
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART B

MEMBERSHIP

Eligibility

General eligibility of employees of LGPS employers

B1.—(1) Subject to the provisions of this Part, a person is only eligible to be a member of the occupational pension scheme constituted by these regulations (in these regulations referred to as “the Scheme”) if—

- (a) he is an employee of a body specified in Part I of Schedule B1; or
- (b) he is an employee of a body specified in Part II of that Schedule and that body has by a statutory resolution—
 - (i) specified him as being so eligible, or
 - (ii) specified a class of employees to which he belongs as being so eligible.
- (2) In these regulations—
 - (a) “employee” means an employee whether permanent or temporary; and
 - (b) the bodies specified in Schedule B1 are referred to as “LGPS employers”.

Age restrictions: meaning of “latest retirement age” and “LRD”

B2.—(1) A person is only eligible to be a member of the Scheme if he has attained the age of 16 years.

- (2) A person applying to his employer to join the Scheme who—
 - (a) has attained the age of 50 years (or would, on or by the date on which he would otherwise become a member of the Scheme have attained that age), and
 - (b) was first employed by the employer and eligible to be a member by virtue of that employment before he attained that age,

is not eligible to be a member of the Scheme if he is given notice in writing to that effect by his employer.

(3) Subject to paragraph (4), a person is not eligible to be a member of the Scheme after he has attained the age of 65 and in these regulations, in relation to any person, “latest retirement age” means that age and “LRD” means the date by which he attains that age.

- (4) A person is only eligible to be a member of the Scheme on and after his LRD if—
 - (a) his total period of membership does not exceed the maximum referred to in paragraph (6); and

- (b) at least one of the conditions mentioned in paragraph (5) is satisfied in relation to him.
- (5) The conditions mentioned in paragraph (4) are—
 - (a) at least one of the following has become payable to him—
 - (i) a pension which is liable to be reduced or suspended under Schedule D5 (re-employed pensioners),
 - (ii) an ill-health retirement grant under regulation D8, or under regulation E4 of the 1986 regulations or regulation E20 of the 1974 regulations,
 - (iii) a short service grant under the Benefits regulations;
 - (b) he has received or is entitled to receive compensation under any enactment for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with an LPGA employer, in the like manner and to the like extent as it would have been if he had remained eligible to belong to the occupational pension scheme to which he belonged or was eligible to belong immediately before suffering the loss.
- (6) The maximum referred to in paragraph (4)(a) is—
 - (a) in the case of a Class A member (as defined in paragraph 1(1) of Schedule C5) 40 years, and
 - (b) in the case of a Class B member or a Class C member (as so defined), the aggregate of—
 - (i) his total period of membership before he attained the age of 60 years (disregarding any period in excess of 40 years), and
 - (ii) his total period of membership since he attained that age (but not exceeding 5 years plus any period by which the period mentioned in paragraph (i) fell short of 40 years);
 and in paragraph (4) and this paragraph “total period of membership” has the meaning given in regulation B14, except that it also includes any additional period of membership which the member has been treated as being entitled to count for the purposes of regulation D7 (enhancement in cases of retirement on grounds of ill-health) or any corresponding earlier provision.

Restrictions by reference to working hours: “part-time” and “variable-time” employees

B3.—(1) If an employee is in two or more employments under a single LGPS employer, he is eligible to be a member of the Scheme in respect of all (but not less than all) of the employments.

(2) A person who is a variable-time employee of an LGPS employer specified in Part I of Schedule B1 or paragraph 1 or 2 of Part II of that Schedule is only eligible to be a member of the Scheme in respect of that employment if—

- (a) he is a member of the Scheme also in respect of whole-time or part-time employment with an LGPS employer who is so specified; or
 - (b) having been such a member at the same time as being a member in respect of his variable-time employment, he has ceased to hold the whole-time or part-time employment; or
 - (c) he is not also in the whole-time or part-time employment of an LGPS employer who is so specified and his employer has by a statutory resolution—
 - (i) specified him as being so eligible, or
 - (ii) specified a class of employees to which he belongs as being so eligible.
- (3) For the purposes of these regulations—

- (a) an employee is a variable-time employee if in accordance with his terms of office or contract of employment he is to be treated as such for the purposes of the Scheme and either—
 - (i) his remuneration is calculated by reference to his obligations in his employment (rather than necessarily by reference to the number of hours he has worked), or
 - (ii) he hold an office or employment the functions of which are only exercisable on an occasional basis;
 - (b) an employee is a whole-time employee if his contractual hours are not less than the number of hours which, in accordance with his terms of employment, is the number of contractual hours for a person employed in that employment on a whole-time basis; and
 - (c) an employee is a part-time employee if he is neither a whole-time employee nor a variable-time employee.
- (4) In these regulations—
- “the contractual hours” means—
- (i) the number of hours the employing authority are entitled to require the employee to work in each of the contractual weeks, or
 - (ii) if there is a cyclical variable in those hours, the average of those hours over the cycle; or
 - (iii) if there is any variation in those hours which is not cyclical, the average of those hours over the weeks in such period (not exceeding 12 months) as the employing authority consider appropriate, being a period for which, assuming that there will be no unpaid leave of absence, a wage or salary is payable to the employee; and
- “the contractual weeks” means the number of weeks in every period of 12 months for which (on that assumption) a wage or salary is payable to the employee.

