
STATUTORY INSTRUMENTS

2012 No. 0000

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Miscellaneous)
Regulations 2012**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	2012

These Regulations are made in exercise of the powers conferred by sections 7, 12 and 24 of the Superannuation Act 1972(a).

In accordance with section 7(5) of that Act, the Secretary of State has consulted (a) such associations of local authorities as appeared to the Secretary of State to be concerned; (b) the local authorities with whom consultation appeared to the Secretary of State to be desirable; and (c) such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

Citation, extent, interpretation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Miscellaneous) Regulations 2012.

(2) These Regulations extend to England and Wales(b).

(3) In these Regulations “the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations 2008(c).

(4) These Regulations shall come into force on X X 2012, but—

- (a) regulations 38 and 39(a) shall have effect from 1st August 2010;
- (b) regulations 10, 14, 17 and 18 shall have effect from 30th September 2010; and
- (c) regulation 40(a)(i) and the amendment contained in sub-paragraph (a)(iii) of that regulation in relation to paragraph 28 of Schedule 2 to the Administration Regulations, shall have effect from 22nd November 2012.

(a) 1972 c. 11.; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(b) The Secretary of State’s functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).
(c) S.I. 2008/239.

Amendment of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

2. The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006(a) are amended in accordance with regulation 3.

3. In regulation 2 (interpretation), in paragraph (1) in the definition of “employing authority” in sub-paragraph (c), for “regulation 8(1)(a) or (b) of the Administration Regulations” substitute “regulation 8(1) of the Administration Regulations”.

Amendment of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

4. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007(b) are amended in accordance with regulations 5 to 15.

5. In regulation 1 (citation, commencement, interpretation and application)(c), in paragraph (4) after the definition of “pensioner member”, insert—

i“Scheme employer” means a body listed in Schedule 2 to the Administration Regulations (but see regulations 7(8) and 8 of those Regulations);î.

6. In regulation 8 (final pay: general)(d), after paragraph (4) add—

i(5) In this regulation—

- (a) the reference to “that employment” in paragraph (1) means a continuous period of employment in local government employment in the final pay period regardless of whether the member is promoted within that period; and
- (b) excludes any period of employment in the final pay period by virtue of which a member is also an active member of another public service pension scheme under regulation 12(1) of the Administration Regulations (further restrictions on eligibility).î

7. In regulation 14A (election to pay additional contributions: survivor benefits)(e), in paragraph (2) for “no later than 31st March 2011” substitute “no later than 12 months from the date a declaration is signed under regulation 25(2)”.

8. In regulation 18 (flexible retirement)(f), for paragraph (1) substitute—

i(1) A member who has attained the age of 55 and who, with his or her employer’s consent reduces the hours he or she works, or the grade in which he or she is employed may make a request in writing to the appropriate administering authority to receive —

- (a) in the case of a member who has accrued benefits under the 1997 Scheme—
 - (i) all of his or her benefits under that Scheme; and
 - (ii) only if the member so chooses, all or part of his or her benefits accrued under these Regulations; and
- (b) in any other case, all or part of his or her benefits accrued under these Regulations,

and such benefits may, with the member’s employer’s consent, be paid to the member notwithstanding that he or she has not retired from that employment.î.

9. In regulation 26 (meaning of “eligible child”)(a), in paragraph (6) for “the Disability Discrimination Act 1995” substitute “the Equalities Act 2010 (b)”.

(a) S.I. 2006/2914, amended by S.I. 2009/3150.

(b) S.I. 2007/1166, amended by S.I. 2008/1083, S.I. 2008/2425, S.I. 2009/3150, S.I. 2010/528, S.I. 2010/2090 and S.I. 2011/561.

(c) Regulation 1 was amended by S.I. 2008/1083, S.I. 2008/2425, S.I. 2009/3150 and S.I. 2010/2090.

(d) Regulation 8 was amended by S.I. 2008/1083.

(e) Regulation 14A was amended by S.I. 2010/2090.

(f) Regulation 18 was amended by S.I. 2008/1083 and S.I. 2010/2090.

