

---

STATUTORY INSTRUMENTS

---

**2008 No. 239**

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

**PART 3**

**CONTRIBUTIONS**

**Contributions during child-related leave**

**18.**—(1) If a person who is a member, or has applied to be a member, goes on maternity, paternity or adoption leave, the person must make contributions as respects any part of the period of maternity, paternity or adoption absence for which the person is a member and entitled to receive pay (including statutory pay).

(2) But that pay does not include any amount that reduces the member's actual pay on account of possible entitlement to statutory pay.

(3) Such contributions must be made at the contribution rate on that pay.

(4) If a person who is a member or has applied to be a member—

- (a) goes on ordinary maternity leave, paternity leave or ordinary adoption leave; and
- (b) is not entitled to receive pay (including statutory pay) for all or any part of that period of leave,

the person shall be treated for the purposes of these Regulations and the Benefits Regulations as if the person had paid contributions under paragraph (1) for the unpaid period of that leave and on the pay that the person would have received during that period but for the absence.

(5) If a person who is a member or has applied to be a member—

- (a) is on maternity or adoption leave (other than ordinary maternity or adoption leave), and
- (b) for all or part of the period of maternity or adoption absence is not entitled to receive pay (including statutory pay) but is a member,

the person may make contributions at the contribution rate as respects the unpaid period of that absence as if the person's pay in the employment were equal to the adjusted pay.

(6) The adjusted pay shall be the pay the person was entitled to receive immediately before the unpaid period first began (including statutory pay) but—

- (a) not including any amount that reduces actual pay on account of the person's possible entitlement to statutory pay; and
- (b) disregarding any amount the person receives on account of a day's work carried out under regulation 12A of the Maternity and Parental Leave etc. Regulations 1999<sup>(1)</sup> or regulation 21A of the Paternity and Adoption Leave Regulations 2002<sup>(2)</sup> that exceeds any maternity, paternity or parental leave pay due for that day.

---

(1) [S.I. 1999/3312](#); regulation 12A was inserted by [S.I. 2006/2014](#), regulations 3, 9.

(2) [S.I. 2002/2788](#); regulation 21A was inserted by [S.I. 2006/2014](#), regulation 4.

(7) A member to whom paragraph (5) applies may continue to pay contributions under regulation 25 (additional voluntary contributions) which the member was paying immediately before the leave began.

(8) If an active member goes on maternity, paternity or adoption leave, the member must continue to make any payments the member was making under regulation 23 of these Regulations (additional regular contributions) or regulation 55 of the 1997 Regulations (payments to increase total membership) on the pay the member would have received during the period but for the leave.

(9) In this regulation—

“ordinary adoption leave” means leave under section 75A of the Employment Rights Act 1996(3);

“ordinary maternity leave” means leave under section 71 of that Act (4);

“paternity leave” means leave under regulations 4 or 8 of the Paternity and Adoption Leave Regulations 2002;

“period of maternity, paternity or adoption absence” means any period throughout which a member is absent from duty because the member is exercising the right to take—

- (a) ordinary maternity or adoption leave;
- (b) additional maternity or adoption leave under section 73 or 75B of the Employment Rights Act 1996(5); or
- (c) paternity leave; and

“statutory pay” means any statutory maternity, paternity or adoption pay payable under the Social Security Contributions and Benefits Act 1992(6).

### **Contributions during reserve forces service leave**

19.—(1) This regulation applies to a person who—

- (a) is a member or has applied to be a member; and
- (b) goes on reserve forces service leave.

(2) He must pay contributions under regulation 3 of the Benefits Regulations and any payments under regulation 23 of these Regulations or regulation 55 of the 1997 Regulations that he was paying immediately before his relevant reserve forces service began if (and only if) his reserve forces pay during that service equals or exceeds the pay he would have received if he had continued to be employed in his former employment.

(3) Those contributions continue to be payable to the appropriate fund at the same rates on that pay.

(4) If he is not obliged to pay contributions under paragraph (2), he must be treated for the purposes of these Regulations and the Benefits Regulations as if he had paid them and also any payments under regulation 23 of these Regulations or regulation 55 of the 1997 Regulations that he would have been liable to pay if he had continued to be employed in his former employment.

(5) If he was paying any contributions under regulation 25(1) immediately before his leave began—

- (a) he may continue to pay, or may stop paying, them; and

---

(3) 1996 c.18. Section 75A was inserted by section 3 of the Employment Act 2002 (c.22).