Certain office-holders etc. to be treated as employees of LGPS employers

B4. Schedule B2 shall have effect for the purpose of deeming certain persons to be employees of LGPS employers and, unless the context otherwise requires, references in these regulations to employment by or under such employers, and all related expressions, shall be construed accordingly.

Separate employments etc.

B5.—(1) Where a person holds two or more separate employments under one LGPS employer then, unless the context otherwise requires, these regulations apply in relation to each of those employments as if the other or others were held by him under another LGPS employer.

(2) Where the duties of a whole-time employee of a LGPS employer include the additional duty of a returning officer at local government elections or of an acting returning officer then, unless the context otherwise requires, these regulations apply—

- (a) if he became a pensionable employee under the 1974 regulations on 1st April 1974 and immediately before that date was in the whole-time employment and had duties in it which included one or both of the additional duties, in relation to each additional duty as if it were a separate variable-time employment with an LGPS employer other than that with whom he is in the whole-time employment, and
 - (b) otherwise, in relation to that additional duty as if it were (or, if there are two additional duties, in relation to them both, as if they were) a separate variable-time employment with such an LGPS employer.
- (3) For the purposes of paragraph (2)—

- (a) the duty of an acting returning officer includes any duties of a returning officer at a European Parliamentary election which are required by regulations made under paragraph 2 of Schedule 1 to the European Parliamentary Elections Act 1978⁽¹⁾ to be discharged by an acting returning officer; and
 - (b) the references to a part-time employee and whole-time employment include references to a part-time employee whose contractual hours are at least 30, and to part-time employment in which the contractual hours are at least 30, respectively.
- (4) A medical inspector of immigrants appointed under the Immigration Act 1971⁽²⁾ who—
- (a) receives his remuneration in that appointment from an LGPS employer specified in Part I of Schedule B1, and
 - (b) is also a member of the Scheme in relation to any employment,

is eligible to be a member of the Scheme in respect of the appointment and shall be deemed to be an officer in the employment of the authority from whom he receives his remuneration in the appointment.

Eligibility of employees of certain non LGPS employers

B6. Schedule B3 has effect as respects the eligibility for membership of the Scheme of employees of certain persons who are not LGPS employers and, where under that Schedule any person is deemed to be employed by an LGPS employer, then, unless the context otherwise requires, references in these regulations to employment by or under such an employer, and all related expressions, shall be construed accordingly.

Power to extend eligibility to employees of other bodies (“admission agreements”)

B7.—(1) Subject to the following provisions of this regulation, an administering authority may make an agreement (in these regulations referred to as “an admission agreement”) with any body specified in Schedule B4 (“the employing body”), providing for employees of the employing body to be eligible to be members of the pension fund maintained by the administering authority.

(2) Subject to paragraph (4), an admission agreement may provide for employees, or any specified class or classes of employees, of the employing body to be members of the Scheme.

(3) Subject to paragraph (4) and regulation B10(3), these regulations apply to a person who is such an employee as is mentioned in paragraph (“an admission agreement employee”) and has become a member of the Scheme as if the employing body were an LGPS employer.

(4) An admission agreement may not provide for any person to be a member if he would be ineligible to be a member by virtue of regulation B2(1) or (3), B3, B8 or B9 if he were an employee of an LGPS employer.

(5) Except as provided in paragraphs (6) and (7), an admission agreement may not modify the application of these regulations to any employee so that he has any greater or lesser rights or liabilities than those he would have if he became a member of the Scheme by virtue of regulation B1.

(6) An admission agreement may provide that any previous period of employment of an employee by the employing body is to count to such extent as there specified as a period of deemed membership of the Scheme.

(7) An admission agreement made with the Commission for the New Towns may provide that a percentage (not exceeding 4.4 per cent.) of the remuneration of employees of a description specified in the agreement shall be treated as not being remuneration for the purposes of these regulations.

(1) 1978 c. 10.

(2) 1971 c. 77.

(8) An admission agreement—

- (a) shall provide that the agreement shall cease to have effect if the employing body ceases to be a body specified in Schedule B4; and
- (b) may make such other provision for, and contain such incidental provisions relating to, its cessation as the parties consider appropriate.

(9) On making an admission agreement an administering authority shall immediately inform the Secretary of State of the name of the employing body and the date from which the agreement takes effect.

(10) An admission agreement may be made by an appropriate administering authority with an employing body whether or not that body exercises its functions in the same part of the United Kingdom as the appropriate administering authority exercise their functions.

Ineligibility of employees eligible to join other statutory schemes

B8.—(1) A person is not eligible to be a member of the Scheme by virtue of any employment which also entitles him to belong to another occupational pension scheme provided by or under an enactment.

(2) The reference in paragraph (1) to an enactment—

- (a) includes an enactment in a local Act, but
- (b) excludes section 7 of the Superannuation Act 1972.

Other cases of ineligibility

B9. Schedule B5 (which specifies certain exceptions to eligibility under regulation B1) shall have effect.