- 10.** In regulation 28 (children’s pensions: active members) for paragraph (1), substitute—
- i(1) Subject to the provisions listed in sub-paragraph (a) and to sub-paragraph (b), the amount of the pension of an eligible child of a deceased active member is calculated in accordance with the method specified in paragraph (2) or paragraph (3) (as appropriate)—
 - (a) the provisions mentioned in paragraph (1) are—
 - (i) regulations 20(4)(a) and 20A of the 1997 Regulations(c);
 - (ii) regulations 14, 14A and 15 of these Regulations;
 - (iii) regulations 23 to 26 of the Administration Regulations; and
 - (b) where, in the opinion of an IRMP the member was at the date of death, in part-time service wholly or partly as a result of the condition that caused or contributed to the member’s death, no account shall be taken of any reduction in pay due to such reduction in service as is attributable to that condition.î.
- 11.** In regulation 30 (choice of early payment of pension)(d)—
- (a) for paragraph (2) substitute—
 - i(2) A choice made by a member aged less than 60 is ineffective without the consent of the member’s—
 - (a) employing authority;
 - (b) former employing authority; or
 - (c) appropriate administering authority where the member’s former employing authority has ceased to be a Scheme employer.î;
 - (b) in paragraph (5), for “A member’s employing authority” substitute “A member’s employing authority, former employing authority or appropriate administering authority as the case may be,”.
- 12.** In regulation 30A (choice of payment of pension: pensioner member with deferred benefits)(e)—
- (a) in paragraph (3) after “former employing authority” add “or appropriate administering authority where the member’s former employing authority has ceased to be a Scheme employer.”; and
 - (b) in paragraph (5), after “former employing authority” insert “or appropriate administering authority as the case may be,”.
- 13.** For regulation 31 (early payment of pension: ill-health)(f), substitute—
- 131.**—(1) This regulation applies to—
- (a) a member who has left his or her employment before he or she is entitled to the immediate payment of retirement benefits (apart from this regulation), or
 - (b) a member who has left his or her employment because the member is a pensioner member with deferred benefits under regulation 20(9) (“a regulation 20(9) member”).
- (2) Subject to paragraphs (3) and (4), if a member to whom this regulation applies becomes permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body, the member may ask to receive payment of their retirement benefits whatever the member’s age.

(a) Regulation 26 was substituted by S.I. 2008/1083.
 (b) 2010 c. 15.
 (c) Regulation 20(4)(a) and 20A of S.I. 1997/1612 were saved from revocation by regulation 2 of, and Schedule 1 to S.I. 2008/238.
 (d) Regulation 30 was amended by S.I. 2008/1083 and S.I. 2010/2090.
 (e) Regulation 30A was inserted by S.I. 2010/2090.
 (f) Regulation 31 was substituted by S.I. 2008/1083 and amended by S.I. 2010/2090 and S.I. 2011/561.

(3) A request under paragraph (2) must be made to the member's former employing authority or appropriate administering authority where the member's former employing authority has ceased to be a Scheme employer.

(4) Before determining whether to agree to a request under paragraph (2), the member's former employing authority or appropriate administering authority as the case may be, must obtain a certificate from an IRMP as to whether in the IRMP's opinion the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal retirement age, or for at least three years, whichever is the sooner.

(5) In the case of a regulation 20(9) member, the IRMP must also certify that the condition from which the member is suffering, is unrelated to the condition which led to the employer making a determination to pay retirement benefits under regulation 20(4).

(6) In this regulation, "gainful employment", "IRMP" and "permanently incapable" have the same meaning as given to those expressions by regulation 20(14).¹

14. In regulation 33 (survivor benefits: deferred members), for paragraph (2) substitute—

i(2) (a) Subject to the provisions listed in sub-paragraph (b) and to sub-paragraph (c), the pension is calculated by multiplying the member's total membership by his or her final pay and divided by 160;

(b) the provisions mentioned in paragraph (2)(a) are—

(i) regulations 20(4)(a) and 20A of the 1997 Regulations^(a);

(ii) regulations 14, 14A and 15 of these Regulations;

(iii) regulations 23 to 26 of the Administration Regulations; and

(c) where, in the opinion of an IRMP the member was at the date of death, in part-time service wholly or partly as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pay due to such reduction in service as is attributable to that condition.¹

15. In regulation 39 (commutation and small pensions)^(b), for paragraph (1) substitute—

i(1) Any authorised payments within the meaning of section 164 (authorised member payments) of the Finance Act 2004^(c) ("the 2004 Act") listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

(a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of the 2004 Act;

(b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of that Act; or

(c) a commutation payment under regulation 6 (payment after relevant accretion) of the Registered Pensions Schemes (Authorised Payments) Regulations 2009^(d)¹.

(a) Regulation 20(4)(a) and 20A of S.I. 1997/1612 were saved from revocation by regulation 2 of, and Schedule 1 to S.I. 2008/238.

(b) Regulation 39 was amended by S.I. 2008/1083.

(c) 2004 c. 12; section 164 was amended by the Finance Act 2006 (c. 25), the Finance Act 2008 (c. 9), the Finance Act 2009 (c. 10) and the Finance Act 2011 (c. 11).

(d) S.I. 2009/1171; section 164(1)(f) of the Finance Act 2004 provides that authorised payments of a description may be prescribed by regulations.

