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STATUTORY INSTRUMENTS

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**1995 No. 900**

**PENSIONS**

**The Local Government Superannuation (Limitation on Earnings and Reckonable Service) Regulations 1995**

<i>Made</i>	- - - -	<i>27th March 1995</i>
<i>Laid before Parliament</i>		<i>3rd April 1995</i>
<i>Coming into force</i>	- -	<i>24th April 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 7 of the Superannuation Act 1972(1) 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 (Limitation on Earnings and Reckonable Service) Regulations 1995 and shall come into force on 24th April 1995.

(2) In these Regulations “the principal Regulations” means the Local Government Superannuation Regulations 1986(2).

**Pensionable Employment**

2. Part B of the principal Regulations is amended:

(a) in regulation B1(17)(e), by inserting after the words “the age of 65 years and” the following—

“—

(i) if a Class A member, has completed not less than 40 years' reckonable service; or

(ii) if a Class B member or a Class C member,”; and

(b) by adding the following:

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(1) 1972 c. 11.

(2) S.I.1986/24; relevant amending instruments are S.I. 1988/466, 1989/371, 1990/1709, 1992/172, 3083.

**“Class A members”, “Class B members” and “Class C members”**

**B9.**—(1) In these Regulations, unless the context otherwise requires,—

- (a) “Class A member” means a pensionable employee or a person who has been a pensionable employee who, in either case,—
- (i) became a pensionable employee on or after 1st June 1989 and is not to be treated as a Class B member or a Class C member by virtue of paragraph (4); or
  - (ii) was a Class B member or a Class C member immediately before 1st June 1989 and is deemed to have become a Class A member on that date by virtue of making an election under paragraph (5);
- (b) “Class B member” means a person who—
- (i) became a pensionable employee on a date falling on or after 17th March 1987 and before 1st June 1989 and has continuously been a pensionable employee throughout a period beginning on that date,
  - (ii) is not to be treated as a Class C member by virtue of paragraph (4), and
  - (iii) is not deemed to have become a Class A member by virtue of making an election under paragraph (5);
- (c) “Class C member” means a person who—
- (i) became a pensionable employee on a date falling before 17th March 1987 and has continuously been a pensionable employee throughout a period beginning on that date or who joined subsequently to 16th March 1987 and is to be treated as a Class C member by virtue of paragraph (4), and
  - (ii) is not deemed to have become a Class A member by virtue of making an election under paragraph (5).

(2) For the purposes of paragraph (1) the reference to a person having continuously been a pensionable employee throughout a period includes a person who, having ceased to be a pensionable employee for part of that period, again became a pensionable employee in the circumstances specified in paragraph (3) below.

(3) The circumstances specified in this paragraph are circumstances where—

- (a) benefits ceased to accrue to the person under these Regulations by virtue of his employment by reason of his secondment or posting to another employer and at the time of his secondment or posting he had a definite expectation that he would again become a pensionable employee when it ended and he again became a pensionable employee at the end of his secondment or posting; or
- (b) benefits ceased to accrue to him under these Regulations by virtue of his employment by reason of his unpaid absence and within one month of returning to work, he recommenced the payment of contributions under regulation C2; or
- (c) benefits ceased to accrue to her under these Regulations by virtue of her employment wholly or partly because of pregnancy or confinement and within one month of returning to work in accordance with sections 39 or 41 of the Employment Protection (Consolidation) Act 1978<sup>(3)</sup> (which confers the right to return to work following pregnancy or confinement) she recommenced the payment of contributions under regulation C2; or

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(3) 1978 c. 44; sections 39 and 41 were substituted by the Trade Union Reform and Employment Rights Act 1993 (c. 19) section 23(1)(b) and Schedule 2.

(d) benefits ceased to accrue to him under these Regulations by virtue of his employment (where the circumstances were other than those specified in paragraphs (a), (b) or (c)) and within one month of benefits ceasing so to accrue, he recommenced the payment of contributions under regulation C2.

(4) A person may be treated for the purposes of these Regulations as a Class B member or a Class C member notwithstanding that he did not become a pensionable employee before 1st June 1989 or, as the case may be, 17th March 1987, if on application to them by the administering authority, the Commissioners of Inland Revenue agree in writing that he may be treated as such by virtue of previous membership of a superannuation scheme approved under Chapter I of Part XIV of the Income and Corporation Taxes Act 1988<sup>(4)</sup>.

(5) If a Class B member or a Class C member elects by notice in writing to his appropriate administering authority before the relevant date to be treated as a Class A member for the purposes of these Regulations, he shall be deemed to have become a Class A member on the 1st June 1989.