(4) Section 71 was substituted by Part 1 of Schedule 4 to the Employment Relations Act 1999 (c.26).

(5) Section 73 was substituted by Part 1 of Schedule 4 to the Employment Relations Act 1999 and section 75B was inserted by section 3 of the Employment Act 2002.

(6) 1992 c.4.

- (b) unless he has stopped paying them, the appropriate administering authority must, throughout the period of his relevant reserve forces service, continue to pay such contributions as were to be used to provide benefits for him on his death.
- (6) His relevant reserve forces service counts as a period of membership in his former employment.
- (7) If during that service, he—
  - (a) dies;
  - (b) attains his normal retirement age; or
  - (c) becomes incapable for health reasons of working efficiently in local government employment,he must be treated as if he were in that employment at that time.

- (8) In this regulation—

“cancelling notice” in relation to a person’s relevant reserve forces service, means—

- (a) an agreement, by a member who has not waived his right to receive a return of contributions under regulation 46, to receive a return of contributions; or
- (b) a notice in writing given by him to the appropriate administering authority not later than 12 months after the end of the period of service to which the notice relates (or within such longer period as the administering authority may allow) that the service should not be treated as relevant reserve forces service;

“relevant reserve forces service” means service (other than service for the purposes of training only or service for a period in respect of which a cancelling notice has been served)—

- (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
- (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or
- (c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980(7), and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking to accept a permanent commission or a commission for a fixed term or to serve for the purposes of periodical training;

“reserve forces pay” in relation to any person, is the total of—

- (a) his pay for performing relevant reserve forces service (including marriage, family and similar allowances); and
- (b) any payments under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(8);

“reserve forces service leave” in relation to a person, means being away from work—

- (a) after—
  - (i) he has left the employment in which he is an active member, or
  - (ii) he has been granted leave of absence from such an employment, in order to perform relevant reserve forces service;
- (b) without having agreed to receive a return of contributions under regulation 46; and

---

(7) 1980 c.9.  
(8) 1951 c.65.

- (c) without having elected that the absence is not to count as such by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of relevant reserve forces service to which the notice relates (or within such longer period as the administering authority may allow);

“reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the Royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve, the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force; and

“service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—

- (a) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied; or
- (b) in respect of that and other service.

### **Contributions during trade dispute absence**

**20.**—(1) 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—
- (i) that period, or
- (ii) where two or more periods of absence have occurred because of one such dispute, the first such period,

he may make a contribution for the relevant contribution period at the rate of 16% on his lost pay for that period.

(2) 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 the trade dispute absence;

and, in determining that difference, any guarantee payments under Part 3 of the Employment Rights Act 1996<sup>(9)</sup> must be disregarded.

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

- (a) it is co-extensive with one of the intervals at which he is required under regulation 3 of the Benefits Regulations to make contributions; and
- (b) it includes all or part of his trade dispute absence.

(4) The termination of a person’s contract of employment because of a trade dispute does not prevent this regulation applying to him if he again becomes an employee of the same employing authority and a member not later than the day after the dispute ends.

(5) A member to whom paragraph (1) applies—

- (a) may continue to pay contributions under regulation 25 (additional voluntary contributions) which he was paying immediately before his trade dispute absence began; and
- (b) must continue to make any payments he was making under regulation 23 of these Regulations (additional regular contributions) or regulation 55 of the 1997 Regulations

---

(9) 1996 c.18.

(payments to increase total membership) on the pay he would have received during the relevant contribution period but for his absence.

(6) In paragraph (1)(a), “trade dispute” has the meaning given in section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(10)</sup>.

### **Contributions during absences with permission**

**21.**—(1) If a member—

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

he must make the payments specified in paragraph (2) on the pay he would have received during that period but for his absence (“his deemed pay”).

(2) The payments are—

- (a) contributions at the contribution rate; and
- (b) any payments he was making under regulation 23 of these Regulations (additional regular contributions) or regulation 55 of the 1997 Regulations (payments to increase total membership).

(3) The member may continue to pay contributions under regulation 25 (additional voluntary contributions) which he was paying immediately before the absence began.

(4) 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 pay or no pay,

he must make the payments specified in paragraph (5) on his deemed pay.

(5) The payments are—

- (a) contributions at the contribution rate for the first 30 days’ absence; and
- (b) any payments he was making under regulation 23 of these Regulations or regulation 55 of the 1997 Regulations.