Amendment of the Local Government Pension Scheme (Transitional Provisions) Regulations 2008

16. The Local Government Pension Scheme (Transitional Provisions) Regulations 2008(a) are amended in accordance with regulations 17 to 19.

17. In regulation 3 (membership accrued before 1st April 2008: active members), for paragraph (2)(b) substitute—

i(2) (b) the person's benefits under the 1997 Scheme are payable immediately where benefits become payable without reduction under regulations 16, 17, 19, 20, 30A(1) and 31 of the Benefits Regulations, or with appropriate actuarial reduction in line with guidance produced by the Government Actuary, where benefits become payable under regulations 18, 30 or 30A(4) of the Benefits Regulations."

18. In regulation 10 (the 85 year rule)(b), in paragraph (1)(b), for "regulation 30 of the Benefits Regulations" substitute "regulation 30 (choice of early payment of pension) or regulation 30A (choice of payment of pension: pensioner member with deferred benefits) of the Benefits Regulations".

19. In Schedule 1, in the list of provisions of the Local Government Pension Scheme Regulations 1997 which are saved from revocation omit—

- (a) "Regulation 66(8)"(c); and
- (b) "Regulation 122(6C) and (6D)".

Amendment of the Local Government Pension Scheme (Administration) Regulations 2008

20. The Administration Regulations(d) are amended in accordance with regulations 21 to 42.

21. In regulation 6 (employees of non-Scheme employers: transferee admission bodies)—

- (a) in paragraph (3), for "In the case of" substitute "Subject to paragraph (3A), in the case of";
- (b) after paragraph (3), insert—

i(3A) Where a (2)(a) transferee admission body is exercising the functions of a Scheme employer in connection with more than one contract or other arrangement under paragraph (2)(a)(i), the administering authority and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.î;
- (c) in paragraph (4), for "and she" substitute "and he or she";
- (d) omit paragraphs (5) to (9);
- (e) in paragraph (10), for "relevant requirements of this regulation and" substitute "relevant requirements of this regulation and regulation 7, and"; and
- (f) in paragraph (12), for "regulation 7(1)" substitute "regulation 7(2)".

22. For regulation 7 (admission agreements – further provisions)(e), substitute—

i7.—(1) An admission agreement with a community admission body or a transferee admission body shall make provision for the relevant matters set out in Schedule 3.

(2) A person employed by a community admission body or an eligible person employed by a transferee admission body may only be a member if the person, or class of employees

(a) S.I. 2008/238, amended by S.I. 2008/1083, S.I. 2008/2425, S.I. 2009/3150 and S.I. 2010/2090.

(b) Regulation 10 was amended by S.I. 2010/2090.

(c) The reference to regulation 66(8) was inserted by S.I. 2008/1083.

(d) S.I. 2008/239, amended by S.I. 2008/1083, S.I. 2008/2425, S.I. 2008/2989, S.I. 2008/3245, S.I. 2009/1025, S.I. 2009/3150, S.I. 2010/528 and S.I. 2010/2090.

(e) Regulation 7 was amended by S.I. 2010/2090.

to which the person belongs, is designated in the admission agreement by the body as being eligible for membership of the Scheme.

(3) Subject to paragraph (4), the admission agreement shall further provide that an admission body shall enter into an indemnity or bond in an approved form with—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000^(a) to accept deposits or to effect and carry out contracts of general insurance;
- (b) an EEA firm of the kind mentioned in paragraph (5)(b) and (d) of Schedule 3^(b) to that Act, which has permission under paragraph 15^(c) of that Schedule (as a result of qualifying for authorisation under paragraph 12^(d) of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or
- (c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.

(4) Where, for any reason it is not possible for an admission body to enter into an indemnity or bond, the admission agreement shall provide that the admission body secures a guarantee from—

- (a) a person who funds the admission body in whole or in part;
- (b) a person who—
 - (i) owns, or
 - (ii) controls the exercise of the functions of the admission body; or
- (c) the Secretary of State in the case of an admission body which is —
 - (i) established by or under any enactment, and
 - (ii) that enactment enables the Secretary of State to make financial provision for that admission body.

(5) An admission agreement must terminate if the admission body ceases to be such a body and may make such other provision about its termination as the parties consider appropriate.

(6) When an administering authority makes an admission agreement it must promptly inform the Secretary of State of—

- (a) the date the agreement takes effect;
- (b) the admission body's name; and
- (c) in the case of an agreement with a (2)(a) transferee admission body, the name of the relevant Scheme employer.

(7) An administering authority and an admission body may make an admission agreement despite the fact that they do not exercise their functions or provide services or assets in areas that overlap or adjoin each other.

