
STATUTORY INSTRUMENTS

1986 No. 24

The Local Government Superannuation Regulations 1986

PART B

PENSIONABLE EMPLOYMENT

Pensionable employees

B1.—(1) Paragraphs (2) to (15) have effect subject to paragraphs (16) and (17).

(2) A whole-time officer of a body described in column (1) of Part I of Schedule 2 (“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 whole-time employment with that body, or
- (b) without having received a return of the whole of his contributions, entered or re-entered employment with that body after having been in other local government employment, or
- (c) satisfies the requirements of Part III of Schedule 2.

(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 in the variable-time employment.

(5) An employee described in Part II of Schedule 2 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 employee of—

- (a) the governors of any 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⁽¹⁾, or
- (b) the governing body of any polytechnic, technical institute or other similar institution which is for the time being aided by a local education authority under that Act,

is a pensionable employee if the local education authority have, with the general or specific consent of the employer, by a statutory resolution specified him as a pensionable employee or specified a class of employees to which he belongs as pensionable employees.

(1) 1944. c.31.

(7) A person who immediately before 1st April 1974 was a contributory employee in the employment of any such governors or governing body as are mentioned in paragraph (6) is a pensionable employee while he continues in employment with them.

(8) A medical inspector of immigrants appointed under the Immigration Act 1971⁽²⁾ who—

- (a) receives his remuneration in that appointment from a Part I scheduled body, and
- (b) is also a pensionable employee in an employment under any local authority,

is a pensionable employee in respect of the appointment.

(9) A whole-time member of a passenger transport executive is a pensionable employee if that executive have, with the consent of the council of the metropolitan county for which they are the Executive, by a statutory resolution specified him as a pensionable employee.

(10) 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.

(11) A person who immediately before 1st April 1914—

- (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 in that position.

(12) Subject to any order made by the Secretary of State under section 74 of the Transport Act 1962⁽³⁾, a person who immediately before 1st April 1914—

- (a) was in employment with the London Transport Executive, and
- (b) was by virtue of section 18(4) of the Transport (London) Act 1969⁽⁴⁾ entitled to participate in the benefits of the superannuation fund maintained under Part I of the Act of 1937 by the Greater London Council or Newham London borough council,

and who continued up to 29th June 1984 in employment with the London Transport Executive is a pensionable employee while he continues in employment with London Regional Transport.

(13) A person who immediately before 1st April 1974—

- (a) was a justices' clerk (inner London area) or other officer employed by the committee of magistrates for the inner London area, and
- (b) was by virtue of regulation 2(1) of the Superannuation (Inner London Magistrates' Courts) Regulations 1965⁽⁵⁾ entitled to superannuation rights corresponding with those to which he was entitled in respect of his service before 1st April 1965 as a justices' clerk in the county of London or an officer employed by the County of London Magistrates' Courts Committee,

is a pensionable employee unless there has since been a period of 12 months or more during which he was not such a clerk or officer as is mentioned in sub-paragraph (a).

(14) A coroner, other than—

- (a) the Queen's coroner and attorney, or
- (b) the coroner of the Queen's Household, or
- (c) a coroner who held office immediately before 6th April 1978 and did not elect in accordance with article 3(b) of the Social Security (Modification of Coroners

(2) 1971. c.77.

(3) 1962 c.46.

(4) 1969 c.35.

(5) S.I. 1965/537.

(Amendment) Act 1926) Order 1978(6) that the provisions of the Coroners (Amendment) Act 1926(7) relating to pensions should not apply to him,
is a pensionable employee.

(15) A person who immediately before 1st March 1986 was a pensionable employee by virtue of regulation B2(1)(m) of the 1974 regulations (certain former contributory employees continuously employed by same body) is a pensionable employee while he continues in employment with the same body.

(16) A Part I scheduled body may resolve that a person who falls within paragraph (2), (3) or (4) 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.

(17) Notwithstanding anything in paragraphs (2) to (15), the following are not pensionable employees:

- (a) a person specified in column (2) of Part I of Schedule 2;
- (b) a person who elected under paragraph 2 of Part VI of Schedule 2 to the Act of 1937 not to become a contributory employee and whose election did not cease to have effect before 1st April 1974, so long as he continues as a whole-time manual worker in employment with the body to whom he gave notice of the election;
- (c) a person who elected under regulation 25 of the Miscellaneous Provisions regulations not to become a contributory employee and whose election did not cease to have effect before 1st April 1974, so long as he continues in employment with the body to whom he gave notice of the election;
- (d) a person who has not attained the age of 18 years;
- (e) a person who has attained the age of 65 years and has completed not less than 45 years' reckonable service;
- (f) 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 retirement grant 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 if he had remained subject to the pension scheme to which he was subject immediately before suffering the loss;
- (g) 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;
- (h) a chaplain to whom the Clergy Pensions Measure 1961(8) applies;
- (i) an employee of a scheduled body in respect of whom contributions to the Merchant Navy Officers Pension Fund are made;

(6) S.I. 1978/374.

