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STATUTORY INSTRUMENTS

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**1987 No. 1850**

**The Local Government Superannuation  
(Scotland) Regulations 1987**

**PART B**

**PENSIONABLE EMPLOYMENT**

**Pensionable employees**

- B1.**—(1) Paragraphs (2) to (10) have effect subject to paragraphs (11) and (12).
- (2) A whole-time officer of a body described in Part I of Schedule 3 (“a Part I scheduled body”) is a pensionable employee.
- (3) A whole-time manual worker employed by a Part I scheduled body is a pensionable employee if he—
- (a) has completed 12 months continuous employment with that body, or
  - (b) has entered or re-entered the employment of that body—
    - (i) less than 12 months after completing at least 12 months continuous employment with a Part I scheduled body, or
    - (ii) after having been in other local government employment and without having applied for a return of the whole of his contributions, or
  - (c) satisfies the requirements of Part III of Schedule 3.
- (4) A variable-time employee of a Part I scheduled body who is also a pensionable employee in a whole-time employment with any such body—
- (a) is a pensionable employee in the variable-time employment, and
  - (b) if he ceases to hold the whole-time employment, remains a pensionable employee while he continues without break of service in the variable-time employment.
- (5) An employee described in Part II of Schedule 3 is a pensionable employee if the body employing him have by a statutory resolution—
- (a) specified him as a pensionable employee, or
  - (b) specified a class of employees, to which he belongs, as pensionable employees.
- (6) A whole-time member of a passenger transport executive is a pensionable employee if that executive have, with the consent of the passenger transport authority for which they are the executive, by a statutory resolution specified him as a pensionable employee.
- (7) A whole-time director of a subsidiary of a passenger transport executive is a pensionable employee if that executive have by a statutory resolution specified him as a pensionable employee.
- (8) A person who immediately before 16th May 1974—
- (a) was a member of a passenger transport executive or a director of a subsidiary of a passenger transport executive, and

(b) was in that position a contributory employee,  
is a pensionable employee while he continues without break in service in that position.

(9) A person who immediately before 21st December 1987 was a pensionable employee by virtue of regulation B2(1)(g) of the 1974 Regulations (certain former contributory employees continuously employed by same body) is a pensionable employee while he continues without break in service in employment with the same body.

(10) Subject to regulation B4, every pensionable employee employed by a scheduled body who before 1st April 1986 ceased to be a whole-time employee but who continued without a break of service in the employment of that body in the same post and who was, notwithstanding the provisions of the Local Government Superannuation (Scotland) Regulations 1974-86 in force before that date, regarded as a pensionable employee by that scheduled body and, where the body was not an administering authority, by the administering authority is a pensionable employee.

(11) A Part I scheduled body may resolve that a person who falls within paragraph (2), (3) or (4), or regulation B2 or B3 shall not become a pensionable employee unless he has undergone a medical examination to their satisfaction; and a resolution under this paragraph may apply to any specified person or to any specified class of persons.

(12) Notwithstanding anything in paragraphs (2) to (11), the following are not pensionable employees—

- (a) subject to regulation B2, a person who elected under paragraph 3 of Schedule 4 to the Act of 1937 not to become a contributory employee and whose election did not cease to have effect before 16th May 1974, so long as he continues as a manual worker in employment with the body to whom he gave notice of the election;
- (b) a person who elected under regulation 23 of the Miscellaneous Provisions Regulations not to become a contributory employee and whose election did not cease to have effect before 16th May 1974, so long as he continues in employment with the body to whom he gave notice of the election;
- (c) a person who has not attained the age of 18 years;
- (d) a person who has attained the age of 65 years and has completed not less than 45 years reckonable service;
- (e) any other person who has attained the age of 65 years, unless—
  - (i) there has become payable to him a pension which is liable to be reduced or suspended under regulation E15, an ill-health lump sum retiring allowance under regulation E4, or a short service grant under the Benefits Regulations, or
  - (ii) if he were to become a pensionable employee, he would immediately become entitled to reckon any period as reckonable service or qualifying service, or
  - (iii) under any enactment he has received or is entitled to receive compensation for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with a scheduled body, in the like manner and to the like extent as it would have been reduced or suspended if he had remained subject to the pension scheme to which he was subject immediately before suffering the loss;
- (f) a person who is, in the same employment, entitled to participate in the benefits of any other superannuation scheme provided by or under any enactment (including an enactment in a local Act), other than section 7 of the Act of 1972;
- (g) an employee of a scheduled body in respect of whom contributions to the Merchant Navy Officers Pension Fund are made;

- (h) a person who may elect under regulation B3 to become entitled to participate in the benefits of the appropriate superannuation fund.

