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STATUTORY INSTRUMENTS

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**1970 No. 1975**

**LOCAL AUTHORITY SOCIAL SERVICES**

The Local Authority Social Services  
(Staff Protection) Order 1970

<i>Made</i>	- - - -	<i>18th December 1970</i>
<i>Laid before Parliament</i>		<i>31st December 1970</i>
<i>Coming into Operation</i>		<i>1st January 1971</i>

The Secretary of State for Social Services, in exercise of his powers under section 9(1) of the Local Authority Social Services Act 1970 and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Local Authority Social Services (Staff Protection) Order 1970 and shall come into operation on 1st January 1971.

2.—(1) In this Order any reference to the Act is a reference to the Local Authority Social Services Act 1970.

(2) In this Order any reference to a protected person is a reference to a member of the existing staff of a local authority, as defined in section 9(4) of the Act, who is employed by the authority in connection with the discharge of a relevant function and is affected by the provisions of section 2 or 6 of the Act.

(3) In this Order, the following expressions have, in relation to a protected person, the meanings hereby respectively assigned to them:—

“a relevant function” means any function which, immediately after the relevant date, is a social services function of the local authority by whom he is employed except that, where he is affected by an order under section 2(2) of the Act or such a direction under section 2(4) of the Act as is mentioned in section 9(4)(b) thereof, it means any function of that authority to which the order or direction, as the case may be, relates;

“the relevant date” means the date on which section 2 or 6 of the Act, as the case may be, comes into force in the area of the local authority by whom he is employed except that, where he is affected by an order under section 2(2) of the Act, or such a direction under section 2(4) of the Act as is mentioned in section 9(4)(b) thereof, it means the date on which the order or direction, as the case may be, so comes into force.

“tribunal” means a tribunal established under section 12 of the Industrial Training Act 1964.

(4) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

**3.—**(1) A protected person shall, until he is served with a statement in writing of new terms and conditions of employment, enjoy terms and conditions of employment not less favourable than those he enjoyed immediately before the relevant date.

(2) Any new terms and conditions of employment contained in such a statement as aforesaid shall be such that—

- (a) so long as the person is engaged in duties reasonably comparable to those in which he was engaged immediately before the relevant date, the scale of his salary or remuneration; and
- (b) the other terms and conditions of his employment, are not less favourable than those he enjoyed immediately before the relevant date.

(3) For the purposes of this Article any question as to comparability of duties shall be determined by a tribunal and for the purposes hereof a person or persons may be appointed to sit with the tribunal as assessor or assessors.

(4) A written statement given in accordance with section 4(1) of the Contracts of Employment Act 1963 shall not be regarded as a statement of new terms and conditions of employment for the purposes of this Article unless the statement so indicates; and such a statement for the purposes of this Article shall draw the attention of the person concerned to his right to have any question as to comparability of duties determined in accordance with the preceding paragraph and give him the address to which the reference of any such question for determination should be sent.

(5) For the purposes of this Article any reference to terms and conditions of employment includes a reference to any restriction, arising under any Act or any instrument made under any Act, on the termination of the employment of any person.

**4.—**(1) This Article shall apply to a protected person, irrespective of any change in his duties, so long as he continues to be employed in connection with a relevant function by the local authority by whom he was employed on the relevant date without a break of twelve months or more in that employment.

(2) Section 6(5) of the Local Government Superannuation Act 1937 (which relates to the payment of superannuation contributions on the reduction of remuneration) shall apply to a protected person to whom this Article applies who on or after the relevant date suffers a reduction in his emoluments attributable to the provisions of section 2 or 6 of the Act, as the case may be.

(3) Where under section 6(5) of the said Act of 1937 as applied by the preceding paragraph a protected person pays contributions to a superannuation fund as if his remuneration had not been reduced, he shall be deemed for the purposes of Regulation 3(1) of the Local Government Superannuation (Benefits) Regulations 1954<sup>(1)</sup> or proviso (b) to section 8(5) of the said Act of 1937 to have received the remuneration which he would have received but for the reduction.

(4) In calculating for the purposes of this Article whether, or the amount by which, a protected person's remuneration has been reduced, no account shall be taken of any increase in his remuneration which is attributable to any temporary allowance granted in consequence of the provisions of section 2 or 6 of the Act, as the case may be, and otherwise than in the ordinary course of his employment.

**5.—**(1) This Article shall, subject to paragraph (4) thereof, apply to a protected person to whom section 16 (modification applicable to female nursing staff) of the Local Government Superannuation Act 1937 applies as originally enacted by virtue of an option to retain existing benefits under Regulation 17 of the Local Government Superannuation (Benefits) Regulations 1954 or to whom

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(1) (1954 II, p. 1595).

Regulation 21 or 22 or Regulation 23 of the said Regulations applied immediately before the relevant date, save as provided in the next following paragraph, so long as he continues to be employed in connection with a relevant function by the local authority by whom he was employed on the relevant date without any break in that employment.

(2) Where a person's duties are changed and his new duties are such that he is not such a person as is mentioned in the said section 16 or in paragraph (1) of the said Regulation 21 or, where the said Regulation 23 applied to him immediately before the relevant date, such a person as is mentioned in that Regulation, then—

- (a) if the change is made at his request, this Article shall cease to apply to him on the change taking effect;
- (b) if the change is made otherwise than at his request and within 6 months thereof he gives notice in writing to the local authority that he does not desire this Article to apply in his case, this Article shall cease to apply to him on his giving the said notice.

(3) Without prejudice to the application of the said section 16 or of Regulation 21 or 22 or of Regulation 23 of the said Regulations of 1954 to a person otherwise than by virtue of this Article, so long as this Article applies to a protected person, the provision which applied to him immediately before the relevant date shall continue to apply in his case, notwithstanding that on or after the relevant date he ceases to be such a person as is mentioned in the said section 16 or in paragraph (1) of the said Regulation 21 or, as the case may be, such a person as is mentioned in the said Regulation 23.

(4) In relation to a person to whom the Manchester Superannuation (Benefits) Scheme 1955(2) applies, this Article shall have effect as if for any references to the said section 16, the said Regulation 17 and the said Regulation 23 there were substituted respectively references to section 47 of the Manchester Corporation Act 1946 and Articles 25 and 23 of the said Scheme.

18th December 1970

*Keith Joseph*  
Secretary of State for Social Services

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(2) See S.I. 1955/1347.

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### EXPLANATORY NOTE

This Order, in pursuance of sub-section (1) of section 9 of the Local Authority Social Services Act 1970, makes provision for the protection of the interests of the local authority staff mentioned in sub-section (4) of that section who may be affected by the provisions of section 2 or 6 of that Act.

Article 3 contains safeguards against the worsening of a person's terms and conditions of employment.

Article 4 enables a person who suffers a reduction in his remuneration to be treated for local government superannuation purposes as if he had not suffered such reduction.

Article 5 enables a person who enjoys the benefit of certain early retirement provisions applicable to medical or nursing staff etc. to continue to enjoy that benefit where he would otherwise cease to do so. Paragraph (4) makes similar provision for persons subject to the Manchester Superannuation (Benefits) Scheme 1955.