
 S T A T U T O R Y I N S T R U M E N T S

1981 No. 1250

PENSIONS

**The Local Government Superannuation (Amendment)
Regulations 1981**

Made - - - - - 28th August 1981

Laid before Parliament 10th September 1981

Coming into Operation 1st October 1981

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972(a), as read with paragraph 5(1) of Schedule 7 to that Act, and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Citation etc.

1.—(1) These regulations may be cited as the Local Government Superannuation (Amendment) Regulations 1981 and shall come into operation on 1st October 1981, but regulations 2 and 3 shall have effect from 1st April 1980 and regulation 5 shall have effect from 1st April 1974.

(2) These regulations and the Local Government Superannuation Regulations 1974 to 1980 (b) may be cited together as the Local Government Superannuation Regulations 1974 to 1981.

(3) In these regulations “the principal regulations” means the Local Government Superannuation Regulations 1974(c) and, unless the context otherwise requires, expressions used in these regulations shall have the same meaning as they have in the principal regulations.

Appropriate superannuation fund

2. Regulation B3(5A) of the principal regulations is amended by inserting after the word “person” the words “who is a pensionable employee and who is” and substituting the words “1st April 1982” for the words “1st April 1981”.

(a) 1972 c. 11.

(b) S.I. 1974/520, 1977/1121, 1845, 1978/266, 822, 1738, 1739, 1979/2, 592, 1534, 1980/216, 233, 234.

(c) S.I. 1974/520; relevant amendments were made by S.I. 1977/1845, 1978/266, 1979/1534, 1980/234.

Actuary's certificates

3. Regulation B8 of the principal regulations is amended by adding after paragraph (4) the following paragraph—

“(5) If—

(a) the rate specified under paragraph (1)(i) for the first year of the period to which a certificate under this regulation (“the new certificate”) relates (“the new rate”) is less than the rate so specified for the last year of the period (“the preceding period”) to which the preceding certificate under this regulation (“the old certificate”) relates (“the old rate”), and

(b) the new certificate has been obtained more than 6 months before the end of the preceding period,

the old certificate shall, if the actuary and the administering authority so agree, have effect for the last year of the preceding period with the substitution of the new rate for the old rate.”.

Return of employee's contributions in certain cases

4. Regulation C8 of the principal regulations is amended by inserting after paragraph (4)(c) the following:

“or

(d) to a person who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation E20.”.

Reckonable service

5. Regulation D1 of the principal regulations is amended—

(a) by substituting for the words “Subject to paragraph (2)” the words “Subject to paragraphs (2) and (3)”; and

(b) by adding at the end of paragraph (2) the following paragraph—

“(3) Where—

(a) a person becomes entitled to a benefit under regulation E2(1)(c) by virtue of regulation K1(1) in relation to an employment which he has ceased to hold (“the former employment”); and

(b) on or after the appointed day and more than 12 months after he ceased to hold the former employment he becomes a pensionable employee in a subsequent employment (“the subsequent employment”),

he shall be treated for the purposes of paragraph (1)(d) as if he had become a pensionable employee in the subsequent employment on or after the appointed day but within 12 months of ceasing to be employed in the former employment.”.

Ill-health retirement grant

6. The principal regulations are amended by inserting after regulation E19 the following regulation:

“Ill-health retirement grant

E20.—(1) This paragraph applies to a person—

(a) who has at any time after 13th November 1978 ceased to hold an employment in which he was a pensionable employee,

