

1987 No. 293

PENSIONS

The Local Government Superannuation (Miscellaneous Provisions) Regulations 1987

<i>Made</i> - - - - -	<i>26th February 1987</i>
<i>Laid before Parliament</i>	<i>11th March 1987</i>
<i>Coming into force</i>	<i>1st April 1987</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(a), 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 (Miscellaneous Provisions) Regulations 1987, and shall come into force on 1st April 1987, but regulations 10, 14 and 21 shall have effect as from 1st March 1986.

(2) In these Regulations “the principal Regulations” means the Local Government Superannuation Regulations 1986(b), and unless the context otherwise requires expressions which are also used in the principal Regulations have the same meaning as they have in those Regulations.

Employees of public airport companies

2.—(1) Where a passenger transport authority or a principal council have formed a company in pursuance of section 13 of the Airports Act 1986(c)—

- (a) that authority, or
- (b) any principal council of which the company is for the purposes of Part II of that Act an associated company,

may, subject to paragraph (3), with the agreement of the company, by a statutory resolution resolve that every qualified employee of the company shall for the purposes of the principal Regulations be deemed to be in employment with the body passing the resolution.

(2) A qualified employee is one who—

- (a) during a period ending no earlier than 12 months before the start of his employment with the company was in an employment with the body passing the resolution in which he was a pensionable employee, or
- (b) immediately before the start of his employment with the company was in an employment with that body in which, if he had continued in it, he might have become a pensionable employee.

(a) 1972 c.11.

(b) S.I. 1986/24; relevant amendments were made by S.I. 1986/380.

(c) 1986 c.31.

(3) No resolution may be passed under this regulation after a scheme has come into force under section 15 of the Airports Act 1986.

(4) in this regulation “principal council” means the council of a non-metropolitan county, of a district, or of a London borough.

Resolutions ceasing to have effect

3. Where—

- (a) a resolution has been passed under regulation 4 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(a) (employees of public transport companies) or regulation 2 of these Regulations, and
 - (b) the company to which it relates makes an admission agreement,
- the resolution ceases to have effect in relation to any employee who becomes an admitted employee by virtue of the agreement.

Pensionable employees

4. Regulation B1 of the principal Regulations is amended—

- (a) in paragraph (1), by substituting for the words “paragraphs (16) and (17)” the words “paragraphs (15A) to (17)”;
- (b) in paragraph (3)(a), by deleting the words “whole-time” and by inserting after the words “that body” the words “in which the contractual hours were 15 or more”;
- (c) in paragraph (4), by inserting after the words “whole-time”, in both places in which they occur, the words “or part-time”;
- (d) by inserting after paragraph (13) the following:

“(13A) A justices’ clerk (outside the inner London area) is a pensionable employee.

(13B) A registration officer is a pensionable employee.”;

- (e) by inserting after paragraph (15) the following:

“(15A) Part IV of Schedule 2 has effect for determining whether—

- (a) in a part-time employment in which he is not already a pensionable employee by virtue of paragraphs (2) to (15), or
- (b) in any whole-time employment in which the contractual weeks are fewer than 45,

an employee of a scheduled body is for the time being a pensionable employee.

(15B) A person who is in a part-time employment in which he is, by virtue of paragraphs (2) to (15), a pensionable employee may at any time, by notice in writing given to the employing authority, elect to cease to be a pensionable employee in that employment from the day after the date to which the next payment of wages or salary will be calculated.”;

- (f) in paragraph (16), by substituting for the words “paragraph (2), (3) or (4)” the words “paragraph (2), (3), (4) or (15A)(a)”;
- (g) in paragraph (17)—
 - (i) by substituting for the words “paragraphs (2) to (15)” the words “paragraphs (2) to (15A)”, and
 - (ii) in sub-paragraph (b), by substituting for the words “a person” the words “subject to paragraph (18), a person”; and
- (h) by inserting after paragraph (17) the following:

“(18) A person—

- (a) who falls within paragraph (17)(b), or
- (b) who gave a notification under regulation G10(2) of the 1974 Regulations (certain transferred water employees electing not to be pensionable employees),

but who would otherwise be a pensionable employee by virtue of paragraph (3) may at any time, by notice in writing given to the body by whom he is

employed, elect to become a pensionable employee from the day after the date to which the next payment of wages or salary will be calculated.”.

