
STATUTORY INSTRUMENTS

1998 No. 366

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

PART II

PRIMARY PROVISIONS

CHAPTER III

CONTRIBUTIONS

Members' contributions

11.—(1) Each member shall make contributions to the Scheme at the standard contribution rate on his pay in each employment in which he is an active member (but see regulation 14).

(2) The standard contribution rate for a member is six per cent., unless he is a member with lower rate rights.

(3) The standard contribution rate for a member with lower rate rights is five per cent.

(4) A person who is an active member in more than one employment must make contributions for each of those employments.

(5) The appropriate administering authority may decide the intervals at which the contributions are made.

(6) For this regulation any reduction in pay by reason of the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work shall be disregarded.

(7) Regulations 15 to 17 affect this regulation.

Meaning of “pay”

12.—(1) An employee's pay is the total of—

- (a) all the salary, wages, fees and other payments paid to him for his own use in respect of his employment;
- (b) any other payment or benefit specified in his contract of employment as being a pensionable emolument.

(2) However, an employee's pay does not include—

- (a) payments for non-contractual overtime;
- (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
- (c) any payment in consideration of loss of holidays;
- (d) any payment in lieu of notice to terminate his contract of employment;

- (e) any payment as an inducement not to terminate his employment before the payment is made;
- (f) any amount representing the money value of the provision of a motor vehicle (but see paragraphs (8) and (9)); or
- (g) any compensation paid under the Local Government (Compensation for Reduction of Remuneration or Reorganisation) (Scotland) Regulations 1995(1).

(3) For regulation 11, the pay of a part-time employee for any period is the pay he would have received if during that period he had worked the contractual hours.

(4) However, paragraph (3) does not apply to periods during which the employee was away from work by reason of illness or injury with reduced or no pay.

(5) If a Scheme employer agrees with the bodies or persons representative of any description of employees the method for determining the whole or a specified part of the pay of employees of that description for the period during which the agreement applies, the pay of a member who is such an employee is the amount so determined.

(6) A Scheme employer must notify in writing every member affected by such an agreement.

(7) That notification must include a conspicuous statement as to the place where he may obtain information about details of the agreement.

(8) Where—

- (a) a member's contribution under regulation C2 or C3 of the 1987 Regulations for a period including 31st December 1992 was based on remuneration which for the 1987 Regulations as then in force included an amount representing the money value to him of the provision of a motor vehicle; and
- (b) immediately before the commencement date his remuneration for the 1987 Regulations included such an amount,

then his pay includes such an amount.

(9) However, paragraph (8) shall cease to apply if—

- (a) he leaves employment with the employing authority who were employing him on 31st December 1992 (otherwise than as a result of a transfer to another Scheme employer which is beyond his control); or
- (b) he is neither provided with a motor vehicle nor receives an amount representing the money value to him of the provision of such a vehicle.

(10) No sum may be taken into account in calculating pay unless income tax liability has been determined on it.

Members with lower rate rights

13.—(1) A member has lower rate rights for regulation 11 if he falls within paragraphs (2) and (3).

(2) A member falls within this paragraph if—

- (a) immediately before the commencement date he was required (or would have been required if he had then been a member) to contribute to the Scheme at the rate of five per cent., and
- (b) since that date either—
 - (i) he has remained in continuous employment in the same capacity and a member, or
 - (ii) he has been continuously employed in local government employment.

(3) A member falls within this paragraph if he is—

(1) S.I.1995/2865, amended by S.I. 1997/720.

- (a) a continuously-employed manual worker who immediately before the commencement date was in a local government employment in which he was entitled to contribute to the Scheme at the rate of five per cent. by reason of being a manual worker (as defined in Schedule 1 to the 1987 Regulations); or
 - (b) a statutory transferee who was so entitled immediately before he left the Scheme on statutory transfer and has applied to his employing authority to continue to be so entitled before the expiry of the period of 30 days beginning with the date he rejoins the Scheme or such longer period as they may allow; or
 - (c) a continuously-employed local Act member.
- (4) A continuously-employed manual worker is a person—
- (a) who on or after the commencement date has been transferred from the employment he held immediately before that date to another local government employment which is described by his employer as a manual employment; or
 - (b) who on or after that date has been transferred more than once and all of those employments since that date have been local government employments which are so described.
- (5) A statutory transferee is a person who—
- (a) left the Scheme by reason of his employment being transferred by virtue of an enactment to a person who was not a Scheme employer; and
 - (b) has rejoined the Scheme on a further transfer by virtue of an enactment to a person who is a Scheme employer and for whom he is employed in the same capacity as that in which he was employed immediately before he left the Scheme.
- (6) A continuously-employed local Act member is a person who has remained since before the commencement date continuously in employment which has entitled him to contribute to the Scheme at the rate of five per cent. by reason of rights under a local Act scheme.
- (7) For this regulation whether a person's employment is continuous must be determined in accordance with Chapter I of Part XIV of the Employment Rights Act 1996(2), but any period not exceeding one month and one day when he is not employed may be disregarded.

Employer's discretion to reduce members' contribution rate

14.—(1) The employing authority of a person who is an active member in their employment and has a total membership in a local government employment of at least 40 years may determine that he should not be liable to make contributions to the Scheme on his pay in their employment or should only be liable to make them at a rate less than the standard contribution rate.

(2) The member's liability is reduced or, as the case may be, extinguished at the expiry of the period of one month beginning with the date on which the employing authority so determined.

