
STATUTORY INSTRUMENTS

1986 No. 24

The Local Government Superannuation Regulations 1986

PART M

FORFEITURE ETC.

Forfeiture of rights

M1.—(1) If—

- (a) a person has been convicted of an offence in connection with an employment in which he was a pensionable employee, and
- (b) he has (whether before or after the conviction) ceased to hold that employment in consequence of that offence, and
- (c) on an application made within 3 months after the conviction by the body who were his employing authority in that employment, the Secretary of State has certified that the offence either was gravely injurious to the State or is liable to lead to serious loss of confidence in the public service,

that body may direct that all or any of the rights enjoyed by or in respect of him under these regulations with respect to his previous service shall, subject to paragraphs (2) and (5), be forfeited.

(2) Unless the person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Acts 1911 to 1939⁽¹⁾ for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years,

no direction may be given under paragraph (1) which would deprive him of his guaranteed minimum pension or would, in the event of his leaving a widow, deprive her of her widow's guaranteed minimum pension.

(3) If—

- (a) a person has ceased to hold an employment in which he was a pensionable employee in consequence of an offence in connection with his employment, and
- (b) the body who were his employing authority have neither notified a decision under Part N on any question as to entitlement to a benefit nor given any direction under paragraph (1),

the appropriate administering authority shall if so directed by that body make interim payments to any person specified by them who would be entitled to receive payment of a benefit under these regulations if no direction under paragraph (1) were given.

(4) Directions under paragraph (3) may be given from time to time and—

- (a) must specify the amounts to be paid and the persons to whom they are to be paid,

⁽¹⁾ 1911 c.28, 1920 c.75, 1939 c. 121.

(b) must not require any person to be paid more than he would for the time being be entitled to have been paid on the assumption that no direction under paragraph (1) will be given, and

(c) do not constitute decisions under Part N as to any person's entitlement to a benefit.

(5) Payments made to a person in accordance with directions under paragraph (3) shall, notwithstanding any direction given under paragraph (1) or any decision under Part N as to entitlement, be deemed to have been payments in respects of a benefit to which he was entitled.

(6) A body making an application to the Secretary of State for a certificate under paragraph (1)(c) shall at the same time send copies of the application to the person concerned and to the appropriate administering authority.

Transfer of certain sums from the superannuation fund

M2.—(1) This regulation applies where—

(a) a person (“the former employee”) has ceased to hold an employment in which he was a pensionable employee in consequence of—

- (i) an offence of a fraudulent character, or
- (ii) grave misconduct,

in connection with that employment, and

(b) the body who were his employing authority in that employment (“the former employing authority”) have suffered direct financial loss by reason of the offence or misconduct.

(2) Where this regulation applies and the former employing authority are an administering authority, they may transfer an appropriate amount from their superannuation fund—

- (a) in the case of a county council, to the county fund,
- (b) in the case of the Greater London Council, to the general fund,
- (c) in the case of a London borough council, to the general rate fund, or
- (d) in the case of the Severn-Trent Water Authority, to the appropriate account.

(3) Where this regulation applies and the former employing authority are not an administering authority, the appropriate administering authority shall, subject to paragraph (S), pay them an appropriate amount out of the superannuation fund if requested to do so.

(4) An appropriate amount is an amount which does not exceed the lesser of—

- (a) the amount of the direct financial loss, and
- (b) the amount of any contributions which could have, but have not, been returned to the former employee, or paid to his spouse or a dependant, under regulation C12(9).

(5) Where a payment in lieu of contributions has been made, or is due, in respect of the former employee, the administering authority may reduce a payment under paragraph (3) by half the amount of the payment in lieu of contributions.

(6) If after making a payment under paragraph (3) the administering authority are required to pay a transfer value in respect of the former employee, the former employing authority shall repay them the amount of that payment if requested to do so.

Recovery or retention by employing authority of certain sums from the superannuation fund

M3.—(1) This regulation applies where a person (“the former employee”)—

- (a) has ceased to hold an employment in which he was a pensionable employee in consequence of a criminal, negligent or fraudulent act or omission on his part in connection with that employment, and

- (b) has incurred some monetary obligation, arising out of that act or omission, to the body who were his employing authority in that employment (“the former employing authority”).
- (2) Where this regulation applies the former employing authority may recover or retain out of the appropriate superannuation fund an amount which (subject to any different agreement in writing between them and the former employee) does not exceed the lesser of—
 - (a) the amount of the monetary obligation, and
 - (b) the actuarial value, at the time of the recovery or retention, of all rights enjoyed by or in respect of the former employee under these regulations with respect to his previous service, other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme.
- (3) The former employing authority shall give the former employee not less than 3 months' notice of the amount to be recovered or retained under paragraph (2).
- (4) The former employee is entitled to a certificate from the former employing authority showing the amount retained under paragraph (2), the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.
- (5) In the event of any dispute as to the amount to be recovered or retained under paragraph (2), the former employing authority are not entitled to recover or retain any amount except after the monetary obligation has become enforceable under an order of a competent court or the award of an arbitrator.