

2008 No. 3245

PENSIONS, ENGLAND AND WALES

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

<i>Made</i>	- - - -	<i>16th December 2008</i>
<i>Laid before Parliament</i>		<i>23rd December 2008</i>
<i>Coming into force</i>	- -	<i>1st April 2009</i>

The Secretary of State for Communities and Local Government makes these Regulations in exercise of the powers conferred by sections 7 and 12 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.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Administration) (Amendment) Regulations 2008.

(2) These Regulations shall come into force on 1st April 2009, but regulation 4 shall have effect from 1st April 2008 and regulation 3 from 28th June 2008.

(3) Regulations 3 and 4 apply in relation to England and Wales(b) and regulations 5 to 7 apply in relation to England.

(4) In these Regulations “the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations 2008(c).

Amendment of the Administration Regulations

2. The Administration Regulations are amended in accordance with regulations 3 to 7.

3. In regulation 16 (re-employed and rejoining deferred members), after paragraph (6) insert—

“(7) But paragraph (6) does not apply to a member who is the subject of—

(a) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006(a) (“the TUPE Regulations”) apply; or

(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, to which there are amendments not relevant to these Regulations.

- (b) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.”.

4. In Schedule 1, after the definition of “Local education authority” insert—

““Local government area” has the same meaning as in section 270 of the Local Government Act 1972(b);”.

5. In Schedule 4, after the heading “APPROPRIATE FUNDS” insert—

“Part 1”

6. In the Table in Schedule 4, for paragraph 7 substitute—

“7. Members for whom no fund is specified by paragraphs 1 to 6, being—

(a) members whose employing authority is specified in column 1 of the Table in Part 3 of Schedule 5 to the 1997 Regulations;

Fund maintained by the administering authority specified for that authority in column 2 of the Table in Part 3 of that Schedule.

(b) members whose employing authority’s area is situated wholly or mainly in the local government area of another employing authority which is specified in column 1 of the Table in Part 3 of Schedule 5 to the 1997 Regulations.

Fund maintained by the administering authority specified for that other authority in column 2 of the Table in Part 3 of that Schedule.

(c) members whose employing authority is specified in column 1 of the Table in Part 2 of this Schedule.

Fund maintained by the administering authority specified for that authority in column 2 of the Table in Part 2 of this Schedule.”.

7. After the Table and Notes in Schedule 4, insert—

“Part 2

Members Affected by Local Government Reorganisation

<i>Employing authority</i>	<i>Administering authority</i>
Central Bedfordshire Council ⁽¹⁾ Luton Borough Council ⁽³⁾	Bedford Borough Council ⁽²⁾
Cheshire East Council ⁽⁴⁾ Halton Borough Council ⁽⁶⁾ Warrington Borough Council ⁽⁶⁾	Cheshire West and Chester Council ⁽⁵⁾

⁽¹⁾ On 1st April 2009 Central Bedfordshire Council is established as the sole principal authority for the new non-metropolitan district of Central Bedfordshire for which see S.I. 2008/907, article 4.

⁽²⁾ On 1st April 2009 Bedford Borough Council becomes the sole principal authority for the non-metropolitan borough of Bedford for which see S.I. 2008/907, article 3(3) (article 3(1) and (2) of that Order provide that there will be a county comprising the area of the Borough of Bedford but no council for that area). From 1st April 2009 Bedford Borough Council becomes the administering authority for Central Bedfordshire Council and Luton Borough Council.

(a) S.I. 2006/246, to which there are amendments not relevant to these Regulations.

(b) 1972 c. 70.

⁽³⁾ Bedfordshire County Council is until its abolition (for which see S.I. 2008/907, article 5), the administering authority for Luton Borough Council for which see S.I. 1997/1612, Schedule 5. Schedule 5 was revoked by S.I. 2008/238, but that revocation has no effect on the function of Bedfordshire County Council as an administering authority.

⁽⁴⁾ On 1st April 2009 Cheshire East Council is established as the sole principal authority for the new non-metropolitan district of Cheshire East for which see S.I. 2008/634, article 3.

⁽⁵⁾ On 1st April 2009 Cheshire West and Chester Council is established as the sole principal authority for the new non-metropolitan district of Cheshire West and Chester for which see S.I. 2008/634, article 4. From 1st April 2009 Cheshire West and Chester Council becomes the administering authority for Cheshire East Council, Halton Borough Council and Warrington Borough Council.

⁽⁶⁾ Cheshire County Council is until its abolition (for which see S.I. 2008/634, article 5) , the administering authority for Halton Borough Council and Warrington Borough Council for which see S.I. 1997/1612, Schedule 5 (as note 3, the revocation of Schedule 5 has no effect on the function of Cheshire County Council as an administering authority).”.

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

John Healey
Minister of State

16th December 2008

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme (Administration) Regulations 2008 (“the Administration Regulations”). Regulations 3 and 4 apply to England and Wales, but regulations 5 to 7 apply in relation to England only, as they make provision in consequence of local government reorganisation in England under Part 1 of the Local Government and Public Involvement in Health Act 2007 (c.28).

Regulation 4 has effect from 1st April 2008 and regulation 3 has effect from 28th June 2008. Section 12 of the Superannuation Act 1972 provides that regulations made under section 7 of that Act may have effect as from a date earlier than the making of the regulations. The remainder of the regulations have effect from 1st April 2009.

Regulation 2 introduces the amendments set out in regulations 3 to 7.

Regulation 3 disapplies regulation 16(6) of the Administration Regulations so that where a person transfers employment either by way of a TUPE transfer, or by way of a transfer which is treated as if TUPE applies, that person’s membership of the Local Government Pension Scheme is treated as if it were continuous.

Regulation 4 inserts a definition into Schedule 1 to the Administration Regulations.

Regulations 5 to 7 amend Schedule 4 to the Administration Regulations. Regulation 6 amends paragraph 7 of the Table in Schedule 4 by the addition of sub-paragraph (c) which identifies by reference to the Table in the new Part 2 of the Schedule, the respective employing and administering authorities for the appropriate fund, following local government reorganisation.

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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