
 STATUTORY INSTRUMENTS

1965 No. 645

LONDON GOVERNMENT

The London Courts and Probation (Superannuation) Order 1965

Made 25th March 1965

Laid before Parliament 31st March 1965

Coming into Operation 1st April 1965

In exercise of the powers conferred on me by sections 84 and 85 of the London Government Act 1963(a), as extended by section 35 of the Administration of Justice Act 1964(b), I hereby make the following Order:—

Protection of rights and obligations

1.—(1) In any case where, immediately prior to the date on which a transferred employee was first transferred, the Acts of 1937 to 1953 and the regulations made thereunder applied to him, either as modified or extended by the provisions of any local Act or local Act scheme or together with any such provisions, the Acts of 1937 to 1953 and the regulations made thereunder shall have effect in relation to him for the appropriate period as if they—

(a) required him to make contributions at the like rate as he would have been liable to make and conferred on him rights corresponding with those which he would have enjoyed if he had remained in the employment of the authority from which he was first transferred, and

(b) conferred on the authority to which he is transferred any discretionary power to pay or to increase pensions, lump sums or gratuities to or in respect of him which was exercisable by the authority from which he was first transferred.

(2) In any case where, immediately prior to the date on which a transferred employee was first transferred, he was subject to the provisions of any local Act scheme, then the Acts of 1937 to 1953 and regulations made thereunder shall have effect in relation to him for the appropriate period as if they—

(a) required him to make contributions at the like rate as he would have been liable to make and conferred on him rights corresponding with those which he would have enjoyed if he had remained in the employment of the authority from which he was first transferred, and

(b) conferred on the authority to which he is transferred any discretionary power to pay or to increase pensions, lump sums or gratuities to or in respect of him which was exercisable by the authority from which he was first transferred,

in lieu of the rights, obligations and powers conferred or imposed by the said Acts and regulations, as the case may be:

Provided that—

 (a) 1963 c. 33.

(b) 1964 c. 42.

(i) nothing in this paragraph shall preclude the application to any transferred employee of any provision of the said Acts and regulations which is expressed to apply to both contributory employees and local Act contributors ; and

(ii) section 35 of the Act of 1937 shall apply to any question concerning the rights and liabilities of any person under this Order.

(3) Paragraphs (1) and (2) of this Article shall apply in relation to any secondary transfer of a transferred employee as if such secondary transfer had been the first.

(4) Where a transferred employee to whom paragraph (2) of this Article applies ceases to be employed by the authority to which he was transferred, and subsequently enters a new employment in circumstances in which he is not a transferred employee and is entitled to reckon for superannuation purposes service in such previous employment, that service shall be reckonable in the like manner, and the employee shall in other respects have the like rights and be subject to the like obligations as if the employee had moved to the new employment from the employment which he held immediately before 1st April 1965.

(5) Any transferred employee who was paying superannuation contributions immediately prior to his transfer at a rate appropriate to a servant shall continue to contribute at the like rate so long as he is employed without a break of twelve months or more by the authority to whose employment he was transferred on duties reasonably comparable to those in which he was engaged immediately prior to his transfer.

(6) In this Article the appropriate period during which any provision is to continue to apply to a transferred employee means the period of application specified in the provision of the local Act or local Act scheme or, if no period is so specified, the period during which the employee continues without a break of twelve months or more in the employment of an authority to which he was transferred.

Payment of contributions where remuneration is reduced

2.—(1) Notwithstanding anything in Article 1, section 6(5) of the Act of 1937 (which relates to the payment of superannuation contributions on the reduction or discontinuance of remuneration) shall apply to any transferred employee who on or after 1st April 1965 suffers a reduction of remuneration which is attributable to anything done by or under the Act of 1964 :

Provided that the said section 6(5) shall so apply only so long as the employee continues without a break of 12 months or more in the employment in which he suffered the reduction of remuneration, whether in the same post or in some other post.

(2) Where under section 6(5) of the Act of 1937, as applied by the last foregoing paragraph, a transferred employee pays contributions to a superannuation fund as if his remuneration had not been reduced, he shall be deemed, for the purposes of Regulation 3(1) of the Local Government Superannuation (Benefits) Regulations 1954(a), proviso (b) to section 8(5) of the Act of 1937, or any corresponding provision applicable to him under Article

1, to have received the remuneration which he would have received but for the reduction.

