
STATUTORY INSTRUMENTS

1987 No. 1850

The Local Government Superannuation (Scotland) Regulations 1987

PART N

DECISIONS AND APPEALS

Initial decisions

N1.—(1) Any question concerning—

- (a) the rights or liabilities under these Regulations of an employee, or a person claiming to be treated as an employee, of a scheduled body, or
- (b) the rights under these Regulations of a person who has been an employee of a scheduled body, or of his widow, dependants or executors, or
- (c) the rights of any person under Part F (war service),

shall be decided in the first instance by the body concerned.

(2) Where the body by whom any such question falls to be decided is ascertainable by reference to regulations N2 to N6, that body is for the purposes of this regulation and of regulation N8 (appeals) the body concerned.

(3) A decision by the body concerned does not bind any other scheduled body or the Secretary of State.

Decisions by employing authorities as to status of employees

N2.—(1) In relation to every employment under them of each of their employees a scheduled body are to decide—

- (a) whether the employee is an officer or a manual worker,
- (b) whether he is a whole-time, a variable-time or a part-time employee,
- (c) whether he has undergone to their satisfaction any medical examination required under regulation B1(11), and
- (d) whether or not he is a pensionable employee.

(2) If the body decide that a person is a pensionable employee in any employment they shall also decide—

- (a) which of his emoluments are remuneration on which contributions are payable, and
- (b) if he is a part-time employee, the proportion which his contractual minimum hours of employment in each week bear to those of a comparable whole-time employee.

(3) The questions specified in paragraph (1) and, where applicable, paragraph (2) are to be decided—

- (a) within 3 months after the person enters the employment, and

- (b) as soon as is reasonably practicable after—
 - (i) any statutory resolution is passed by the body for the purposes of regulation B1(5),
 - (ii) any change occurs in the number of his regular or usual hours of employment, or
 - (iii) any other change occurs in or in relation to the employment,
 which is material for the purposes of these Regulations.

Decisions by administering authorities as to status of employees

N3.—(1) In relation to any employment in which a person is a pensionable employee the appropriate administering authority are to decide—

- (a) what previous service or employment (if any) he is entitled to reckon—
 - (i) as reckonable service, and
 - (ii) as qualifying service,
- (b) whether it includes any, and if so what, periods of service as a part-time employee,
- (c) what proportion of whole-time service his service during any such period represents,
- (d) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the Insurance Act in respect of any period of non-participating employment,
- (e) the amount of any payment in lieu of contributions,
- (f) what rate of contribution the employee is liable to pay to the appropriate superannuation fund, and
- (g) whether he is entitled to reckon as reckonable service—
 - (i) any, and if so how many, added years, or
 - (ii) any, and if so what, additional period.

(2) The questions specified in paragraph (1) are to be decided as soon as is reasonably practicable after the person becomes a pensionable employee in the relevant employment but not later than 6 months after that event.

Decisions by administering authorities as to war service

N4.—(1) Within 6 months after receiving notice of an election under regulation F3 (election as to war service) and the information mentioned in regulation F5(2)(a), an administering authority are to decide whether the conditions specified in regulation F3(2) to (9) are satisfied in relation to the person in respect of whom the notice was given.

(2) If they decide, or the Secretary of State determines under regulation N8, that those conditions are satisfied in relation to the person, the authority are, within 12 months after the date of notification of that decision or determination—

- (a) in the case of a person who is a pensionable employee or entitled to a retirement pension under regulation E2, to decide what period if any he is entitled', or is to be deemed to have been entitled, to reckon as reckonable service by virtue of regulation F6(1)(a) or (b), or
- (b) in any other case, to decide to which if any of the additional benefits specified in regulation F6(11) and (15) he or any other person is entitled.

(3) If the authority decide, or the Secretary of State determines under regulation N8, that a period is reckonable as mentioned in paragraph (2)(a), the authority are, within 3 months after the date of notification of that decision or determination, to decide whether regulation D8 applies.

Decisions by employing authorities as to benefits

N5.—(1) Any question whether a person is entitled to a benefit under these Regulations is to be decided by the employing authority employing the person in respect of whose employment the question arises.

(2) For the purposes of paragraph (1) “benefit” includes a return of contributions but does not include a benefit specified in Part L or regulation F6(11) or (15).

(3) Any such question as is mentioned in paragraph (1) is to be decided as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee.

Decisions by administering authorities as to the amount of benefits

N6.—(1) Where a person is entitled to a benefit which is or may become payable out of their superannuation fund, an administering authority are to decide the amount of the benefit.

(2) The amount of a benefit is to be decided as soon as is reasonably practicable after the person becomes entitled to it.

(3) For the purposes of this regulation “benefit” includes a return of contributions and a benefit specified in regulation F6(11) or (15).

Notification of decisions

N7.—(1) As soon as is reasonably practicable after deciding any question, the body concerned shall send a written notification of their decision to every person whose rights or liabilities the question concerns.

(2) The written notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision, and—
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated, and
- (c) in any case, a conspicuous statement directing the person’s attention—
 - (i) to the address from which he may obtain further information about the decision, including details of any calculation of service or benefits, and
 - (ii) to his right of appeal under regulation N8 to the Secretary of State.

Appeals

N8.—(1) Where the body concerned have either decided or failed to decide any such question as is mentioned in regulation N1 and written notice of appeal is served on the Secretary of State, the question shall, subject to paragraph (2), be determined by him and his determination of it shall be final.

(2) 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.

(3) Notice of appeal (which may be sent by post) may be served—

- (a) by—
 - (i) an employee of a scheduled body or a person claiming to be treated as such an employee who is dissatisfied with any decision made under these Regulations by the body concerned as to his rights or liabilities or with the body’s failure to make any such decision; or

- (ii) a person who has been an employee of a scheduled body, his widow, any dependant or his executors who is or are dissatisfied with any decision made under these Regulations by the body concerned as to his or their rights or with the body's failure to make any such decision; or
 - (iii) any other person who is dissatisfied with any decision made by the body concerned as to his rights under Part F or with the body's failure to make any such decision, within 3 months from the date on which he was notified of an authority's decision or 3 months after their failure to make a decision, and or
 - (b) where the body concerned are not an administering authority, by the administering authority maintaining the superannuation fund to which the body pay employer's contributions, within the period of 3 months from the date of the employing authority's decision or their failure to make a decision.
- (4) For the purpose of this regulation the body concerned shall be deemed to have failed to have made a decision if, after 3 months from the date on which they receive a written request from a person or administering authority that they decide a question, they have not decided that question.
- (5) If the Secretary of State is satisfied that there are reasonable grounds for not serving the notice within the period specified in paragraph (3)(a), it may be extended by such longer period as the Secretary of State may allow.