

SCHEDULE 2

Regulations 44 and 45.

MODIFICATIONS FOR SPECIAL CATEGORIES OF EMPLOYEES

PART I

FORMER HARBOUR AUTHORITY EMPLOYEES

1.—(1) In relation to a person who in his employment immediately before the material date was engaged wholly or mainly in connection with the employing authority's functions as a harbour authority (as defined in section 57(1) of the Harbours Act 1964⁽¹⁾), Part III of these Regulations applies with the modifications in paragraphs (2) and (3).

(2) "Excepted payment", in relation to an employment of a person, includes a payment received by him which is a payment under an agreement made before 1st July 1984 in connection with the closure of any harbour, being a closure effected in the exercise of powers conferred by an Act of Parliament passed before that date.

(3) In paragraphs 5, 6 and 8 of Schedule 3, for references to 6th September 1982, wherever they occur, substitute references to 1st July 1984.

PART II

PERSONS EMPLOYED IN EDUCATIONAL ESTABLISHMENTS

"Educational employment"

2. In this Part of this Schedule "educational employment" means employment of one of the following kinds, namely—

- (a) employment at a single school or institution maintained by a local education authority which for the time being has a delegated budget within the meaning of Chapter III of Part I of the Education Reform Act 1988⁽²⁾ or section 85 of the Further and Higher Education Act 1992⁽³⁾;
- (b) employment
 - (i) at a school or institution maintained by a local education authority and does not have a delegated budget,
 - (ii) by a local education authority otherwise than at a school or institution, or
 - (iii) at a maintained school or institution with a delegated budget which was concurrent with employment within paragraph (i) or (ii) or with employment at another such school or institution;
- (c) employment—
 - (i) at a grant-maintained school; or
 - (ii) at a grant-maintained special school;
- (d) employment at an institution conducted by a further education corporation or a higher education corporation;

(1) 1964 c. 40

(2) 1988 c. 40. Pt. III was amended by the Further and Higher Education Act 1992 (c. 13) s.12; the Education Act 1993 (c. 35) ss. 274 to 276, 307, Sch. 19, paragraphs 112, 125, Sch. 21; the School Teachers' Pay and Conditions Act 1991 (c. 49) Sch. 2.

(3) 1992 c. 13.

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- (e) employment at a designated institution.

General exclusions

3.—(1) References in these Regulations to employment with a LGPS employer do not include employment by virtue of which a person is entitled to participate in benefits provided under regulations made under section 9 of the 1972 Act (teachers' superannuation).

(2) Regulation 4(1) does not apply to a person ceasing to hold an employment in which he was a person in relation to whom regulations may be made under that section.

(3) In Part V “relevant employment” does not include employment as a teacher.

(4) In regulations 40(1), 41(1) and 42(1) the references to employment do not include employment as a teacher.

Part II: aided schools

4. Where the employment mentioned in regulation 4(3) is at an aided school (within the meaning of the Education Act 1944(4)) the power to pay compensation under that regulation is exercisable by the local education authority.

Part III: former educational employment

5.—(1) Where the former employment (within the meaning of Part III) was educational employment, Part III of these Regulations applies with the following modifications.

(2) In regulations 8 and 9 for the references to the employing authority substitute references—

- (a) in the case of employment within paragraph 2(a), (c) or (e), to the governing body of the school or institution;
- (b) in the case of employment within paragraph (2)(b), to the local education authority;
- (c) in the case of employment within paragraph 2(d), to the corporation.

(3) In regulations 19(1), 20(2) and (4), 26(2), 27, 28 and 31(2) and paragraph 6(2) of Schedule 3 for the references to the employing authority substitute references to the person who under paragraph 7(2) to (5) of this Schedule is for the time being the paying authority.

6. Where—

- (a) the former employment was of the kind specified in paragraph 2(a);
- (b) the employing authority is the local education authority;
- (c) the governing body of the school or institution request the authority to do so; and
- (d) the cessation of employment is as mentioned in regulation 6(1)(a)(i) or (ii),

the employing authority must certify or, as the case may be, declare themselves satisfied as mentioned in regulation 6(1)(b).

7.—(1) Regulation 31(1) (paying authorities) is subject to the following provisions.

(2) In the case of an eligible person whose former employment was educational employment, compensation shall, subject to sub-paragraphs (3) to (5), be paid—

- (a) in the case of employment within paragraph 2(a) or (b), by the local education authority;

(4) 1944 c. 31. See section 15 which was amended by the Education Act 1946 (c. 50), s.14(1), Sch. 2; the Education Act 1980 (c. 20), Sch. 1, paragraph 1; the Education (No. 2) Act 1986 (c. 61), s.67, Sch. 4 paragraph 1; the Education Act 1993 (c. 35), ss.282, 307, Sch. 19 paragraphs 3 and 7.

- (b) in the case of employment within paragraph 2(c), by the Secretary of State;
 - (c) in the case of employment within paragraph 2(d), by the corporation; and
 - (d) in the case of employment within paragraph 2(e), by the governing body of the institution.
- (3) Where the former employment was of the kind specified in paragraph 2(c), the Secretary of State may—
- (a) require the governing body of the school to repay him any amounts paid by him in respect of compensation;
 - (b) accept from the governing body a single payment of a sum equal to the actuarial value of the total compensation payable; or
 - (c) accept from them the payment of such a sum by not more than five annual instalments.
- (4) Where—
- (a) the former employment was of a kind specified in paragraph 2(d) or (e); and
 - (b) in consequence of any amalgamation, merger or other arrangement the institution becomes part of another (“the successor establishment”) and ceases to have a separate governing body,
- the governing body of the successor establishment becomes the paying authority.
- (5) Where—
- (a) the former employment was of a kind specified in paragraph 2(d) or (e); and
 - (b) the institution closes and there is no successor establishment,
- the Secretary of State becomes the paying authority.

Part VI

8. 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; 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 Part VI is to apply,

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

PART III

MAGISTRATES' COURTS AND PROBATION COMMITTEES

9.—(1) Part VI applies in relation to the magistrates' courts committee for the inner London area as if that committee were a LGPS employer, and sub-paragraphs (2) to (5) have effect for modifying the application of that Part in relation to magistrates' courts committees and probation committees.

(2) The probation committee for an area other than the inner London area are to report any decision made by them under regulation 40, 41 or 42—

- (a) to the body responsible for defraying the expenses of the committee; or
- (b) where two or more bodies contribute to the defraying of those expenses, to each of those bodies.

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(3) A magistrates' courts committee (other than the committee for the inner London area) are to report any decision made by them under regulation 40, 41 or 42 to the body who paid the employee's remuneration.

(4) Where a report is made under sub-paragraph (2) or (3), regulation 45 has effect as if paragraph (7) of that regulation were omitted.

(5) Any decision made under regulation 40, 41 or 42 by—

- (a) the probation committee for the inner London area; or
- (b) the magistrates' committee 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.