Apportionment of superannuation fund

3.—(1) Where a transferred employee on 1st April 1965 ceases to be entitled to participate in the benefits of the superannuation fund maintained by one of the following authorities, namely:—

- (a) the county council of Kent,
- (b) the county council of Essex, or
- (c) the county council of Surrey,

and becomes entitled to participate in the benefits of the superannuation fund maintained by the Greater London Council, an apportioned part of such first-mentioned fund in respect of that transferred employee shall be transferred to the Greater London Council and shall be carried by them to their fund.

(2) The apportionment required by paragraph (1) of this Article shall be carried out in accordance with Schedule 4 to the London Authorities (Superannuation) Order 1965(a).

(3) If there is paid to any authority in respect of a transferred employee (other than the authority making the apportionment) any sum by way of transfer value or repayment of contributions in respect of any period of his service prior to 1st April 1965, and an apportionment under paragraph (1) of this Article has to be made in respect of him, the sum shall be paid to the authority making the apportionment and shall be deemed to have formed part of their superannuation fund immediately before 1st April 1965.

Transfer values

4.—(1) Except in respect of the transfers mentioned in paragraph (2) of this Article, a transfer value shall be paid under section 29 of the Act of 1937 in respect of every transferred employee; and where the fund relating to the former employment has been transferred by the London Authorities (Superannuation) Order 1965, the transfer value shall be paid by the successor authority holding the superannuation fund in the benefits of which the employee was entitled to participate on 31st March 1965.

(2) No transfer value shall be paid under section 29 of the Act of 1937—

- (a) where on 1st April 1965 the transferred employee enters the employment of, or otherwise becomes entitled to participate in the benefits of the superannuation fund maintained by, the successor authority mentioned in paragraph (1) of this Article, or
- (b) where an apportionment is made under Article 3 in respect of the transferred employee.

Decision of questions, notifications, etc.

5.—(1) Nothing in this Order shall affect the operation of the Local Government Superannuation (Administration) Regulations 1954(b) in relation to—

- (a) any transferred employee who was not a contributory employee or local Act contributor immediately prior to the date of his transfer but who becomes a contributory employee on that date; or
- (b) any transferred employee if there occurs in relation to his employment any such other change as is mentioned in Regulation 6(2)(b) of the said Regulations of 1954.

(a) S.I. 1965/621 (1965 I, p. 1970).

(b) S.I. 1954/1192 (1954 II, p. 1570).

(2) The authority by which a transferred employee is first employed after his transfer shall as soon as may be notify him in writing of the effect of Article 9(4) unless a notification is required by reason of circumstances mentioned in paragraph (1) of this Article.

(3) In the case of any transferred employee who was a contributory employee or local Act contributor immediately prior to 1st April 1965, the authority by which he is employed on that date shall, as soon as may be, consider and decide whether he is affected by paragraph (1) or (2) of Article 1 and, if so, shall inform him of his rights and liabilities under either paragraph; and Regulations 7, 11(2), 13(2), 20, 21 and 22 of the said Regulations of 1954 shall apply in relation to any matter so decided.

Continuity of employment

6. Subject to the foregoing provisions of this Order, any provisions contained in or made under—

- (a) the Acts of 1937 to 1953 (including any such provision as modified by Article 1),
- (b) the Superannuation (Miscellaneous Provisions) Act 1948(a), or
- (c) the National Insurance Act 1959(b),

shall, in relation to any transferred employee to whom such provision applies, have effect as if his employments immediately before and immediately after the date of his transfer were one continuous employment.

Preservation of contributory or non-contributory status

7.—(1) Every transferred employee who was a contributory employee or local Act contributor immediately prior to the date on which he was transferred and who does not otherwise on that date become or continue to be a contributory employee shall, subject to the provisions of Article 1, become or continue to be a contributory employee.

(2) Any transferred employee who, if the Act of 1964 or the London Government Act 1963 had not been passed, would have become a contributory employee or local Act contributor on the completion of any qualifying period of employment and compliance with any other conditions and who does not otherwise become a contributory employee at any earlier date, shall, on completing the qualifying period of employment without any break, if he is otherwise qualified for that purpose and satisfies any other such conditions, become a contributory employee.

(3) No transferred employee who prior to 1st April 1965 had, pursuant to any provision in that behalf contained in or made under any enactment, exercised an option not to participate in the benefits of any fund maintained under the Acts of 1937 to 1953 or under a local Act Scheme, shall become a contributory employee without his consent while he continues in the employment of any authority to which he was transferred.

