

PensionChanges

LGPS Issues – No.1

November 2007

INTRODUCTION

Communities and Local Government has been operating an interactive forum on the proposed changes to the LGPS for almost a year. From the outset it was envisaged that it would gradually be phased out and replaced by other means of communication, namely through information sent out by local administrators. Our intention to close the forum down shortly has already been announced. However, we wish to build on the success of the electronic form of communication and continue to keep administrators, in the first instance, and members fully informed of developments in the pipeline.

REGULAR UPDATES

We will therefore be issuing regular updates both to pension managers and as a posting on a Communities' website so that Scheme members can continue to have a source of regular updates. For a variety of reasons this first in the series is inevitably longer than perhaps future copies might be, as it has to deal with a particular set of circumstances. It provides updates on what the outstanding regulations dealing with **Transitional Provisions** and amendments to the **Benefits, Membership and Contributions** will provide, and should be seen as a clear steer on the intent and direction of our intentions.

TRANSITIONAL PROVISIONS

The consultation on the draft Statutory Instrument took the approach of a balance between specific items and the need to identify those areas which would be best served by saving or preserving rights and arrangements already entered into.

The Statutory Instrument is now entering its final stages of legal checking, and administrators can now see the latest state of play. The SI will set out:-

- the standard preambles and effective date for the SI along with common definitions;

- how benefits are to be calculated for those continuous members of the Scheme who joined before 31 March and who will retire on or after 1 April 2008 having accrued membership under both arrangements;
- how current deferred members can be treated in like manner as continuous members if they rejoin the LGPS on or after 1 April 2008;
 - {By default these two provisions mean that if someone is not a continuous member or treated as a continuous member by virtue of their decision to aggregate on rejoining, then their rights at point of earlier departure from the Scheme will continue to apply.}
- how survivor benefits are to be dealt with for members covered by regulations 3 and 4 who die leaving dependants;
- the maximum amount of death grant payable to a continuous member who becomes a deferred member after 1 April and whose death occurs before receiving pension at or after normal retirement age or receiving early release of pension. Including any automatic lump sum attributed to pre 2008 membership the death benefit must not exceed five times pension as calculated under regulation 23 of the Benefit Regulations taking account of regulation 3 of the Transitional Provisions
- the requirement for employers to attribute current members to a contribution payband effective from 1 April 2008.
- the rates to be paid by protected ex-manual workers as their contributions come into line with other members other the period April 2008 to March 2011; and
- will, together with Schedule 2, set out how the transitional protection for those who would have been covered by the rule of 85 if they chose to retire early by 31 March 2020 will continue to operate.
- confirm the position of members who take out an added years contract prior to 31 March 2008 even if first contributions not deducted
- deal with a limited number of issues relating to pension sharing on divorce not covered by a simple saving provision.
- set out how pensionable pay before 1 April 2008 can be used for the purposes of regulations 8-11 of the Benefit Regulations
- deal with the pro rata apportionment of membership for continuous members with concurrent employments where one of the employments ends on or after 1 April 2008.

There will be two Schedules. Schedule 1 provides a list of saved provisions and Schedule 2 carries forward the Schedule first provided in SI 2006/966 - subsequently amended, but now also includes provisions

dealing with those members who were in the Scheme prior to October 2006 who have left and return to LGPS membership prior to their accrued rights coming into payment.

BENEFITS, MEMBERSHIP AND CONTRIBUTIONS

These are the provision currently being finalised, and the regulation numbers referred to are those appearing in the 2007 Regulations.

Regulation 2

As previously indicated in the Q&A published on 15 May, it is intended that only current members as at 31 March 2008 become auto-enrolled in the Scheme as from 1 April 2008. New joiners are auto enrolled unless it is made clear on starting that employment is for less than three months.

Regulation 3

Discussions have taken place with a number of payroll software providers and local authorities on the impact of the approach set out in the 22 June letter whereby employers attribute members to particular paybands. The responses have been very encouraging with an emphasis on how the arrangements can be made to work from April 2008. This would then allow all those involved with the pension administration processes to re-examine and fine tune where appropriate the kinds of records which are maintained to allow for correct assessment of liabilities and accurate calculation of member's pension entitlement. It is worth repeating the earlier advice.

Since the Benefit Regulations have been designed to apply for members joining and events occurring on and after 1 April 2008 the regulation will be amended to confirm that on becoming a member under regulation 2 they will be allocated to a specific band for that employment. Any changes in contractual terms subsequent to first joining will mean the employer can re-attribute the specific payband (upwards or downwards). The transitional provisions will include a provision which states that all current active members will be treated for the purposes of regulation 2 as new joiners and they will be attributed to a payband by their employer.

The initial attribution and any subsequent changes can only be done on a reasonable basis, otherwise the employer decision may be challenged under the IDR process and the intended yield may not be realised. For fee earners deduction should be the band relative to the actual fee. Thus if the fee is £8,000 the contribution rate is 5.5 %. If the fee is £24,000 the relevant contribution rate is 6.5%.

Employers and their payroll providers should have been proceeding on this basis, and it is clear that this is being done and issues resolved in a realistic manner.

Regulation 6

In terms of establishing entitlement to benefit regulation 5 makes clear that transferred in membership counts for “qualifying” purposes. The new administration Regulations will also be dealing with transfers in, and for the avoidance of doubt transferred in service will be shown to count as part of membership for the purposes of regulation 6. It will also be made clear that once the qualifying condition is satisfied for the first time it applies in all subsequent periods.

Regulation 8

It was set out in the Regulatory Impact Assessment that it is best actual pay figure in last 3 years which will be used, or the averaging process can apply. This also should be used in cases of stepping down and potential flexible retirements.

Regulation 10

In terms of consistency with the 1997 Regulations and the application of regulation 23, this regulation will be clarified to ensure the stepping down occurs within the last ten years of a person’s period of membership.

Regulation 18

As with the 1997 Regulations, this will be amended to make clear that employer consent to release of pension, as well as change of contractual terms, is required. It is not envisaged that this is a means for employers to refuse to release pension in cases of flexible retirement where they could have been taken in full without employer consent on or after a member’s 60th birthday.

Regulation 25

References to the Secretary of State will be replaced with references to relevant administering authority.

Regulation 26

The definition of eligible child will be as follows for dependant children:-

“The dependent child of a deceased members is an eligible child if

- the child is 17 or under or born within 12 months of the date of the death
- any dependant child still in education or training between the ages of 17 and 23 at the time of the death.

Any dependant child who is physically or mentally disabled can continue to be treated as a child after age 17 where the condition exists before death of the member any child who continues subsequent to the member’s death in

education or training after age 17 and up to age 23, but for this group such benefit payable under 28, 34 or 37 may be suspended during any break.”

TIERED ILL-HEALTH RETIREMENT PROVISIONS

In the Department’s 4 April 2007 covering letter to the new look Scheme’s benefit regulations it was confirmed, with Ministers’ agreement, that proposals would be brought forward to complete the provision of ill health benefits. A statutory consultation is programmed to begin as soon as possible on draft proposals which must be within the cost envelope and equate to 0.1% of payroll. Some clarifications to Regulation 20 and Regulation 31 have been identified and the opportunity to address these will be taken in the consultation.

LGFPS
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