
STATUTORY INSTRUMENTS

1988 No. 466

The Local Government (Superannuation and Compensation) (Amendment) Regulations 1988

PART II

SUPERANNUATION

Interpretation

2. In this Part “the principal Regulations” means the Local Government Super-annuation Regulations 1986(1); and unless the context otherwise requires expressions used in this Part which are also used in the principal Regulations have the same meaning as they have in those Regulations.

Leaving and rejoining a superannuation scheme

- 3.—(1) Regulation B1 of the principal Regulations shall be amended—
- (a) in paragraph (1), by inserting at the end the words “and regulations B1A to B1C”;
 - (b) by omitting paragraphs (15A)(b), (15B), (17)(b) and (c) and (18); and
 - (c) in paragraph (16), by inserting after the words “pensionable employee” the words “by virtue of an election under regulation B1A or B1C”.
- (2) After regulation B1 of the principal Regulations there shall be inserted—

“Opting into pensionable employment

B1A.—(1) Notwithstanding anything in regulation B1 or Part IV of Schedule 2, a person who was not a pensionable employee on 5th April 1988 (before the amendment of these regulations by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988) shall not after that date become a pensionable employee unless he makes an election to become such.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.

(3) Subject to paragraph (4), if a person gives notice of election at least one month before the date on which he commences his employment with the employing authority or such lesser period before that date as the authority allows, the election shall have effect from that date unless the notice specifies otherwise, and in any other case (whether the notice is given before or after the commencement of employment) it shall have effect from the day following the end of the relevant period, or such later date as may be specified in the notice.

(4) In an exempt case, the body to which notice of election is given may give notice to the person electing that he is not to become a pensionable employee; and a case is an exempt case for these purposes if that person—

- (a) has attained or would, on or by the date on which he would otherwise become a pensionable employee pursuant to the election, have attained the age of 50 years; and
 - (b) was first employed by that body before he attained that age.
- (5) A notice of election shall have effect—
- (a) subject to any subsequent notification under regulation B1B; and
 - (b) both in relation to the employment with the body which is to become the person’s employing authority, and in relation to any subsequent employment under which the person may become a pensionable employee.
- (6) In paragraph (3), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notice of election is given relates.

Opting out of pensionable employment

- B1B.**—(1) A pensionable employee may at any time notify his employing authority in writing that he does not wish to be such for the purposes of these regulations.
- (2) Subject to paragraph (3), a person giving a notification under paragraph (1) shall cease to be a pensionable employee from the day following the end of the relevant period, or such later date as may be specified in the notification.
- (3) In a case where the person was a pensionable employee on 5th April 1988 and the notification is given before 6th July 1988, he shall be treated as having ceased to be a pensionable employee on 6th April 1988 or such later date as may be specified in the notification.
- (4) A person giving a notification under paragraph (1) shall not again become a pensionable employee in that or another employment unless he makes an election in accordance with regulation B1C.
- (5) Any contributions paid with respect to a period during which a person is to be treated by virtue of a notification under paragraph (1) as not having been a pensionable employee shall be returned to him.
- (6) In paragraph (2), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notification under paragraph (1) is given relates, or the period of 2 months beginning on that day, whichever ends the sooner.

Rejoining pensionable employment

- B1C.**—(1) A person who would be or become a pensionable employee in accordance with these regulations but for a notification under regulation B1B may, notwithstanding the giving of that notification but subject to paragraphs (3) and (4), subsequently elect so to become a pensionable employee.
- (2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.
- (3) A person who has made an election under paragraph (1) and who subsequently gives another notification under regulation B1B(1) may, subject to paragraph (4), make no further election under paragraph (1).
- (4) Notwithstanding paragraph (3), a person may elect under paragraph (1) whenever he begins a new employment which might fall within regulation B1, provided the notice of election is given to the new employing authority before or within the period of 3 months beginning with the day on which he begins that employment.

(5) Regulation B1A(3) to (6) shall apply to an election under paragraph (1) as it applies to an election under regulation B1A(1).”.

(3) Regulation B3 of the principal Regulations shall be amended by inserting after paragraph (4)

—
“(4A) Without prejudice to paragraph (2), regulations B1A to B1C shall, without further provision, be taken to apply to any employee to whom an admission agreement relates, and in particular as if references to a pensionable employee included references to a person contributing or entitled to contribute to a fund by virtue of the agreement and references to regulation B1 included references to the agreement.”.

