

Pension Fund Committee

29 October 2007



Proposed changes to augmentation and transfers-in

Report of Stuart Crowe, County Treasurer

Purpose of the Report

- 1 The purpose of the report is to advise Members of some recently issued draft regulations that propose to increase flexibility on awarding augmentation and allowing transfers-in to the Local Government Pension Scheme (LGPS), and to recommend a response to the proposed regulations.

Background

- 2 Communities and Local Government (CLG) issued the draft Local Government Pension Scheme (Amendment) (No. 4) Regulations on 14 August 2007. These draft regulations would introduce the following amendments to the LGPS:
 - Employers would be allowed to make decisions on awarding augmented service up to six months after termination of employment in respect of redundancy, in the interests of the employing authority's functions or at the ending of a joint appointment because the other appointment holder has left.
 - The transfer-in regulations would be changed to allow LGPS Funds to accept transfers-in from pension institutions operating in a member state of the EU.
- 3 Copies of the covering letter and draft regulations are included at Appendix A.
- 4 Comments on the draft regulations are invited by 15 November 2007.

Impact of the proposed changes

- 5 The current regulations allow employers to award additional membership to an active member of up to the lesser of:
 - 10 years or
 - the period by which the member's total membership falls short of the total membership the member will have if he continues as an active member until he is 65.

The proposed change to the regulations will give employers more flexibility in redundancy or efficiency cases and allow them up to 6 months after the date of leaving to make the decision on awarding augmented membership. A similar change will also be made to the new-look LGPS regulations which come into force from 1 April 2008. The new-look regulations already contain a provision allowing employers to award additional service of up to 10 years to active members and this

will be extended to allow the service to be awarded up to 6 months after the date of leaving for those who left through redundancy or efficiency.

- 6 Employers who award augmented membership are required to make payments into the Fund to pay for the cost of the additional membership, currently either as a one-off lump sum or in five annual instalments. This should mean the cost of awarding the augmentation is paid for within a short period of it being awarded. If the assumptions used in determining the cost turn out to be incorrect in the long run and underestimate the cost of the additional membership, the employer will pick up this additional cost through increased contributions following subsequent actuarial valuations.
- 7 The covering letter proposes that any augmented service awarded within 6 months of a leaving date should be deemed to be awarded as at the day before the leaving date. This approach is proposed for administrative simplicity and seems reasonable in this context. However for accounting purposes this poses an unnecessary complication particularly when dates of leaving and decisions to grant augmentation span the end of a financial year.
- 8 The proposed changes to the transfers-in provisions will allow scheme members to transfer-in pension rights from pension institutions operating in the EU. The transfer terms offered to the scheme members will be determined in accordance with the Government Actuary's Department's factors and instructions and as such they should not cause any strain on the Fund.

Recommendation

- 9 The proposed changes to the regulations provide additional flexibility to employers and scheme members and any additional costs imposed on the Fund will be met by the employers. Whilst the decision to augment service by way of a delayed decision can be seen as helpful it may be useful if CLG consult with CIPFA to clarify accounting issues before issuing guidance.
- 10 Members are asked to authorise me to issue a response to the draft regulations on behalf of Durham County Council as the administering authority of the Fund. If this is agreed I will also consult with representatives from the HR Committee to see whether it would be appropriate to make the response on behalf of Durham County Council as an employer as well. The response will endorse the proposed changes to the regulations for the reason stated in paragraph 9 with the caveat that the accounting position of offering delayed augmentation should be clarified.

Contact: Nick Orton Tel: 0191 383 4429

pen/rep/kno9



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14 August 2007

To: addressees below

Our Ref: 132/1/4

Your Ref:

Dear Colleague,

Local Government Pension Scheme (Amendment) (No. 4) Regulations 2007 concerning the timing of decision on augmentation in certain circumstances, and a technical provision concerning the transfer in of pension rights

1. With Ministers' agreement, I enclose draft amendments to the existing augmentation provisions of the Local Government Pension Scheme (LGPS). Your comments are invited by 15 November 2007. This amendment would allow employers to make decisions on awarding augmented service for up to six months after termination of employment in respect of redundancy, in the interests of efficiency of the employing authority's functions and at the ending of a joint appointment because the other appointment holder has left. Both Regulation 52 of the LGPS Regulations and Regulation 12 of the LGPS (Benefits, Membership and Contributions) Regulations 2007, which is an equivalent provision, will be amended.