- (b) who when he ceased to hold that employment—
 - (i) was entitled to reckon an aggregate of one or more but less than 5 years' reckonable service and qualifying service, and
 - (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body,
 - (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation C8(3),
 - (d) who is not apart from this regulation entitled, whether by virtue of his having or not having made any election or otherwise, to any payment out of the appropriate superannuation fund, other than an injury allowance under regulation 7 of the Benefits regulations or a return of contributions, and has neither received any return of contributions nor been granted any gratuity under section 18 of the Act of 1953 or under any local Act, and
 - (e) who if a return of contributions (increased under regulation N9 where that regulation applies) were made to him would receive a net amount smaller than that of a grant calculated in accordance with paragraph (2).
- (2) A person to whom paragraph (1) applies is, subject to paragraph (4), entitled to be paid a grant ("an ill-health retirement grant") of an amount equal to—
- (a) one twelfth of his pensionable remuneration multiplied by the length in years of his reckonable service, or
 - (b) three eightieths of his pensionable remuneration multiplied by the length in years of the total period he would have been entitled to reckon as reckonable service if—
 - (i) he had remained a pensionable employee without any break in service until he had attained the age of 65 years, and
 - (ii) any added period payments had been completed,
- whichever is the lesser amount.
- (3) A person—
- (a) who has received before 1st October 1981 a return of contributions, and
 - (b) to whom paragraph (1) would otherwise have applied,
- is, subject to paragraph (4), if he pays to the appropriate superannuation fund an amount equal to the net amount he received when the return of contributions (as increased under regulation N9 where that regulation applies) was made, entitled to be paid an ill-health retirement grant of the amount specified in paragraph (2).
- (4) A person to whom paragraph (1) applies or who has paid the amount specified in paragraph (3)—
- (a) may, notwithstanding that he is for the time being entitled to an ill-health retirement grant, at any time before such a grant is paid to him be granted a gratuity under section 18 of the Act of 1953; and
 - (b) on being so granted a gratuity under section 18 of the Act of 1953, or under any local Act, ceases to be entitled to an ill-health retirement grant.

(5) Paragraph (6) applies—

(a) to a person falling within paragraph (1)(a) to (c) who—

(i) has ceased to hold his employment after 30th September 1981, or

(ii) has ceased to hold his employment before 1st October 1981 but on 1st October 1981 had not made any election that he was entitled to make under regulation C8, and

(b) to a person falling within paragraph (3)(a) and (b).

(6) Where this paragraph applies to a person, the appropriate administering authority are, without prejudice to any subsequent decision under regulation L8 or L9, to notify him in writing, as soon as is reasonably practicable, of the amount of the ill-health retirement grant to which he would, subject to paragraph (4), be entitled if he—

(a) remained or became a person to whom paragraph (1) applies, or

(b) paid the amount specified in paragraph (3).”.

Appeal by employee, etc.

7. Regulation H2 of the principal regulations is amended—

(a) by substituting for the word “If”, in paragraph (1), the words “Subject to paragraph (1A), if”; and

(b) by inserting after paragraph (1) the following paragraph—

“(1A) The Secretary of State shall not under this regulation determine any question that fell to be decided by the body concerned in the exercise of a discretion conferred on them by these regulations.”.

Continuity of employment

8. Regulation J13(2) of the principal regulations is amended by substituting for the words “regulations J6 and J14” the words “regulations J6, J14 and P1 to P5”.

Compound interest on certain sums

9. Regulation N6 of the principal regulations is amended by substituting for the words “and N5(1)(d)(ii)” the words “N5(1)(d)(ii) and P7(3)(b)” and for the words “paragraph 1(2) of Schedule 21” the words “paragraph 1(2) of Part I of and paragraph 7 of Part V of Schedule 21”.

Interfund adjustments

10. The principal regulations are amended by inserting after Part N the following Part—

“PART P

INTERFUND ADJUSTMENTS

Interpretation

P1.—(1) For the purposes of this Part, unless the context otherwise requires—

“fund authority” means—

(a) in relation to a person’s previous local government employment, the body maintaining the superannuation fund to which he was a

contributor immediately before he ceased to be employed in his previous local government employment or, if that fund has been closed, the body which would be liable to pay him his pension in respect of that employment if he had been entitled to receive payment of such a pension when he ceased to be employed in his previous local government employment; and

(b) in relation to a person's new local government employment, the body maintaining the superannuation fund to which he became a contributor in his new local government employment or, if that fund has been closed—

(i) if when the fund was closed he was not employed in local government employment, the body which would be liable to pay him his pension in respect of his new local government employment if he had been entitled to receive payment of such a pension when he ceased to be employed in that employment; and

(ii) in all other cases, the body maintaining the superannuation fund to which he became a contributor when the fund was closed;

“local government employment” has the same meaning as in regulation N1;

“new local government employment” has the same meaning as in regulation P2(1)(a) and “new employing authority” is to be construed accordingly;

“new fund authority” has the same meaning as in regulation P2(1)(b);

“pension” does not include an allowance or gratuity;

“previous fund authority” has the same meaning as in regulation P2(1)(b); and

“previous local government employment” has the same meaning as in regulation P2(1)(a) and “previous employing authority” is to be construed accordingly.

