

1977 No. 1845**PENSIONS**
**The Local Government Superannuation (Amendment) (No. 2)
Regulations 1977**

<i>Made</i>	- - -	10th November 1977
<i>Laid before Parliament</i>		21st November 1977
<i>Coming into Operation</i>		12th December 1977

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 7 of the Superannuation Act 1972(a), and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Title and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Amendment) (No. 2) Regulations 1977.

(2) The principal regulations as amended and these regulations may be cited together as the Local Government Superannuation Regulations 1974 to 1977.

(3) These regulations shall come into operation on 12th December 1977.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, “the principal regulations” means the Local Government Superannuation Regulations 1974(b) as amended(c).

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Return of employee's contributions in certain cases

3.—(1) The words “the duties of, or otherwise in relation to,” in paragraph (2) of regulation C8 of the principal regulations shall be deleted.

(2) The words “the performance of the duties of, or otherwise in relation to,” in paragraph (3) of the said regulation C8 shall be deleted.

(3) The full stop at the end of paragraph (3) of the said regulation C8 shall be deleted and a colon shall be substituted therefor.

(a) 1972 c. 11.

(b) S.I. 1974/520 (1974 I, p. 1986).

(c) The relevant amending instrument is S.I. 1977/1121 (1977 II, p. 3149).

(d) 1889 c. 63

(4) The following proviso shall be inserted at the end of the said paragraph (3)—

“Provided that in the case of a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) the power of the employing authority under this paragraph shall apply only in respect of any contributions relating to a period of service in respect of which the employing authority have given a direction as to forfeiture under regulation L13.”.

Forfeiture of rights

4. The following regulation shall be substituted for regulation L13 of the principal regulations—

“L13.—(1) If—

- (a) a pensionable employee is or has been convicted of an offence, being an offence in connection with his employment; and
- (b) the employing authority apply to the Secretary of State, on or after * and within three months of such conviction, for a certificate that such offence was either gravely injurious to the State or is liable to lead to serious loss of confidence in the public service, and the Secretary of State so certifies; and
- (c) the employee (whether before or after the conviction) is or has been dismissed, or resigns or has resigned, or otherwise ceases or has ceased to hold his employment, in consequence of such offence,

the employing authority may direct that all or any of the rights enjoyed by or in respect of the employee with respect to his previous service (being rights under Parts C, D, E, F and J) shall be forfeited:

Provided that no such direction shall be given for the forfeiture of any such rights to the extent that such rights are represented by any payments under paragraph (3).

(2) An employing authority who apply to the Secretary of State for a certificate under this regulation shall forthwith send to the employee concerned and to the appropriate administering authority a copy of the application.

(3) Where an employee has been dismissed or has resigned or otherwise ceased to hold his employment in consequence of an offence in connection with his employment, then notwithstanding that the employing authority have made no decision under regulation L8 as to the employee's entitlement to a benefit under these regulations the employing authority may in their discretion at any time after such dismissal, resignation or cesser, and until such time as such a decision is made or a direction as to forfeiture is given by them (whichever shall first occur), from time to time direct the appropriate administering authority to pay to the employee or to the spouse or any dependant of the employee (as may be specified in the direction) such sums as the employing authority may specify, not exceeding at any time the total of the sums which would at that time be payable to or in respect of the employee with respect to his previous service if a direction as to forfeiture were not given under this regulation, and the administering authority shall make such payments accordingly, and any such payments shall be deemed to have been made to the employee or to other the person who would be entitled thereto if a direction as to forfeiture were not given under this regulation.

* See S.I. 1977/1956

(4) A direction given by an employing authority under paragraph (3) shall not constitute a decision as to a person's entitlement for the purpose of regulation L8.

(5) Paragraph (1) shall not apply to any case where before
 * the employing authority have directed forfeiture of all or any rights (notwithstanding that such direction has been or is rendered ineffective on appeal under regulation H2 or H3) or have determined not to give a direction as to forfeiture.”.