(6) The member may—

- (a) make contributions at the contribution rate on his deemed pay for the remainder of the period of absence subject to a maximum of 36 months; and
- (b) continue to pay contributions under regulation 25 which he was paying immediately before the absence began.

### **Applications to make absence contributions**

**22.**—(1) To make contributions under regulation 18(5), 20 or 21(6)(a) a person must apply to his employing authority in writing before the expiry of a period of 30 days beginning with the day—

- (a) on which he returns to work, if he returns to work following the absence; or
- (b) on which he ceases to be employed, if he ceases to be employed by that authority without returning to work.

---

<sup>(10)</sup> 1992 c.52.

(2) In either case, the authority may allow a longer period.

(3) A person's personal representatives may make an application under paragraph (1) if the person has died without making an application.

### **Payment of additional regular contributions (ARCs)**

**23.**—(1) A member who chooses to pay additional contributions under regulation 14 of the Benefits Regulations must make his request in writing to the appropriate administering authority.

(2) The member's request must be copied to the member's employing authority and must state the length of the period ("the ARC payment period") over which he wishes to pay the additional regular contributions ("ARCs").

(3) If—

(a) the member's appropriate administering authority passes a resolution requiring him to satisfy it that he is in reasonably good health by producing to it a report by a registered medical practitioner of the results of a medical examination undertaken at the member's own expense; but

(b) it is not so satisfied,

it may refuse his request.

(4) The length of the ARC payment period must be such that it ends before the member's normal retirement age.

(5) The member may only pay ARCs if the appropriate administering authority notifies him in writing that it agrees to the request.

(6) The Government Actuary shall from time to time determine the amount of ARCs required for any given amount of increased pension and may determine different amounts of ARCs—

(a) for—

(i) persons of different ages, or

(ii) men or women; or

(b) depending on the length of different payment periods.

(7) Where the appropriate administering authority agrees to the member's request—

(a) it must notify him and his employing authority of the amount of ARCs payable by him in accordance with the Government Actuary's determination, expressed as an amount in pounds sterling; and

(b) the member must pay those ARCs from the next payment period (as defined in regulation 13(8)) following the date of the administering authority's notification under paragraph (5).

(8) The Government Actuary may at any time redetermine any amount determined under paragraph (6) and, if he does so, the member must, from 1st April following the redetermination, pay ARCs in accordance with the redetermination.

(9) If the member pays (or is treated under regulation 24 as having paid) ARCs for the whole of the ARC payment period, he must be credited with the additional annual pension of the amount that those ARCs purchase.

### **Discontinuance of ARCs**

**24.**—(1) A member—

- (a) may stop paying his ARCs before the end of the ARC payment period if he notifies the appropriate administering authority and the employing authority in writing that he wishes to do so; and
  - (b) must stop doing so if he ceases to be an active member.
- (2) If a member stops paying his ARCs before the end of the ARC payment period—
- (a) on leaving his employment on the grounds of ill-health and his employing authority making a determination in respect of him under regulation 20(2) or (3) of the Benefits Regulations; or
  - (b) on his death,
- he is to be treated as having paid his ARCs up to the end of that period.
- (3) If a member stops paying his ARCs and paragraph (2) does not apply to him, he must be credited with additional pension of an amount determined by the Government Actuary, having regard to the ARCs he paid before he stopped.

#### **Additional voluntary contributions and shared cost additional voluntary contributions**

**25.**—(1) An active member may elect to pay additional voluntary contributions (“AVCs”) into a scheme established under contract between his appropriate administering authority and a body approved for the purposes of the Finance Act 2004 (“an additional voluntary contributions arrangement”).

(2) The additional voluntary contributions arrangement must be a money purchase pension scheme registered in accordance with the Finance Act 2004 and administered in accordance with that Act and the Pensions Act 2004(11).

(3) Where the member’s employing authority contributes to the scheme, the additional voluntary contributions arrangement is to be known as a shared cost additional voluntary contributions arrangement and contributions to it as “SCAVCs”.

(4) Such AVCs or SCAVCs are in addition to any other contributions the member may pay under regulation 23.

(5) Where the member elects to pay AVCs or SCAVCs, he must first—

- (a) notify his employing authority in writing; and
- (b) in the notification specify—
  - (i) the percentage of his pensionable pay he wishes to pay or the amount he wishes to pay on his usual pay days from his pay,
  - (ii) whether he wishes any of his AVCs or SCAVCs to be used to provide benefits payable on his death, and
  - (iii) if he does, the proportion to be so used.