(6) For the purposes of paragraph (5) the “relevant date” in relation to a person is the date on which he ceases to be in local government employment for any reason including death.”

### Limits on contributions

3. Part C of the principal Regulations is amended:

(a) in regulation C2—

(i) in paragraph (3), by inserting after the words “A pensionable employee” the following: “—

(a) who is a Class A member shall not make contribution in respect of any employment in relation to which he is entitled to reckon 40 years' reckonable service; or

(b) who is a Class B member or a Class C member;”

and

(ii) in paragraph (4), by substituting for the reference “paragraph (3)” the reference “sub-paragraph (b) of paragraph (3)”;

(b) in regulation C7A—

(i) in paragraph (14), by deleting the reference “(15)” and inserting after the reference “(15A) and (15B)” the words “and regulation C16(1)”;

(ii) by deleting paragraph (15); and

(iii) in paragraphs (15A) and (15B), by substituting for the words “paragraph (15)” in each place where they appear the words “regulation C16 (1)”;

(c) in regulation C8A—

(i) in paragraph (6), by substituting for the words “paragraphs (7) and (8)” the words “paragraph (7) and regulation C16(1)”;

(ii) by deleting paragraph (8); and

(d) by substituting for C16 the following—

“**C16.**—(1) Subject to paragraphs (2) and (3), the total contributions paid under Part C, other than under regulation C9A, and paragraph 5 of Schedule 8 by a pensionable

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(4) 1988 c. 1.

employee in any tax year to the appropriate superannuation fund in respect of all employments in relation to which he is a pensionable employee shall not exceed 15 per cent of his remuneration for that year.

(2) Schedule 7 has effect for the limitation, in certain circumstances, of payments under this Part in relation to Class B members and Class C members.

(3) The limitation in paragraph (1) shall not apply to any payment made by a Class B member or a Class C member under paragraph 5 of Schedule 8.”

## Benefits

### 4. Part E of the principal Regulations is amended:

- (a) in regulation E11(12), by substituting for the words “before attaining the age of 60 years beyond a total of 40 years” the following—

“—

- (i) in the case of a Class A member, beyond a total of 40 years; and
- (ii) in the case of a Class B member or a Class C member, before attaining the age of 60 years beyond a total of 40 years.”;

- (b) in regulation E22—

- (i) in paragraph (1), by substituting for the reference “paragraph (4) and (6) to (12)” the reference “paragraphs (1A), (1B), (4) and (6) to (12A)”; and

- (ii) by inserting after paragraph (1) the following—

“(1A) In the circumstances mentioned in regulation 5(2) of The Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(5), these Regulations are to have effect (notwithstanding anything in them to the contrary and notwithstanding the effect of anything in Schedule 23 to the Income and Corporation Taxes Act 1988) as if, for the purpose of calculating benefits under these Regulations—

- (a) the fraction of a pensionable employee’s pensionable remuneration derived from added years of reckonable service was to be applied separately from the fraction derived from actual years of service, and
- (b) only in the latter case was any excess over the permitted maximum for the year to be disregarded in arriving at that pensionable remuneration.

(1B) For the purposes of paragraph (1A), “added years of reckonable service” means such years of service which a person is entitled to reckon as reckonable service by virtue of regulation J9.”;

- (c) in regulation E22(2)(a), by inserting after the words “or, if earlier, the day on which” the following—

“—

- (i) in the case of a Class A member, he becomes entitled to reckon 40 years as reckonable service in relation to that employment, or
- (ii) in the case of a Class B member or a Class C member,”;

- (d) by inserting after regulation E22(12), the following—

“(12A) For the purpose of calculating the retiring allowance of a Class B member, his pensionable remuneration shall not exceed £100,000 or such other sum as may be specified

in an order made by the Treasury under sections 590(3) and 828(1) of the Income and Corporation Taxes Act 1988(6).”;

- (e) in regulation E29(1)(a), by substituting for the words “before attaining the age of 60 beyond a total of 40 years, and” the following—
- “(i) in the case of a Class A member, beyond a total of 40 years; and
  - (ii) in the case of a Class B member or a Class C member, before attaining the age of 60 years beyond a total of 40 years, and”;
- (f) in regulation E29(5), by substituting for the words “Where A+B+C exceeds 45 years,” the following—
- “Where A+B+C exceeds—
- (i) in the case of a Class A member, 40 years, or
  - (ii) in the case of a Class B member or a Class C member, 45 years,
- then”.