(2) In the case of a person who ceased to be employed in his previous local government employment on or after 31st March 1972 and before the appointed day, it is to be assumed, for the purposes of determining whether and to what extent service was reckonable in his previous local government employment, that he was a person to whom Part K applied whether or not he gave notice under regulation K2.

Change of local government employment and fund authority

P2.—(1) Where—

(a) a person who on or after 31st March 1972 ceased to be employed in a local government employment (“the previous local government employment”) subsequently becomes employed in some other local government employment (“the new local government employment”); and

(b) in his new local government employment the fund authority (“the new fund authority”) is different from the fund authority (“the previous fund authority”) in his previous local government employment; and

(c) in his new local government employment he is entitled to reckon any reckonable service which he was entitled to reckon in his previous local government employment; and

(d) the previous fund authority (or a predecessor of that authority) has not paid a transfer value or transferred assets in connection with the change of employment; and

(e) no direction has been made at any time in relation to his reckonable service in his previous local government employment under regulation L13 or any corresponding provision of any earlier enactment, the previous fund authority shall, subject to the following provisions of these regulations, pay out of their superannuation fund to the new fund authority for the credit of their superannuation fund a transfer value calculated in accordance with Part V of Schedule 21.

(2) Subject to paragraphs (3), (4) and (5), if the change of employment occurs as a result of an order or regulations made under the Local Government Act in accordance with section 255 of that Act or an order made under section 84 of the London Government Act 1963(a) and the number of persons changing superannuation funds is more than 9 but less than 100, the transfer values payable under paragraph (1) shall be calculated in accordance with Part I of Schedule 21.

(3) An adjustment shall be made to the total sum payable under paragraph (2) if the assets of the fund of the previous fund authority immediately before any change of employment occurs are not adequate, or are more than adequate, to meet the accrued actuarial liabilities of the fund at that time.

(4) The total shall be adjusted to the extent that the actuaries of the funds concerned consider appropriate in the circumstances.

(5) If any question arises as to the application of paragraphs (3) and (4) or the actuaries are unable to agree on the adjustment to be made, the adjustment (if any) to be made shall be decided by an actuary appointed by the Secretary of State.

(6) If the change of employment occurs as a result of an order or regulations made under the Local Government Act in accordance with section 255 of that Act or an order made under section 84 of the London Government Act 1963 and the number of persons changing superannuation funds is 100 or more—

(a) no payment shall be made under paragraph (1); and

(b) the superannuation fund of the previous fund authority shall be apportioned in accordance with Schedule 24.

(7) “Accrued actuarial liabilities” means the actual and potential liabilities of the fund in connection with any service or employment before the change of employment takes place.

Partial forfeitures

P3.—(1) Where—

(a) a direction is made in relation to any person under regulation L13 or any corresponding provision of any earlier enactment; and

(b) any right to benefit under these regulations or the former regulations is retained; and

(c) the conditions of regulation P2(1) are satisfied with the exception of the conditions in sub-paragraph (e),

the previous fund authority shall pay out of their superannuation fund a transfer value to the new fund authority for the credit of their superannuation fund.

(2) The transfer value is to be an amount equal to the actuarial value of the remaining benefits.

(a) 1963 c. 33.

Greater London Council housing staff transfers

P4.—(1) The superannuation fund of the Greater London Council shall be apportioned in relation to persons transferred by or under the Greater London Council Housing (Staff Transfer and Protection) Order 1979(a) who on 1st April 1982 are still employed by the authorities to which they were transferred.

