

---

STATUTORY INSTRUMENTS

---

**1996 No. 1680**

**The Local Government (Discretionary  
Payments) Regulations 1996**

**PART VII**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Modification for special cases*

**Special provisions for special categories of employees**

**44.** Schedule 2 shall have effect for the purpose of applying these Regulations with modifications as respects certain kinds of employees; and Part I of that Schedule makes provision as to former harbour authority employees, Part II of that Schedule as to the employees of certain educational establishments and Part III of that Schedule as to magistrates' courts committees and probation committees.

*Decisions and appeals*

**Decisions and appeals**

**45.—**(1) Any question concerning the rights of any person or his eligibility to be considered for any award under Part V or Part VI shall be decided in the first instance by the relevant LGPS employer, that is to say the LGPS employer who last employed the person in respect of whose employment the question arises; and any question arising under regulation 33(2)(c) as to the identity of the employer to whom the person would have been transferred shall be determined by the Secretary of State.

(2) A decision by the relevant employer does not bind any other LGPS employer or the Secretary of State.

(3) The questions specified in paragraph (1) shall be decided as soon as is reasonably practicable after the occurrence of the last event by virtue of which the award may be payable.

(4) A body who have decided any question under this regulation shall, as soon as is reasonably practicable after doing so, send a written notification of their decision to every person affected by it.

(5) The notification shall include—

- (a) the grounds for the decision; and
- (b) in any case where paragraph (6) applies, a conspicuous statement directing the person's attention to his right under that paragraph to appeal to the Secretary of State.

(6) Where—

- (a) the relevant employer has decided or failed to decide any such question as is mentioned in paragraph (1); and

(b) an appeal is duly made to the Secretary of State, then, subject to the following provisions of this regulation, the question shall be determined by him and his determination of it shall be final.

(7) The Secretary of State shall not determine any question that fell to be decided by the relevant employer in the exercise of a discretion conferred by these Regulations (but see paragraph 9(4) of Schedule 2).

(8) An appeal under paragraph (6) shall be made by notice in writing which—

- (a) shall be served (whether by being sent by post or otherwise) as soon as is reasonably practicable; and
- (b) may be served by any person whose interests are affected.

### *Supplemental*

#### **Finance**

**46.**—(1) The cost of any payment to be made under these Regulations is not to be met out of any pension fund.

(2) Where—

- (a) an allowance under regulation 7 of the Benefits regulations (a “regulation 7 allowance”) is payable in addition to any allowance or lump sum under Part V of these Regulations; and
- (b) the relevant employer is the employing authority for the purposes of regulation 7(4) of the Benefits regulations (repayment to appropriate superannuation fund),

the regulation 7 allowance shall be treated for the purposes of paragraph (1) as an allowance under these Regulations.

#### **Transitional provisions**

**47.** Schedule 3 shall have effect for the purpose of making transitional provision and savings.

#### **Consequential amendments**

**48.** Schedule 4 shall have effect for the purpose of making amendments which are consequential on the making of these Regulations.

#### **Revocations**

**49.**—(1) The subordinate legislation specified in Schedule 5 is revoked to the extent specified in the third column (but subject to the savings in Schedule 3).

(2) Nothing in Schedule 5 affects any savings contained in Schedule M4 to the LGPS Regulations.