(3) However, for these Regulations the member shall continue to be treated as paying the contributions under regulation 11 for which he would otherwise be liable.

(4) For paragraph (1) membership counts as membership in local government employment unless—

- (a) it is a credited period counted under regulation 122 (periods credited on inward transfer); or
- (b) the member was entitled to count it under any corresponding earlier provision and he is entitled to count it under regulation 8(1)(d).

Inland Revenue limits on contributions

15.—(1) A Class A member may not pay contributions on any pay exceeding the Revenue permitted maximum.

(2) The total contributions to the Scheme and any other approved occupational pension scheme or approved personal pension scheme by a person in any tax year in respect of any employment in which he is a member must not exceed 15 per cent. of his total remuneration for that year in that employment.

(3) An occupational pension scheme or personal pension scheme is approved if it has been approved by the Commissioners of Inland Revenue under Part XIV of the Taxes Act.

(4) In this regulation “total remuneration” has the same meaning as in Schedule 4.

Obligatory contributions during absences

16.—(1) If a member—

- (a) is away from his employment with permission (otherwise than because of illness or injury) for a continuous period of less than 31 days or away on jury service for any period; and
- (b) is receiving reduced or no pay,

he must make contributions at the standard contribution rate on the pay he would have received during that period but for his absence.

(2) If a person who is a member or has applied to be a member goes on maternity leave, she must make contributions at the standard contribution rate, as respects any part of her period of maternity absence for which she is a member and entitled to receive pay (including any statutory maternity pay payable to her under the Social Security Contributions and Benefits Act 1992(3)), on that pay.

(3) That pay includes any such statutory pay but not any amount by which her actual pay is reduced on account of her possible entitlement to such statutory pay.

(4) If a person who is a member or has applied to be a member goes on reserve forces service leave, he must pay contributions under regulation 11 and any payments under Chapter III of Part III which he was paying immediately before his relevant reserve forces service began, if (and only if) during that service his reserve forces pay equals or exceeds the pay he would have received if he had continued to be employed in his former employment.

(5) Those contributions continue to be payable to the appropriate fund at the same rates on his reserve forces pay.

(6) If he is not obliged to pay contributions under paragraph (4), for the purposes of these Regulations he is treated as if he had paid them and also any payments under Chapter III of Part III which he would have been liable to pay if he had continued to be employed in his former employment.

(7) If a person who is a member or has applied to be a member goes on reserve forces service leave—

- (a) he may continue to pay any contributions under Chapter IV of Part III (AVCs and SCAVCs) which he was paying immediately before his leave began;
- (b) he may opt to discontinue payment under that Chapter; and
- (c) unless he has so opted, the appropriate administering authority must continue throughout the period of his relevant reserve forces service leave to pay any such contributions which were to be used to provide benefits for him on his death.

(8) If a person who is a member or has applied to be a member goes on reserve forces service leave—

- (a) his relevant reserve forces service counts as a period of membership in his former employment; and
- (b) if during that service he dies, attains his normal retirement age or becomes incapable for health reasons of working efficiently in local government employment, he shall be treated as if he were in that employment at that time.

Optional contributions during absences

17.—(1) If a member—

- (a) is away from his employment with permission (otherwise than because of illness or injury) for a continuous period of more than 30 days; and
- (b) is receiving reduced or no pay,

he may make contributions under regulation 16 at the standard contribution rate for the whole period of his absence or, if it exceeds 36 months, for 36 months, on the pay he would have received but for his absence.

(2) If—

- (a) a person who is a member or has applied to be a member goes on maternity leave; and
- (b) for the whole or part of the period of her maternity absence (“the unpaid period”) she is not entitled to receive pay (including any statutory maternity pay payable to her under the Social Security Contributions and Benefits Act 1992(4)) but is a member,

she may make contributions under regulation 16 at the standard contribution rate as respects the unpaid period, as if her pay in the employment were equal to the pay she was entitled to receive immediately before the unpaid period began (including any such statutory pay, but not any amount by which her actual pay is reduced on account of her possible entitlement to such statutory pay).

(3) If a person—

- (a) is away from work without permission for a period of one or more days during and because of a trade dispute (“a trade dispute absence”); and
- (b) was a member immediately before that period (or, where two or more periods of absence have occurred in consequence of one such dispute, the first such period),

he may make a contribution under regulation 16 for the relevant contribution period at the rate of 16 per cent. on his lost pay for that period.

(4) A person’s lost pay is the difference between—

- (a) his actual pay (if any); and
- (b) the pay he would have received but for any trade dispute absence,

(disregarding any guarantee payments under Part III of the Employment Rights Act 1996(5)).

(5) A period is a person’s relevant contribution period if—

- (a) it is coextensive with one of the intervals at which he was required under regulation 11 to make standard contributions; and
- (b) it includes all or part of his trade dispute absence.

(4) 1992 c. 4.
(5) 1996 c. 18.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) To make contributions under this regulation a person must apply to the employing authority in writing before the expiry of the period of 30 days beginning with the day on which he returns to work or such longer period as the authority may allow.

(7) However, if he ceases to be employed by that authority without returning to work, he may apply under paragraph (6) only before the expiry of the period of 30 days beginning with the day he so ceases or such longer period as they may allow.

(8) An application under paragraph (6) or (7) may be made by the person's executors if he has died without making such an application.

(9) The termination of a person's contract of employment in consequence of a trade dispute does not prevent this regulation applying to him if he again becomes an employee of the same Scheme employer and a member not later than the day after the dispute ends.