
STATUTORY INSTRUMENTS

2018 No. 537

PUBLIC SERVICE PENSIONS

**The Public Service (Civil Servants and Others)
Pensions (Amendment) Regulations 2018**

<i>Made</i>	- - - -	<i>26th April 2018</i>
<i>Laid before Parliament</i>		<i>30th April 2018</i>
<i>Coming into force</i>	- -	<i>21st May 2018</i>

The Minister for the Civil Service makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1) and 3(1), (2) and (3) of, and Schedule 3 to the Public Service Pensions Act 2013⁽¹⁾.

In accordance with section 21 of that Act, the Minister has consulted the representatives of such persons as appear to the Minister likely to be affected by these Regulations.

The retrospective provisions contained in these Regulations do not appear to the Minister to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by the Public Service (Civil Servants and Others) Pensions Regulations 2014⁽²⁾, nor in any other way in relation to members of that scheme. Accordingly, the procedures set out in section 23 of the Public Service Pensions Act 2013 are not applicable in respect of these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

Citation and Interpretation

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) Regulations 2018.

(2) These Regulations come into force on 21st May 2018 and have effect—

- (a) in respect of regulations 6,7,8,18 and 19 retrospectively from the 1st April 2018;
- (b) in all other respects, retrospectively from 1st April 2015.

Amendments to the Public Service (Civil Servants and Others) Pensions Regulations 2014

2. The Public Service (Civil Servants and Others) Pensions Regulations 2014 are amended as follows.

(1) 2013 c.25.

(2) S.I. 2014/1964, as amended by S.I. 2015/372 and S.I. 2015/602.

Amendment of regulation 2

3. In regulation 2 (interpretation)—

- (a) for the definition of “active member”, substitute ““active member” has the meaning given in regulation 2A;”;
- (b) at the appropriate place insert—
 - ““additional adoption leave” means additional ordinary adoption leave under section 75B of the Employment Rights Act 1996(3);”;
- (c) at the appropriate place insert—
 - ““additional maternity leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations 1999(4);”;
- (d) omit the definition of “additional paternity leave”;
- (e) for the definition of “adoption leave”, substitute—
 - ““adoption leave” means ordinary adoption leave or additional adoption leave;”;
- (f) at the appropriate place insert—
 - ““child-related leave” means adoption leave, maternity leave, parental leave, paternity leave or shared parental leave;”;
- (g) for the definition of “connected scheme”, substitute—
 - ““connected scheme” has the meaning given in regulation 2B;”;
- (h) in the definition of “index adjustment”—
 - (i) in paragraph (a), for “that scheme year” substitute “the previous scheme year”;
 - (ii) in paragraph (b), for “that scheme year” substitute “the previous scheme year”;
- (i) in the definition of “maternity leave”, omit the words after “additional maternity leave”;
- (j) at the appropriate place insert—
 - ““ordinary adoption leave” means ordinary adoption leave under section 75A of the Employment Rights Act 1996(5);”;
- (k) for the definition of “partnership pension account”, substitute—
 - ““partnership pension account” has the meaning given in regulation 2C;”;
- (l) at the appropriate place insert—
 - ““PCSPS partial retirement option” means the option exercisable under rule—
 - (a) D.1A of Section I of the PCSPS;
 - (b) 3.3b of Section II of the PCSPS; or
 - (c) E.4 of Section III of the PCSPS;”;
- (m) at the appropriate place insert—
 - ““shared parental leave” has the meaning given in regulation 3(1) of the Shared Parental Leave Regulations 2014(6);”;
- (n) in the definition of “statutory pay”—

(3) 1996 c. 18. Section 75B was inserted by the Employment Act 2002 (c. 22), section 3, and amended by the Work and Families Act 2006 (c. 18), Schedule 1, paragraph 34, and the Children and Families Act 2014 (c. 6), sections 118(1), 118(5) and 122(2).

(4) Section 73 was replaced by the Employment Relations Act 1999 (c. 26), Schedule 4, part 1, and amended by the Work and Families Act 2006, Schedule 1, paragraph 32, and the Children and Families Act 2014, section 118(3).

(5) Section 75A was inserted by the Employment Act 2002, section 3, and amended by the Work and Families Act 2006, Schedule 1, paragraph 33, and the Children and Families Act 2014, sections 118(1), 118(4), 121(1) and 122(1).