Persons treated as employees of a scheduled body

5. Regulation B2 of the principal Regulations is amended—

- (a) in paragraph (1), by inserting at the end of the entry in column (1) of the Table relating to members of, and directors of subsidiaries of, passenger transport executives the words “or who are pensionable employees by virtue of, or of an election under, Part IV of Schedule 2”;
- (b) in paragraph (2)—
 - (i) by inserting after sub-paragraph (b) the following:
“or
(c) Part IV of Schedule 2, or an election under that Part,”; and
 - (ii) by substituting for the words “who passed the resolution” the words “who passed the relevant resolution”;
- (c) in paragraph (4B)—
 - (i) by substituting for the words “had effect” the words “had continued to have effect”, and
 - (ii) by inserting after the words “he shall” the words “, unless he then becomes an admitted employee,”;
- (d) in paragraph (4C), by substituting for the words “had effect shall” the words “had continued to have effect shall, unless he then becomes an admitted employee,”;
- (e) in paragraph (4F), by deleting the words ““public transport company””; and
- (f) by inserting after paragraph (4F) the following:

“(4G) Every employee of a public airport company (“the first airport company”) in relation to whom a resolution under regulation 2 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987 has effect shall for the purposes of these Regulations be deemed to be in employment with the body who passed the resolution.

(4H) If a person in relation to whom such a resolution had continued to have effect becomes an employee of another public airport company (“the second airport company”) whose controlling authority—

- (a) is not the body who passed the resolution or a composite authority of which that body was a constituent council, but
- (b) is an authority which has, or a composite authority one at least of whose constituent councils has, also passed such a resolution,

for the purposes of these Regulations he shall, unless he then becomes an admitted employee, be deemed to be in employment with the controlling authority of the second airport company or, where that authority is a composite authority, with such one of its constituent councils as the authority may decide.

(4I) If a person to whom paragraph (4G) or (4H) applies becomes an employee of a subsidiary of, as the case may be, the first airport company or the second airport company, the relevant paragraph continues to apply to him as if he had remained an employee of the company in question.

(4J) Paragraph (4G) and paragraph (4H) cease to apply to a person if the first airport company or, as the case may be, the second airport company ceases to be a public airport company.

(4K) In paragraph (4G) to (4J) “controlling authority”, “composite authority” and “constituent council” have the meanings given in section 16 of the Airports Act 1986 and “subsidiary” has the meaning given in section 82(1) of that Act.”.

Power to admit employees of other bodies

6. Regulation B3 of the principal Regulations is amended—

- (a) by inserting after paragraph (1) the following:

“(1A) Where an administering authority have under regulation P1(2) established a further fund, in relation to a body identified in the notification required by regulation P1(3)—

- (a) the superannuation fund referred to in paragraph (1) is the further fund, and
 - (b) any admission agreement made before its establishment is to be construed as providing for participation in the benefits of the further fund.”; and
- (b) in paragraph (4), by inserting after the words “an admitted employee” the words “, or for any part-time employee to become an admitted employee otherwise than as provided in Part IV of Schedule 2, which shall, in relation to a part-time employee to whom the agreement applies, be taken to apply as if the employing body were a scheduled body described in column (1) of Part I of Schedule 2”.

Appropriate superannuation fund

7. Regulation C1 of the principal Regulations is amended by inserting after paragraph (10) the following:

“(11) Where an administering authority have under regulation P1(2) established a further fund—

- (a) references in the preceding paragraphs of this regulation to “the fund” are to be construed as references to the fund maintained by that authority under regulation P1(1), and
- (b) in relation to a person to whom these Regulations apply by virtue of an admission agreement with a body identified in the notification required by regulation P1(3), the appropriate superannuation fund is the further fund.”

Payment and amount of employee’s contributions

8. Regulation C2 of the principal Regulations is amended by inserting after paragraph (5) the following:

“(6) For the purposes of this regulation the remuneration of a part-time employee for any period, except a period during which he was on leave of absence from duty by reason of illness or injury with reduced remuneration or without remuneration, is to be taken to be the remuneration he would have received if during that period he had worked no more and no less than the contractual hours.”.

Additional payments by certain pensionable employees in respect of previous service

9. The principal Regulations are amended by substituting for regulation C7 the following:

“Additional payments by certain pensionable employees in respect of previous service

C7.—(1) A whole-time manual worker who becomes a pensionable employee by virtue of regulation B1(3)(c) may make a payment into the appropriate superannuation fund in order to become entitled under regulation D9 to reckon as reckonable service in relation to the employment in which he is a pensionable employee the period during which he was in that employment before becoming a pensionable employee.

(2) If he was not immediately before 1st April 1987 a pensionable employee, a justices’ clerk (outside the inner London area) or a registration officer may by notice in writing given to his employing authority within 12 months after that date elect to make a payment into the appropriate superannuation fund in order to become entitled under regulation D9 to reckon a period as reckonable service in relation to his local government employment.

(3) The period mentioned in paragraph (2) is to be specified in the notice, and may be any period beginning after 31st March 1974 and ending with

31st March 1987 during which the person was a justices' clerk (outside the inner London area) or, as the case may be, a registration officer.