(4) For regulation E22(2) of the principal Regulations there shall be substituted—

“(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with—

- (a) the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years; or
- (b) if on the day mentioned in sub-paragraph (a) the person was not a pensionable employee by virtue of a notification under regulation B1B, the day on which he ceased to be such under that notification.”.

(5) In the definition of the expression “Local government employment” in Schedule 1 to the principal Regulations, for the words “is, or is deemed to be,” there shall be substituted the words “is or has been, or is or has been deemed to be,”; and in the definition of the expression “Pensionable employee” in that Schedule, after the words “regulation B1” there shall be inserted the words “to B1C”.

(6) Part III of Schedule 2 to the principal Regulations shall be amended by inserting after paragraph 2—

“3. A person electing under paragraph 1(b) need not, before becoming a pensionable employee, make a further election under regulation B1A.”.

(7) Part IV of Schedule 2 to the principal Regulations shall be amended—

- (a) in paragraph 1(1), by substituting for the words “(2) to (6)” the words “(2) to (5) and regulations B1A and B1B”, and by substituting for the words “may elect to become” the word “is”;
- (b) in paragraph 1(3), by substituting for the words “sub-paragraph (1)” the words “regulations B1A or B1C or notification under regulation B1B”;
- (c) by omitting paragraphs 1(6), 3 and 5;
- (d) in paragraph 1(7), by substituting for the words from “in all the employments” to the end the words “in all the qualifying part-time employments, of a person in relation to which an election under regulations B1A or B1C (or under paragraph 1(1) before its amendment by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988) has effect fall below 15, the person shall continue to be a pensionable employee unless he gives a notification under regulation B1B; but having given such a notification, a subsequent election to become a pensionable employee under regulation B1C shall not come into effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of pensionable employee in regulation B1).”;
- (e) in paragraph 2, by substituting for the words “elects to cease to be one” the words “gives a notification under regulation B1B; but having given such a notification, a subsequent election to become a pensionable employee under regulation B1C shall not come into

effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of pensionable employee in regulation B1)”; and

- (f) in paragraph 4(c), by inserting after the words “paragraph 1(1)” the words “before its amendment by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988”.

(8) Notwithstanding the amendments made by paragraphs (1)(b) and (7), any election made or notification given before 6th April 1988 to become, or to cease to be, a pensionable employee or admitted employee pursuant to the provisions referred to in those paragraphs shall have effect as if those amendments had not been made; and in particular—

- (a) if a person has elected before 6th April 1988 to become a pensionable employee or admitted employee under one of those provisions, but that election has not before that date come into effect, no further election under regulation B1A of the principal Regulations shall be required, and
- (b) if a person has elected before 6th April 1988 to cease to be a pensionable employee or admitted employee under one of these provisions, and after so ceasing subsequently becomes employed in another employment in which he may become such, regulation B1A(1) of the principal Regulations shall apply as if on 5th April 1988 he was not a pensionable employee or admitted employee (as the case may be) whether or not his election had effect by that date.

Additional contributions

4.—(1) After regulation C9 of the principal Regulations there shall be inserted—

“Further additional contributions

C9A.—(1) A pensionable employee may at any time elect to pay contributions under this regulation in addition to those provided for by the foregoing provisions of these regulations.

(2) Schedule 6A shall apply in relation to such an election and in relation to contributions payable under this regulation.

Effect of opting out of pensionable employment on certain additional payments

C9B.—(1) This regulation applies where a pensionable employee who—

- (a) has elected under regulations C6 or C8 (including those regulations as applied by regulation C9(1)) to make payments by way of additional contributions,
- (b) is making such payments in pursuance of regulations D10 or D11 of the 1974 regulations by virtue of regulation C9(2) of these regulations, or
- (c) is making payments in pursuance of regulations D6, D7 or D8 of the 1974 regulations by virtue of regulation C9(2) of these regulations,

gives notification in accordance with regulation B1B.

(2) In a case mentioned in paragraph (1)(a) or (b), no further payments by way of additional contributions shall be payable from the day on which the person giving the notification ceases to be a pensionable employee; and the benefits to which he is entitled in relation to those contributions shall be calculated as if the payments had been discontinued under regulation D10(4A) of the 1974 regulations, or regulations C6(5) or C8(11) of these regulations, as the case may be.

(3) In a case mentioned in paragraph (1)(c), paragraphs 5 and 6 of Schedule 6 shall apply as if the pensionable employee had ceased to hold a local government employment on the day

on which he ceased to be a pensionable employee; and in particular if on that assumption he would become entitled to preserved benefits he may give notice under paragraph 6.