(8) These Regulations and the Benefits Regulations apply to employment with an admission body in which the employee is an active member in the same way as if the admission body were a Scheme employer.

(9) In this regulation and Schedule 3 (where applicable)—

- (a) “indemnity or bond in an approved form” means an indemnity or bond to meet a level of risk exposure arising on the insolvency, winding up or liquidation of the admission body, actuarially assessed to the satisfaction of the administering

(a) 2000 c. 8.

(b) Paragraph 5(b) of Schedule 3 was amended by S.I. 2006/3221, and paragraph 5(d) of that Schedule was amended by S.I. 2004/3379.

(c) To which there are amendments not relevant to this regulation.

(d) To which there are amendments not relevant to this regulation.

authority and Scheme employer in the case of a (2)(a) transferee admission body;
and

(b) “a person” includes the Secretary of State.î

23. In regulation 12 (further restrictions on eligibility)(a)—

- (a) in paragraph (3), for “regulation 7(1)” substitute “regulation 7(2)”; and
- (b) in paragraph (6)(a)(ii), for “section 75 of that Act” substitute “section 75 of that Act, or section 33 of the National Health Service (Wales) Act 2006(b)”.

24. In regulation 18 (contributions during child related leave)—

- (a) in paragraph (5)—
 - (i) for sub-paragraph (a), substitute—
 - i(a) is on maternity, paternity or adoption leave (other than ordinary maternity, paternity or adoption leave); and
 - (ii) in sub-paragraph (b), after “maternity” insert “, paternity”;
 - (b) for paragraph (8), substitute—
 - i(8) If an active member goes on maternity, paternity or adoption leave, the member must continue to make any payments the member was making under—
 - (a) regulation 23 (additional regular contributions); or
 - (b) regulation 24A (additional contributions: survivor benefits); or
 - (c) regulation 55 (payments to increase total membership) of the 1997 Regulations, on the pay the member would have received during the period but for the leave.î; and
 - (c) in paragraph (9)—
 - (i) in the definition of “period of maternity, paternity or adoption absence”, in sub-paragraph (c) for “and” substitute “or”; and
 - (ii) after sub-paragraph (c), insert—
 - i(d) additional paternity leave under the Additional Paternity Leave Regulations 2010(c); andî.

25. In regulation 19 (contributions during reserve forces service leave), in paragraph (4) after “regulation 23” insert “or regulation 24A”.

26. In regulation 20 (contributions during trade dispute absence), in paragraph (5), for sub-paragraph (b) substitute—

- i(b) must continue to make any payments the member was making under—
 - (i) regulation 23 (additional regular contributions);
 - (ii) regulation 24A (additional contributions: survivor benefits); or
 - (iii) regulation 55 (payments to increase total membership) of the 1997 Regulations,

on the pay the member would have received during the relevant contribution period but for the member’s absence.î

27. In regulation 21 (contributions during absences with permission)—

- (a) in paragraph (2), for sub-paragraph (b) substitute—
 - i(b) any payments the member was making under—

(a) Regulation 12 was amended by S.I. 2009/447.
(b) 2006 c. 42.
(c) S.I. 2010/1055.

- (i) regulation 23 (additional regular contributions);
 - (ii) regulation 24A (additional contributions: survivor benefits); or
 - (iii) regulation 55 (payments to increase total membership) of the 1997 Regulations; and
- (b) in paragraph (5), in sub-paragraph (b) after “regulation 23” insert “ or regulation 24A”.
- 28.** In regulation 26 (use of accumulated value of AVCs and SCAVCs)—
- (a) in paragraph (1)(a)(ii), for “19 or 30 of the Benefits Regulations” substitute “19, 30 or 30A of the Benefits Regulations”; and
 - (b) in paragraph (1)(c), for “regulation 20” substitute “regulation 20(2) or 20(3)”.
- 29.** In regulation 30 (appropriate funds), in paragraph (1), for “The appropriate fund for a member” substitute “Subject to regulation 30A, the appropriate fund for a member”.
- 30.** After regulation 30, insert—

iAppropriate funds: special circumstances

- 30A.**—(1) Subject to paragraph (6), this regulation applies where—
- (a) an employing authority has members in respect of whom there is specified under Schedule 4, a different appropriate fund for more than one of those members; or
 - (b) an employing authority merges or amalgamates with another employing authority and in respect of which there is specified under Schedule 4 a different appropriate fund for the respective members of each employing authority.
- (2) The Secretary of State may by direction substitute another fund (“the substituted fund”).
- (3) Before giving a direction under paragraph (2)—
- (a) each employing authority and appropriate fund concerned must agree on the substituted fund to be proposed in the direction; and
 - (b) the Secretary of State must consult with any person appearing to the Secretary of State to be affected by the proposed direction.
- (4) The direction may require—
- (a) the making of financial adjustments between the funds in respect of the members to be transferred to the substituted fund, including—
 - (i) a payment to the substituted fund or of a transfer of assets or both;
 - (ii) a transfer of liabilities to the substituted fund;
 - (iii) any other consequential and incidental matters; and
 - (b) a revised rates and adjustment certificate in respect of each employing authority concerned, to take account of the effect of the direction.
- (5) In this regulation “members” means any active, deferred or pensioner member.
- (6) This regulation does not apply where an employing authority is the proprietor of an Academy.