(7) 1926 c.59.

(8) 1961 No. 3.

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

- (j) an employee of a scheduled body in respect of whom contributions to the Port Employers and Registered Dock Workers Pension Fund are made;
- (k) a person who is entitled as mentioned in section 28 (superannuation of telephone employees) of the Kingston upon Hull Act 1984⁽⁹⁾.

(18) 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 was passed and of the terms of the resolution and of the fact that it is to be proposed at that meeting must have been given in the manner in which notice for convening ordinary meetings of the body may be given.

Persons treated as employees of a scheduled body

B2.—(1) 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 in employment with the body described opposite that class in column (2).

TABLE

(1) Class	(2) Deemed employing body
Justices' clerks (outside the inner London area)	The magistrates' courts committee by whom he was appointed or is deemed to have been appointed
Registration officers	The local authority who made the scheme under section 14 of the Registration Service Act 1953 ⁽¹⁰⁾ for the district in or for which the officer acts
Rent officers and deputy rent officers	The local authority for whose area the relevant scheme is made, or has effect as if made, under section 63 of the Rent Act 1977 ⁽¹¹⁾
Medical inspectors of immigrants falling within regulation B1(8)	The local authority from whom he receives his remuneration in the appointment
Members of passenger transport executives and directors of subsidiaries of passenger transport executives falling within regulation B1(9), (10) or (11)	The relevant passenger transport executive
Coroners falling within regulation B1(14)	The authority (being a county council or the Greater London Council or the Common Council) by whom he was appointed

(2) Where an employee of the governors of a voluntary school or of the governing body of a polytechnic, technical institute or other similar institution is a pensionable employee by virtue of—

- (a) a resolution of an education authority having effect under regulation B1, or
- (b) his having been specified as a contributory employee by a resolution—
 - (i) of an education authority under section 3(2)(f) of the Act of 1937, or

⁽⁹⁾ 1984 c.xxvi.

⁽¹⁰⁾ 1953 c.37.

⁽¹¹⁾ 1977 c.42.

- (ii) of the Greater London Council under section 53 of the London County Council (General Powers) Act 1929⁽¹²⁾ or section 7 of the London County Council (General Powers) Act 1938⁽¹³⁾,

he shall for the purposes of these regulations be deemed to be in employment with the body who passed the resolution.

(3) Where an employee of the governors of a voluntary school which on 1st April 1974 became maintained by a local education authority for an area outside Greater London is a pensionable employee by virtue of his having been a contributory employee in that employment, he shall for the purposes of these regulations be deemed to be in employment with that authority.

(4) Every employee of a subsidiary of a passenger transport executive shall for the purposes of these regulations be deemed to be in employment with that executive.

(5) In their application to a person who is a pensionable employee by virtue of regulation B1(12), these regulations have effect as if London Regional Transport were a scheduled body.

(6) In their application to a person who is a pensionable employee by virtue of regulation B1(13), these regulations have effect as if the committee of magistrates for the inner London area were a scheduled body.

Power to admit employees of other bodies

B3.—(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 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(17)(f)(i) to (iii),

to become an admitted employee.

(5) Except as provided in paragraph (6), an admission agreement may not modify the application of these regulations to any admitted employee so that he has any greater or lesser rights or liabilities 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, and
- (b) where the employing body is one of the bodies specified in paragraph (8)(g) and (h), 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 for the purpose in the agreement, be treated as not being remuneration for the purposes of these regulations.

⁽¹²⁾ 1929 c.lxxxvii.

⁽¹³⁾ 1938 c.xxxviii.