(2) Schedule 24 shall apply to the apportionment subject to the following modifications—

- (a) “new fund authority” means, in relation to a person transferred, the appropriate administering authority on 1st April 1982;
- (b) “previous employing authority” means, in relation to a person transferred, the Greater London Council;
- (c) “previous fund authority” means, in relation to a person transferred, the Greater London Council; and
- (d) any liability of the Greater London Council under that Schedule shall be satisfied by a cash payment from their fund.

(3) Regulation P2 shall not apply in relation to transfers to which this regulation applies.

Transfer value paid or accepted in anticipation of Part P

P5.—(1) Where in anticipation of regulation P2(1) a transfer value has been paid or accepted in respect of a change of employment for which the conditions specified in regulation P2(1) are satisfied, it shall be treated for the purposes of these regulations as if it had been paid or accepted in accordance with regulation P2(1).

(2) A transfer value is paid or accepted in anticipation of regulation P2(1) if it is paid or accepted without the authority of any enactment during the period beginning on 1st April 1974 and ending on 30th September 1981.

Effect of return to local government on right to a return of contributions

P6.—(1) A person's right to a return of contributions shall be extinguished if—

- (a) he returns to local government employment after leaving previous local government employment with a right to a return of contributions; and
- (b) on the date on which he returns to local government employment he has not received the return of contributions; and
- (c) he has not given, within 3 months of the appropriate date or such longer period as his previous fund authority and, if different, his new fund authority may allow, written notice to his previous fund authority that he wishes to receive an immediate return of contributions.

(2) The appropriate date is 1st October 1981 or, if later, the date on which the person returns to local government employment.

Restoration of right to reckon service in transitional cases where there has been a return of contributions

P7.—(1) Notwithstanding regulation D3, service for which a return of contributions has been received shall be reckonable as reckonable service if the

(a) S.I. 1979/1737.

conditions in paragraph (2) are satisfied and the person makes the payment required by paragraph (3).

- (2) The conditions are that—
- (a) the person ceased to be employed in local government employment on or after 1st April 1974 and before 1st January 1980; and
 - (b) on the cessation of that employment the aggregate of his reckonable and qualifying service (or, if he was subject to a local Act scheme, the service which would have been taken into account in determining whether or not he was entitled to benefits) amounted to less than 5 years; and
 - (c) the return of contributions was made in relation to that employment; and
 - (d) he subsequently returns to local government employment.
- (3) The person must pay by not later than the relevant date to his previous fund authority for the credit of their superannuation fund—
- (a) a sum equal to the contributions returned to him (together with any increase under regulation N9 and any interest he was paid); and
 - (b) compound interest on that sum calculated in accordance with regulation N6 for the period beginning with the date on which he received the return of contributions and ending on the date of the payment of that sum.
- (4) The relevant date is the expiry of 6 months after 1st October 1981 or, if later, 6 months after his return to local government employment.
- (5) The previous fund authority may in any particular case extend the period mentioned in paragraph (4).”

Calculation of transfer values

11. Schedule 21 of the principal regulations is amended—

- (a) by substituting in paragraph 1 for the words “regulation G9A(1) or N2” the words “regulation G9A(1), N2 or P2(2)”;
- (b) by substituting in paragraph 2(1) for the words “regulation G9A(1)” the words “regulation G9A(1) or P2(2)”;
- (c) by substituting in paragraph 2(2) for the words “regulation G9A(1)” the words “regulation G9A(1) or P2(2)”;
- (d) by adding at the end of Part IV the following Part—

“Regulation P2(1)

PART V

1. The transfer value payable under regulation P2(1) in respect of a person is to be calculated in accordance with the following formula if the service he is entitled to reckon in his new local government employment which he was also entitled to reckon in his previous local government employment exceeds 182 days—

$$T = \left(\frac{F \times S \times R}{100} \right) - A, \text{ where—}$$

T is the amount of the transfer value;

F is the amount shown in column 2 of the following Table applicable to his age in years when he ceased to be employed in his previous local government employment:

TABLE

Age on ceasing to be Employed in Previous Local Government Employment	Amount
1	2
	£
Under 30	11
30 to 39 (inclusive)	12
40 to 49 (inclusive)	13
50 and over	14

S is the length of the reckonable service in complete years ignoring any residual period of 182 days or less and taking any residual period which exceeds 182 days as a complete year;

R is the annual rate of his remuneration in his previous local government employment at the date on which he ceased to be employed in that employment; and

A is the amount of any additional contributory payments remaining outstanding when he ceased to be employed in his previous local government employment.