(6) S.I. 2014/3050, to which there are amendments not relevant to these Regulations.

- (i) in paragraph (c), omit “ordinary”;
- (ii) for paragraph (d) substitute—
 - “(d) statutory shared parental pay within the meaning of section 171ZU (entitlement: birth) or section 171ZV (entitlement: adoption) of the Social Security Contributions and Benefits Act 1992(7);”;
- (o) omit the definition of “surviving nominated partner”;
- (p) at the appropriate place insert—
 - ““surviving partner” has the meaning given in regulation 101;”.

New regulations 2A and 2B

4. After regulation 2 (interpretation), insert—

“Active Membership

- 2A.**—(1) A person (P) is an active member of this scheme if—
- (a) P is in pensionable service under this scheme; or
 - (b) P is not in pensionable service under this scheme and paragraph (2) or (3) applies.
- (2) This paragraph applies if P is on unpaid authorised absence.
- (3) This paragraph applies if—
- (a) P is in scheme employment;
 - (b) P is on unpaid sick leave or on unpaid child-related leave; and
 - (c) P was an active member of this scheme, the PCSPS or another permitted pension scheme immediately before that leave began.
- (4) In this regulation “another permitted pension scheme” means, in relation to P, a pension scheme approved by the scheme manager for the purposes of this regulation.

Connected Schemes

- 2B.**—(1) Subject to paragraph (2), “connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme.
- (2) The following schemes are not connected schemes—
- (a) an injury or compensation scheme established under section 1 of the Act;
 - (b) an injury or compensation scheme established under section 1 of the SA 1972;
 - (c) a statutory pension scheme that is a defined contributions scheme; and
 - (d) a public body pension scheme which relates to members of staff of a body, or the holder of an office, listed in Schedule 10 to the Act.

Partnership Pension Account

- 2C.**—(1) In these Regulations, “partnership pension account”, in relation to a person in scheme employment, means a pension scheme that has been approved by the scheme manager for the purposes of this regulation.
- (2) The scheme manager must not approve a pension scheme for the purposes of this regulation unless it is an—

- (a) an occupational pension scheme, a stakeholder pension scheme or a personal pension scheme;
- (b) a defined contributions scheme; and
- (c) a pension scheme to which the person's employer is—
 - (i) paying contributions; or
 - (ii) not paying contributions because the person is not receiving earnings which are pensionable earnings for the purposes of the person's pension scheme (other than because the person is on an unauthorised absence); or
 - (iii) not paying contributions because the person received benefits under section 2 (compulsory and redundancy category (1972 Section members)) of the Civil Service Compensation Scheme or section 3 (flexible category (1972 Section members)) of that Scheme on the basis that the person's reckonable service within the meaning of those sections was enhanced and the period by which that service was enhanced exceeds the period beginning with the day on which the person's retirement under those sections began and ending with the day before the person was re-employed in the scheme employment."

Amendment of regulation 4

5. In regulation 4 (scheme manager), omit paragraph (3).

Amendment of regulation 21

6. In regulation 21(1) (when does an option in take effect), for paragraph (a) substitute—
- “(a) P becomes an active member of this scheme in relation to that service on the first day of the first pay period—
 - (i) after the period of two months beginning with the date on which the option is exercised; or
 - (ii) after any shorter period the scheme manager considers appropriate;”

Amendment of regulation 23

7. In regulation 23(opting out of this scheme)—
- (a) in paragraph (1)(b), for “opens” substitute “opts to join”;
 - (b) in paragraph (2), after “(1)(a)” insert “or (b)”.

Amendment of regulation 25

8. In regulation 25 (opting out after one month), for paragraph (3) substitute—
- “(3) If P opts to join a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that employment on the last day of the first pay period—
 - (a) after the period of two months beginning on the date on which the option is exercised; or
 - (b) after any shorter period the scheme manager considers appropriate.”

Amendment of regulation 26

9. In regulation 26(4) (pensionable earnings), in the definition of “permanent pensionable earnings” at the end add of paragraph (a) insert “(not including pay received in respect of a period of sick leave on reduced pay at a rate determined by the member’s employer to be appropriate because it is equivalent to the annual rate of an ill-health pension.)”.