- 31.** In regulation 32 (admission agreement funds), for paragraph (5) substitute—
- i(5) When valuations under regulation 36 of both the main fund and the admission agreement fund are first obtained after the admission agreement fund is established, the administering authority must obtain from an actuary appointed by the authority—
 - (a) a transfer statement; and
 - (b) a rates and adjustment certificate for the admission agreement fund for each remaining year of the period covered by the most recent such certificate for its main fund.

32. In regulation 38 (special circumstances where revised actuarial valuations and certificates must be obtained)(a)—

(a) for paragraph (1), substitute—

i(1) Where an employing authority (other than an admission body) ceases to be a Scheme employer, the appropriate administering authority must obtain—

- (a) an actuarial valuation as at the date the employing authority ceases to be a Scheme employer, of the liabilities of the fund in respect of the employing authority’s current and former employees; and
- (b) a revised rates and adjustment certificate showing the revised contributions due from that employing authority.î;

(b) in paragraph (2), for “, where an admission agreement ceases to have effect” substitute “, where an admission body gives notice as to any of the matters set out in paragraphs 6, 8, or 9 of Schedule 3 and the admission agreement ceases to have effect”;

(c) in paragraph (3), for “an indemnity or bond” substitute “an indemnity, bond or guarantee”; and

(d) for paragraph (4), substitute—

i(4) Where in the opinion of an administering authority there are circumstances which—

- (a) in the case of—
 - (i) an admission body, suggest that the admission agreement is to end;
 - (ii) any other employing authority, suggest that the employer is to cease being a Scheme employer; or
- (b) are likely to result in changes that will affect the value of the assets of the fund,

the administering authority may obtain from an actuary a certificate specifying the percentage or amount by which, in the actuary’s opinion—

- (i) the contribution at the common rate should be adjusted; or
- (ii) any prior individual adjustment should be increased or reduced,

with a view to providing that the value of the assets of the fund in respect of current and former employees of that employing authority is neither materially more nor materially less than the anticipated liabilities of the fund in respect of those employees at the date—

- (i) the admission agreement is expected to end; or
- (ii) agreed between the administering authority and the employing authority.î.

33. In regulation 56 (first instance determinations: ill-health), in paragraph (1A)(b) after regulation 20(7) insert “, 20(11)(a) or regulation 31(4)”.

34. In regulation 66 (statements of policy about exercise of discretionary functions)—

(a) in paragraph (1), for “and 30 (choice of early payment of pension) of the Benefits Regulations” substitute “, 30 (choice of early payment of pension) and 30A (choice of payment of pension: pensioner member with deferred benefits) of the Benefits Regulations”; and

(b) after paragraph (1) insert—

i(1A) Paragraph (1) shall apply to an appropriate administering authority in relation to the exercise of its functions under regulation 30(2)(c) and 30A(3) of the Benefits Regulations and the authority must publish its statement on or before 31st October 2012 and keep it under review .î; and

(c) in paragraph (5)—

- (i) after “employing authority”, insert “or appropriate administering authority”; and

(a) Regulation 38 was amended by S.I. 2008/2989 and S.I. 2009/3150.

(b) Paragraph (1A) was inserted by S.I. 2010/2090.

(ii) after paragraph “(1)”, insert “or (1A)”.

35. In regulation 68 (annual benefit statements) for paragraph (2), substitute—

i(2) Subject to paragraph (2A), the first such statement must be issued before 1st April 2010 and subsequent statements must be issued no later than 6 months after the end of the pension input period within the meaning of section 238 of the Finance Act 2004(a).

(2A) A statement may be issued at any time before the end of the 6 month period mentioned in paragraph (2), where a member makes a request in writing to the administering authority. î

36. After regulation 68, insert—

Joint liability in respect of annual allowance charge

168A.—(1) This regulation applies where a member gives his or her appropriate administering authority notice of joint and several liability under section 237B (liability of scheme administrator) of the Finance Act 2004(b) (“the Act”) in respect of the member’s annual allowance charge.

