
STATUTORY INSTRUMENTS

1985 No. 1515

PENSIONS

The Local Government Superannuation (Local Government Reorganisation) Regulations 1985

| | | |
|-------------------------------|---------|--------------------------|
| <i>Made</i> | - - - - | <i>1st October 1985</i> |
| <i>Laid before Parliament</i> | | <i>10th October 1985</i> |
| <i>Coming into Operation</i> | | <i>1st November 1985</i> |

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, 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, commencement and interpretation

1.—(1) These regulations may be cited as the Local Government Superannuation (Local Government Reorganisation) Regulations 1985 and shall come into operation on 1st November 1985, but shall have effect as from 16th July 1985.

(2) In these regulations, unless the context otherwise requires—

“the 1985 Act” means the Local Government Act 1985;

“the principal regulations” means the Local Government Superannuation Regulations 1974(1);

“former employer” means the former employer within the meaning of section 54 of the 1985 Act;

“new employer” means the new employer within the meaning of section 52 or, as the case may be, section 54 of the 1985 Act; and

“residuary body” has the meaning given by section 105(1) of the 1985 Act;

and expressions which are also used in the principal regulations have the same meaning as they have in those regulations.

Definitions in principal regulations

2. Regulation A3(1) of the principal regulations is amended by inserting after the definition of “rent officer” the following:

““residuary body” has the meaning given in section 105(1) of the Local Government Act 1985 and “London Residuary Body” means the body established by section 57(1)(a) of that Act;”

Appropriate superannuation fund

3. Regulation B3 of the principal regulations is amended by inserting after paragraph (5A) the following:

“(5B) The appropriate superannuation fund in relation to the pensionable employees of the London Residuary Body is the superannuation fund maintained by the Greater London Council.”.

Pensionable employees

4. Part I of Schedule 1 to the principal regulations is amended by inserting after the words “a London borough council” the words “, a residuary body”.

Continuity of employment in certain cases

5.—(1) This regulation applies—

- (a) to any person who is designated for the purposes of section 52 of the 1985 Act (power to transfer staff), if the new employer is a scheduled body, and
- (b) to any person to whom section 54 of that Act (continuity of employment in certain cases of voluntary transfer) applies, if—
 - (i) both the former employer and the new employer are scheduled bodies, and
 - (ii) where the former employer is a residuary body, the termination of the person's employment is not attributable to an order under section 67(3) of that Act giving effect to a scheme for the winding-up of that body.

(2) The principal regulations shall have effect in relation to a person to whom this regulation applies as if he had—

- (a) where paragraph (1)(a) applies, on 1st April 1986, and
- (b) where paragraph (1)(b) applies, immediately after ceasing to be employed by the former employer,

been transferred as mentioned in paragraph (a)(vi) of the definition of “transferred employee” in regulation J1 of those regulations (certain transfers under Local Government Act 1972).

Determination of questions

6.—(1) Any question concerning the application of regulation 5 to a person shall be decided in the first instance by the scheduled body who are his new employer.

(2) The body are to notify the person in writing of their decision, and in their notification they must—

- (a) give reasons for their decision, and
- (b) inform the person of his right to institute proceedings under paragraph (3) and of the address to which any application instituting such proceedings should be sent.

(3) If—

- (a) the person is dissatisfied with the body's decision, or
- (b) the body have not, within 6 months after 1st April 1986 or, as the case may be, after his ceasing to be employed by his former employer, notified him of a decision,

he may institute proceedings for the determination of the question by an industrial tribunal established in pursuance of the Industrial Tribunals (England and Wales) Regulations 1965(2).

(4) The right conferred by paragraph (3) is without prejudice to any right to make such a reference to an industrial tribunal as is mentioned in section 101(1)(c) of the Employment Protection (Consolidation) Act 1978 (reference of question as to right to or amount of redundancy payment).

Right to opt out

7. No provision of these regulations shall apply to any person to whom at any time before 1st November 1985 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was being paid or became or might have 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
- (b) that provision relates to a benefit paid or payable in respect of a person who—
 - (i) ceased before 1st November 1985 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 November 1985 elects that that provision shall not apply to him.

1st October 1985

Kenneth Baker
Secretary of State for the Environment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

EXPLANATORY NOTE

These regulations make provision for matters connected with the Local Government Act 1985 (“the 1985 Act”).

Regulation 4 makes the residuary bodies established by section 57 of the 1985 Act “scheduled bodies” for the purposes of the Local Government Superannuation Regulations 1974 (“the principal regulations”). Their whole-time employees thus become pensionable employees under the principal regulations. Pensionable employees of the London Residuary Body become contributors to the fund maintained by the Greater London Council (regulation 3); others, under regulation B3(6) of the principal regulations, to the fund maintained by the country council for whose area the residuary body is established. Regulation 2 adds the necessary definitions.

Regulation 5 provides continuity of employment, for the purposes of the principal regulations, for Greater London Council and metropolitan country council employees who are transferred by order under section 52 of the 1985 Act to scheduled bodies, and for employees who transfer voluntarily between scheduled bodies in circumstances in which section 54 (which provides continuity of employment for certain other purposes) applies. Questions as to the application of regulation 5 are to be decided in the first instance by the new employing body, and in cases of dispute or default may be determined by an industrial tribunal (regulation 6).

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These regulations are retrospective to the passing of the 1985 Act. Where rights in relation to ex-employees could be adversely affected, provision is made for opting-out (regulation 7).