(4) The amount of a payment under paragraph (1) or (2) is an amount equal to the contributions which the person would have been required to make under regulation C2 if he had throughout the period been a pensionable employee.

(5) A payment under paragraph (1) is to be made, unless the employing authority allow a longer period, within 6 months after the date on which the person became a pensionable employee.

(6) A payment under paragraph (2) is to be made, unless the employing authority allow a longer period, within 12 months after the date on which the person is notified by the employing authority of its amount.

(7) A payment under paragraph (1) or (2) is to be treated for the purposes of these Regulations as if it consisted of contributions made under regulation C2 in respect of employment in which the person was a pensionable employee."

Return of employee's contributions in certain cases

10. Regulation C12(1) of the principal Regulations is amended by substituting for the words "pensionable employee", where first occurring, the word "person".

Qualifying service

11. Regulation D2(2)(a) of the principal Regulations is amended by substituting for the words "regulation D10, D11 or J9(1)(b)" the words "regulation D10, D11, D12 or J9(1)(b)".

Previous service of certain pensionable employees

12 The principal Regulations are amended by substituting for regulation D9 the following:

"Previous service of certain pensionable employees

D9.—(1) A pensionable employee who has made a payment under regulation C7(1) is entitled to reckon as reckonable service in relation to the employment in which he became a pensionable employee the period during which he was in that employment before becoming a pensionable employee.

(2) A pensionable employee who has made a payment under regulation C7(2) is entitled to reckon as reckonable service in relation to his local government employment the period in respect of which the payment was made."

Previous service of part-time employees

13. The principal Regulations are amended by inserting after regulation D11 the following:

"Previous service of part-time employees

D12.—(1) A person who—

- (a) has become a pensionable employee by virtue of an election under paragraph 1(1) of Part IV of Schedule 2 made before 1st April 1988 or by virtue of paragraph 4 of that Part, or
- (b) has become a pensionable employee in a whole-time employment at any time after 31st March 1974 and before 1st April 1988 and had previously been in a part-time employment under a scheduled body,

is entitled to reckon as qualifying service in relation to the employment in which he is a pensionable employee any previous period of employment under a scheduled body after the material date, except a period which was followed by one of 12 months or more during which he was not employed by a scheduled body.

(2) The material date is the earliest date from which, if Part IV of Schedule 2 had come into force on 1st April 1974, an election or, as the case may be, a deemed election by him could have had effect."

Death grant

14. Regulation E11 of the principal Regulations is amended—

- (a) in paragraph (2)(a), by substituting for the words “the deceased’s reckonable service” the words “the reckonable service taken into account in calculating the pension”; and
- (b) in paragraph (2)(b), by substituting for the words “his reckonable service” the words “the reckonable service taken into account in calculating the pension”.

Calculation of service in certain employments

15. Regulation E25 of the principal Regulations is amended by inserting after paragraph (2) the following:

“(3) Paragraph (4) applies to any period which became reckonable as reckonable service by virtue of a payment made by a registration officer under regulation C7(2) (previous service reckonable on additional payment).

(4) For the purposes of calculating any benefit service in each income tax year during any period to which this paragraph applies is to be multiplied by $\frac{A}{B}$, where—

A is the remuneration the employee would have received during the income tax year on the assumption that there had been no discontinuance or reduction of remuneration during any absence from duty owing to illness or injury, and

B is the remuneration that would, on that assumption, have been paid during the income tax year in respect of a single comparable employment under a scheduled body in which the contractual weeks were 52.

(5) In paragraph (4) “income tax year” means a period of 12 months ending with 5th April.

(6) For the purposes of calculating the amount of any benefit, service during any period which became reckonable as reckonable service by virtue of paragraph 5(2)(a) or an election under paragraph 5(2)(b) of Part IV of Schedule 2 (whole-time employment in which contractual weeks are fewer than 45) shall be multiplied by $\frac{52}{C}$, where C is the number of contractual weeks.”

Gratuities

16. The principal Regulations are amended by substituting for Part K the following:

“PART K GRATUITIES

Interpretation

K1.—(1) In this Part, unless the context otherwise requires—

“annual rate of remuneration” means the annual rate of the employee’s remuneration in respect of the relevant employment (ascertained as if paragraphs 4 and 5 of Part V of Schedule 16 had applied) at whichever of the following times yields the highest figure:

- (a) the date on which he ceased to be employed,
- (b) 12 months before that date, or
- (c) 24 months before that date;

“lower earnings limit” and “upper earnings limit” mean the annual equivalents of, respectively, the lower earnings limit and the upper earnings limit in force under section 4(1) of the Social Security Act 1975(a) at the time at which the annual rate of remuneration falls to be ascertained; and

“service” is to be construed in accordance with paragraphs (2) to (4).