Amendment of regulation 27

10. In regulation 27(3) (meaning of “assumed pay”)—

(a) for paragraph (b), substitute—

“(b) P is on ordinary adoption leave, ordinary maternity leave or paternity leave;”;

(b) in paragraph (c), after “statutory pay” insert “whilst on additional adoption leave, additional maternity leave, shared parental pay or parental leave”.

Amendment of regulation 32 and new regulation 32A

11.—(1) In regulation 32(1) (calculation of “retirement index adjustment”), at the beginning insert “Subject to regulation 32A,”;

(2) After regulation 32, insert—

“Modification of the retirement index adjustment

32A.—(1) Where this regulation applies, the retirement index adjustment must equal 0.

(2) This regulation applies where—

(a) the leaving year is the scheme year ending on 31st March 2016; and

(b) the retirement index adjustment would otherwise be less than 0.”.

Amendment of regulation 41

12. In regulation 41(2) (receipt of a transfer value payment), for “153” substitute “152”.

Amendment of regulation 42

13. In regulation 42(2) (receipt of a club transfer value payment), for “152” substitute “153”.

Amendment of regulation 43

14. In regulation 43 (amount of pension for a scheme year), after paragraph (8), insert—

“(9) For the purpose of paragraph (4), in respect of a period of assumed pay under this scheme, “pensionable earnings” means the member’s assumed pay.”.

Amendment of regulation 59

15. In regulation 59(1) (qualifying service)—

(a) in paragraph (a), for “pensionable service under” substitute “active membership of”;

(b) after (a), insert—

“(aa) the member’s service in another occupational pension scheme that the Minister has determined should be counted for the purposes of this regulation;”.

New regulation 73A

16. After regulation 73 (meaning of “upper tier payment threshold”), insert—

“Payment thresholds: further interpretation

73A. In regulations 72 and 73, a reference to a member who is partially retired includes a reference to a transition member with continuity of service who has exercised the PCSPS partial retirement option.”.

Amendment of regulation 80

17. In regulation 80 (options under this Chapter), after paragraph (a) insert—

“(aa) the option under regulation 82A to partially buy out the early payment reduction;”.

New regulation 82A

18. After regulation 82 (option to buy out early payment reduction), insert—

“Option to partially buy out early payment reduction

82A.—(1) This regulation applies if—

- (a) a member of this scheme becomes entitled under Chapter 2 to the immediate payment of a full retirement pension; and
- (b) the member has not reached—
 - (i) normal pension age under this scheme; or
 - (ii) if applicable, the member’s effective pension age or enhanced effective pension age.

(2) The member may, with the consent of the Minister, opt under this regulation to buy out a proportion of the early payment reduction that would otherwise apply to the calculation of the annual rate of retirement pension.

(3) The cost must be met by way of a special payment to this scheme made by—

- (a) the member;
- (b) the member’s employer (“the employer”); or
- (c) both the member and the employer.

(4) The employer may make a special payment using a lump sum payable to the member under a compensation scheme.

(5) Any special payment by the employer must be made—

- (a) in accordance with the compensation scheme; or
- (b) with the consent of the Minister.

(6) If the employer makes a special payment under paragraph (5)(a), the lump sum payable to the member under the compensation scheme is reduced by the amount of the special payment.

(7) The scheme manager, after consulting the scheme actuary, must determine the actuarial reduction that would apply if a member exercises the option under this regulation.

(8) Where a member exercises the option under this regulation, references in these Regulations to the early payment reduction apply as if the reference were to the actuarial reduction determined under this regulation.”.

Amendment of regulation 100

19. In regulation 100 (surviving adults), in the definition of “surviving adult”, omit “nominated”.

Amendment of regulation 101

20. For regulation 101 (meaning of “surviving nominated partner”), substitute—

“Meaning of “surviving partner”

101.—(1) A person (P) is a surviving partner of a deceased member of this scheme if P satisfies the scheme manager that immediately before the member’s death—

- (a) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
- (b) P and the member were not prevented from entering into a marriage or a civil partnership; and
- (c) either P was financially dependent on the member, or P and the member were financially interdependent.”.

Amendment of regulation 128

21. In regulation 128 (meaning of “final pay”), for paragraph (4), substitute—

“(4) In this regulation—

- (a) if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the PCSPS before the transition date for that member; and
- (b) in respect of a period of assumed pay, “pensionable earnings” means the member’s assumed pay.”.

