1992/198.
 - (q) S.I. 1993/779.
 - (r) S.I. 1994/776.
 - (s) S.I. 1995/708.
 - (t) S.I. 1996/800.
 - (u) S.I. 1997/634.
 - (v) S.I. 1998/503.
 - (w) S.I. 1999/522.
 - (x) S.I. 2000/672.
 - (y) S.I. 2001/664.
 - (z) S.I. 2002/699.
 - (aa) S.I. 2003/681.
 - (bb) S.I. 2004/758.
 - (cc) S.I. 2005/858.
 - (dd) S.I. 2006/741.

(Review) Order 2007(a) and the Pensions Increase (Review) Order 2008(b); and “existing Order” shall be construed accordingly;

“guaranteed minimum pension” has the same meaning as it does for the purposes of the Social Security Act 1975(c);

“relevant administering authority” means the body maintaining the appropriate fund;

“the scheme” means the occupational pension scheme constituted by the 1987 Regulations or these Regulations; and

“tax year” means a period of 12 months beginning on 6th April and ending on the following 5th April.

Application of this Part

162. This part applies to a person who–

- (a) is entitled to a pension under the scheme on [5th April] 2009;
- (b) is entitled to a guaranteed minimum pension on that date(d); and
- (c) has in any tax year since entitlement to the guaranteed minimum pension commenced received either or both of the payments described in regulation 163(1) (“GMP-related payments”).

Payments

163.—(1) The payments are–

- (a) the payment of an increase in the annual rate of the pension which is equal to the increase in the annual rate of that part of the guaranteed minimum pension attributable to [reckonable service accrued during] the tax years 1978-79 to 1987-88;
- (b) the payment of an increase in the annual rate of the pension which is equal to the increase in the annual rate of that part of the guaranteed minimum pension attributable to [reckonable service accrued during] the tax years 1988-89 to 1996-97 where that annual increase was above 3%,

that meet the conditions in paragraph (2).

(2) The conditions are that the payments are made–

- (a) by the relevant administering authority;
- (b) out of the appropriate fund;
- (c) applying the existing Orders as if the person was not entitled to a guaranteed minimum pension; and
- (d) between [xth] April 1979 and [5th April 2009].

(3) In this regulation, a reference to “the increase in the annual rate” means, in relation to any tax year, the rate of increase provided for in the existing Order relevant to that tax year.”.

4. After regulation 163 (payments), insert–

“Authorisation of payment of GMP-related payments

164.—(1) The relevant administering authority may pay GMP-related payments to–

- (a) a person to whom this Part applies; and

(a) S.I. 2007/801.

(b) S.I. 2008/711.

(c) 1975 (c.60).

(d) By virtue of section 17 of the Pension Schemes Act 1992 (c.48), and regulation [42] of the scheme, the widow, widower or surviving civil partner of [a pensioner member] is entitled to a guaranteed maximum pension under the scheme.

(b) a deceased entitled member.

(2) Where a relevant administering authority has paid GMP-related payments, the authority may not recover those payments.

(3) In this regulation, a deceased entitled member is a person who–

(a) at the date of his death was entitled to a pension under the scheme;

(b) at that date was entitled to a guaranteed minimum pension; and

(c) has in any tax year since entitlement to the guaranteed minimum pension commenced, received either or both of the payments described in regulation 163(1).”.

5. After regulation 164 (authorisation of payment of GMP related payments), insert–

“Increased Pension Entitlement

165.—(1) Subject to paragraph (4) and (5), a person to whom this Part applies is entitled to an Increased Pension Entitlement calculated in accordance with paragraph (3).

(2) An Increased Pension Entitlement is payable by the relevant administering authority and shall be paid out of the appropriate fund.

(3) The annual amount of the Increased Pension Entitlement that the person is entitled to is equal to the GMP-related payment that the person received for the tax year 2008-09.

(3A) [The annual amount of the Increased Pension Entitlement that the person is entitled to is equal to the annual amount of the GMP related payment [for the tax year 2009-10]].

(3B) In this regulation, the [annual amount of the] GMP-related payment for the tax year 2009-10 is the amount of the GMP-related payment [, within the meaning of regulation 163(1),] that the person would have received in the tax year 2009-10 if the relevant administering authority had, in relation to that complete tax year, applied the existing Orders and the Pensions Increase (Review) Order 2009(a) as if the person was not entitled to a guaranteed minimum pension.

(4) Where the person’s pension is terminated under the scheme, the person is not entitled to receive any payment of an amount of the Increased Pension Entitlement in respect of any period after the date on which the pension is terminated.

(5) Where the person’s pension, or any proportion of the pension, is forfeited, either permanently or temporarily, the same proportion of the person’s Increased Pension Entitlement is forfeited for the same period of time.

(6) An Increased Pension Entitlement is payable for life and shall be discharged by payments in advance at such reasonable intervals as the administering authority may, in their discretion, determine except that payment on account of an Increased Pension Entitlement may be delayed, in whole or in part, pending the determination of any question as to the liability of the administering authority in respect thereof, including any question as to the continuance of that liability.

(7) The Increased Pension Entitlement or any portion of that entitlement may not be commuted for a lump sum.”.

6. For regulation 39(5) (surviving spouse’s short term pension), substitute–

“(5) Where the deceased was a pensioner member, the short-term pension is equal to–

(a) his retirement pension; and

(a) S.I. 2009/xxxx.

(b) where he was entitled to an Increased Pension Entitlement, his Increased Pension Entitlement, immediately before the death (but see regulation 41).”.

St Andrew’s House,
Edinburgh
February 2009

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)