Discretionary powers

8. Where immediately before 1st April 1965 it was the prevailing practice of the authority employing a transferred employee in relation to employees of that description to exercise beneficially (that is to say, to secure the making of payments or increased payments) any discretionary power referred to in Article 1 or under any provision mentioned in Article 6, it shall be the duty of any authority to which he is transferred and in whose employment he has continued without a break of twelve months or more to exercise in relation to him that power (or any corresponding power under statutory provisions

relating to pensions for the time being in force) in a way which is no less beneficial than that practice; and section 35 of the Act of 1937 shall apply to any question arising under this Article.

Liabilities of employing authorities

9.—(1) Any payment to a superannuation fund, other than a deficiency charge, which falls to be made by or on behalf of—

(a) the standing joint committee for the county of London or Middlesex, (b) the court of quarter sessions for the county of Middlesex, or

(c) the magistrates' courts committee for the county of London or Middlesex, or for the county borough of Croydon, East Ham or West Ham, shall be made by the Greater London Council, except that in the case of the magistrates' courts committee for the county of London, the payment shall be made by the Receiver for the metropolitan police district.

(2) Any payment of a deficiency charge to a superannuation fund which falls to be made by or on behalf of any authority mentioned in column 1 of the Table hereunder in respect of any period before 1st April 1965 shall be made by the authority mentioned opposite such first-mentioned authority in column 2 of that Table.

TABLE

1 Employing authority	2 Successor authority
The magistrates' courts committee for the county of Middlesex or London	The Greater London Council
The magistrates' courts committee for the county borough of East Ham or West Ham	The council of the London borough of Newham
The magistrates' courts committee for the county borough of Croydon	The council of the London borough of Croydon
The standing joint committee for the county of London or Middlesex or the court of quarter sessions for the county of Middlesex	The Greater London Council

(3) Any payment to a superannuation fund which falls to be made by the probation committee for an area described in column 1 of Schedule 2 to the London Government (Probation Staff and Property) Order 1965(a) shall be made by the authority mentioned opposite thereto in column 2 of that Schedule.

(4) Any notice given or other thing done for superannuation purposes by or to an authority as employer in respect of any transferred employee prior to his transfer shall have effect as if it had been given or done by or to the authority to which he is transferred.

(5) Notwithstanding anything in section 5(3) of the Pensions (Increase) Act 1944(b) or section 6(2) of the Pensions (Increase) Act 1959(c), any liability of an authority mentioned in column 1 of the Table hereunder under either section as the last employing authority shall be transferred to the authority mentioned in column 2 of that Table opposite such first-mentioned authority.

(a) S.I. 1965/623 (1965 I, p. 2000). (b) 7 & 8 Geo. 6. c. 21.
(c) 7 & 8 Eliz. 2. c. 50.

1 Last employing authority	2 Successor authority
The magistrates' courts committee for the county of Middlesex or for the county borough of Croydon, East Ham or West Ham	The Greater London Council
The standing joint committee for the county of London or Middlesex	The Greater London Council
The court of quarter sessions for the county of Middlesex	The Greater London Council
The magistrates' courts committee for the county of London	The Receiver for the metropolitan police district
The probation committee for the Beacontree, Croydon, East Ham, Hampstead, Middlesex or West Ham probation area	The authority to which its property and liabilities are transferred under Article 12 of the London Government (Probation Staff and Property) Order 1965

(6) Where any authority is at 31st March 1965 in course of making contributions under Regulation 12 of the Local Government Superannuation (Benefits) Regulations 1954 or the corresponding provisions of any local Act or local Act scheme in relation to a transferred employee and that liability is not terminated by the payment of a transfer value, the liability shall attach to the authority to which he is transferred.

Pensions and gratuities not payable from superannuation funds

10.—(1) Where at any time before 1st April 1965 a pension not payable out of a superannuation fund or a gratuity, by way of periodical payments or an annuity—

- (a) has been granted to any person by any authority mentioned in column 1 of the Table hereunder on his ceasing to be employed by them, or
- (b) has been granted to the widow or any other dependant of a person who died while in the employment of any such authority or after leaving their employment or during the currency of a pension or gratuity granted to him by any authority mentioned in the said column,

and any payment would have been made on or after 1st April 1965 (whether under legal obligation or otherwise) in respect of the pension or gratuity in accordance with the terms of the grant and of any subsequent increase therein, that payment shall be defrayed by the authority mentioned in column 2 of that Table opposite such first-mentioned authority; and any such expenditure incurred by a court of quarter sessions or a probation committee (other than the probation committee for the inner London area) shall be deemed to be expenses to which section 29(9) of the Act of 1964 or paragraph 5 of Schedule 5 to the Criminal Justice Act 1948(a), as the case may be, applies.

