
STATUTORY INSTRUMENTS

1986 No. 24

The Local Government Superannuation Regulations 1986

PART H

LOCAL GOVERNMENT REORGANISATION ETC

Interpretation

H1. In this Part, unless the context otherwise requires—

“Health Service regulations” means the National Health Service (Superannuation) Regulations 1961 to 1973(1), as in force immediately before 1st April 1974;

“transferred employee” means—

- (a) a person transferred on or after 1st April 1974—
 - (i) by or under an order made under section 84 of the London Government Act 1963(2) or an agreement made under section 24(7) of that Act; or
 - (ii) by virtue of a scheme made under Part I of the Police Act 1964(3); or
 - (iii) by the operation of the Public Libraries and Museums Act 1964(4); or
 - (iv) by or under an order made under section 17 of the Transport Act 1968(5); or
 - (v) by or under an order made under section 46 of the Children and Young Persons Act 1969(6); or
 - (vi) by or under an order or regulations made under the Local Government Act which, in accordance with the provisions of section 255 of that Act, contains a provision as to the transfer of that person;
- (b) any person appointed by a local authority, or the National Water Council or a water authority to hold any office or employment before or as from 1st April 1974 who, but for the appointment, would have been transferred on that day under section 255 of the Local Government Act; and
- (c) any person who on 1st April 1974 remained in the employment of the same body as immediately before that day but who in consequence of the Local Government Act, or anything done thereunder or of the 1974 regulations became on that day entitled to participate in the benefits of a superannuation fund maintained under those regulations by a body different from the body which maintained the superannuation fund in the benefits of which he was immediately before that day entitled to participate;

“new employment” means employment to which a person has been so transferred or appointed; and

(1) S.I. 1961/1441, 1966/1523, 1972/1339, 1537, 1973/242, 731, 1649.
(2) 1963 c.33.
(3) 1964 c.48.
(4) 1964 c.75.
(5) 1968 c.73.
(6) 1969 c.54.

“new employing body” means the body which has become the employing authority in relation to a person so transferred or appointed;

and in relation to a person appointed as aforesaid his taking up of the office or employment to which he was appointed shall for the purpose of this Part be deemed to be a transfer.

Continuity of employment and preservation of status

H2.—(1) Subject to paragraph (2)—

- (a) any provision of these regulations has effect, in relation to a transferred employee to whom it applies, as if his new employment and his former employment had been one continuous employment, and
- (b) notwithstanding anything in these regulations, a transferred employee who is transferred after 28th February 1986 and was a pensionable employee immediately before the date on which he is transferred continues in his new employment to be a pensionable employee.

(2) Paragraph (1) does not affect the operation of regulation H3 or of regulations Q1 to Q3.

Discretionary powers

H3. Where—

- (a) a transferred employee has continued in the employment of his new employing body, and
- (b) immediately before he was transferred (whether before or after the commencement of these regulations) it was the prevailing practice of the body employing him, in relation to employees of that description, to exercise so as to secure the payment of, or of increased, gratuities, allowances or pensions any discretionary power exercisable by them by virtue of any enactment relating to pensions, and
- (c) that or any corresponding power becomes exercisable in relation to him,

the new employing body shall exercise the power in a way which is not less beneficial than the general character of that practice.

Contributions of transferred manual workers

H4. A transferred employee who immediately before he was transferred (whether before or after the commencement of these regulations) was paying contributions at a rate appropriate to a manual worker shall continue to contribute at the like rate so long as he continues to be employed by his new employing body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

Former employees of Manchester Corporation

H5.—(1) Where a transferred employee—

- (a) was immediately before he was transferred a contributor to the Manchester pension fund, and
- (b) has continued in the employment of his new employing body,

these regulations have effect in relation to him, so long as he continues in the employment of that body, as if for any reference to an expression in column (1) of the following table (which lists certain expressions used in these regulations) there were substituted a reference to the expression appearing opposite thereto in column (2):—

TABLE

(1)	(2)
1. the Acts of 1937 to 1953, or the regulations made thereunder }	
the Acts of 1937 to 1953, or the regulations made thereunder applying as amended or extended by any local Act or scheme or together with any such provisions }	the Manchester pension provisions
2. the appropriate superannuation fund within the meaning of the Act of 1937 }	
a superannuation fund maintained under Part I of the Act of 1937 }	the Manchester pension fund
3. contributory employee	contributor to the Manchester pension fund
4. (a) contributing service and (b) non-contributing service for the purposes of the former regulations	service for purposes of the Manchester pension provisions
5. the former regulations	the Manchester pension provisions
6. a provision in the former regulations	the corresponding or similar provision in the Manchester pension provisions

(2) In this regulation—

“the Manchester pension fund” means the pension fund maintained immediately before 1st April 1974 by the Manchester City Council for the officers and servants of the Manchester Corporation; and

“the Manchester pension provisions” means the provisions of the enactments, and of the schemes and other instruments in force thereunder immediately before 1st April 1974, relating to the Manchester pension fund (including the provisions of the Acts of 1937 to 1953 and of any relevant instruments thereunder so far as applicable to that fund).

