



meeting

**PENSIONS ADMINISTRATION SUB - COMMITTEE**

date

**27 APRIL 2006**

agenda item number

## REPORT OF THE DIRECTOR OF RESOURCES

### LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) REGULATIONS 2006

#### 1. Purpose

- 1.1 To inform the Pensions Administration Sub - Committee of the LGPS (Amendment) Regulations 2006 as issued by the Office of the Deputy Prime Minister (ODPM).

#### 2. Background

- 2.1 On 2 December 2005 the Minister for Local Government (Phil Woolas) made a statement the House of Commons concerning proposed changes to the LGPS in England and Wales. These were followed by the issue of draft amendment regulations, a covering letter from the ODPM dated 5 December 2005, a regulatory impact assessment and a subsequent addendum letter of 10 December 2005. A response based on the views of this Committee was sent to the ODPM by the deadline of 28 February 2006. The LGPS (Amendment) Regulations 2006 were issued by the ODPM on 31 March 2006.

- 2.2 In summary, the Amendment Regulations provide that:

- a) the so-called '85 year rule' will be removed from the Scheme in respect of benefits accruing after 30 September 2006 (or, by virtue of transitional protection, after 31 March 2013 for those members who would be aged 60 or over and satisfy the 85 year rule by that date) but benefits banked up to 30 September 2006 (or up to 31 March 2013 for those covered by the transitional protection) will not be affected by the change;
- b) further consideration may still be given to additional transitional protection arrangements for existing scheme members, where these are affordable and can be legally provided, in the context of a new-look Scheme for 2008;
- c) a new facility for Scheme members to pay extra contributions in order to be able to draw an unreduced pension on voluntary

retirement before age 65 has not (yet) been introduced into the Scheme; and

- d) the earliest age that benefits may be paid on the grounds of redundancy or efficiency, or at which an employer can agree to the early release of pension benefits, remains as age 50 (but will have to increase to 55 by 2010)

2.3 The Amendment Regulations also provide that, as from 6 April 2006:

- a) the normal retirement age for councillor members is reduced from age 70 to age 65 so that all contributors to the Scheme now have a common normal retirement age of 65;
- b) employees and eligible councillors will be able to join and remain in the Scheme until the day before their 75<sup>th</sup> birthday. It would appear that all employees (other than casual employees and eligible councillors) who are aged 65 or over but under age 75 and who are not presently contributing to the Scheme will have to automatically be brought into the Scheme from 6 April 2006 (unless they opt not to be a member before then). Casual employees and eligible councillors have the right to opt in;
- c) the current 15% contribution limit on employees' and councillors' contributions is removed and thus up to 100% of taxable pay can be paid into the Scheme with full tax relief. The change also has an impact on some employees who are purchasing part time service under the "Preston" buy-back terms. Where the amount of contributions required to buy-back the service exceeded 15% the employer had to net down the contributions above 15% because the employee was not entitled to tax relief on contributions above 15%. Now that the 15% contribution limit has gone and the employee will receive tax relief via the payroll on those contributions, the amount payable by the employee should be grossed back up to the full amount due;
- d) benefits will have to be paid before a Scheme member's 75<sup>th</sup> birthday. Where a Scheme member defers drawing benefits beyond age 65 their benefits will be actuarially increased i.e. just as benefits drawn before age 65 may be subject to an actuarial reduction to reflect the fact that they will be paid for longer, benefits drawn after age 65 will be actuarially increased to reflect the fact that they will be paid for a lesser period of time;
- e) flexible retirement is to be permitted at or after age 50, linked to a reduction in hours or grade agreed by the employer, and the employer will (at their cost) be able to waive, in whole or in part, any actuarial reduction that would have been applied to the early payment of those benefits;
- f) members drawing benefits on or after 6 April 2006 will be able to commute some of their pension to receive a bigger lump sum. For each £1 of annual pension surrendered, the member will receive a

lump sum of £12. Up to 25% of the capital value of the member's pension benefits can be taken in the form of a lump sum;

- g) the ability for retirees to convert some or all of their scheme lump sum into additional pension has been removed;
- h) the facility for employers to be able to reduce or waive the contributions of employees who have been in pensionable local government employment for at least 40 years is removed and so, as from 6 April 2006, any member who has had their contributions reduced or waived will have to start paying full contributions again. The employer can, at their discretion, recoup the contributions that would otherwise have been paid by the member had their contributions not been reduced or waived. Whether or not the employer seeks to recoup the relevant contributions, the period will count. The maximum service limit of 40 years (or, for those who joined the Scheme before 1 June 1989, the maximum of 40 years at age 60 and 45 years at age 65) has been removed;
- i) the ability for a member to provide a survivor benefit over and above the standard spouse's, civil partner's or children's pensions by surrendering a part of his / her pension in favour of spouse, civil partner or dependant (payable should they survive the member) has been removed;
- j) children's pensions coming into payment after 5 April 2006 will, for those who carry on in full time education or training for a trade, profession or calling beyond age 17, have to cease by age 23 (even if they carry on in full time education, etc beyond that age);
- k) the amount of augmented membership that an employer may, in future, grant to a scheme member is subject to a limit of 6 2/3<sup>rd</sup> years (subject to this not exceeding the shortfall in membership to age 65);
- l) the maximum number of added years that a scheme member can, in the future, elect to purchase is limited to 6 2/3<sup>rd</sup> years;
- m) the Earnings Cap of £105,600 for those members who joined the LGPS on or after 1 June 1989 is removed. From 6 April 2006 such members will have to start paying pension contributions on their uncapped pensionable pay. A service adjustment is to be performed in respect of their membership between 1 June 1989 and 5 April 2006.

2.4 One change that has not gone ahead was the proposal to amend the amount of contributions payable by Scheme members who take one or more days of industrial action, and who wish to pay pension contributions to ensure the service counts for pension purposes. The relevant contribution payable by the member if they wish the service to count remains as 16% of the pay lost during the industrial action.

2.5 The latest update on the LGPS Regulations is that a joint statement was issued by the Local Government Association, Group Leaders, and the Chair of Local Government Employers dated 5 April 2006. The statement in the main confirms:

- a) the commitment to create a new-look scheme which encompasses all issues raised by participants;
- b) the commitment to change in pension provision currently and in the future, and noted the following specific action points to be addressed during the process;
  - i) work to resolve the outstanding differences in relevant actuarial assessments to be undertaken immediately and all emerging proposals to be assessed by professional advisers appointed by the participants;
  - ii) up to 50% of the savings accruing from the abolition of the Rule of 85, and consideration of the savings from the revised commutation arrangements, to be made available to fund scheme improvements, including protection arrangements for existing staff, and creating a more equitable and affordable Scheme;
  - iii) urgent negotiations to take place before the Parliamentary summer recess on developing a good quality, sustainable and affordable new-look LGPS going forward, fully equality proofed with greater choice and flexibility on when and how members move from employment to retirement and having regard to the respective contributions of employers and employees; incorporating discussions on affordable protection to existing staff, including full protection, taking account of appropriate actuarial and legal advice.
- c) that all participants are committed to conclude the first phase of negotiations in order to report to the Tripartite Committee in June 2006.

2.6 The Government has stated that it is prepared to introduce further amendments before the summer recess to update the regulations in the light of any agreed proposals which emerge from the talks between the Trade Unions and Local Government Employers.

### 3. Recommendation

3.1 It is recommended that the Pensions Administration Sub - Committee note the contents of this report.

**A DEAKIN**  
**Director of Resources**

Personnel Implications

There will be an impact on the terms and conditions of current employees.

Equal Opportunities Implications

None.

Crime and Disorder Implications

None.