(13) In this regulation “statutory resolution” means, in relation to a scheduled body, a resolution passed in the manner in which an ordinary resolution of the body may be passed, except that 28 days' notice of the meeting at which the resolution is passed and of the terms in the manner in which notice for convening ordinary meetings of the body may be given.

**Persons who may elect to be pensionable employees—persons who made election under paragraph 3 of Schedule 4 to the Act of 1937**

**B2.** A person who—

- (a) elected under paragraph 3 of Schedule 4 to the Act of 1937 not to become a contributory employee, and
- (b) had he not so elected, would be a pensionable employee by virtue of regulation B1(3),

may at any time, notwithstanding anything in regulation B1(3), by notice in writing to the body by whom he is employed elect to become a pensionable employee from the date on which the notice is given.

**Other persons who may elect to be pensionable employees**

**B3.**—(1) Subject to paragraph (6) and regulation B4, a person who is in a relevant employment as defined in paragraph (2) may elect to become entitled in relation to that employment to participate in the benefits of the appropriate superannuation fund maintained under these Regulations.

(2) In this regulation and in regulation B4, “relevant employment” means, subject to paragraphs (3) and (4), employment by a scheduled body in which in every period of 12 months—

- (a) the contractual weeks are 35 or more but fewer than 45 and the contractual hours are 30 or more, or
- (b) 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 scheduled body, and—

- (a) none of those employments is an employment falling within paragraph (2)(b), but
- (b) in each of the employments the contractual weeks in every period of 12 months are 35 or more, and
- (c) the total of the contractual hours in all the employments is 15 or more,

then each of the employments is a relevant employment, but an election under this regulation in respect of any one of them is of no effect unless elections are made in respect of all of them.

(4) If a person is in two or more employments under a single scheduled body of which—

- (a) one at least is an employment falling within paragraph (2)(b), and
- (b) one at least is an employment in which the contractual weeks in every period of 12 months are 35 or more but the contractual hours are fewer than 15,

then every employment falling within sub-paragraph (b) is a relevant employment, but an election under this regulation in respect of such an employment is of no effect unless an election is made in respect of an employment falling within sub-paragraph (a).

(5) In paragraphs (2), (3) and (4), “the contractual weeks” means the number of weeks the employee is regularly or usually required to work by the scheduled body, and “the contractual hours” means the number of hours the employee is regularly or usually required to work by the scheduled body in each of those weeks.

- (6) Paragraph (1) shall not apply to—
- (a) a person who falls within regulation B1(12)(a) to (g), or
  - (b) a person who—
    - (i) was on 15th May 1974 a contributory employee or local Act contributor, and
    - (ii) on 16th May 1974 became a pensionable employee, if there has since been no period of a day or more during which he was not a pensionable employee, or
  - (c) any other person who was a pensionable employee on 31st March 1986 if there has since been no period of a day or more during which he was not a pensionable employee, or
  - (d) a manual worker, unless—
    - (i) he has completed 12 months' continuous employment with his employing body, or
    - (ii) he entered or re-entered the employment of that body less than 12 months after completing at least 12 months' continuous employment with a scheduled body, or
    - (iii) he has commenced relevant employment following the termination of non-local government employment, and within 12 months of commencing such relevant employment he elected, by notice in writing to the appropriate administering authority for that employment, to become a pensionable employee, and within that 12 months, he has undertaken to apply to have his pension rights relating to his non-local government scheme transferred to such administering authority or preserved in the non-local government scheme on becoming a pensionable employee, or
  - (e) an employee of a scheduled body who are not a body specified in Part I of Schedule 3, unless they have by a statutory resolution as defined in regulation B1(13) specified him as a person, or specified a class of persons to which he belongs as a class of persons, to whom paragraph (1) is to apply, or
  - (f) a part-time member of a fire brigade maintained under the Fire Services Act 1947(1).
- (7) An election under this regulation may be made at any time by giving notice in writing to the employing authority, and—
- (a) subject to paragraphs (3) and (4), has effect from the date on which it is made, and
  - (b) subject to regulation B4, continues to have effect so long as the person who made it remains in the employment in respect of which it was made.
- (8) An election made under regulation B2A of the 1974 Regulations shall continue to have effect as if it were an election under this regulation.