(2) Where the joint liability amount specified in the notice is met by the pension fund, the appropriate administering authority shall reduce the value of the member’s rights accrued under the Scheme and the Earlier Regulations (if applicable), in accordance with guidance issued by the Secretary of State.

(3) In this regulation—

(a) “annual allowance charge” has the meaning given to that expression by section 227 of the Act; and

(b) “the joint liability amount” has the meaning given to that expression by section 237B(3) of the Act.î

37. In regulation 83 (inward transfer of pension rights)(c), in paragraph (2)(b), for “Pensions Schemes Act 2004” substitute “Pensions Act 2004(d)”.

38. In regulation 86 (changes of fund), in paragraph (4)(a), for “the President of the Institute of Actuaries” substitute “the President of the Institute and Faculty of Actuaries”.

39. In Schedule 1 (interpretation)(e)—

(a) after the definition of “the Transitional Regulations”, insert—

î“Academy” means a school to which Academy arrangements relate, as to which see section 1 of the Academies Act 2010(f);î; and

(b) in the definition of—

(i) “Actuary”, for “Fellow of the Institute of Actuaries or of the Faculty of Actuaries” substitute “Fellow of the Institute and Faculty of Actuaries”; and

(ii) “Scheme employer”, for “regulations 7(6)” substitute “regulations 7(8)”.

40. In Schedule 2 (Scheme employers)(g)—

(a) in Part 1—

(i) for paragraph 6, substitute—

(a) 2004 c. 12; section 238 was amended by Schedule 17 to the Finance Act 2011 c. 11.

(b) Section 237B was inserted by Schedule 17 to the Finance Act 2011.

(c) Regulation 83 was amended by S.I. 2008/2425.

(d) 2004 c. 35.

(e) Schedule 1 was amended by S.I. 2008/2425, S.I. 2008/3245, S.I. 2009/3150, S.I. 2010/528, and S.I. 2010/1172.

(f) 2010 c. 32

(g) Schedule 2 was amended by S.I. 2010/713, S.I. 2010/1172 and S.I. 2010/2090.

i6. A police and crime commissioner for a police area within the meaning of the Police Reform and Social Responsibility Act 2011(a);

(ii) omit paragraphs 19, 20 and 25; and

(iii) after paragraph 26, add—

i27. A Mayoral development corporation within the meaning of the Localism Act 2011(b).

28. A chief constable within the meaning of the Police Reform and Social Responsibility Act 2011; and

(b) in Part 2, omit paragraphs 9 and 10.

41. In Schedule 3 (matters to be included in admission agreements with transferee admission bodies)—

(a) in the heading—

(i) omit the expression “Transferee”; and

(ii) for “Regulation 6(9)” substitute “Regulation 7(1)”;

(b) in each place where it occurs but not in paragraph 12, omit the expression “transferee”;

(c) in paragraph 2—

(i) for “If required by regulation 6(7), a reference to” substitute “A reference to”; and

(ii) for “regulation 6(8)” substitute “regulation 7(3)”;

(d) after paragraph 2, insert—

i2A. If required by regulation 7(4), a reference to the guarantee secured by the admission body and a warranty from that body that the guarantee is in place.†

(e) in paragraph 9(a), for “regulation 7(2)” substitute “regulation 7(5)”;

(f) in paragraph 12(c), for “regulation 6(5)” substitute “regulation 7(9)(a)”.

42. In Schedule 4 (Appropriate funds)(c), in Part 1, in the Table —

(a) after paragraph 6 insert—

i6A. An employee of a proprietor of an Academy.

Fund maintained by the administering authority within whose local government area the relevant Academy is located.†

(b) in paragraph 7, for “paragraphs 1 to 6” substitute “paragraphs 1 to 6A”.

Savings

43. The amendments made by regulations 21, 22 and 41 shall not affect any admission agreements made in accordance with the Administration Regulations before the date on which these Regulations come into force.

Joining the Scheme: automatic enrolment - transitional provisions

44.—(1) This regulation applies where the employer’s duties within the meaning of sections 2 to 9 of the Pensions Act 2008(d) apply to an employing authority within the meaning of Schedule 1 to the Administration Regulations, and where—

(a) 2011 c. 13.

(b) 2011 c.?.

(c) Schedule 4 was amended by S.I. 2008/3245 and S.I. 2010/2090.

(d) 2008 c. 30.

- (a) that employing authority satisfies the conditions prescribed in regulation 3 (early automatic enrolment) of the Employer’s Duties (Implementation) Regulations 2010(a); or
 - (b) the staging dates(b) prescribed in the table in regulation 4 (staging of the employer’s duties) of those Regulations take effect in relation to that employing authority.
- (2) Regulation 13 (joining the Scheme)(c) of the Administration Regulations applies subject to the modifications set out in paragraphs (3) to (5).
- (3) For paragraph (1) substitute—
- i(1) A person who is eligible to be an active member of the Scheme on the day his or her employment begins, becomes an active member on that day.î.
- (4) Omit paragraphs (3) to (6).
- (5) In paragraph (8), omit “, (4), (6)”.