### Glossary of expressions

5. Schedule 1 to the principal Regulations is amended:

- (a) by inserting after the definition of “Child” the following—

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“Class A member, Class B member and Class C member”	Construe in accordance with regulation B9;
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- (b) by inserting after the definition of “The Pensions Act” the following—

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““Permitted maximum”	The meaning given by section 590C(2) of the Income and Corporation Taxes Act 1988(7).”;
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- (c) in the definition of “Remuneration” by inserting after the words “in kind appertaining to his employment” the words “and, subject to regulation E22(1A), in determining the remuneration of a Class A member there shall be disregarded any payments in excess of the permitted maximum.”.

### Further additional contributions

6. Schedule 6A to the principal Regulations is amended:

- (a) in paragraph 2(b), by substituting for the words “not exceed the amount allowed to be deducted under section 21(4) of the Finance Act 1970 as specified in or under subsection (4A) of that section” the following—

“or to an additional voluntary contributions scheme, not exceed the amount allowed to be deducted under subsection (7) of section 592 of the Income and Corporation Taxes Act 1988 as specified in or under subsection (8) or, as the case may be, subsection (8A) of that section(8).”;

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(6) 1988 c. 1; the amendments made by paragraph 3(2) and (3) of Schedule 6 to the Finance Act 1989 (c. 26) to section 590(3) of the Income and Corporation Taxes Act 1988 do not have effect as regards employees who became members of the Local Government Superannuation Scheme before 1st June 1989.

(7) 1988 c. 1; section 590C(2) was inserted by the Finance Act 1989 (c. 26) Schedule 6.

(8) 1988 c. 1; subsection 8A was inserted by the Finance Act 1989 (c. 26) Schedule 6, paragraph (3).

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (b) in paragraph 9(1), by inserting after the words “(return of contributions)” the words “C16(1) (limitation of payments),”.

**Limitation of payments under Part C**

7. Schedule 7 to the principal Regulations is amended by substituting for the words “a pensionable employee”, the words “a Class B member or a Class C member”.

**Modification in certain cases**

8. Schedule 15 to the principal Regulations is amended in paragraph 7 of Part I, paragraph 3 of Part II and paragraph 1 of Part IV, by inserting after the word “completes” the following—

“—

- (a) in the case of a Class A member, 40 years' reckonable service; and
- (b) in the case of a Class B member or a Class C member,”.

Signed by authority of the Secretary of State for the Environment

27th March 1995

*David Curry*  
Minister of State,  
Department of the Environment

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## EXPLANATORY NOTE

*(This note is not part of these Regulations)*

These Regulations amend the Local Government Superannuation Regulations 1986 (“the principal Regulations”), which regulate the Local Government Superannuation Scheme (“the Scheme”). The effect of these Regulations is to set out in the principal Regulations various provisions with which the Scheme already complies because the provisions reflect overriding legislation introduced by the Finance (No. 2) Act 1987 and the Finance Act 1989.

Regulation 2(b) refers to different categories of members depending upon whether the individual joined, or is deemed to have joined, the Scheme before 17th March 1987, on or after 17th March 1987 and before 1st June 1989, or on or after 1st June 1989. Regulation 7 makes a consequential amendment to Schedule 7 to the principal Regulations.

Regulation 3(d) amends the principal Regulations to clarify that the limit on employees' contributions under the Scheme, other than additional voluntary contributions, is linked to remuneration as defined in the principal Regulations and not to the employees' taxable earnings. Regulation 3(b) and (c) makes consequential amendments.

Regulation 4(a), (c), (e) and (f) limits the maximum reckonable service to 40 years for the purposes of the calculation of benefits for members who joined the Scheme after 1st June 1989. Regulations 2(a), 3(a) and 4(b)(i) make consequential amendments. Regulation 4(b)(ii) deals with added years of service.

Regulation 4(d) limits pensionable remuneration for the purpose of calculating the retiring allowance in the case of a person who joined the Scheme on or after 17th March 1987 and before 1st June 1989.

Regulation 5 adds definitions to Schedule 1 to the principal Regulations which are required in connection with the amendments made in regulations 2, 3 and 4.

Regulation 6 amends Schedule 6A to the principal Regulations to make it clear that the limit on contributions by employees in respect of additional voluntary contributions is different from that imposed in Part C of the principal Regulations in respect of employee contributions under the Scheme.

Regulation 8 makes consequential amendments to Schedule 15 to the principal Regulations which deals with modifications in special cases.