(2) Subject to paragraphs (3) and (4), a person’s service is the time spent by him in employment with any scheduled body or former local authority.

(a) 1975 c.14; section 4(1) was amended by the Social Security Pensions Act 1975 (c.60), Schedule 4, Part I, paragraph 36(a).

(3) A person's service does not in any case include any period—

- (a) before attaining the age of 18 or after attaining the age of 70, or
- (b) in excess of a total of 40 years, or
- (c) in respect of which a gratuity has been granted under a local Act, section 18 of the Act of 1953, the former Regulations, or these Regulations.

(4) Where regulation K2(a) or (b) applies, a person's service does not include any period—

- (a) in respect of which he has retained rights in a scheme which was a relevant scheme for the purposes of regulation G14 of the 1974 Regulations, or
- (b) which has been or may be taken into account for the purpose of calculating any benefit under any public service scheme,

but where regulation K2(c) (death while in employment) applies it includes periods of those kinds before 1st April 1987.

Persons to whom Part K applies

K2. This Part applies to a person employed, otherwise than as a teacher, by a scheduled body if he—

- (a) has been employed by the body for not less than 5 years and ceases to be employed by them, or
- (b) has been employed by them for not less than one year and—
 - (i) has attained the age of 60, or
 - (ii) is incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body, and ceases to be employed by them, or
- (c) has been employed by them for not less than one year and dies while in their employment.

Power to grant gratuities

K3.—(1) The body who employed a person to whom this Part applies may grant to him or, where regulation K2(c) (death while in employment) applies, to his widow or any other dependant of his, a gratuity which may consist of a lump sum or an annuity or both.

(2) Where—

- (a) the gratuity granted under paragraph (1) is or includes an annuity granted to the person himself, and
- (b) he dies before receiving payments of the annuity of an aggregate amount equal to its capital value,

the body may grant a further gratuity by way of an annuity to his widow or any other dependant of his.

Amount of gratuity

K4.—(1) The amount of a gratuity, which is to be taken as including the capital value of an annuity, granted under regulation K3(1) is not to exceed

$$\left(\frac{5 \times A}{100} \times B \right) + \left(\frac{5 \times C}{100} \times D \right) + \left(\frac{5 \times E}{100} \times D \right), \text{ where—}$$

A is the annual rate of remuneration,

B is the total of the length in years and days of the person's service before 1st April 1987 and 50% of any war service in respect of which a period might have become reckonable as reckonable service under regulation F6 if the conditions in regulation F3(2) to (10) had been satisfied,

C is the lesser of the annual rate of remuneration and the lower earnings limit,

D is the length in years and days of the person's service after 31st March 1987 except, in the case of a person who had not before 1st April 1987 attained the age of 55, any service which would have become reckonable as reckonable service if he had on 1st April 1987 made any election which he was entitled to make under regulation B1(18) or paragraph

1(1) or 5(2) of Part IV of Schedule 2 and, if he has made an election under regulation B1(15B), any service which would have become so reckonable if he had not made the election, and

E is any amount by which the annual rate of remuneration exceeds the upper earnings limit.

(2) The capital value of an annuity granted under regulation K3(2) is not to exceed the difference between the capital value of the annuity granted under regulation K3(1) and the aggregate amount received by the person to whom that annuity was granted.

Finance

K5. The cost of a gratuity granted under this Part is not to be met out of any superannuation fund.

Application to certain bodies and employees

K6.—(1) This Part applies in relation to the committee of magistrates for the inner London area as if that committee were a scheduled body, and paragraphs (2) to (5) have effect for modifying its application in relation to that committee and to probation committees and magistrates' courts committees.

(2) The probation committee for an area other than the inner London area are to report any decision made by them under regulation K3 to the body responsible for defraying the expenses of the committee, or, where two or more bodies contribute to the defraying of those expenses, to each of those bodies.

(3) A magistrates' courts committee are to report any decision made by them under regulation K3 to the body who paid the employee's remuneration.

(4) Where a report is made under paragraph (2) or (3) above, regulation N8 has effect as if any body receiving the report were a person mentioned in paragraph (3) of regulation N8 (service of notice of appeal) and paragraph (2) of regulation N8 were omitted.

(5) Any decision made under regulation K3 by—

- (a) the probation committee for the inner London area, or
- (b) the committee of magistrates for that area,

is to be reported by the committee to the Secretary of State, and has no effect until approved by him; and any gratuity granted by virtue of such an approved decision is to be paid by the Receiver for the Metropolitan Police District.

(6) Where—

- (a) a person is employed, otherwise than as a teacher, by the governors of a voluntary school maintained but not provided by a local education authority for such education as may be provided by a local education authority under Part II of the Education Act 1944(a), and
- (b) the local education authority have by a statutory resolution specified him as an employee, or specified a class of employees to which he belongs as a class of employees, to whom this Part is to apply,

this Part applies to him as if he were employed by the local education authority."