Signed by authority of the Secretary of State for Communities and Local Government

	<i>Name</i> Parliamentary Under Secretary of State Department for Communities and Local Government
Date	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales, amend four statutory instruments namely:

The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“the Discretionary Compensation Regulations”);

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (“the Benefits Regulations”);

The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (“the Transitional Regulations”); and

The Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”).

Section 12 of the Superannuation Act 1972 (“the 1972 Act”) provides that regulations made under section 7 may have effect from a date earlier than the making of the Regulations.

The amendments contained in regulations 38 and 39(a) have effect from 1st August 2010, and the amendments contained in regulations 10, 14, 17 and 18 have effect from 30th September 2010. The amendments contained in regulation 40(a)(i) and (iii) in so far as they relate to paragraph 28 of Schedule 2 to the Administration Regulations have effect from 22nd November 2012. The remainder of the regulations have effect from X.

Regulation 2 introduces the amendment set out in regulation 3 relating to the Discretionary Compensation Regulations.

Regulation 3 makes a corrective amendment to regulation 2 (interpretation) so that all the employers listed in regulation 8(1) of the Administration Regulations are covered by the definition of “employing authority”.

Regulation 4 introduces the amendments set out in regulations 5 to 15 relating to the Benefits Regulations.

(a) S.I. 2010/4.
 (b) “Staging dates” means the date when the employer’s duties apply to employers, prescribed in the final column of the table in regulation 4.
 (c) Regulation 13 was amended by S.I. 2009/3150 and S.I. 2010/2090.

Regulation 5 amends regulation 1 (which provides for the definition of certain terms) by introducing a definition for the expression “Scheme employer”.

Regulation 6 amends regulation 8 (final pay: general) to provide clarification as to the meaning of “that employment” in regulation 8(1) of the Benefits Regulations.

Regulation 7 amends regulation 14A (election to pay additional contributions: survivor benefits) to provide that an election to pay additional survivor benefits must be made within 12 months of making a declaration to nominate a cohabiting partner under regulation 25 of the Benefits Regulations.

Regulation 8 amends regulation 18 (flexible retirement) to clarify that where a member aged 55 or over has accrued benefits under the 1997 Local Government Pension Scheme, the member shall receive payment of those benefits but also has the choice whether to request to receive payment of benefits accrued under the Benefits Regulations.

Regulation 9 amends regulation 26 (meaning of “eligible child”) to update a statutory reference.

Regulation 10 amends regulation 28 (children’s pensions: active members) to provide that the calculation of the pension takes into account any additional contributions made by the deceased member and that in the case of a member in part-time employment, no account is taken of any reduction in the member’s pay caused as a result of the condition that led to or contributed to the member’s death. Similar amendments are made in regulation 14 which amends regulation 33 (survivor benefits: deferred members).

Regulations 11 and 12 respectively amend regulation 30 (choice of early payment of pension) and regulation 30A (choice of payment of pension: pensioner member with deferred benefits) to provide that the appropriate administering authority for a deferred member or pensioner member with deferred benefits may consent to the early payment of pension where the member’s former employing authority has ceased to be a Scheme employer.

Regulation 13 amends regulation 31 (early payment of pension: ill-health) to enable a pensioner member with deferred benefits to access their retirement pension early provided an independent registered medical practitioner (“IRMP”) further certifies that the member’s ill-health condition is unrelated to the condition which led to the payment of retirement benefits under regulation 20(4) of the Benefits Regulations.

Regulation 15 amends regulation 39 (commutation and small pensions) to include an authorised commutation payment prescribed in Regulations made under section 164(1)(f) of the Finance Act 2004.

Regulation 16 introduces the amendments set out in regulations 17 to 19 relating to the Transitional Regulations.

Regulation 17 amends regulation 3 (membership accrued before 1st April 2008: active members) to insert a reference to regulation 30A(1) and (4) of the Benefits Regulations.

Regulation 18 amends regulation 10 to clarify that the rule of 85 transitional provisions apply to pensioner members with deferred benefits who meet the relevant conditions.

Regulation 19 revokes certain saved provisions of the 1997 Regulations.

Regulation 20 introduces the amendments set out in regulations 21 to 42 relating to the Administration Regulations.

