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SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**PUBLIC SERVICE PENSIONS**

**The Local Government Pension Scheme (Miscellaneous  
Amendments) (Scotland) Regulations 2019**

<i>Made</i>	- - - -	2019
<i>Laid before the Scottish Parliament</i>		2019
<i>Coming into force</i>		2019

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 7 of the Superannuation Act 1972(a)(“the 1972 Act”) and sections 1, 2 and 3 and schedule 2, paragraph 3(b) of the Public Service Pensions Act 2013(b)(“the 2013 Act”) and all other powers enabling them to do so.

In accordance with section 7(5) of the 1972 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 these Regulations as appeared to them to be appropriate

In accordance with section 21(1) of the 2013 Act, the Scottish Ministers consulted such persons or the representatives of such persons as appeared to the Scottish Ministers likely to be affected by these Regulations.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2019, and come into force on { ..... }2019.

(2) Regulations 2 and 3 have effect from 1st June 2018.

(3) Regulation 4 has effect from 1<sup>st</sup> April 2015.

**Amendment of the Local Government Pension Scheme (Scotland) Regulations 2018**

2.—(1) The Local Government Pension Scheme (Scotland) Regulations 2018(c) are amended in accordance with paragraph (2) to (4).

(2) In the citation of the enabling powers, for “Public Services Pensions Act 2013” substitute “Public Service Pensions Act 2013”.

(3) In regulation 1(2) —

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(a) 1972 c.11; section 7 was amended by the Public Service Pensions Act 2013, Schedule 8, paragraph 8; the functions of the Secretary of State under section 7 were transferred to the Scottish Ministers by virtue of S.I. 1999/1750.

(b) 2013 c.25.

(c) S.S.I. 2018/141.

- (a) after “29(11),” insert “29(13),”; and
  - (b) for “transfer” substitute “Transfer”.
- (4) For the words in regulation 2(1) substitute “These Regulations consolidate with certain amendments the provisions of the Local Government Pension Scheme (Scotland) Regulations 2014(a), which established a scheme for the payment of pensions and other benefits to or in respect of persons employed by Scheme employers, and constitute “the Scheme””.
- (5) In regulation 2(2) for “scheme” substitute “Scheme”.
- (6) In regulation 3(3) and (6) for “33” substitute “3”.
- (7) In regulation 3(7)(d) for “89” substitute “86”.
- (8) In regulation 8(1) for “Pension” substitute “Pensions”.
- (9) In regulation 9—
- (a) in paragraph (4) for “affect” substitute “affects”;
  - (b) in paragraph (5) for “meaning of actual pensionable pay” substitute “meaning of pensionable pay”; and
  - (c) in paragraph (6) for “on or after” substitute “after the day before”.
- (10) In regulation 10(1) for “scheme” substitute “Scheme”.
- (11) In regulation 11, after paragraph (4) insert—
- “(5) An active member, who is absent from work with permission from the member’s Scheme employer (otherwise than by reason of illness or injury) for a continuous period of less than 31 days and is receiving reduced or no pay, must pay contributions on the pay the member would have received during that period but for the absence.
  - (6) Where paragraph (5) applies, the active member after the expiry of the period of absence, is entitled, on application to the Scheme, to be refunded contributions paid by the member during the period, and the Scheme must refund such contributions as soon as reasonably practicable after receiving the application from the member.”.
- (12) In regulation 16—
- (a) in paragraph (11)(e) for “29(6)” substitute “29(7)”; and
  - (b) in paragraph (16) after “applies” insert “an”.
- (13) In regulation 17 —
- (a) in paragraph (6) —
    - (i) remove “(2),”;
    - (ii) after “(7), insert “(8),”; and
    - (iii) for “29(6)” substitute “29(7)”; and
  - (b) in paragraph (8), in the footnote add at end “This dispensation also applies to deferred members of Earlier Schemes (as defined in S.S.I. 2014/233).”; and
  - (c) delete paragraph (12).
- (14) In regulation 18(2), at the end of the paragraph add a footnote which states: “Section 55 of the Pension Schemes Act 1993 (which deals with payment of state

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(a) 2014/233.

scheme premiums) was repealed by Pensions Act 2014 c. 19 Sch.13(1) para.37 (April 6, 2016: repeal has effect subject to savings specified in SI 2015/1502 art.2(1), (2), (4), (5), (5A) and (5B))”.

(15) In regulation 21 —

(a) in paragraph (4)(a)(v) for “12 weeks” substitute “3 months”; and

(b) in paragraph (4)(b)(v) for “3 months” substitute “12 weeks”.

(16) In regulation 22—

(a) in paragraph (6) fourth line for “and” substitute “or”; and

(b) in paragraph (7) in third line for “and” substitute “or”.

(17) In regulation 23(8) for “29(6)” substitute “29(7)”.