Superannuation funds

17. Regulation P1 of the principal Regulations is amended—

- (a) by inserting before the words "The superannuation funds" the figure "(1)"; and
- (b) by adding at the end the following:

"(2) An administering authority (other than the Severn-Trent Water Authority) who are a party to any admission agreement may establish a further superannuation fund (a "further fund"), to be maintained by them in addition to the fund they maintain under paragraph (1) ("the main fund").

(3) An authority who establish a further fund shall notify the Secretary of State forthwith, in writing, that they have done so, identifying the bodies (which must be bodies specified in regulation B3(8)) whose employees are to participate in the benefits of the further fund.

(4) On the establishment of a further fund the authority shall cease to hold as part of the main fund assets of a value to be specified by an actuary, which shall then become part of the further fund.

(5) When the authority first obtain under regulation P5 valuations of both the main fund and the further fund, they shall also obtain from the actuary a statement specifying the value to which further assets should in his opinion cease to be held by them as part of the main fund and become part of the further fund.

(6) On a day to be selected by them, which shall be as soon as is reasonably practicable after they obtain the statement mentioned in paragraph (5), the authority shall cease to hold as part of the main fund assets to the value specified, which shall then become part of the further fund.

(7) As soon as is reasonably practicable after the establishment of the further fund the authority shall obtain from the actuary consulted by them for the purposes of paragraph (5) a certificate specifying in respect of the further fund, for each remaining year of the period of 5 years to which the most recent certificate obtained by them under regulation P6 relates, the matters referred to in regulation P6(1) (common rate of employer's contribution and any individual adjustments).

(8) For each of the remaining years mentioned in paragraph (7), regulation P7 (employer's contributions) shall in relation to any body identified in the notification required by paragraph (3) have effect as if for references to a certificate under regulation P6 there were substituted references to the certificate required by paragraph (7).

(9) On the establishment of the further fund all rights to payment out of the main fund in respect of service in employment under a body identified in the notification required by paragraph (3) shall become rights to payment out of the second fund."

Pensions increase

18. The principal Regulations are amended by inserting after regulation P13 the following:

"Pensions increase

P14.—(1) Where—

- (a) an administering authority have—
 - (i) at any time made an admission agreement with a public transport company or a public airport company, or
 - (ii) after 31st March 1987 made such an agreement with any other body, and
- (b) a pension (within the meaning of the Pensions (Increase) Act 1971(a)) has become payable under these Regulations to or in respect of a person who has at any time been an admitted employee by virtue of the agreement,

the prescribed part of any increase of the pension under that Act shall be paid out of the appropriate fund.

(2) The prescribed part of an increase is $A \times \frac{B}{C}$, where—

- A is the amount of the increase,
- B is the length of the reckonable service attributable to the period during which the person was an admitted employee by virtue of the agreement, and
- C is the length of the reckonable service taken into account in calculating the pension.

- (3) The reckonable service attributable to the period during which a person was an admitted employee does not include—
- (a) service resulting from—
 - (i) any transfer value received, or
 - (ii) any election under these Regulations made, before the period began, or
 - (b) service resulting from any election made during the period which falls to be treated for any purposes of these Regulations as service before the period began.
- (4) The appropriate fund is the fund which was the appropriate superannuation fund immediately before the person ceased to be an admitted employee by virtue of the agreement.
- (5) As soon as is reasonably practicable after making an admission agreement to which this regulation applies an administering authority shall obtain from an actuary a certificate specifying, for each remaining year of the period to which the most recent certificate obtained by them under relation P6 relates, any individual adjustment (within the meaning of that regulation) to be made in respect of the body with whom the agreement was made.
- (6) For the purposes of regulation P7 (employer's contributions) an individual adjustment specified under paragraph (5) has effect as if it had been specified under regulation P6."

Definitions in principal Regulations

19. Schedule 1 to the principal Regulations is amended—

- (a) by inserting after the entry relating to the expression "Admission agreement" the following:

" "Admitted employee"	The meaning given in regulation B3(2).";
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- (b) by inserting after the entry relating to the expression "Contracted-out employment" the following:

" "The contractual hours"	The number of hours the employing authority are entitled to require the employee to work in each of the contractual weeks; but where there is any cyclical variation in those hours the contractual hours are the average of those hours over the cycle.
"The contractual weeks"	The number of weeks in every period of 12 months for which (assuming that there will be no unpaid leave of absence) wages or salary is payable to the employee.";
- (c) by inserting after the entry relating to the expression "Probation Officer" the following:

" "Public airport company"	The meaning given in section 16 of the Airports Act 1986(a)."; and
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- (d) by inserting after the entry relating to the expression "Public service scheme" the following:

““Public transport company”

The meaning given in section 72 of the Transport Act 1985(a).”.