### **Other elections as to pensionability**

- B4.—**(1) A person may by notice in writing to the employing authority elect to cease to be a pensionable employee if—
- (a) he is in a relevant employment as defined in regulation B3(2) or relevant employments, and
    - (i) he was a pensionable employee on 31st March 1986,
    - (ii) there has since been no period of a day or more during which he was not a pensionable employee, and
    - (iii) he is not a person who falls within regulation B3(6)(b), or
  - (b) he has made an election under regulation B2A of the 1974 Regulations or regulation B3 while in a relevant employment falling within regulation B3(2)(a), and—

- (i) is in a single relevant employment falling within regulation B3(2)(b) of that definition and is not in any relevant employment falling within regulation B3(4)(b), or
  - (ii) is in relevant employments falling within regulation B3(3).
- (2) An election under paragraph (1) has effect from the date on which it is made, and for so long as the person who made it continues to be in a relevant employment or relevant employments.
- (3) While an election under paragraph (1) has effect the person who made it is not entitled—
- (a) under regulation B1 to be a pensionable employee in any superannuation fund maintained under these Regulations, or
  - (b) to make any election under regulation B3.
- (4) If—
- (a) a person became entitled by virtue of an election or elections under regulation B3 to participate in the benefits of the appropriate superannuation fund in relation to one or more employments, and
  - (b) the contractual hours, or as the case may be the total of the contractual hours, have become fewer than 15, or the contractual weeks have become fewer than 35,
- he may elect to cease to be a pensionable employee.
- (5) An election under paragraph (4) must be made in writing to the employing authority within 6 months from the date on which the contractual hours or as the case may be the total of the contractual hours became fewer than 15, or the contractual weeks became fewer than 35.
- (6) For the purposes of these Regulations other than regulation C12 a person who makes an election under paragraph (1) or paragraph (4) shall be treated as if he had, on the date on which the election was made, ceased to hold the employment or employments in which he was a Pensionable employee.

**Persons deemed to be employees of a scheduled body**

**B5.** For the purposes of these Regulations a person of a class described in column 1 of the Table below shall be deemed to be an officer or manual worker, whichever is appropriate, in employment with the body described opposite that class in column 2.

TABLE

(1) <i>Class</i>	(2) <i>Deemed employing body</i>
Registration officer	The regional council or the islands council who are the local registration authority for the purposes of section 5 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(2) and by whom he was appointed or deemed to have been appointed under section 7 of that Act
Rent officer	Any local authority with whom the Secretary of State has made arrangements under section 43

(2) 1965 c. 49; section 5 was amended by the Local Government (Scotland) Act 1973 (c. 65), section 166(2)(a).

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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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(1) <i>Class</i>	(2) <i>Deemed employing body</i>
	of the Rent (Scotland) Act 1984 <sup>(3)</sup> to provide for the superannuation of the officer
Employees of a passenger transport authority	The relevant passenger transport executive
Members of passenger transport executives and directors of subsidiaries of passenger transport executives falling within regulation B1(6), (7) or (8)	The relevant passenger transport executive
Employees of a subsidiary of a passenger transport executive	The relevant passenger transport executive
Officers and manual workers of Trinity Hospital	City of Edinburgh District Council
Officers and manual workers of—	Lothian Regional Council
(a) Heriot Watt College,	
(b) Heriot Watt University,	
(c) the Forth Road Bridge Joint Board and	
(d) Edinburgh College of Art	

### Power to admit employees of other bodies

**B6.**—(1) Subject to paragraphs (3) to (6), an administering authority may make an agreement (“an admission agreement”) with any body specified in paragraph (8) providing for employees of that body (“the employing body”) to participate in the benefits of the superannuation fund or further fund maintained by the authority.

(2) In relation to an employee participating in the benefits of a fund by virtue of an admission agreement (“an admitted employee”) these Regulations have effect as if he were a pensionable employee and the employing body were a scheduled body.

(3) Subject to paragraph (4), an admission agreement may provide for members of any specified class or classes of employees of the employing body to become admitted employees.

(4) An admission agreement may not provide for any person who—

- (a) has not attained the age of 18 years, or
- (b) has attained the age of 65 years and does not fall within regulation B1(12)(e),

to become an admitted employee.

(5) Except as provided in paragraph (6), an admission agreement cannot confer any greater or lesser rights or liabilities on any admitted employee than those he would have had if he had become a pensionable employee by virtue of regulation B1.

