

2005 No. 1903

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Amendment)
Regulations 2005**

<i>Made</i> - - - -	<i>8th July 2005</i>
<i>Laid before Parliament</i>	<i>13th July 2005</i>
<i>Coming into force</i> - -	<i>3rd August 2005</i>

The First Secretary of State, in exercise of the powers conferred by sections 7 and 12 of the Superannuation Act 1972(a), after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2005.

(2) These Regulations shall come into force on 3rd August 2005, but regulations 2 to 5 shall have effect from 1st April 2005.

(3) In these Regulations, “the principal Regulations” means the Local Government Pension Scheme Regulations 1997(b).

(4) These Regulations extend to England and Wales(c).

Revocation of the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004

2. The Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004(d) are revoked.

Revival of previously revoked provisions

3. The provisions of the principal Regulations listed in regulation 4 are revived and shall have effect as they had effect immediately before the coming into force of the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004.

(a) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

(b) S.I. 1997/1612; relevant amending instruments are S.I. 1997/954, 1613, 1998/1238, 1999/3438, 2001/770, 3401, 2002/206, 2003/1022, 2004/573 and 2004/3372.

(c) 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 (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).

(d) S.I. 2004/3372.

4. The provisions mentioned in regulation 3 are regulations 25(3A), 26(1), 31(1) and (4), 32(5)(a), 122(4), 123(2)(b), in Schedule 3, paragraphs 7 and 8 of the Table, and in Schedule 7, paragraph 2(4).

Revocation of amendments made by the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004

5. The following provisions of the principal Regulations (being provisions inserted by the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004) are revoked—

- (a) regulation 52(11),
- (b) regulation 122(6A) and (6B), and
- (c) in regulation 122A(3), the words “(and regulation 122(6B) does not apply to a transfer value credited under this regulation)”.

Further amendment of the principal Regulations

6. For regulation 55(10) of the principal Regulations there shall be substituted—

“(10) If a member continues paying the additional contributions until his last birthday before his NRD (or if his NRD is his birthday, that date), the whole of the additional period may be counted as part of his total membership.”.

Revised rates and adjustments certificates

7.—(1) Where it appears to an administering authority as a result of the amendments made by these Regulations that the amount of the liabilities arising or likely to arise in respect of members in employment with an employing authority exceeds the amount specified in, or likely as a result of, the assumptions stated for that authority in the current rates and adjustments certificate obtained in accordance with regulation 77 of the principal Regulations, the administering authority may obtain a revision of the rates and adjustments certificate, showing the resulting changes as respects that employing authority.

(2) Such a revision shall be prepared on the basis of an actuarial valuation of the assets and liabilities of the relevant pension fund as at 31st March 2005 using, where no more recent membership data are reasonably available, the membership data of the fund as at 31st March 2004, subject to any appropriate adjustments.

(3) For the purpose of valuing the liabilities of the fund as at 31st March 2005, the actuarial assumptions used to value the liabilities of the fund as at 31st March 2004 may be used.

(4) Any revised certificate obtained under paragraph (1) shall only be effective from 1st April 2006.

(5) The administering authority shall, not later than 30th September 2005, send copies of any revised certificate—

- (a) to the Secretary of State;
- (b) to each body with employees who contribute to the fund to which the certificate relates; and
- (c) to any other body which is or may become liable to make payments to that fund.

(6) The administering authority shall also send to the Secretary of State, not later than 30th September 2005—

- (a) a copy of the consolidated revenue account with which the actuary was provided; and
- (b) a summary of the assets of the fund as at 31st March 2005.

Retrospective effect

8. Nothing in these Regulations shall place any individual who is qualified to participate in the benefits for which the principal Regulations provide in a worse position than he would have been

in had the provisions of these Regulations been framed so as to have effect only from the date of their making.

Signed by authority of the First Secretary of State

Phil Woolas

Minister of State

8th July 2005

Office of the Deputy Prime Minister

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Local Government Pension Scheme Regulations 1997.

The principal effect of the Regulations is to restore to the Local Government Pension Scheme the so-called “85-year rule”. Where retirement benefits are payable to an early leaver before his normal retirement date, an actuarial reduction is normally applied to those benefits. The “85-year rule” allows an early leaver from the Scheme whose age and years of membership equal 85 or more to receive his retirement benefits without that actuarial reduction. The “85-year rule” was removed from the Scheme by amendments made by the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2004 (“the 2004 Regulations”). Its restoration is achieved by regulations 2 to 5 of these Regulations, which have effect from 1st April 2005. Under section 12 of the Superannuation Act 1972, regulations may be made which have effect from a date before their coming into force.

Other minor technical amendments (relating to counting of periods of membership) made by the 2004 Regulations are unaffected.

Regulation 7 enables an administering authority to obtain a revised rates and adjustment certificate where it appears to the authority that the effect of these Regulations is likely to result in liabilities greater than those set out in the existing certificate. Where a revised certificate is obtained, it has effect only from 1st April 2006.

Provision is made in regulation 8 to ensure that any person entitled to benefits under the Scheme is not placed in any worse position by the retrospective effect of regulations 2 to 5 of the Regulations.

A full regulatory impact assessment of the effect that this instrument will have on the costs of employing authorities in the Local Government Pension Scheme is available on the internet at www.odpm.gov.uk. Copies can be obtained by post from the Office of the Deputy Prime Minister, 2/E7, Ashdown House, London SW1E 6DE, or by phoning 0207 944 6015.