Pensionable employees

20. Schedule 2 to the principal Regulations is amended by inserting after Part III the following:

“PART IV

1.—(1) Subject to sub-paragraphs (2) to (6), a person who is in a qualifying part-time employment may elect to become a pensionable employee in that employment.

(2) Subject to sub-paragraphs (3) and (4), a qualifying part-time employment is—

- (a) an employment under a scheduled body,
- (b) an employment under a body mentioned in regulation B1(6)(a) or (b) (governors of certain educational institutions), or
- (c) an employment as a member of a passenger transport executive or a director of a subsidiary of a passenger transport executive,

in which the contractual weeks are 35 or more and the contractual hours are 15 or more but fewer than 30.

(3) If a person is in two or more employments under a single such body, and—

- (a) in each of the employments the contractual weeks are 35 or more and the contractual hours are fewer than 30, and
- (b) the total of the contractual hours in all the employments is 15 or more,

then each of the employments is a qualifying part-time employment, but any election under sub-paragraph (1) must be made in respect of all of them.

(4) An employment is not a qualifying part-time employment if—

- (a) it is an employment in which the person is a manual worker, unless, subject to sub-paragraph (5), he has completed 12 months' continuous employment with the same body in which the contractual hours were 15 or more, or
- (b) it is an employment under a scheduled body not described in column (1) of Part I, unless they have by a statutory resolution—
 - (i) specified him as a person, or
 - (ii) specified a class of persons to which he belongs as a class of persons,

to whom sub-paragraph (1) is to apply, or

- (c) it is an employment falling within sub-paragraph (2)(b), unless the local education authority have, with the general or specific consent of the employer, by a statutory resolution specified as mentioned in (b)(i) or (ii) above, or

- (d) it is an employment falling within sub-paragraph (2)(c), unless the passenger transport executive have by a statutory resolution specified as so mentioned.

(5) An employment which would but for sub-paragraph (4)(a) be a qualifying part-time employment becomes one if the employee—

- (a) became employed by the body in question as a manual worker after ceasing to be employed in non-local government employment, and
- (b) provides that body with a declaration in writing that his pension rights under his non-local government scheme will be preserved or that he has applied, or will apply, for their transfer to the appropriate administering authority.

(6) An election under sub-paragraph (1) may be made at any time by giving notice in writing to the body which will become the person's employing authority and—

- (a) has effect from the day after the date to which the next payment of wages or salary will be calculated, and
 - (b) so long as there is no break in service, and subject to sub-paragraph (7), has effect in relation to any subsequent qualifying part-time employment under that body even though not made in respect of it.
- (7) If the contractual hours in the employment, or as the case may be the total of the contractual hours in all the employments, in relation to which the election has effect fall below 15, the person may elect to cease to be a pensionable employee in the employment or employments.

2. If a person who is in a part-time employment under a body mentioned in paragraph 1(2) was, immediately before the commencement of that employment, a pensionable employee in a whole-time employment under that body, he remains a pensionable employee in the part-time employment unless he elects to cease to be one.

3. An election under paragraph 1(7) or 2—

- (a) must be made, by giving notice in writing to the employing authority, within 6 months after the date on which the provision in question becomes applicable or such longer period as the authority may allow, and
- (b) has effect from the day after the date to which the next payment of wages or salary will be calculated,

and the person making it is to be treated for the purposes of these Regulations, except regulation C12 (return of contributions), as if he had on that day ceased to hold the employment or employments.

4. Where—

- (a) at any time after 31st March 1974 a body mentioned in paragraph 1(2) decided that a person in a part-time employment under them was in that employment a pensionable employee, and
- (b) he was not at that time a pensionable employee by virtue of regulation B1(2) to (15), and
- (c) if this Part had then been in force he could have made an election under paragraph 1(1),

he is to be treated as if this Part had then been in force and he had made such an election.

5.—(1) Subject to sub-paragraph (2), a person who is in a whole-time employment under a body mentioned in paragraph 1(2) in which the contractual weeks are fewer than 45 is not in that employment a pensionable employee.

(2) Where a person is in such an employment—

- (a) if he was in the employment immediately before 1st April 1987 and the employing authority had decided that he was in the employment a pensionable employee, he remains so unless he otherwise elects, and
- (b) in any other case, he may elect to become a pensionable employee in the employment.

(3) An election under sub-paragraph (2) may be made at any time by giving notice in writing to the employing body or, as the case may be, the body which will become the employing authority, and has effect from the day after the date to which the next payment of wages or salary will be calculated.”.