(6) An admission agreement may—

- (a) provide that any previous period of employment of an admitted employee by the employing body is to be reckonable as reckonable service to such extent as may be specified in the agreement,
- (b) where the employing body is a development corporation established under the New Towns (Scotland) Act 1968<sup>(4)</sup>, provide that a percentage, not exceeding 4.4%, of the remuneration of an admitted employee shall, if he is an employee of a description specified

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<sup>(3)</sup> 1984 c. 58

<sup>(4)</sup> 1968 c. 16

for the purpose in the agreement, be treated as not being remuneration for the purposes of these Regulations, and

- (c) in the case of an employee of a body specified in column (1) of Schedule 20 who is admitted to participate in the benefits of a superannuation fund or further fund on or after the date in column (2) of Schedule 20 appropriate to the body by reason of an agreement made under this regulation or regulation B4 of the 1974 Regulations, contain a provision providing for the termination of the agreement and where an agreement is so terminated then for the purposes of these Regulations other than regulation C12 that person shall be treated as if he had on the day on which the agreement terminated ceased to hold the employment or employments in respect of which he was admitted to participate in the benefits of the superannuation fund or further fund.

(7) On making an admission agreement an administering authority shall forthwith inform the Secretary of State of the name of the employing body and the date from which the agreement takes effect.

(8) The bodies mentioned in paragraph (1) are—

- (a) a voluntary organisation engaged in the provision of services—
  - (i) under Part III of the National Health Service (Scotland) Act 1978<sup>(5)</sup>; or
  - (ii) under Part III of the National Assistance Act 1948<sup>(6)</sup>; or
  - (iii) under the Disabled Persons (Employment) Act 1958<sup>(7)</sup>; or
  - (iv) under the Mental Health (Scotland) Act 1984<sup>(8)</sup>; or
  - (v) under section 14 of the Social Work (Scotland) Act 1968<sup>(9)</sup>;
- (b) a body representative of local authorities or of local authorities and officers of local authorities or a body representative of officers of local authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government;
- (c) a body authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking or any undertaking for the supply of electricity, gas, hydraulic power or water;
- (d) a body approved for the purposes of this regulation by the Secretary of State who are primarily engaged in carrying on any undertaking of a kind mentioned in sub-paragraph (c) though not authorised by any enactment to carry on any such undertaking;
- (e) a body who provide a public service in the United Kingdom otherwise than for the purposes of gain;
- (f) a body to whose funds any local authority contribute or to whom any grant is made out of monies provided by Parliament;
- (g) a development corporation established under the New Towns (Scotland) Act 1968.

(9) Any agreement made under regulation B4 of the 1974 Regulations, or continued in force by regulation 14 of the 1974 Regulations as if so made, continues in force as if it were an admission agreement made under this regulation.

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(5) 1978 c. 29  
(6) 1948 c. 29  
(7) 1958 c. 33  
(8) 1984 c. 36  
(9) 1968 c. 49

### **Treatment of certain additional duties**

**B7.**—(1) This regulation applies where the duties of an officer who is in a whole-time employment of a scheduled body include the additional duty of a returning officer or counting officer at any election or referendum authorised by Act of Parliament in circumstances where fees are paid.

(2) Where—

- (a) the officer became a pensionable employee under the 1974 Regulations on 16th May 1974, and
- (b) immediately before that date he was in the whole-time employment and his duties in it included one or both of the additional duties,

then unless the context otherwise requires these Regulations apply to him in relation to each additional duty as if it were a separate variable-time employment with a scheduled body other than the body with whom he is in the whole-time employment.

(3) In any other case these Regulations apply to the officer, unless the context otherwise requires—

- (a) where there is one additional duty, in relation to that duty as if it were, or
- (b) where there are more than one additional duty, in relation to them as if they were,

a separate variable-time employment with a scheduled body other than the body with whom he is in the whole-time employment.

### **Treatment of certain separate employments**

**B8.** Where a person holds two or more separate employments under one scheduled body, then unless the context otherwise requires these Regulations apply in relation to each of those employments as if the other or others were held by him under another scheduled body.

### **Deemed employments**

**B9.** In these Regulations, unless the context otherwise requires, references to employees of a scheduled body shall be construed as including references to persons who are deemed for the purposes of these Regulations to be in the employment of a scheduled body, and other provisions relating to employment by or under a scheduled body shall be construed accordingly.

### **Age of compulsory retirement**

**B10.** When a pensionable employee attains the age of 65 years he shall cease to hold his employment, except that the employing authority may, with his consent, extend his services for one year or any lesser period, and so from time to time as they deem expedient.