Persons transferred to scheduled bodies under section 18(4)(a) of the National Health Service Reorganisation Act 1973

H6.—(1) This paragraph applies to a person—

- (a) who was by or under an order made under section 18(4)(a) of the National Health Service Reorganisation Act 1973 transferred to the employment of a scheduled body, and
- (b) who immediately before he was so transferred was in an employment in which he was an officer within the meaning of the Health Service regulations, and
- (c) to whom neither paragraph (4) nor paragraph (5) applies.

(2) A person to whom paragraph (1) applies—

- (a) is, subject to paragraph (3), entitled to reckon—

- (i) as reckonable service any service which for the purposes of the Health Service regulations he was entitled to reckon in relation to the employment mentioned in paragraph (1)(b), as, or as a period of, contributing service, and
 - (ii) as qualifying service any service which for the purposes of those regulations he was entitled to reckon in relation to that employment for the purpose of determining whether he was entitled to a benefit under those regulations, but for no other purpose, and
- (b) where immediately before he was transferred he was in the process of making payments which were or were deemed to be payments under Schedule 2 of the Health Service regulations, is entitled to make the outstanding payments as if they had been instalments of an amount payable under regulation D6 of the 1974 regulations and, if he completes the payments in the manner provided in Schedule 6, to have the service in respect of which they were made counted for all the purposes of these regulations at its full length, and
- (c) where immediately before he was transferred he was in the process of making payments in respect of added years, is entitled to make the outstanding payments as if they had been payments of an amount payable under regulation D10 of the 1974 regulations and in respect of the added years in respect of which those payments are made shall enjoy rights and be subject to liabilities as if those years were added years reckonable under regulation D6 in the employment to which he is so transferred.
- (3) For the purposes of paragraph (2)(a) any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period and, except for the purposes referred to in regulation E26(3), any service which was reckonable under the Health Service regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall, subject to paragraph (2)(b), be counted at half its length.
- (4) Where immediately before he was transferred a person in relation to whom paragraph (1)(a) and (b) are satisfied was a person in respect of whom the Secretary of State paid contributions under regulation 45 of the Health Service regulations (persons subject to non-statutory superannuation schemes and arrangements) or carried out any such scheme or arrangements as are referred to in that regulation, that person shall not be subject to any provisions of these regulations except those contained in this regulation, and the body to which that person was transferred shall—
- (a) where immediately before 1st April 1974 the Secretary of State was under regulation 45 of the Health Service regulations paying in respect of that person the contributions authorised or required by the relevant scheme to be paid by the employer, pay those contributions, and
 - (b) deduct from the person's remuneration the amount of any contribution required by the scheme or under the arrangements to be paid by the employee.
- (5) In relation to a person who gave notice under regulation J11(3)(e) of the 1974 regulations that he did not wish to avail himself of the benefits provided under those regulations, these regulations have effect as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service regulations, and continue so to apply so long as he is employed without a disqualifying break of service by a scheduled body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.
- (6) Notwithstanding anything in paragraph (5), where that paragraph applies—
- (a) regulation C12(11) has effect as if—
 - (i) sub-paragraph (a) were omitted, and
 - (ii) the reference in sub-paragraph (b) to reckonable service and qualifying service were a reference to service reckonable for the purpose of determining whether any benefit is payable,

- (b) regulation D11 has effect as if—
 - (i) references to qualifying service included references to service reckonable for the purpose of determining whether any benefit is payable,
 - (ii) paragraph (2) were omitted,
 - (iii) in paragraph (3), the reference to regulation E2(1)(c) included a reference to regulation 8(1)(a)(iv) of the Health Service regulations, and
 - (iv) “retirement pension” included a pension payable by virtue of paragraph (5) of this regulation,
- (c) regulation E15 has effect in lieu of regulation 39 of the Health Service regulations and as if—
 - (i) “retirement pension” included a pension payable by virtue of that paragraph, and
 - (ii) for the purpose of ascertaining the remuneration of a former employment, entitlement to such a pension were not an entitlement under these regulations or the 1974 regulations, and
- (d) regulation M1 has effect in lieu of regulation 55 of the Health Service regulations.

Gratuities etc. granted by former local authorities

H7. Notwithstanding the revocation of the 1974 regulations—

- (a) an authority who became responsible under regulation J11(1) of those regulations for the continued payment of a gratuity or allowance remain so responsible, and
- (b) an authority who became liable under regulation J1 IA of those regulations to contribute towards such continued payment remain so liable, and every agreement and every determination under that regulation continues to have effect,

as if the 1974 regulations had not been revoked.

Policy schemes

H8. Any agreement or trust deed which immediately before 1st March 1986 had effect as mentioned in regulation J12 of the 1974 regulations continues so to have effect, and any policy of insurance held by a scheduled body immediately before that date for the purposes mentioned in that regulation shall continue to be held by them for those purposes.