(6) A member may—

- (a) vary—
  - (i) the amount of his AVCs or SCAVCs, or
  - (ii) the proportion of them to be used to provide benefits payable on his death; or
- (b) stop paying AVCs or SCAVCs.

(7) Where he wishes to do so, he must first notify his employing authority in writing.

---

(11) 2004 c.35.

(8) An active member may, by notifying his administering authority in writing, transfer into his additional voluntary contributions arrangement constituted under this regulation the accumulated value of any other additional voluntary contributions arrangement to which he has subscribed.

(9) An election to pay AVCs or SCAVCs may be made in respect of each employment in respect of which a person is a member.

(10) The maximum a person may specify under paragraph (5)(b)(i) or notify under paragraph (7) as the varied amount in respect of each employment is 50 per cent of the pensionable pay of that employment or an amount equal to 50 per cent of the pensionable pay of that employment.

### **Use of accumulated value of AVCs and SCAVCs**

**26.—**(1) This regulation applies where a person who has paid AVCs or SCAVCs during his employment or made a transfer under regulation 25(8) —

- (a) leaves his employment with the employing authority he notified under regulation 25(5)
  - (a)—
    - (i) without entitlement to the immediate payment of retirement benefits, or
    - (ii) with such entitlement under regulation 16, 17, 18, 19, 30 or 31 of the Benefits Regulations;
- (b) stops being an active member without leaving that employment; or
- (c) becomes entitled to ill-health benefits under regulation 20 of those Regulations.

(2) A person mentioned in paragraph (1)(a)(i) must notify the employing authority in writing that he wishes the accumulated value of the AVCs or SCAVCs (“the accumulated value”) to be used in one or more of the permissible ways specified in the notification.

- (3) The permissible ways are—
  - (a) to subscribe to a registered pension scheme (other than the Scheme);
  - (b) to purchase an appropriate policy from one or more insurance companies (within the meaning of section 275 of the Finance Act 2004).

(4) A person mentioned in paragraph (1)(a)(ii) or (c) may notify the employing authority in writing that he wishes the accumulated value to be used to provide additional pension for him under the Scheme, or partly to provide such pension for him.

(5) If he does so, he becomes entitled to such additional pension as is shown as appropriate in guidance issued by the Government Actuary.

(6) The employing authority must send a notification under paragraph (2) or (4) to the appropriate administering authority as soon as possible.

- (7) In the case of a person mentioned in paragraph (1) (b)—
  - (a) the employing authority must, as soon as possible, inform the appropriate administering authority that the person has stopped being an active member; and
  - (b) the accumulated value must be used to subscribe to a registered scheme that is not an occupational pension scheme.

(8) The appropriate administering authority must make such arrangements as are necessary for the use of the accumulated value in accordance with a notification under paragraph (2) or (4) or with paragraph (7)(b).

### **Separate treatment of AVCs and SCAVCs from other contributions**

**27.—**(1) Regulations 46 (return of contributions) and 47 (exclusion of rights to return of contributions) do not apply to—



- (a) AVCs or SCAVCs payable under these Regulations or under any agreement made for the payment of AVCs before the commencement date; or
  - (b) interest on late payments which relate to AVCs or SCAVCs.
- (2) The regulations mentioned in paragraph (3) do not apply in relation to benefits under—
- (a) such a policy as is mentioned in regulation 26(3)(b); or
  - (b) any agreement made for the payment of AVCs or SCAVCs before the commencement date.
- (3) Those regulations are—
- (a) regulation 55 (first instance decisions);
  - (b) regulation 72 (forfeiture of pension rights);
  - (c) regulation 73 (interim payments directions); and
  - (d) regulation 74 (recovery and retention where former member has misconduct obligations).

**Cost of calculations of additional pension where no notification given under regulation 26(4)**

**28.**—(1) This regulation applies where, at a member's request, an administering authority give him information concerning the amount of additional pension which would be payable if he were to give a notification under regulation 26(4).

(2) If the member does not give such a notification before the expiry of the period of three months beginning with the date the authority gives him the information, it may deduct the cost of calculating that amount from the accumulated value of the additional contributions mentioned in regulation 15(1) of the Benefits Regulations.