2. In any case not falling within paragraph 1 the transfer value payable under regulation P2(1) in respect of a person is to be calculated in accordance with the following formula—

$$T = 2 \times C, \text{ where—}$$

T is the amount of the transfer value; and

C is the amount of the employer's primary contributions in relation to the reckonable service,

but the amount of the transfer value shall be zero if the person becomes employed in his new local government employment on or after 1st October 1981.

3. In ascertaining for the purposes of this Part the length of reckonable service which a person is or was entitled to reckon, the reckonable service is to count at the length at which it would reckon in calculating the amount of a retirement pension under regulation E2(1)(b)(ii), except that—

(a) any period of reckonable service which was reckonable under section 17 of the Act of 1937 (which related to teachers) is to be ignored;

(b) it is to be assumed that he had completed the payment of any additional contributory payments; and

(c) if additional contributions under regulation D10 (or any corresponding provision of an earlier enactment) or D13 have been paid but not all those for which he was originally liable, the apportionment formula in paragraph 4 of Schedule 5 is to be applied.

4. Subject to paragraph 5, in ascertaining for the purposes of this Part the annual rate of a person's remuneration at the date on which he ceased to be employed in his previous local government employment—

(a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;

- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;
- (d) if the annual rate of his remuneration is retrospectively altered as a result of a pay award promulgated by a national joint council or other negotiating body on or before the date on which he ceased to be employed, the annual rate of his remuneration is to be based on the retrospective pay award;
- (e) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed;
- (f) if his previous local government employment was part-time, the annual rate of remuneration of a single comparable whole-time employment is to be used; and
- (g) if the annual rate of his remuneration exceeds £100 it is to be rounded down to the nearest £100.

5. If—

- (a) during the 13 years ending on the cessation of the person's previous local government employment his remuneration was reduced; and
- (b) his employing authority certified under regulation L11 that the reduction was in consequence of a material change in circumstances; and
- (c) his annual rate of remuneration immediately before the reduction, ascertained on similar principles to those in paragraph 4, was greater than the annual rate of remuneration on the date on which he ceased to be employed in his previous local government employment,

it is to be assumed for the purposes of this Part that he was earning at the higher rate at the date on which he ceased to be employed in his previous local government employment.

6. Where the person has made a payment to his new fund authority under regulation D1(2), the transfer value payable under regulation P2(1) is to be reduced by an amount equal to that payment.

7. Compound interest calculated in accordance with regulation N6 is to be paid on the transfer value payable under regulation P2(1) for the period beginning with the date on which the person ceased to be employed in his previous local government employment and ending on the date on which the transfer value is paid (but no interest is to be paid if that period is less than 6 months)."

Fund apportionment for changes of fund within local government

12. The principal regulations are amended by adding after Schedule 23 the following Schedule—

“Regulations P2(6) and P4 SCHEDULE 24

FUND APPORTIONMENT FOR CHANGES OF FUND WITHIN
LOCAL GOVERNMENT

PART I

1. This Part of this Schedule applies if—
 - (a) the fund is to be apportioned under regulation P2(6) and all of the persons who are changing funds do so on the same day; or
 - (b) the fund is to be apportioned under regulation P4.
2. The previous fund authority shall obtain a report from their actuary specifying the apportionment fraction to be applied in apportioning the fund together with details of the calculation.
3. The apportionment fraction is—