(18) In regulation 27—

(a) in paragraph (1) for “29(6)” substitute “29(7)”; and

(b) in paragraph (5) for “29(6)” substitute “29(7)”.

(19) After regulation 29(13) insert —

“(14) A deferred member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service.”.

(20) In regulation 30(2) after “limit” insert “for the purposes of paragraph (1)”.

(21) In regulation 33(1), in the footnote add at end “This dispensation also applies to deferred members of Earlier Schemes (as defined in S.S.I. 2014/233)”.

(22) In regulation 37 —

(a) in paragraph (7) for “21(6)” substitute “21(8)”; and

(b) after paragraph (7) insert—

“(8) For the purposes of this regulation, in calculating assumed pensionable pay in accordance with regulation 21(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member received if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.”.

(23) In regulation 39(4)(a)(iii) after “excluded” insert “any”.

(24) In regulation 43 —

(a) in paragraph (5)(c) after “30” insert “(award of additional pension)”; and

(b) in paragraph (11) for “paragraph (4)(c)” substitute “paragraphs (4)(c), (5)(c), (9)(c) and (10)(c)”.

(25) In regulation 45(4)(e) for “17(7)(b)(i)” substitute “17(6)(b)(i)”.

(26) In regulation 58—

(a) in paragraph (1)(c) omit “and”; and

(b) at end of paragraph(1)(d) insert—

“and

(e) 38 (death grants: active members), 41 (death grants: deferred members and pension credit members) and 44 (death grants: pensioner members).”.

(27) In regulation 61(8) for “paragraph (7)” substitute “paragraph (9)”.

(28) In regulation 63(3) for “61(6)” substitute “61(8)”.

(29) In regulation 64(2)(b) for “4(6)” substitute “4(4)”.

(30) In regulation 98 for “is” substitute “are”.

### **Amendment of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014**

**3.—**(1) The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014(a) are amended in accordance with paragraphs (2) to (4) .

(2) In regulation 1(4) after the definition of the 2015 Scheme, insert—  
“the 2018 Regulations” means the Local Government Pension Scheme (Scotland) Regulations 2018(b);”.

(3) After regulation 3(11) insert—  
“(12) A person who is a deferred member of one of the Earlier Schemes whose benefits under those Schemes have not come into payment and who has not become an active member of the 2015 Scheme by virtue of regulation 3(1) of the 2014 Regulations (active membership) and who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension, reduced by the amount shown as appropriate in actuarial guidance issued by the Scottish Ministers, irrespective of whether the deferred pension member is also an employee in local government service.”.

(4) In schedule 2—  
(a) in paragraph 1(1)(b) after “2014 Regulations” insert “or regulation 29(6) (retirement benefits: early retirement) of the 2018 Regulations”;  
(b) in paragraph 1(1)(c) after “2014 Regulations” insert “or regulation 29(6) (retirement benefits: early retirement) of the 2018 Regulations”;  
(c) in paragraph 1(1)(d) after “2014 Regulations” insert “or regulation 29(7) (retirement benefits: flexible retirement) of the 2018 Regulations”;  
(d) in paragraph 1(3)(a) after “2014 Regulations” insert “or regulation 29(6) or(7) of the 2018 Regulations”;  
(e) in paragraph 2(2) after “2014 Regulations” insert “or of the 2018 Regulations”;  
(f) in paragraph 4(2)(a)(ii) after “2014 Regulations” insert “or of the 2018 Regulations”;  
(g) in paragraph 4(2)(a)(iii) after “2014 Regulations” insert “or of the 2018 Regulations”;  
(h) in paragraph 4(2)(b)(iii) after “2014 Regulations” insert “or of the 2018 Regulations”;  
(i) in paragraph 5(1) after “2014 Regulations” insert “or regulation 29(7) of the 2018 Regulations”; and  
(j) in paragraph 6(2) after “2014 Regulations” insert “or of the 2018 Regulations”.

### **Amendment of the Local Government Pension Scheme (Scotland) Regulations 2014**

**4.—**(1) The Local Government Pension Scheme (Scotland) Regulations 2014(c) are amended in accordance with paragraph (2).

(2) In regulation 37 after paragraph (6) insert—

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(a) 2014/233.  
(b) S.S.I. 2018/141.  
(c) 2014/164 as amended by S.S.I. 2015/87.

“(8) For the purposes of this regulation, in calculating assumed pensionable pay in accordance with regulation 21(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member received if the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body.”.

*DEREK MACKAY*

A member of the Scottish Government

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[ ] 2019

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations principally amend regulation 29 of the Local Government Pension Scheme (Scotland) Regulations 2018 to provide that the entitlement to retire after reaching the age of 55 applies to deferred pension members, albeit with actuarially reduced entitlement, irrespective of whether the deferred pension member is also an employee in local government service. This amendment is also made in respect of earlier schemes. The Regulations also amend the Local Government Pension Scheme (Scotland) Regulations 2018 primarily to correct incorrect references.