(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) an organisation, not carried on for profit and not provided by a local or public authority, engaged in the provision of services—
 - (i) under paragraph 1 of Schedule 8 to the National Health Service Act 1977⁽¹⁴⁾, or
 - (ii) under Part III of the National Assistance Act 1948⁽¹⁵⁾, or
 - (iii) under the Disabled Persons (Employment) Act 1958⁽¹⁶⁾, or
 - (iv) under the Mental Health Act 1959⁽¹⁷⁾, or
 - (v) under section 12 or 45 of the Health Services and Public Health Act 1968⁽¹⁸⁾;
 other than such of those services as under section 3(1) of the National Health Service Act 1977 the Secretary of State considers are appropriate as part of the health service continued by section 1 of that Act;
- (b) a body representative of local authorities or water authorities or of local authorities or water authorities and officers of local authorities or water authorities or a body representative of officers of local authorities or water authorities formed for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government or the functions of water authorities;
- (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, other than the governors or managers of a voluntary school within the meaning of the Education Act 1944⁽¹⁹⁾ who provide a public service in the United Kingdom otherwise than for the purposes of gain or to whose funds any local authority contribute or to whom any grant is made out of moneys provided by Parliament;
- (f) the Housing Corporation;
- (g) the Commission for the New Towns;
- (h) a development corporation established under the New Towns Act 1981⁽²⁰⁾;
- (i) the company (limited by shares) incorporated on 1st July 1983 under the Companies Acts 1948 to 1981⁽²¹⁾ under the name of British Water International Limited;
- (j) the company (limited by guarantee) which was so incorporated on 13th October 1969 under the name of International Water Supply Congress and Exhibition Limited;

⁽¹⁴⁾ 1977 c.49.

⁽¹⁵⁾ 1948 c.29.

⁽¹⁶⁾ 1958 c.33.

⁽¹⁷⁾ 1959 c.72.

⁽¹⁸⁾ 1968 c.46.

⁽¹⁹⁾ 1944 c.31.

⁽²⁰⁾ 1981 c.64.

⁽²¹⁾ 1948 c.38, 1967 c.81, Parts I and III, 1972 c.67, 1972 c.68, section 9, 1976 c.47, sections 1 to 4, 1976 c.60, section 9, 1976 c.69, 1980 c.22, 1981 c.62 (except sections 28 and 29).

- (k) the company (limited by guarantee) which, on a change of name, was so incorporated on 15th June 1984 under the name of International Association on Water Pollution Research and Control.

(9) Any agreement made under regulation B4 of the 1974 regulations, or continued in force by regulation J8 of those regulations as if so made, continues in force as if it were an admission agreement made under this regulation.

Further provision as to admission of employees of other bodies

B4.—(1) For the purposes of this regulation a relevant event occurs, whether or not any property, debts, liabilities or obligations of either body then become vested in or attach to the other body, both—

- (a) when any activity carried on by a scheduled body ceases in whole or part to be carried on by that body and, to the extent that it so ceases, becomes or becomes part of an activity carried on by another body (“the transferee body”) which is neither a scheduled body nor a body specified in regulation B3(8), and
- (b) on any subsequent occasion when an activity, or part of an activity, originally comprised in the first activity mentioned in sub-paragraph (a) ceases in whole or part to be carried on by one body and, to the extent that it so ceases, becomes or becomes part of an activity carried on by another body (“a successor body”) which is neither a scheduled body nor a body specified in regulation B3(8).

(2) Where a relevant event occurs, the transferee body or, as the case may be, a successor body shall, for the purpose only of enabling an agreement to be made under regulation B3 for the admission of employees of theirs who—

- (a) immediately before the occurrence of the relevant event mentioned in paragraph (1)(a) were pensionable employees of the scheduled body, and
 - (b) immediately before the occurrence of every subsequent relevant event were entitled by virtue of an agreement under regulation B3 to participate in the benefits of a superannuation fund maintained under these regulations, and
 - (c) are employed by the transferee body or successor body in connection with an activity, or part of an activity, originally comprised in the first activity mentioned in paragraph (1)(a),
- be deemed to be a body specified in regulation B3(8).

Treatment of certain additional duties

B5.—(1) This regulation applies where the duties of an officer who is in a whole-time employment with a scheduled body include the additional duty of a returning officer at local government elections or of an acting returning officer.

(2) Where—

- (a) the officer became a pensionable employee under the 1974 regulations on 1st April 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 two additional duties, in relation to both those duties 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.

(4) For the purposes of this regulation the duty of an acting returning officer includes any duties of a returning officer at an Assembly election which are required by regulations made under paragraph 2 of Schedule 1 to the European Assembly Elections Act 1978⁽²²⁾ to be discharged by an acting returning officer.

Treatment of certain separate employments

B6. 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

B7. 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

B8. 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 service for one year or any lesser period, and so from time to time as they deem expedient.

(22) 1978 c.10.