2. The proposed draft amendments have emerged in part from the helpful discussions among stakeholders within Communities and Local Government's Compensation Regulations Monitoring Group. They are seen as a helpful and constructive contribution to meet the needs of scheme members and employers when employees are involved in events involving redundancy or when leaving employment for efficiency reasons.

3. Consultees may wish to consider the merit of deeming that a decision to augment should be taken as the day before termination. It is argued that this would simplify administration and ensure comprehensive calculation of pension benefits.

4. If consultees wish to discuss the proposals and their implications or to suggest amendments, please do not hesitate to contact us so that the issues can be fully discussed within the consultation period.

LGPS transfer in of pension rights

5. We have also been asked by the Department for Work and Pensions (DWP) to introduce a technical amendment to the LGPS transfer in provisions which will involve the extension, in Schedule 1 of the 1997 LGPS Regulations, of a cross reference definition to DWP primary legislation to include s293 of the Pensions Act 2004, and will enable LGPS funds to accept a transfer in from a pension institution operating in a member state of the EU. Subject to any comments or observations, this provision, backdated to April 2006, will be included in the final statutory instrument.

Responses

6. Your comments should be sent by a deadline of 15 November 2007 to Philip Perry, Local Government and Firefighters' Pensions Schemes Division, Department for Communities and Local Government, Zone 2/F6, Ashdown House, 123 Victoria Street, London, SW1E 6DE. Electronic responses can be sent to philip.perry@communities.gsi.gov.uk .

Yours sincerely,

Lynda Jones
LGFPS Branch 3

2007 No. 1234

PENSIONS

The Local Government Pension Scheme (Amendment) (No.4) Regulations
2007

<i>Made</i> - - - -	2007
<i>Laid before Parliament</i>	2007
<i>Coming into force</i> - -	2007

These Regulations are made in exercise of the powers conferred by section 7 of the Superannuation Act 1972⁽¹⁾.

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

Citation, commencement and extent

1.—1. These Regulations may be cited as the Local Government Pension Scheme (Amendment) (No. 4) Regulations 2007 and shall come into force on **XXXX** but regulation 3 shall have effect from 1st April 2008.

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

Amendment of the Local Government Pension Scheme Regulations 1997

2. In regulation 52 of the Local Government Pension Scheme Regulations 1997⁽³⁾—

(a) in paragraph (1) for “an active” substitute “a”; and

(b) after paragraph (2), insert the following new paragraphs —

“(2A) If the reason for the member leaving his employment is a reason other than redundancy, a resolution under paragraph (1) may only be passed before the relevant date.

(2B) If the reason for the member leaving his employment is redundancy, a resolution under paragraph (1) may be passed at any date up to the date six months after the relevant date.

(2C) The relevant date is the date on which the member leaves his employment.

(2D) “Redundancy” includes leaving employment in the interests of efficiency, or because the member held a joint appointment which has been ended because the other holder has left it”.

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

3. In regulation 12 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007—

(1) 1972 c.11.

(2) 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).

(3) S.I. 997/1612; relevant amending regulations are **XXX**.

Appendix A

- (a) in paragraph (1), for “an active” substitute “a”; and
- (b) after paragraph (2), add the following new paragraphs—
 - “(3) If the reason for the member leaving his employment is for a reason other than redundancy, a resolution under paragraph (1) may only be passed before the relevant date.
 - (4) If the reason for the member leaving his employment is redundancy, a resolution under paragraph (1) may be passed at any date up to the date six months after the relevant date.
 - (5) The relevant date is the date on which the member leaves his employment.
 - (6) “Redundancy” includes leaving employment in the interests of efficiency, or because the member held a joint appointment which has been ended because the other holder has left it.”.

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

Minister of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)