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STATUTORY INSTRUMENTS

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**1995 No. 1019**

**The Local Government Pension Scheme Regulations 1995**

**PART M**

**MISCELLANEOUS AND GENERAL PROVISIONS**

*Modification in special cases*

**Local government reorganisation**

**M1.** Schedule M1 has effect as respects the application of these regulations to certain employees who have been affected by the operation of the Local Government Acts and other reorganisations effected by or under statutes.

**Modifications of regulations in special cases**

**M2.** Schedule M2 has effect for the purposes of modifying these regulations in their application in the cases there mentioned.

**Modifications applying to certain City of London employees**

**M3.**—(1) These regulations apply to exiting contributors, with the substitution for paragraph 6 of Schedule M1 of the paragraph set out in Part I of Schedule M3.

(2) These regulations apply to both existing and former contributors—

- (a) subject to the modifications in Part II of Schedule M3, and
- (b) with the substitution for Schedule H1 to these regulations of the Schedule set out in Part III of Schedule M3.

(3) In this paragraph and that Schedule, unless the context otherwise requires, “existing contributor”, “former contributor”, and “the local Act superannuation provisions” have the same meaning as in the Local Government Superannuation (City of London) Regulations 1977(1) .

*Information and records*

**Information to be supplied by certain employees**

**M4.**—(1) Subject to paragraph (4)—

- (a) within 3 months after a person becomes a member of the Scheme, and
- (b) within 6 months after any change which is material for the purposes of these regulations occurs in or in relation to a person’s employment under a LGPS employer in relation to which he is a member of the Scheme,

the LGPS employer shall request the person in writing to provide them with the documents specified in paragraph (2).

- (2) The documents mentioned in paragraph (1) are—
- (a) a statement in writing of all the person's previous periods of employment (whether by a LGPS employer or by any other person) and any national service and war service, and
  - (b) copies of all notifications previously given to him under these regulations, the 1986 regulations, the 1974 regulations, the Local Government Superannuation (Administration) Regulations 1954<sup>(2)</sup> or the Local Government Superannuation (Administration) Regulations 1938<sup>(3)</sup>.
- (3) A request under paragraph (1) shall include a conspicuous statement—
- (a) directing the member's attention to the importance of this providing full and accurate information, and
  - (b) warning him that the omission or inaccuracy may prejudiced the ascertainment of his rights under these regulations.
- (4) Paragraph (1) does not apply if the LGPS employer are satisfied that they, or the appropriate administering authority if different, already have a complete and accurate record of any previous service or employment which is material for the purposes of these regulations.

#### **Records to be kept by authorities**

- M5.**—(1) A LGPS employer are to keep, in such form as they think fit, a record of—
- (a) the name of, and
  - (b) all their decisions under regulation J2(1) in relation to,
- each of their employees who is a member.
- (2) An administering authority are to keep, in such form as they think fit, a record of—
- (a) the name of, and
  - (b) all their decisions under regulation J2(2) of these regulations or regulation N4 of the 1986 regulations (was service) in relation to,
- every member in relation to whom they are the appropriate administering authority.

#### **Transmission of documents and information**

- M6.**—(1) A LGPS employer who are not an administering authority are to send the appropriate administering authority, as soon as is reasonably practicable—
- (a) copies of all documents provided under regulation M4,
  - (b) copies of all notifications of decisions made under regulation J2(1) or J3(1),
  - (c) copies of all statements and statutory declarations provided under regulation C26, and
  - (d) such other documents and information as he administering authority may reasonably require for the purpose of discharging their functions under these regulations.
- (2) A LGPS employer who are not an administering authority—
- (a) on receiving from a member or former member notice of his intended retirement, or

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(2) S.I. 1954/1192.

(3) S.R.O. 1938/574.

- (b) on giving an employee who is a member or former member notice to terminate his employment in circumstances in which he may become entitled to a return of contributions or to a benefit payable out of the appropriate pension fund, or
- (c) on becoming aware of any other circumstances which may necessitate any payment out of the fund,

shall, as soon as is reasonably practicable—

- (i) inform the appropriate administering authority of the notice or, as the case may be, other circumstances,
- (ii) send them particulars of the member's or former member's remuneration during the period that is relevant to a decision on the amount of the benefit that may become payable to or in respect of him, and
- (iii) send them a copy of any relevant medical or death certificate and of any certificate issued by the body under paragraph 4 of Schedule D1 (reduction in remuneration).

(3) When an administering authority notify a person who is not in their employment of a decision under regulation J2(2), they shall send a copy of the notification to the body, if any, who are the employing authority in relation to that person.

#### *Supplementary provisions*

#### **Right to opt out**

**M7.**—(1) Where—

- (a) apart from this regulation, any provision of these regulations, which re-enacts with any modification any provision revoked by these regulations, would place any person to whom a relevant benefit is or may become payable in a worse position in relation to that benefit than that he would have been in if that modification had not been made, and
- (b) that person so elects, by notice in writing given to the appropriate administering authority within the period of six months beginning with the commencement date,

then, subject to paragraph (3), these regulations shall have effect, in relation to him and to that benefit, as if these regulations had re-enacted the revoked provision without modification.

(2) In this regulation—

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date—

- (a) ceased to hold an employment in respect of which he was a member (whether or not he has subsequently become a member again); or
- (b) died while in such employment; and

“benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.

(3) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is a member, or subsequently becomes a member again—

- (a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue—
  - (i) of periods of membership before the cessation referred to in paragraph (2)(a) (or, if there has been more than one such cessation, the last of them before the commencement date); or
  - (ii) of contributions paid in respect of such periods of membership; and

(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become a member again at any time after the cessation referred to in paragraph (2)(a) (but without prejudice to the application of this paragraph);  
and these regulations shall have effect accordingly.

#### **Transitional and transitory provisions**

**M8.**—(1) Schedule M4 has effect for the purpose of making transitional provision and savings consequential on the making of these regulations.

(2) Nothing in that Schedule affects the general operation of sections 16 and 17 of the Interpretation Act 1978<sup>(4)</sup> (as applied by section 23 of that Act).

#### **Revocations**

**M9.** The subordinate legislation specified in Schedule M5 is revoked to the extent specified in the third column (but subject to the provisions in Schedule C6 and the savings in Schedule M4).

#### **Consequential amendments**

**M10.** The subordinate legislation specified in Schedule M6 has effect subject to the amendments there specified (which are consequential on the making of these regulations).

#### **Applications to Isles of Scilly**

**M11.** These regulations apply to the Isles of Scilly as if the Isles of Scilly were a district in the county of Cornwall and the Isles of Scilly were the council of that district.

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(4) 1978 c. 30.