Amount to be paid for additional period

21. Schedule 4 to the principal Regulations is amended—

- (a) in paragraph 2, by inserting in the second column in Table 1, opposite the figure “64” in the first column, the figure “21.10”;
- (b) by inserting after paragraph 3 the following:

“4. For the purposes of paragraphs 1 to 3, where the employee is a pensionable employee by virtue of—

- (a) an election or deemed election under paragraph 1(1) of Part IV of Schedule 2 (elections by part-time employees), or
- (b) paragraph 2 of that Part (part-time employee remaining pensionable if previously whole-time),

and the election under regulation C5 or C6 was made after 31st March 1987, references to his remuneration and to the remuneration that he would have received are to be construed as references to the remuneration that would have been paid for a single comparable whole-time employment.”.

Modification of earlier provisions as to return of contributions

22. Regulation C8 of the Local Government Superannuation Regulations 1974(a) shall be deemed to have had effect during the period beginning on 1st April 1974 and ending with 28th February 1986 as if in paragraph (1)—

- (a) for the words “a pensionable employee of an employing authority” there had been substituted the words “an employee of a scheduled body”; and
- (b) for the words “by that authority” there had been substituted the words “by that body”.

Modification of earlier provisions as to gratuities

23.—(1) Section 18 of the Act of 1953 shall be deemed to have had effect during the period beginning on 1st July 1973 and ending with 28th February 1986, and the regulation which on 1st March 1986 took effect as regulation K1 of the principal Regulations shall be deemed to have had effect, notwithstanding the provisos numbered (ii), as if they had—

- (a) in the circumstances described in paragraph (2) below, authorised, and
- (b) in the circumstances described in paragraph (3) below, required

a gratuity to be granted in accordance with paragraphs (4) to (6).

(2) The circumstances mentioned in paragraph (1)(a) are that the employee was entitled to a payment out of the superannuation fund, other than a return of contributions, in the calculation of which less than the whole of his service was, at whatever length, taken into account.

(3) The circumstances mentioned in paragraph (1)(b) are that the employee—

- (a) became a contributory employee on 1st July 1973 by virtue of regulations 5(1) and 10 to 13 of the Miscellaneous Provisions Regulations, and
- (b) was one of a class or description of employees in relation to whom, immediately before that date, it was the prevailing practice of the employing body to exercise beneficially their power under section 18 of the Act of 1953.

(4) A gratuity granted where paragraph (1)(a) applies is not to exceed $\frac{5 \times A}{100} \times B$, where—

A is the annual rate of the employee’s remuneration at the date on which he ceased to be employed, ascertained as if paragraph 4 of Part V of Schedule 16 to the principal Regulations had applied, and

B is the length in years and days of the service which was not taken into account in calculating the payment mentioned in paragraph (2).

(5) The gratuity to be granted where paragraph (1)(b) applies is $\frac{C}{D} \times E$, where—

C is the length in years and days of any of the employee’s service before 1st July 1973 that was reckonable neither as contributing service nor as non-contributing service,

D is the length in years and days of all his service, and

E is the amount of the gratuity that would have been granted in accordance with the prevailing practice mentioned in paragraph (3)(b) if he had continued in that employment with the body until the date of the relevant cessation of employment and his age and the length of his service had then been such that that practice would have applied.

(a) S.I. 1974/520; a relevant amendment was made by S.I. 1978/266.

(6) Where the employee has died in employment with the body concerned, any gratuity granted by virtue of this regulation is payable to his widow or any other dependant of his.

(7) In this regulation "service"—

- (a) in relation to any time before 1st April 1974, has the meaning given in section 40(1) of the Act of 1937,
- (b) in relation to any time after 31st March 1974 and before 1st March 1986, has the meaning given in regulation A3(1) of the 1974 Regulations, and
- (c) in relation to any time after 28th February 1986, means time spent in employment with a scheduled body.

Transitional and supplemental

24.—(1) A person is not to be taken to have become a pensionable employee by virtue of regulation 4(b) of these Regulations at any time before 1st April 1986.

(2) Any admission agreement made before 1st April 1987 which made provision for any part-time employees to become admitted employees is to be treated as having been varied on 1st April 1987 so as to comply with regulation B3(4) of the principal Regulations as amended by regulation 6(b) of these Regulations.

(3) Paragraph (2) does not affect the position of any person who became an admitted employee before 1st April 1987.

Retrospective effect

25.—(1) Any resolution passed after 31st December 1986 and before 1st April 1987 which, if regulation 2 above had been in force, could have been passed under that regulation shall be treated for the purposes of the principal Regulations as having been so passed.

(2) A superannuation fund established after 31st December 1986 and before 1st April 1987 by the London Residuary Body for the purposes of the principal Regulations shall be treated for those purposes as having been established under regulation P1(2) of those Regulations (inserted by regulation 17 above).

