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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 228**

**The Local Government Pension Scheme  
(Administration) (Scotland) Regulations 2008**

**PART 10**

**PENSION SHARING**

**CHAPTER IV**

*APPROPRIATE RIGHTS/PENSION CREDIT BENEFITS*

**“Appropriate Rights”/“Pension credit benefits” under the Scheme**

**95.**—(1) Except as referred to in this regulation or otherwise in this Part of the Scheme, the appropriate rights under the Scheme to which a pension credit member shall be entitled shall consist only of a pension, a retirement grant and rights in relation to a death grant as provided under the Scheme.

(2) Pension credit benefits are subject to the same indexing as other benefits payable under the Scheme.

(3) The amount of the retirement grant to which a pension credit member shall be entitled shall be calculated on the same basis as if the pension credit member’s pension were a deferred pension under the Scheme, except that no retirement grant shall be paid to the pension credit member if the corresponding pension debit member has already received a retirement grant from the Scheme before the date of the implementation of the pension sharing order.

(4) Regulations 23 (death grants: active members), 32 (death grants: deferred members) or 35 (death grants: pensioner members) of the Benefits Regulations shall apply in relation to a pension credit member.

(5) A pension credit member is entitled to his or her pension credit benefits on reaching his or her normal benefit age.

(6) The pension credit benefits are payable immediately on reaching normal retirement age and may not be deferred.

**Additional Voluntary Contributions (“AVCs”)**

**96.** Where a pension debit member has an accumulated value of AVCs, the amount of the cash equivalent in respect of the corresponding pension credit, which is attributable to the accumulated value of the pension debit member’s AVCs, shall not be allocated to the pension credit benefits described in regulation 95(1) (“appropriate rights”) but, at the election of the pension credit member, must be used in one of the permissible ways specified in regulation 23(3) (use of accumulated value of AVCs and SAVCs).

### **Additional contributions and additional periods**

**97.**—(1) Subject to paragraph (2) an active member, whose benefits have been made subject to a pension sharing order, shall not be allowed to replace any rights debited to the member as a consequence of the pension sharing order with any rights which the member would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made<sup>(1)</sup>.

(2) The provisions of paragraph (1) shall be relaxed if in line with any taxation exception or concession, which the Inland Revenue may stipulate in relation to “moderate earners” in accordance with the limits imposed in Schedule 10 to the Finance Act 1999 and any modifications thereto made by the Inland Revenue from time to time under paragraph 18(10) and (11) of that Schedule<sup>(2)</sup>, or otherwise.

### **Commutation: small pensions**

**98.**—(1) Regulation 39 of the Benefits Regulations (commutation: small pensions) shall apply, if as a result of a pension sharing order the annual rate of the retirement pension which a member who has attained state pensionable age is entitled to be paid falls below the sum mentioned in that regulation.

(2) Regulation 39 of those Regulations shall apply in respect of the retirement pension payable to a pension credit member in respect of a pension credit and the amount of that pension shall for the purpose of this regulation be aggregated with any other pension payable to that member under the Scheme.

### **Commutation: exceptional ill-health**

**99.**—(1) The whole of the pension element payable in respect of a pension credit benefit may be commuted for a lump sum before normal benefit age in circumstances where the person entitled to the pension credit benefit is suffering from serious ill-health prior to the normal benefit age.

(2) In this regulation, “serious ill-health” means ill-health which is such as to give rise to a life expectancy of less than one year from the date on which the commutation of the pension credit benefit is applied for.

(3) The lump sum shall be equal to five times the annual rate of the pension to which the pension credit member would have been entitled if on the date of commutation he had already reached the normal benefit age.

### **Pension Transfers**

**100.**—(1) The Scheme shall not accept any transfer into the Scheme in respect of any pension credit rights or pension credit benefits under any other pension scheme.

(2) No transfer of pension credit rights may be made from a pension credit member’s appropriate fund to another fund of the Scheme notwithstanding that that fund may be an appropriate fund for that member in respect of other rights he may have accrued under the Scheme.

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(1) See section 590(3)(bb) of the Taxes Act, inserted by the Finance Act 1999, Schedule 10, paragraph 2(3) (c.16).

(2) See S.I.s [2000/1085](#) and [1093](#).