
STATUTORY INSTRUMENTS

1998 No. 366

**The Local Government Pension
Scheme (Scotland) Regulations 1998**

PART II

PRIMARY PROVISIONS

CHAPTER I

MEMBERSHIP

Eligibility for active membership

General eligibility for membership: employees of Scheme employers etc.

3.—(1) A person may be an active member only if this regulation or regulation 4 or Chapter I of Part V enables him to be one and he is not prevented by regulation 5.

(2) A person may be a member if he is employed by a Scheme employer.

(3) A Scheme employer is a body which is listed in Schedule 2.

Agreements to enable employees of non-Scheme employers to be members (“admission agreements”)

4.—(1) An administering authority may make an admission agreement with any admission body.

(2) An admission agreement is an agreement that all or any specified class of the admission body’s employees may be members.

(3) An admission agreement may provide that a period of employment by the admission body before the date of the agreement counts as membership of the Scheme (or does so for some purposes).

(4) An admission agreement must terminate if the admission body ceases to be such a body.

(5) An admission agreement may make such other provision about its termination as the parties consider appropriate.

(6) When an administering authority make an admission agreement, they must immediately inform the Secretary of State of the admission body’s name and the date the agreement takes effect.

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

(8) These are admission bodies—

(a) a body which provides a public service in the United Kingdom otherwise than for the purposes of gain;

(b) a body to the funds of which any local authority contribute;

(c) a body to which any grant is made out of money provided by Parliament;

- (d) a body representative—
 - (i) of local authorities, or
 - (ii) of local authorities and officers of local authorities, or
 - (iii) of officers of local authorities;
- (e) a voluntary organisation engaged in the provision of services under—
 - (i) Part III of the National Health Service (Scotland) Act 1978(1);
 - (ii) Part III of the National Assistance Act 1948(2);
 - (iii) the Disabled Persons (Employment) Act 1958(3);
 - (iv) the Mental Health (Scotland) Act 1984(4); or
 - (v) section 14 of the Social Work (Scotland) Act 1968(5).

(9) However, a body falls within paragraph (8)(d)(iii) only if it is formed for the purpose of consultation as to the common interests of local authorities and the discussion of matters relating to local government.

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

Further restrictions on eligibility

5.—(1) If a person's employment entitles him to belong to another statutory pension scheme, that employment does not entitle him to be a member, unless that other scheme was made under section 7 of the Superannuation Act 1972.

(2) A statutory pension scheme is an occupational pension scheme provided by or under an enactment (including a local Act).

- (3) A person may not become a member after his 65th birthday unless—
 - (a) his total membership does not exceed his permitted maximum; and
 - (b) he is a permitted late member.

(4) The permitted maximum for a Class A member is 40 years.

(5) The permitted maximum for a Class B member or a Class C member is the sum of—

- (a) his total membership before he attained 60 or, if less, 40 years, and
- (b) his total membership since he attained 60,

or, if less, 45 years.

- (6) A permitted late member is a person to whom—
 - (a) a pension which must be the subject of a policy formulated under regulation 110 (statements of policy concerning abatement of retirement pensions in new employment);
 - (b) an ill-health grant under regulation 26(3) or an ill-health retirement grant under regulation E4 of the 1987 Regulations or regulation E21 of the 1974 Regulations; or
 - (c) a short service grant under the Benefits Regulations,

has become payable or who is entitled to or has received relevant compensation.

(1) 1978 c. 29.

(2) 1948 c. 29.

(3) 1958 c. 33.

(4) 1984 c. 36.

(5) 1968 c. 49; section 14 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 10 and the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 10(6).

- (7) Relevant compensation is compensation which—
- (a) is payable under any enactment for loss of employment or loss or reduction of employment benefits attributable to an enactment; and
 - (b) is liable to be reduced or suspended by reason of the person to whom it is payable entering employment with a Scheme employer, in the same way as it would have been if he had remained eligible to belong to the occupational pension scheme to which he belonged or was eligible to belong immediately before suffering the loss.
- (8) If a person has been entitled to an ill-health pension calculated by reference to an enhanced membership period, that period is counted as part of his total membership for paragraphs (3) and (5).
- (9) Part-time employment as a member of a fire brigade maintained in pursuance of the Fire Services Act 1947⁽⁶⁾ on terms under which the employee is or may be required to engage in fire-fighting does not entitle the employee to be a member of the Scheme.

Joining and leaving the Scheme

Joining the Scheme

- 6.—(1) A person who wishes to become an active member must apply in writing to his employer or future employer.
- (2) An eligible person who applies before he begins his employment becomes a member when his employment begins unless he applies to join later.
- (3) An eligible employee who applies becomes a member on the first day of the first payment period following the application.
- (4) A payment period is a period of service to which the employee's wages or salary payment relate.
- (5) An employee is deemed to have applied to become a member, unless he notified his employer in writing that he did not wish to become a member—
- (a) before his employment began; or
 - (b) if he only became eligible to be a member later, before the date he became eligible.
- (6) Paragraph (5) does not apply to—
- (a) casual employees; or
 - (b) former members who opted to leave the Scheme by a notification under regulation 7.
- (7) An application for membership may be withdrawn before membership begins.
- (8) A former active member may reapply for membership.
- (9) Notwithstanding paragraph (8), a person who has given more than one notification under regulation 7 may reapply again only if—
- (a) his employer or future employer consents;
 - (b) he is beginning a new employment with a new employing authority and he reapplies before he has been employed for three months; or
 - (c) he is an individual who during any period has been eligible to be a member but has instead made contributions to a personal pension scheme and has suffered loss as a result of a contravention which is actionable under section 62 of the Financial Services Act 1986⁽⁷⁾ (actions for damages in respect of contravention of rules etc. made under the Act).

⁽⁶⁾ 1947 c. 41.

⁽⁷⁾ 1986 c. 60.

Leaving the Scheme

7.—(1) A person may leave the Scheme if he wishes and stops being a member if he stops being eligible for membership.

(2) A person who wishes to leave the Scheme must notify his employer in writing.

(3) A member who gives such a notification stops being a member from the date the notification specifies.

(4) However, if a date earlier than the notification or no date is specified, he stops being a member at the end of the payment period during which the notification is given.

(5) Where notification is given by a person before he has been a member for one month, he must be treated as not having been a member in that period.