Amendment of regulation 129

22. In regulation 129 (meaning of “annualised final pay”), for paragraph (3), substitute—

“(3) In this regulation—

- (a) if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the PCSPS before the transition date for that member; and
- (b) in respect of a period of assumed pay, “pensionable earnings” means the member’s assumed pay.”.

Amendment of regulation 131

23. In regulation 131 (amount payable on death of deferred member or pensioner member (death out of service)), omit paragraph (2).

Amendment of regulation 135

24. In regulation 135(4) (amount of pensionable earnings), for “additional paternity” substitute “shared parental”.

Amendment of regulation 136

25. In regulation 136(3) (payment of member contributions), in paragraph (a), for “additional paternity” substitute “shared parental”.

Amendment of regulation 140

26. In regulation 140 (application of part)—

- (a) in paragraph (a), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA”;
- (b) in paragraph (b), for “Chapter 5” substitute “Chapter 2”.

Amendment of Schedule 1

27.—(1) Schedule 1 (payments for extra pension) is amended as follows.

(2) In sub-paragraph (4) of paragraph 12, after “adoption leave” insert “, paid shared parental leave”.

(3) In sub-paragraph (2) of paragraph 33, after “adoption leave” insert “, paid shared parental leave”.

(4) In sub-paragraph (2) of paragraph 44, after “adoption leave” insert “, paid shared parental leave”.

Amendment of Schedule 2

28.—(1) Schedule 2 (transitional provisions) is amended as follows.

(2) Omit paragraph 7.

(3) For paragraph 15, substitute

“15. This paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P begins service which is pensionable under the PCSPS not more than 5 years after leaving pensionable service under an existing public body pension scheme; and
- (c) P would, unless P dies, reach normal pension age under the PCSPS and P’s transitional scheme on or before 1st April 2022.”.

(4) For paragraph 24, substitute—

“24. This paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P begins service which is pensionable under the PCSPS not more than 5 years after leaving pensionable service under an existing public body pension scheme; and
- (c) P would, unless P dies, reach normal pension age under—
 - (i) the PCSPS during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
 - (ii) P’s transitional scheme on or before 1st September 2025.”.

(5) In paragraph 29—

- (a) in sub-paragraph (4), at the beginning insert “Subject to sub-paragraphs (4A) and (4B) and paragraph 29A,”;

(b) after sub-paragraph (4), insert—

“(4A) Where the conditions in sub-paragraph (4B) are met, the annual rate of an upper tier top up earned pension payable under this scheme is determined in accordance with paragraph 29A.

(4B) The conditions are—

(a) In the period of 12 months beginning with the day on which M became an active member of this scheme—

(i) M was on a period of unpaid sick leave; or

(ii) M was on a period of sick leave on reduced pay in respect of which M was paid at a rate determined by M’s employer to be appropriate because it is equivalent to the annual rate of an ill-health pension;

(b) The latest period of leave mentioned in sub-paragraph (a) ended less than 12 months before M became entitled to an ill-health pension under this scheme.”.

(6) After paragraph 29, insert—

“**29A.**—(1) Where this paragraph applies, the annual rate of upper tier top up earned pension payable under this scheme is the greater of the annual rates of upper tier top up earned pension calculated in accordance with—

(a) regulation 76; and

(b) sub-paragraph (2).

(2) The annual rate of upper tier top up earned pension calculated in accordance with this sub-paragraph is calculated in the same way as the annual rate of full retirement earned pension is calculated under regulation 61, but—

(a) the references to the member’s full retirement earned pension are taken to be references to the enhancement fraction of the deemed pension; and

(b) the early payment reduction is not subtracted.

(3) In this paragraph—

“deemed pension” means the amount of earned pension the member would have accrued in the member’s deemed period of pensionable service if the circumstances in paragraph 29(4B)(a) had not applied;

“the enhancement fraction” is—

A / B

where—

A is the member’s assumed period of pensionable service; and

B is the shorter of—

(a) the member’s deemed period of pensionable service;

(b) the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account, or would have been if the circumstances in paragraph 29(4B)(a) had not applied;

“the member’s assumed period of pensionable service” means the period (expressed in years)—

(a) beginning with the day after the member’s period of service ceased; and

(b) ending with—

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- (i) for a member employed for a fixed term, the day with which that term ends; or
- (ii) for a member otherwise employed, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age);

“the member’s deemed period of pensionable service” means the period (expressed in years)—

- (a) beginning with the day the member became an active member of this scheme; and
- (b) ending with the day on which the member became entitled to an ill-health pension under this scheme.”.