$$\frac{\frac{A}{B} \times (C + D) - E}{C}, \text{ where—}$$
 - A is the value at the relevant date of the accrued actuarial liabilities of the fund which relate to the persons changing funds on that date;
 - B is the value at the relevant date of all accrued actuarial liabilities of the fund;
 - C is the value at the relevant date of the transferable assets of the fund minus any sums then due from the fund;
 - D is the value at the relevant date of any adjustments to be made in consequence of a certificate under regulation B8(1)(ii) to sums (other than sums then due to the fund) to be contributed to the fund under regulation C5(1)(b); and
 - E is the value at the relevant date of the part (if any) of those adjustments which relates to the persons changing funds on that date.
4. The relevant date is the date on which the change of fund occurs.
5. The accrued actuarial liabilities of the fund are the actual and potential liabilities of the fund in connection with any service or employment before the relevant date and, for this purpose, it is to be assumed that the liabilities which relate to those changing funds remain liabilities of the fund.
6. The transferable assets of the fund are the assets which belong to the fund at the relevant date.
7. The values of items D and E are to be agreed between the fund's actuary and the actuary of the new fund authority or, if they are unable to agree, they are to be determined by an actuary appointed by the Secretary of State.
8. Subject to paragraph 7, valuations are to be made by the fund's actuary.
9. Where more than one new fund authority is involved, separate apportionment fractions shall be specified in the actuary's report for the different new fund authorities.
10. When the previous fund authority receive the actuary's report they shall provide the new fund authority with a copy of it.

11. The value of the share of the fund to which the new fund authority are entitled shall be calculated in accordance with the formula:

$$V = W \times [X - (Y + Z)], \text{ where—}$$

V is the value of the share of the fund to which the new fund authority are entitled;

W is the apportionment fraction specified in the actuary's report;

X is the value (determined by the fund's actuary) at the apportionment date of the transferable assets which still belong to the fund at that date and any other assets which belong to the fund at that date which represent in any form or have accrued from any transferable asset;

Y is the total of any sums due from the fund at the relevant date and still outstanding at the apportionment date; and

Z is the total of any sums due from the fund at the apportionment date (but not at the relevant date) in respect of any expenditure in connection with the transferable assets of the fund or assets representing or accruing from those assets.

12. The apportionment date is the date specified as such by the previous fund authority in a notice given to the new fund authority.

13. Except with the agreement of the new fund authority, the apportionment date shall not be later than six months after the date on which the previous fund authority receive the actuary's report.

14. Subject to paragraphs 15 to 17, immediately after the apportionment date the previous fund authority shall transfer to the new fund authority assets of the fund of a value at the apportionment date equal to the value of the new fund authority's share of the fund and, unless the previous fund authority and new fund authority otherwise agree, the composition of the assets to be transferred shall so far as possible reflect the composition of the transferable assets which still belong to the fund at the apportionment date and any other assets which belong to the fund at that date which represent in any form or have accrued from any transferable asset.

15. The previous fund authority and the new fund authority may agree to transfer assets in advance of the apportionment date.

16. The value of an advance under paragraph 15 shall not exceed such sum as the fund's actuary may specify as appropriate in the circumstances.

17. Where an advance is made under paragraph 15, the previous fund authority's liability under paragraphs 11 and 14 shall be reduced by an amount equal to:

$$\frac{L}{M} \times N, \text{ where—}$$

L is the value of the advance;

M is the value of the share of the fund to which the new fund authority would have been entitled under paragraph 11 if the apportionment date had been the date on which the advance was made; and

N is the value of the share of the fund to which the new fund authority would have been entitled under paragraph 11 if the advance had not been made.

18. The previous employing authority shall bear the costs of apportioning the fund or, if there is more than one previous employing authority involved, each shall bear such part of the costs as the fund's actuary determines.

19. The previous fund authority shall keep their accounts in a form which enables the calculations required in apportioning the fund to be made, and they shall also provide the fund's actuary with any information he requires in connection with the apportionment.

PART II

20. This Part of this Schedule applies where the fund is to be apportioned under regulation P2(6) and the persons changing funds do so on different days.

21. The provisions of Part I of this Schedule are to apply to the apportionment as if the changes of fund had occurred on a single date, but suitable adjustments are to be made to the sums payable to the new fund authority to reflect the fact that the changes of fund occur on different dates.

22. If any question arises in connection with paragraph 21, it shall be determined by the fund's actuary and the actuary of the new fund authority, or, if they are unable to agree, by an actuary appointed by the Secretary of State."

