
SCOTTISH STATUTORY INSTRUMENTS

2008 No.

PENSIONS

The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008

Made - - - -

Laid before the Scottish Parliament

Coming into force - -

1st April 2009

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7, 12 and 24 of 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 appeared to them to be appropriate.

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2008 and shall come into force on 1st April 2009.

Amendment of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998

2.—(1) The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998(b) are amended in accordance with this regulation.

(2) In regulation 2(1) (general interpretation), after the definition of “assumed member” insert—
“the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008(c);”

(3) In regulation 8(1) (power to award credited period for compensation purposes) after “regulation 51 of the LGPS Regulations” insert “or regulation 12 or 13 of the Benefits Regulations”.

(4) In regulation 35(1) (determination to pay and computation of compensation)—

(a) for “66 weeks remuneration” substitute “104 weeks’ remuneration”; and

(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 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).

(b) S.I. 1998/192, amended by S.I. 1998/364 and 366 and S.S.I. 2000/77, 2005/554 and 2006/609.

(c) S.S.I. 2008/230.

- (b) after “regulation 51 of the Local Government Pension Scheme (Scotland) Regulations 1998” insert “or regulation 12 or 13 of the Benefits Regulations”.
- (5) After regulation 49 (schemes in connection with the exercise of powers) insert–

“PART VI(A)
GRATUITIES AS RESPECTS EARLY LEAVERS ON GROUNDS OF
ILL HEALTH

Interpretation

49A. In this Part the expressions–

- (i) “employing authority”;
- (ii) “total membership”; and
- (iii) “pensionable pay”;

have the same meaning as in regulation 2 of the Benefits Regulations.

Ill-health gratuity

49B.—(1) Where, in the case of a member who has at least two years total membership, an employing authority–

- (a) determines to terminate the member’s employment on the grounds of the member’s ill-health or infirmity of mind or body; and
- (b) does not determine, under regulation 20(1)(a) of the Benefits Regulations, to terminate the member’s local government employment on the grounds that the member’s ill-health or infirmity of mind or body renders the member permanently incapable of discharging efficiently the duties of the member’s current employment,

the employing authority may make the member a discretionary grant (“an ill-health gratuity”).

(2) An ill-health gratuity may consist only of a lump sum calculated in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount is an amount equal to one week’s pay for every whole year of employment with that employing authority.

(4) The amount of ill-health gratuity may not exceed a sum equal to 30 weeks’ pay.

(5) In this section, the amount of one week’s pay is the amount equal to the member’s pensionable pay on the day before the member’s employment is terminated divided by 52.”.

A member of the Scottish Executive

St Andrew’s House,
Edinburgh

[] 2008

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (“the Injury Benefit Regulations”) by inserting a new Part VI(A) to provide for the discretionary payment of ill-health gratuities by employing authorities to employees whose employment is terminated on the grounds of ill-health but where the employing authority does not consider that the employee is rendered permanently incapable of discharging the duties of his or her current employment (regulation 20 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 provides for the payment of certain benefits in cases where the employing authority terminates employment on the grounds that the employee is rendered permanently incapable of discharging efficiently the duties of his or her current employment).

Regulation 2(4) amends regulation 35 of the Injury Benefit Regulations to increase the compensation payable to employees who cease to be employed by reason of redundancy or business efficiency from 66 weeks’ pay to 104 weeks’ pay.

An ill-health gratuity may consist only of a one-off lump sum, which is calculated on the basis of one week’s pay for each year’s service and limited to a maximum of 30 weeks’ pay.