

2009 No. 447

PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Administration)
(Amendment) Regulations 2009**

<i>Made</i> - - - -	<i>2nd March 2009</i>
<i>Laid before Parliament</i>	<i>9th March 2009</i>
<i>Coming into force</i> - -	<i>1st April 2009</i>

These Regulations are made in exercise of the powers conferred by section 7 of the Superannuation Act 1972(a).

In accordance with section 7(5) of that Act, the Secretary of State has consulted (a) such associations of local authorities as appeared to the Secretary of State to be concerned; (b) the local authorities with whom consultation appeared to the Secretary of State to be desirable; and (c) such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Administration) (Amendment) Regulations 2009.

(2) These Regulations shall come into force on 1st April 2009.

(3) These Regulations apply in relation to England and Wales(b).

Amendment of the Local Government Pension Scheme (Administration) Regulations 2008

2. The Local Government Pension Scheme (Administration) Regulations 2008(c) are amended in accordance with regulations 3 and 4.

3. After regulation 8 (eligibility for membership of employees of other bodies not listed in Schedule 2), insert—

(a) 1972 c.11.

(b) The Secretary of State's functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (1998 c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

(c) S.I. 2008/239, amended by S.I. 2008//1083, S.I. 2008/2425, S.I. 2008/2989 and S.I. 2008/3245.

“Eligibility for membership: employees transferring from The Rent Service to HM Revenue and Customs

8A.—(1) A person who—

- (a) was an active member of the 1997 Local Government Pension Scheme by virtue of regulation 130C (employees in the Rent Service Agency) of the 1997 Regulations; and
- (b) is an active member of the Scheme immediately before 1st April 2009,

continues to be an active member of the Scheme notwithstanding the transfer of that person’s employment from the Secretary of State to the Commissioners for Her Majesty’s Revenue and Customs pursuant to the Transfer of Functions (Administration of Rent Officer Service in England) Order 2008(a).

(2) Where a person satisfies the conditions specified in paragraph (1)—

- (a) that person is deemed to be in employment with the London Pension Fund Authority; and
- (b) regulation 12(1) (further restrictions on eligibility) of these Regulations shall not apply.

(3) In this regulation “the 1997 Local Government Pension Scheme” means the occupational pension scheme constituted by the 1997 Regulations.”.

4. In regulation 12 (further restrictions on eligibility), for paragraph (6) substitute—

“(6) A person may be a member of the Scheme despite being entitled to be a member of the National Health Service Pension Scheme for England and Wales (“the NHS Scheme”) if—

- (a) the person’s entitlement to be a member of the NHS Scheme is by reason of employment by—
 - (i) a Care Trust designated under section 77 of the National Health Service Act 2006(b);
 - (ii) an NHS Scheme employing authority as a result of a prescribed arrangement under section 75 of that Act; or
 - (iii) the Care Quality Commission as a result of a transfer of employment from the Commission for Social Care Inspection, in connection with its dissolution under Part 1 of the Health and Social Care Act 2008(c); and
- (b) the person is specified in, or within a class of employees specified in, an admission agreement made between an administering authority and one of the bodies specified in sub-paragraph (a)(i) to (iii); and
- (c) the person was an active member of the Scheme immediately before becoming employed by one of those bodies.”.

Signed by authority of the Secretary of State for Communities and Local Government

2nd March 2009

John Healey
Minister of State
Department for Communities and Local Government

(a) S.I. 2008/3134.
(b) 2006 c. 41.
(c) 2008 c. 14.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply in relation to England and Wales and amend the Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”).

These Regulations have effect from 1st April 2009.

Regulation 2 introduces the amendments set out in regulations 3 and 4.

Regulation 3 inserts a new regulation 8A (eligibility for membership: employees transferring from The Rent Service to HM Revenue and Customs) into the Administration Regulations, to enable clerical staff in The Rent Service to whom the provisions of regulation 130C of the 1997 Regulations applied and who are active members of the Local Government Pension Scheme immediately before 1st April 2009, to remain members of the Scheme on transfer to the Commissioners for Her Majesty’s Revenue and Customs.

Regulation 4 amends regulation 12 (further restrictions on eligibility) of the Administration Regulations by the substitution of paragraph (6) which; amends paragraph (a)(i) to insert a reference to section 77 of the National Health Service Act 2006; and inserts paragraph (a)(iii) to enable former staff of the Commission for Social Care Inspection to remain members of the Local Government Pension Scheme on transfer to the Care Quality Commission.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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