Transfer of certain sums from superannuation funds

5. The following regulation shall be inserted after regulation L15 of the principal regulations—

“Transfer of certain sums from the superannuation fund

L16.—(1) If a pensionable employee of an administering authority is dismissed or resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or grave misconduct, being such an offence or such misconduct in connection with his employment, then if that authority have suffered direct financial loss by reason of the offence or misconduct that authority may transfer from the superannuation fund maintained by them to the county fund in the case of a county council, to the general fund in the case of the Greater London Council, to the general rate fund in the case of a London Borough Council or to the appropriate account in the case of the National Water Council—

- (a) in the case of a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(a), (b) or (c), a sum not exceeding the lesser of the following amounts—
 - (i) the whole, or any part, of the employee's contributions, being contributions not returned to the employee or paid to his wife or any dependant of his under regulation C8(3), and being contributions relating to any period or periods of previous service in respect of which the authority have directed, under regulation L13, that all rights enjoyed by or in respect of the employee shall be forfeited; and
 - (ii) the amount of the direct financial loss suffered by the authority in consequence of the offence or misconduct;
- (b) in the case of any other pensionable employee, a sum not exceeding the lesser of the following amounts—
 - (i) the whole, or any part, of the employee's contributions not returned to the employee or paid to his wife or any dependant of his under regulation C8(3); and
 - (ii) the amount of the direct financial loss suffered by the authority in consequence of the offence or misconduct.

(2) If a pensionable employee of an employing authority who are not an administering authority is dismissed or resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or grave misconduct, being such an offence or such misconduct in connection with his employment, then if the employing authority have suffered direct financial loss by reason of the offence or misconduct the appropriate administering authority shall, on demand from the employing authority, pay to the employing authority out of the superannuation fund maintained by the administering authority—

- (a) in the case of a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(a), (b) or (c), a sum not exceeding the lesser of the following amounts—
- (i) the whole, or any part, of the employee's contributions, being contributions not returned to the employee or paid to his wife or any dependant of his under regulation C8(3), and being contributions relating to any period or periods of previous service in respect of which the employing authority have directed, under regulation L13, that all rights enjoyed by or in respect of the employee shall be forfeited; and
 - (ii) the amount of the direct financial loss suffered by the employing authority in consequence of the offence or misconduct;
- (b) in the case of any other pensionable employee, a sum not exceeding the lesser of the following amounts—
- (i) the whole, or any part, of the employee's contributions not returned to the employee or paid to his wife or any dependant of his under regulation C8(3); and
 - (ii) the amount of the direct financial loss suffered by the employing authority in consequence of the offence or misconduct:

Provided that—

- (i) where a payment in lieu of contributions has been made or is due in respect of a pensionable employee, the appropriate administering authority shall not under this paragraph be required to pay to the employing authority so much of the employee's contributions as amounts to one-half of such payment in lieu of contributions; and
- (ii) where an administering authority have paid to an employing authority a sum under this paragraph, the employing authority shall, if the administering authority are thereafter required to pay a transfer value in respect of the employee to whom the payment of such sum relates, on demand by the administering authority repay to the administering authority a sum equal to the said sum paid to the authority.”.

Peter Shore,

10th November 1977

Secretary of State for the Environment

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Local Government Superannuation Regulations 1974.

The main changes are:—

- (a) A new regulation is substituted for regulation L13 (Forfeiture of rights) so that the provisions relating to forfeiture of rights comply with the requirements of section 63 of and Part I of Schedule 16 to the Social Security Act 1973 (c.38) (regulation 4). Paragraph (3) of the new regulation enables payments to be made to the employee or his spouse or dependant pending a decision by the employing authority as to the employee's entitlement to benefit or a direction as to forfeiture (Regulation 4).
- (b) A new provision is introduced so that where a pensionable employee is dismissed or resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character, or grave misconduct, in connection with his employment, the whole or part of the employee's contributions (as specified in the regulation), not exceeding the amount of the direct financial loss suffered by the employing authority, may be transferred to the employing authority (Regulation 5).

SI 1977/1845
ISBN 0-11-071845-3



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