Appeals under the Local Government Superannuation Act 1937

13. Section 35 of the Local Government Superannuation Act 1937(a) is amended by inserting after the word "final" the words " , but the Secretary of State shall not under this section determine any question that fell to be decided by the authority concerned in the exercise of a discretion conferred on them by any enactment in relation to which this section applies".

Transitional

14. Regulations 7 and 13 above do not apply—

(a) where—

(i) written notification of the decision of the body concerned was received, or

(ii) notice in writing requesting the body concerned to give a decision was served,

before 1st October 1981, or

(b) where the appeal relates to a pension (within the meaning of section 12 of the Superannuation Act 1972) which is being paid or may become payable as mentioned in section 12(2)(a) of that Act under the principal regulations or under the former regulations.

Right to opt out

15. No provision of these regulations shall apply to any person to whom at any time before 1st October 1981 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or became or may become payable if—

(a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit, and

(a) 1937 c. 68; section 35 (except the proviso) as applied by the Local Government Superannuation Act 1953 (c. 25), section 21(1), has effect, by virtue of the Superannuation Act 1972, section 29(2) and Schedule 7, paragraph 5, as a provision of regulations under section 7 of the Superannuation Act 1972. The function is now vested in the Secretary of State by S.I. 1970/1681.

- (b) that provision relates to a benefit paid or payable in respect of a person who—
- (i) ceased before 1st October 1981 to hold an employment in respect of which he was a pensionable employee, or
 - (ii) died before that date while still in such an employment; and
- (c) the first-mentioned person, by notice in writing given to the appropriate administering authority within 3 months after 1st October 1981, elects that that provision shall not apply to him.

Signed by authority of
the Secretary of State
28th August 1981.

Tom King,
Minister for Local Government
and Environmental Services,
Department of the Environment.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Local Government Superannuation Regulations 1974 and amend section 35 of the Local Government Superannuation Act 1937 (which now has effect as a regulation). The main changes are—

- (a) employees transferred from the Greater London Council under the Greater London Council Housing (Staff Transfer and Protection) Order 1979 who were not pensionable employees at the time of the transfer become contributors to the superannuation fund appropriate to their new employing authority (and not to the superannuation fund of the Greater London Council) when they join the local government superannuation scheme. For other transferred employees the date of joining the new superannuation fund is postponed to 1st April 1982 (regulation 2);
- (b) where the 5-yearly actuary's certificate as to employers' contributions has been obtained more than 6 months before the beginning of the 5-year period and specifies a lower rate for the first year of the period than was specified for the last year of the preceding period, the lower rate may be substituted as the rate for that last year (regulation 3);
- (c) employees who have left a local government employment because of ill-health with less than the length of service needed for an early retirement pension are in some circumstances entitled to a new lump sum grant (regulations 4 and 6);
- (d) employees who left local government employment with preserved benefits under Part K of the 1974 regulations and who return to local government employment after a disqualifying break of service are given

the right to count their previous service in their new local government employment (regulation 5);

- (e) except where a decision at first instance has already been given or requested, or where the appeal relates to a pension of or in respect of a person who has died or ceased to serve, before these regulations came into operation (regulation 14), the way in which an authority have exercised a discretion conferred on them is not to be reviewed by the Secretary of State on appeal (regulations 7 and 13);
- (f) provision is made for payments between superannuation funds or apportionment of superannuation funds when employees move from one local government employment to another (regulations 8, 9, 10, 11 and 12);
- (g) employees who left local government employment on or after 1st April 1974 and before 1st January 1980 with less than 5 years reckonable and qualifying service who were obliged to accept a return of contributions are given the right to reinstate their former service on a return to local government employment by refunding the contributions returned to them (regulation 10);
- (h) employees who leave local government employment with a right to a return of contributions but who do not receive them before they return to local government employment automatically get the right to count their previous service in the new local government employment unless they opt for an immediate return of contributions (regulation 10).

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These regulations are to a certain extent retrospective. Where rights in relation to ex-employees could be adversely affected provision for opting out is made (regulation 15).

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