(4) Paragraph (2) shall not preclude a person who has elected under regulation B1B making a further election under regulation C6 or C8 after again becoming a pensionable employee.”.

(2) Regulation C11(1) of the principal Regulations shall be amended by inserting after sub-paragraph (c)—

“, and

(d) contributions payable under regulation C9A.”.

(3) Regulation P10(4) of the principal Regulations shall be amended by inserting after sub-paragraph (b)—

“(bb) which of the employees referred to in sub-paragraph (a) and amounts referred to in sub-paragraph (b) are employees paying, and amounts representing deductions in respect of, additional contributions under regulation C9A,”.

(4) After Schedule 6 to the principal Regulations there shall be inserted as Schedule 6A the Schedule set out in the Schedule to these Regulations.

Preserved benefits

5.—(1) Regulations C12(11)(b), E2(1)(b), E2(1)(c)(i), E5(1)(c)(i), E8(1)(c) and E10(1)(a) of the principal Regulations shall be amended by substituting for the words “5 years” the words “2 years”, and regulation C12(3) and (4) of those Regulations shall be amended by substituting for the words “5 years” the words “2 years”.

(2) Regulation C12(5) of the principal Regulations shall be amended by substituting for the words “5 or more than 5 years” the words “2 or more than 2 years”.

(3) Regulation E4(1)(b)(i) of the principal Regulations shall be amended by substituting for the words “one or more but less than 5” the words “at least one but less than 2”.

(4) The amendments made by this regulation shall only apply in cases where the person ceased to hold the employment concerned, or (with respect to regulations E5(1)(c)(i), E8(1)(c) and E10(1)(a)) the death concerned occurred, on or after 6th April 1988.

Reckonable and qualifying service

6.—(1) Regulations D1(1) and D2(1) of the principal Regulations shall be omitted.

(2) In the definition of the expression “Qualifying service” in Schedule 1 to those Regulations, for the words “regulation D2” there shall be substituted the words “Part D”.

(3) In the definition of the expression “Reckonable service” in Schedule 1 to those Regulations, for the words “regulation D1” there shall be substituted the words “Part D”.

Ill-health retirement

7. For regulation E3(12) of the principal Regulations there shall be substituted—

“12) Where—

- (a) regulation E2(1)(b)(i) (permanent ill-health etc.) applies,
- (b) the person has not given a notification under regulation B1B, or, having given such a notification, has again by the date of cessation of employment become a pensionable employee by virtue of regulation B1C, and
- (c) the total of the person’s reckonable service and any qualifying service is not less than 5 years,

he is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 9.”.

Death grant

8. Regulation E11 of the principal Regulations shall be amended—

- (a) in paragraph (1), by substituting for sub-paragraph (a)—
 - “(a) was a pensionable employee, or”;
- (b) by inserting after sub-paragraph (d) of paragraph (1)—
 - “or
 - (e) was in a local government employment and was entitled to reckon at least 2 years' reckonable service, but was not a pensionable employee by virtue of a notification under regulation B1B,”;
- (c) in paragraph (8), by inserting after the words “paragraph (1)(d)” the words “or (e)”;
- (d) in paragraph (9)(a), by substituting for the words “paragraph (1)(a) or (d)” the words “paragraph (1)(a), (d) or (e)”;
- (e) by inserting after paragraph (13)—
 - “(14) Where a person qualifies for a death grant under more than one sub-paragraph of paragraph (1), he shall be treated as having qualified under the sub-paragraph which would, in accordance with the preceding paragraphs, result in the highest amount of grant being paid.”.

Gratuities

9.—(1) Regulation K1(3) of the principal Regulations shall be amended by inserting after sub-paragraph (c)—

“, or

- (d) during which he is not a pensionable employee by virtue of a notification under regulation B1B or a failure to elect under regulation B1A.”.

(2) Regulation K1(4) of the principal Regulations shall be amended by inserting at the end of sub-paragraph (b) the words “or which, but for an election by that person on or after 6th April 1988 not to participate in the benefits of such a scheme, might have been so taken into account,”.

Injury allowances

10.—(1) Regulation L5(1) of the principal Regulations shall be amended by inserting after the words “relevant body may” the words “(if there is such a shortfall as is mentioned in paragraph (2) (a))”.

(2) Regulation L8(c) of the principal Regulations shall be amended by omitting the words from “out of any fund” to “transferred”.

(3) The amendment made by paragraph (2) shall only apply in cases where the person ceased to hold the employment concerned, suffered the reduction in his remuneration or died (as the case may be) on or after 6th April 1988.