



## **The Local Government Pension Scheme (Amendment) (No.3) Regulations 2005**

### **Response to the consultation by Amicus**

Amicus is a major UK trade union representing a million members spread across the public and private sector.

The largest group of our 20,000 members in the LGPS are manual craft workers, though we have members spread across a range of other occupations employed by Local Authorities and admitted bodies.

Amicus also represents larger groups of members in the NHS and Civil Service Pension schemes and strongly supports the maintenance of a comparable standard of pensions for all public sector workers.

Our members have identified pensions as a priority concern for them and Amicus is pledged to support members in their efforts to retain and improve their pension rights

#### **LGPS workers should have the same rights on retirement as other public service workers**

Amicus strongly supports and welcomes the PSF Principles agreed between the Government and the TUC. These Principles established that for existing staff the Normal Pension age would remain at 60 and that there would be no change in existing pension arrangements for existing staff without their agreement. This response is based on our strong belief that these Principles should, in broad terms, apply to members of the LGPS.

It is often said that the LGPS is quite different from the other major public service pension schemes because the Normal Pension Age is 65 whereas in those other Schemes it is 60. We believe that this distinction is not really either an appropriate or accurate distinction to make. For example, in fact while the Normal Pension Age is defined as term in the LGPS it is not defined as a term at all in the NHS Scheme.

In reality, the comparison that more appropriately should be made is between the ages in the Schemes at which a member has a right to retire without their pension being reduced on account of being paid 'early'.

The 'Earliest Retirement Age' (ERA) in the other main schemes is defined only on grounds of age at 60 whereas in the LGPS it is defined by reference to age and service i.e by the 'Rule of 85'. Statistics recently produced by Hyman Robertson for the ODPM have shown that almost 90% of men and two thirds of women who are members of the LGPS have an ERA of 60. This means that they have the same right in this respect as members of the other Schemes.

The fact that the additional criterion of service is considered by the LGPS is not significant for the large majority of staff. To all intents and purposes they have equivalent rights to members working in the NHS or the Civil service. They will have planned their careers and their retirement on the basis of a promise that their pension will be available to them at age 60, with no reduction for 'early' payment. They completely reject any notion that their current rights in this respect are any less valid than those of members of the other main public service Schemes or that they should not be respected in the same way.

The other distinction that is made and used against LGPS members, to deny them comparability with other public service workers, is the fact that their pension schemes are funded. We do not accept that this is a distinction which should have any validity in terms of affecting members' rights to benefit. The decision on funding or not funding is a historic one taken by Government with whom the ultimate responsibility for guaranteeing the benefits of the Scheme rests. Likewise neither is the distinction made as between the funding of benefits from local or national taxation.

LGPS members feel a close affinity with other public service workers and in many circumstances work in close proximity with them. In the past and in the future there have been and will be times when large groups of workers are switched, due to Government re-organisation between Local Authority and NHS employment. It would be unfair for staff subject to such changes, but who essentially carry on doing the same job, to have their ERA changed arbitrarily.

A central objection that Amicus has to the abolition of the Rule of 85 is that Local Authority employees are being treated unfairly by comparison with other public service workers.

### **The 'Rule of 85' does not have to be changed on account of changing discrimination legislation**

We reject completely the argument that the 'Rule of 85' has to be changed because it does or will fall foul of age discrimination legislation. This is an argument advanced to try and justify a decision driven by cost factors which does not stand up on any detailed analysis.

Even if in way the Rule of 85 could be held to be age discriminatory, by reference to prospective legislation, we would contend that it can be justified in a way which would overcome legal or other objections.

It is very clear that the draft Government (DTI) Regulations to implement age discrimination legislation contain extensive exemptions in respect of pension provisions and licence different benefits to be given both on grounds of age and service. Amicus supports this approach, not least because if age discrimination were rigidly applied without exception it would undermine the current basis of all final salary and many company money purchase schemes (or otherwise create unjustifiable contradictions as between them)

Retention of the Rule of 85 is objectively justified by its effects in motivating people to develop a career in Local Government, to remain in the public service and as a reward for loyalty. It might also be justified by the inability of many of those affected by its withdrawal to make alternative arrangements in order to maintain their retirement plans.

In respect of the objections based on the fact that the service qualification means that less women qualify under the Rule of 85 than men we would point to Hyman Robertson's finding that in fact, in the average case, women attain their ERA or qualify under the Rule of 85 only six months later than men. Women who commit to a career in Local Government will generally qualify, notwithstanding their taking family leave breaks. Whilst not endorsing stereotyping, it is also the case that the average woman when she does retire draws her pension for longer than a man.

### **Amicus calls for the Rule of 85 to be retained in the LGPS**

Far from abolishing the Rule of 85, we believe a fairer change would be to extend the right to draw pension at age 60 should be extended to all existing LGPS contributors. The retirement age for new starters should form part of the wider discussions about amendments to the LGPS.

We see the abolition of the Rule of 85 as being a breach of trust on the part of Government. Our members in the LGPS feel that they have been betrayed having developed their careers and framed their retirement plans on the basis of a promised retirement age of 60. The Rule has been in place in its current form for 34 years and is a key plank of the LGPS benefit package, being both a valued benefit and one highly valued by members.

Most of Amicus members in the LGPS are in a position of having started work early in life and having worked in physically demanding occupations. At the age of 60 many will find that they lack the energy and physical and mental ability to be able to carry on working. Capability is a real issue and the reduction in numbers of ill health and employer-induced retirements has been closing off a safety valve as was previously available to them.

The particular position of manual workers is highlighted by their (2 year) lower life expectancy and their rates of ill health retirement which are double those of other employees.

Levels of pay are such that they lack the financial ability to make alternative financial arrangements to allow them to maintain their ability to retire at 60 if the Rule of 85 was withdrawn and this is a further justification for retaining the Rule in respect of existing staff.

## **Transition provision should be subsumed in the wider review of the Scheme**

We have argued that the Rule of 85 should be retained for all existing staff and consideration given to allowing all existing staff to have an ERA of 60, in line with other public service workers.

We would argue that the cost of the earlier revocation and the cost of lifetime protection should be considered in the wider context of the main Review of the Scheme.

## **Comments on the tax change measures**

We support the proposals to allow staff to take a higher tax free lump sum through commutation in line with the new Inland Revenue limits. We would note, however, that at the proposed commutation rate of 12:1 this optional facility reduces the value of the benefits going to members. It would therefore be fair if the proceeds of savings made by the Scheme were to be allocated in the first instance to improvements in benefits.

In general we support the main elements of the other proposals to modify the Scheme in order to take advantage of the new flexibilities to be permitted by the Revenue. In particular we would recommend the proposals to allow pension to be drawn when individuals step down their responsibilities and hours in the run-up to final retirement and the proposals to allow further pension to be earned after age 65 and in excess of 40 years. These are valuable measures which will encourage some of those able to do so to extend their careers in Local Government and so help bring about voluntarily the desired increase in the average age of retirement.