
STATUTORY INSTRUMENTS

1986 No. 24

The Local Government Superannuation Regulations 1986

PART C

PAYMENTS BY EMPLOYEES

Return of employee's contributions in certain cases

- C12.**—(1) This regulation applies to a pensionable employee who—
- (a) ceases to be employed by a scheduled body,
 - (b) on so ceasing to be employed does not become entitled to a retirement pension, and
 - (c) does not, within one month and one day after so ceasing to be employed, become a pensionable employee in any employment with any scheduled body.
- (2) For the purposes of this regulation a person is to be treated as not becoming entitled to a retirement pension if—
- (a) he ceases to be employed in the circumstances mentioned in regulation E2(1)(c) and does not—
 - (i) make an election under regulation E2(6), or
 - (ii) fall within regulation E2(6)(a), or
 - (b) he falls within regulation E2(1)(d) and does not make an election under regulation E2(8)(a), or
 - (c) he falls within regulation E2(2).
- (3) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' reckonable service and qualifying service and whose relevant remuneration has not in any income tax year exceeded £5,000 is, subject to paragraphs (8) and (11), entitled to receive a payment under paragraph (7).
- (4) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' reckonable service and qualifying service and whose relevant remuneration has exceeded £5,000 in any income tax year is, subject to paragraphs (8) and (11), entitled to receive a payment under paragraph (7) unless he—
- (a) became a pensionable employee before 6th April 1980, and
 - (b) by notice given in accordance with paragraph (6) elects not to receive such a payment.
- (5) A person to whom this regulation applies who is entitled to reckon an aggregate of 5 or more than 5 years' reckonable service and qualifying service may, subject to paragraphs (8) and (11), by notice given in accordance with paragraph (6) elect to receive a payment under paragraph (7).
- (6) Notice for the purposes of paragraph (4) or (5) must be given in writing to the appropriate administering authority—
- (a) not earlier than one month and two days after the date on which the person ceased to be employed as mentioned in paragraph (1)(a), but

(b) within the period of 12 months beginning on that date.

(7) A payment under this paragraph is a payment out of the appropriate superannuation fund of a sum equal to—

- (a) the aggregate amount of the person's contributions to the fund, and
- (b) if he ceased to be employed for any reason other than—
 - (i) his voluntary resignation, or
 - (ii) his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct,

compound interest on the amount mentioned in paragraph (a) calculated, to the date on which he ceased to be employed, for any period before 1st April 1972 at the rate of 3% per annum with half yearly rests on 31st March and 30th September, for any other period before 1st April 1980 at the rate of 4% per annum with yearly rests on 31st March, and for any period after 31st March 1980 at the rate of 9% per annum with yearly rests on 31st March.

(8) Paragraphs (3) to (5) do not apply to a person who ceases to be employed in consequence of—

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

in connection with his employment.

(9) Where paragraph (8) applies to a person, the employing authority may, subject to paragraphs (10) and (11), direct the payment out of the appropriate superannuation fund—

- (a) to him, or
- (b) where paragraph (8)(a) applies, to him or to his spouse or any dependant of his,

of a sum equal to the whole or a part of the aggregate amount of his contributions to the fund.

(10) If the person ceased to be employed in the circumstances mentioned in regulation E2(1)(c), a direction under paragraph (9) may only be given in respect of contributions relating to a period of service in respect of which the employing authority have given a direction as to forfeiture under regulation M1.

(11) No payment shall be made under this regulation—

- (a) to a person who, having ceased to be employed in the circumstances mentioned in regulation E2(1)(c) and not having given a notice under paragraph (5), again becomes a pensionable employee and gives notice under regulation E2(10), or
- (b) in the case of a person whose period of reckonable service and qualifying service is 5 years or more, in respect of any period of reckonable service and qualifying service after 5th April 1975, or
- (c) in the case of a person who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) or falls within regulation E2(1)(d), in respect of any period of service in contracted-out employment by reference to the scheme, or
- (d) to a person who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation E4.

(12) A payment under paragraph (2) to a person falling within paragraph (3), or a person falling within paragraph (4) who has not made an election under paragraph (4)(b), shall be made at the end of the 12 months following the termination of his employment or in accordance with any written request received by the administering authority for earlier payment (but in no case earlier than one month and two days after the termination of the employment) or for later payment.

(13) The administering authority shall deduct from any payment (with or without interest) under this regulation any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(1) (which relates to charge to tax on repayment of employee's contributions).

(14) In this regulation "relevant remuneration" means, in relation to a person to whom this regulation applies, the remuneration on which contributions were paid—

- (a) under regulation C2 or C3, or
- (b) under regulation C1 or C2 of the 1974 regulations, or
- (c) under Part I of the Act of 1937, or
- (d) under a local Act scheme, or
- (e) under some other superannuation scheme in respect of service or employment—
 - (i) which became, by virtue of interchange rules, reckonable for the purposes of the former regulations, or
 - (ii) to which a transfer value accepted under regulation J8 relates.

(15) In this regulation references to the aggregate amount of a person's contributions to a superannuation fund include references to the contributions and amounts specified in paragraph (16) in so far as they—

- (a) have not been returned to the person or, if returned, have subsequently been repaid by him,
- (b) are attributable to service which might have reckoned under Part Din relation to the employment he has ceased to hold, and
- (c) are not attributable to any earlier period of service in respect of which a benefit has been paid under Part E or under the 1974 regulations.

(16) The contributions and amounts mentioned in paragraph (15) are—

- (a) any contributions paid by him to any superannuation fund—
 - (i) under regulation C2 or C3, or
 - (ii) under regulation C1 or C2 of the 1974 regulations, or
 - (iii) under Part I of the Act of 1937, or
 - (iv) under a local Act scheme;
- (b) any contributions which, if—
 - (i) the former regulations had not been revoked by the 1974 regulations, and
 - (ii) he had immediately before ceasing to be employed been a contributory employee, he would, by virtue of interchange rules, have been deemed to have made to the appropriate superannuation fund within the meaning of the Act of 1937;
- (c) any amount which in those circumstances would, by virtue of interchange rules, have been included in any amount which would, on his ceasing to be employed, have become payable to him by way of a return of contributions under section 10 of the Act of 1937;
- (d) any amount by which in those circumstances the amount mentioned in sub-paragraph (c) would, by virtue of interchange rules, have been deemed to have been increased;
- (e) any amount paid by him into a superannuation fund under an old modification scheme; and
- (f) any amount paid by him—
 - (i) by way of additional contributory payments or added period payments, or
 - (ii) under regulation C4 or C8, or

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(iii) under regulation CIA or C2A of the 1974 regulations.

(17) Where the service in respect of which a payment under this regulation may be made is restricted by paragraph (11)(b) or (c), paragraph (16) has effect as if—

(a) in sub-paragraph (f)(i), the words “or added period payments”, and

(b) in sub-paragraph (f)(ii), the words “C4 or”, and

(c) in sub-paragraph (!)(iii), the words “CIA or”,

were omitted.