(3) Where—

- (a) if these Regulations had come into operation on 1st April 1986, a person would at any time before 1st April 1987 have been entitled to make an election under regulation B1(15B) or (18) of the principal Regulations or under paragraph 1(1) or (7), 2 or 5(2) of Part IV of Schedule 2 to those Regulations, and

(b) he gives notice of such an election within 6 months after 1st April 1987, the election may be expressed to have effect as if these Regulations had come into operation on 1st April 1986 and the notice had been given on the first day on which he would in that case have been entitled to give notice of the election or, where that day is 1st April 1986, to have effect from that date.

26th February 1987

Nicholas Ridley
Secretary of State for the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are concerned principally with employees of public transport and airport companies formed under the Transport Act 1985 and the Airports Act 1986, with gratuities, and with employees who work less than a full week or year.

Regulation 2 is a transitory provision enabling a passenger transport authority or principal council to resolve that former employees who have become employees of a public airport company are to be deemed still to be employed by them for the purposes of the Local Government Superannuation Regulations 1986 ("the principal Regulations"). Regulation 5(c) to (f) makes related amendments to the principal Regulations which secure that the employees remain pensionable employees while employed by, or by a subsidiary of, that or another public airport company, unless they become admitted employees by virtue of an admission agreement under regulation B3 of the principal Regulations. Regulation 3 of these Regulations provides that a resolution under regulation 2, or under an earlier similar provision relating to public transport company employees, ceases to have effect in relation to employees who become admitted employees.

Regulation 18 provides that where an admission agreement has been made with a public transport or airport company, or after 31st March 1987 with any other body, so much of any pensions increase (under the Pensions (Increase) Act 1971) as is attributable to a person's service with the body as an admitted employee is to be paid out of the superannuation fund, and provides for a related increase in the employer's contributions payable by the body. These provisions are made by virtue of section 7(3) of the Superannuation Act 1972, and accordingly provisions of the Pensions (Increase) Act 1971, and of regulations made under section 5 of that Act, relating to liability for the cost of increases have effect subject to them.

Regulation 17 empowers an authority administering a superannuation fund to establish further funds. Where they do so, the further fund becomes the appropriate fund for employees of specified admitted bodies (regulations 6(a) and 7).

Regulation 16 substitutes a new Part for Part K of the principal Regulations (gratuities). New regulations K2 and K3 set out the cases in which a gratuity may be granted and the forms it may take. Entitlement to superannuation benefits will no longer be a bar in all cases. New regulation K4, with the definitions in new regulation K1, fixes the maximum amounts. New regulation K5 provides that the cost of gratuities is not to be met out of superannuation funds, and new regulation K6 provides for the modified application of Part K in relation to certain bodies and for its application to non-teaching staff in maintained schools.

Regulation 23 retrospectively modifies earlier gratuity provisions so as to authorise, and in some circumstances to require, payment of a gratuity notwithstanding that the former employee was entitled to superannuation benefits in respect of part of his service.

Regulation 20 inserts into Schedule 2 to the principal Regulations a new Part IV. Paragraphs 1 to 4 of this, with related provisions in regulations 4(a), (b), (c), (e) and (f), 5(a) and (b), 6(b), 8, 11, 13, 19(b), 21(b), 24 and 25(3) make provision for part-time employees to elect to be pensionable employees. The basic qualification for making an election is that the employee has a contractual obligation to work at least 15 hours a week for at least 35 weeks a year. In some circumstances part-time employees remain or become pensionable without an election, and elections to cease to be pensionable may be made in certain cases.

The new Part IV of Schedule 2 also provides (in paragraph 5) that a whole-time employee with an obligation to work fewer than 45 weeks a year is pensionable only if his employing authority has so decided in the past or if he elects to be pensionable.

Regulation 4(d) makes certain office-holders (justices' clerks outside inner London and registration officers) pensionable employees. Regulation 9 amends regulation C7 of the principal Regulations so as to allow them to pay for a past period in office to become reckonable service under regulation D9 of the principal Regulations, which is consequentially amended by regulation 12 of these Regulations.

For employees working less than 45 weeks a year and for registration officers, service is adjusted for benefit purposes by regulation E25(3) to (6) of the principal Regulations, inserted by regulation 15 of these Regulations.

The remaining provisions of these Regulations deal with miscellaneous matters. Regulation 4(g) and (h) allows manual workers who had elected not to be pensionable to elect to be so. Regulations 10 and 22 remedy, with retrospective effect, an anomaly which has prevented the return of contributions, on cessation of employment, to persons whose continuing employment had ceased to be pensionable. Regulation 14 clarifies provisions relating to death grants, and regulation 21(a) supplies a missing figure. Regulation 25(1) and (2) validates actions taken in anticipation of regulations 2 and 17.

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These Regulations are to a certain extent retrospective, but rights in relation to former employees are not adversely affected.