Regulation 21 amends regulation 6 (employees of non-Scheme employers: transferee admission bodies) by requiring a (2)(a) transferee admission body and an administering authority to enter into separate admission agreements where the admission body is performing the functions of a Scheme employer under more than one contract. Other provisions in regulation 6 are omitted by reason of the amendments made by regulation 22.

Regulation 22 substitutes regulation 7 (admission agreements – further provisions) with a new regulation 7 which consolidates some of the provisions formerly contained in regulation 6 relating to admission agreements for transferee admission bodies so that these now apply to all categories of admission bodies. The amendments also add new requirements to be contained in admission agreements.

Regulation 23 amends regulation 12 (further restrictions on eligibility) to include employment with a NHS Scheme employer in Wales as a result of arrangements under section 33 of the National Health Service (Wales) Act 2006. A minor consequential amendment is also made relating to regulation 7 of the Administration Regulations.

Regulation 24 amends regulation 18 (contributions during child related leave) so that additional paternity leave is included within the provisions.

Regulations 25, 26 and 27 respectively amend regulation 19 (contributions during reserve forces service leave), regulation 20 (contributions during trade dispute absence) and regulation 21 (contributions during absences with permission) so that additional contributions made in respect of survivor benefits under regulation 24A must continue to be paid during periods of absence.

Regulation 28 amends regulation 26 (use of accumulated value of AVCs and SAVCs) to enable pensioner members with deferred benefits under regulation 30A of the Benefits Regulations to use the accumulated value of their additional contributions to provide for an additional pension. The amendment also clarifies that regulation 26 only applies to members in receipt of a first or second tier ill-health retirement pension under regulation 20 of the Benefits Regulations.

Regulation 29 makes a consequential amendment to regulation 30 (appropriate funds) by reason of the introduction of new regulation 30A.

Regulation 30 inserts new regulation 30A (appropriate funds: special circumstances) which provides a power for the Secretary of State to make a direction substituting an appropriate fund in specified circumstances.

Regulation 31 amends regulation 32 (admission agreement funds) by inserting what was formerly sub-paragraph (1) of regulation 38 (revised actuarial valuations) into regulation 32 of the Administration Regulations so that all matters relating to admission agreement funds are marshalled together.

Regulation 32 amends regulation 38 (special circumstances where revised actuarial valuations and certificates must be obtained) so that it applies to all employing authorities and enables administering authorities to obtain a revised certificate in a wider range of circumstances. There are also consequential amendments relating to Schedule 3

Regulation 33 amends regulation 56 (first instance determinations: ill-health) to enable an IRMP who has previously been involved in an ill-retirement case to advise on the same case if a request is made to issue a further certificate in consequence of regulation 20(11)(a) or regulation 31(4) of the Benefits Regulations.

Regulation 34 amends regulation 66 (statements of policy about exercise of discretionary functions) to provide that the exercise of functions under regulation 30A of the Benefits Regulations are included in the written statements of policy. This regulation also makes amendments consequential to the amendments made by regulations 11 and 12 of these Regulations in relation to regulations 30 and 30A of the Benefits Regulations.

Regulation 35 amends regulation 68 (annual benefit statements) to adjust the timescale for the issuing of annual benefit statements in accordance with the requirements of the Finance Act 2004 (as amended by the Finance Act 2011), and inserts a new provision to enable a member to request a benefit statement.

Regulation 36 inserts a new regulation 68A (joint liability in respect of annual allowance charge) to provide that where an administering authority has discharged a member's tax charge,

the authority must reduce the value of the member's accrued rights in accordance with guidance issued by the Secretary of State.

Regulation 37 makes a minor corrective amendment to regulation 83 (inward transfer of pension rights).

Regulations 38 and 39 respectively amend regulation 86 (changes of fund) and Schedule 1 (interpretation) to reflect a change of title. It also makes a consequential amendment further to the amendments contained in regulation 22.

Regulation 40 amends Schedule 2 (Scheme employers) by updating references to the list of Scheme employers contained in Parts 1 and 2 of that Schedule.

Regulation 41 amends Schedule 3 (matters to be included in admission agreements with Transferee admission bodies) so that the matters to be contained in an admission agreement apply to all categories of admission body.

Regulation 42 amends the Table in Part 1 of Schedule 4 (appropriate funds) by specifying the administering authority for a member employed by a proprietor of an Academy.

Regulation 43 provides that the amendments made by regulations 21, 22 and 41 do not affect admission agreements entered into before the date that these Regulations come into force.

Regulation 44 is a freestanding provision which makes transitional provisions in connection with the new automatic enrolment duties for employers under the Pensions Act 2008. Regulation 13 (joining the Scheme) of the Administration Regulations is modified so that it applies to cases where the employer's duties would not otherwise apply when the early automatic enrolment date or staging date takes effect.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.