Signed

26th April 2018

Oliver Dowden
Minister for Implementation
Cabinet Office

We consent

26th April 2018

Andrew Stephenson
David Rutley
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Public Service (Civil Servants and Others) Pensions Regulations 2014 (the 2014 Regulations) (SI 2014/1964). The 2014 Regulations established a scheme for the payment of pensions and other benefits to civil servants and other eligible persons (“the Alpha scheme”). This is the third set of regulations to amend the provisions of the 2014 Regulations, and correct minor and technical issues that have been identified during the operation of the scheme and provide for the interaction of the Alpha scheme with the Partnership Pension scheme (a defined contributions scheme that is available as an alternative to the Alpha Scheme).

The Regulations come into force on 21st May 2018, but regulation 1 provides for provisions to take effect from 1st April 2015 or 1st April 2018. Section 3(3)(b) of the Public Service Pensions Act 2013 (“the Act”) provides authority for the regulations to take effect as from a date earlier than the making of these Regulations.

Regulations 3(a) and 4 provide for a new definition of “active member” to ensure that those on unpaid leave can continue to be treated as active members of the scheme rather than as deferred members.

Regulations 3(g), 4 and 5 provide for a new definition of “connected scheme”. The new definition firstly clarifies that injury and compensation schemes are not connected to the Alpha scheme, and secondly provides that a public body pension scheme which relates to members of staff of a body, or the holder of an office, listed in Schedule 10 to the Act are not connected to the Alpha scheme. The latter is to facilitate the closure of such schemes and the transfer of their members to the Alpha scheme.

Regulations 6, 7 and 8 relax the time limits imposed by the 2014 Regulations on switching between the Alpha scheme and the Partnership Pension scheme. The definition of “Partnership Pension Account” is also updated to reflect the changing governance structure of that scheme.

Regulation 9 clarifies that pay equivalent to the annual rate of an ill-health pension that is received in respect of a period of sick leave is not pensionable.

Regulations 10, 24, 25 and 27 amend various provisions in respect of child related leave following the introduction of shared parental leave. These amendments implement the new definitions introduced by regulation 3.

Regulation 11 provides for the calculation of the “retirement index adjustment” to be modified in respect of the scheme year starting in 2015. The retirement index adjustment is used to revalue pensions in the final year of scheme membership, and the modification provides that the revaluation in the scheme year starting in 2015 cannot be less than zero.

Regulations 12 and 13 correct a drafting error whereby references in two regulations were transposed.

Regulations 14, 21 and 22 clarify that where a member is receiving “assumed pay” certain calculations are made by reference to that assumed pay rather than their pensionable earnings.

Regulation 15 amends the definition of “qualifying service” to give the scheme manager discretion to deem service in another occupational pension scheme as qualifying service for the Alpha scheme.

Regulation 16 corrects an error whereby an upper tier top up earned pension was available to those who had taken partial retirement from the Principal Civil Service Pension Scheme (“PCSPS”) but not to those who had partially retired from the Alpha Scheme.

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Regulations 17 and 18 introduce the ability for the scheme manager to allow a member to partially reduce an actuarial reduction that would otherwise apply to their benefits by making a special payment to the scheme.

Regulations 19 and 20 remove the requirement to nominate an unmarried partner in order for them to receive a pension as a surviving adult. This amendment is made following the decision of the Supreme Court in the case of Brewster [2017] UKSC 8.

Regulation 23 removes an unnecessary reference to service in the PCSPS from the calculation of death benefits for members who die out of service.

Regulation 26 updates references to the Pension Schemes Act 1993 following amendments to that Act.

Regulation 28 amends the circumstances where a member of an existing pension scheme will be given transitional protection when joining the Alpha scheme by removing the requirement that the individual be an active member on the date their existing scheme is closed. Regulation 28 also provides for certain transition members to receive an enhanced rate of upper tier top up earned pension if they were on a period of sick leave at nil or reduced pay in the first twelve months of their membership of the Alpha scheme before taking ill-health retirement. This amendment is required to remedy an issue whereby such members would not otherwise be entitled to the same level of enhancement owing to their reduced period of service in the Alpha scheme.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.