TABLE

1	2
The standing joint committee for the county of London	The court of quarter sessions for the inner London area
The standing joint committee or court of quarter sessions for the county of Middlesex	The court of quarter sessions for the Middlesex area
The magistrates' courts committee for the county of London	The inner London committee of magistrates
The magistrates' courts committee for the county of Middlesex	The magistrates' courts committee for the Middlesex area
The magistrates' courts committee for the county borough of East Ham or West Ham	The magistrates' courts committee for the north-east London area
The magistrates' courts committee for the county borough of Croydon	The magistrates' courts committee for the south-east London area
The probation committee for the Beacontree, Croydon, East Ham, Hampstead, Middlesex or West Ham probation area	The authority to which its property and liabilities are transferred under Article 12 of the London Government (Probation Staff and Property) Order 1965
The Secretary of State in relation to any probation officer or other person employed in connection with the probation service in the metropolitan police court area	The inner London probation committee

(2) Where at any time before 1st April 1965 a part of any pension referred to in the last foregoing paragraph, payable by any authority mentioned in column 1 of the Table in that paragraph, has been surrendered for the benefit of any spouse or other dependant, the payments due in respect of such surrender at any time on or after 1st April 1965 shall be made by the authority mentioned in column 2 of that Table opposite such first-mentioned authority.

(3) Without prejudice to paragraphs (1) and (2) of this Article where, if this Order had not been made, any authority mentioned in column 1 of the Table in paragraph (1) of this Article would, for any of the purposes of the Acts of 1937 to 1953, of any regulations or schemes made under those Acts, or of any local Act or local Act scheme have been the employing authority or former employing authority in relation to a person who died before 1st April 1965 while in the employment of such authority or otherwise ceased to be employed by them before that date, or the widow or other dependant of such a person, the authority mentioned in column 2 of that Table opposite such first-mentioned authority shall be treated as being at that time the employing authority or former employing authority for those purposes in relation to that person, his widow or other dependant.

Supplementary provisions

11. Except where otherwise provided by this Order, nothing in any other order made under section 84 or 85 of the London Government Act 1963, whether as originally enacted or as extended by section 35 of the Act of 1964, shall apply to any matter dealt with in this Order.

12.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say:—

“the Acts of 1937 to 1953” means the Local Government Superannuation Acts 1937 to 1953(a);

“the Act of 1937” means the Local Government Superannuation Act 1937;

“the Act of 1964” means the Administration of Justice Act 1964;

“transferred employee” means a person transferred by or under the London Courts (Transfer of Staff) Order 1965(b) or the London Government (Probation Staff and Property) Order 1965, other than a person transferred by Article 1 or 2 of the London Courts (Transfer of Staff) Order 1965 to the employment of the committee of magistrates for the inner London area, and “transferred” shall be construed accordingly.

(2) Unless the context otherwise requires, expressions in this Order which are defined in the Acts of 1937 to 1953 shall have the same meanings in this Order.

(3) The Interpretation Act 1889(c) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(4) Any reference in this Order to a numbered Article shall be construed as a reference to the Article bearing that number in this Order.

(5) Unless the context otherwise requires, any reference in this Order to any enactment or instrument shall be construed as a reference to that enactment or instrument as amended or modified by or under any other enactment or instrument.

(6) For the purposes of this Order a clerk of the peace, deputy clerk of the peace or justices' clerk shall be regarded as employed in that office, and the expression “employment” shall be construed accordingly.

13. This Order may be cited as the London Courts and Probation (Superannuation) Order 1965 and shall come into operation on 1st April 1965.

Frank Soskice,

One of Her Majesty's Principal
Secretaries of State.

Home Office,
Whitehall.
25th March 1965.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

In consequence of the provisions of the Administration of Justice Act 1964, which make new arrangements for the administration of justice in London, the London Government (Probation Staff and Property) Order 1965 and the London Courts (Transfer of Staff) Order 1965 transfer certain probation officers and other persons employed in the probation service and clerks of the peace, justices' clerks and their staffs and other persons employed in connection with the administration of justice. This Order makes the necessary provisions for the protection of the superannuation interests of the persons transferred under those Orders.

(a) 1 Edw. 8 & 1 Geo. 6. c. 68; 2 & 3 Geo. 6. c. 18; 1 & 2 Eliz. 2. c. 25.

(b) S.I. 1965/624 (1965 I, p. 2006). (c) 52 & 53 Vict. c. 63.