
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.

Joining and leaving the Scheme

Applications for membership

B10.—(1) Subject to the following provisions of this Part, a person who wishes to become a member of the Scheme shall apply to do so by notice given in writing to his employer or future employer.

(2) Subject to paragraph (3), an employee is deemed to have made an application to become a member, unless—

- (a) before commencing his employment, or
- (b) in the case of a person to whom this paragraph began to apply after he commenced his employment, before the date on which it began to apply to him,

he notified his employer in writing that he did not wish to become a member of the Scheme.

(3) Paragraph (2) does not apply—

- (a) to a person who is an eligible employee by virtue of regulation B7,
- (b) to a person whose employment is of a casual nature, or
- (c) a person who has previously been a member of the Scheme but has ceased to be a member after giving notification under regulation B12.

(4) Where a person who has ceased to be employed in an employment in which he was a member at the time of cessation commences a new employment in which he is eligible for membership, he

is deemed to have made an application to become a member unless, before commencing his new employment, he notified his employer in writing that he did not wish to be a member of the Scheme.

(5) An application for membership may be withdrawn at any time before the applicant becomes a member.

Admission to the Scheme

B11.—(1) A person who has or is deemed to have applied under regulation B10 and is eligible to be a member of the Scheme shall become a member of it on the appropriate day.

(2) In this regulation, “the appropriate day” means—

- (a) in the case of a person who has applied under regulation B10(1) at least one month before the date on which he commences his employment (or such lesser period before that date as his employer allows), the date on which he commences his employment or such later date as he has specified in his application;
- (b) in any other case where an application is made under that regulation, the first day of the first payment period following the application;
- (c) in the case of a person who is deemed to have applied under regulation B10(2)—
 - (i) if he is a person to whom that paragraph applied on the date when he commenced his employment, that date, and
 - (ii) otherwise, on the date on which it began to apply to him.

(3) In paragraph (2)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

Leaving the Scheme

B12.—(1) Subject to the provisions of these regulations, a person shall cease to be a member of the Scheme if—

- (a) he wishes to do so, or
- (b) he ceases to be eligible for membership.

(2) A person who wishes to cease to be a member of the Scheme shall so notify his employer in writing.

(3) Subject to paragraphs (5) and (6), a person giving a notification under paragraph (2) shall cease to be a member of the Scheme—

- (a) in a case where a date of cessation (being a date not earlier than the date of the notification) is specified in the notification, from that date, and
- (b) otherwise, from the first day of the first, or if the LGPS employer so determines, the second payment period following the notification.

(4) In paragraph (3)(b), “payment period” means a period of service to which the employee’s payment of wages or salary relates.

(5) Where a person gives a notification under paragraph (2) within three months after first becoming a member of the Scheme, he shall be treated as never having been a member.

(6) Where—

- (a) a person to whom regulation C8 (absence on reserve forces service) applies has given notification under paragraph (2) before ceasing his former employment or beginning his leave of absence in order to perform his relevant service (within the meaning of that regulation), and
- (b) he is still a member immediately before he commences his relevant service,

then, subject to paragraph (7), the notification shall be of no effect.

(7) A person may elect that paragraph (6) is not to apply, by notice given in writing to the appropriate administering authority before the end of the period of 12 months beginning with the end of his relevant service (or within such longer period as they may allow), and they shall take all practicable steps to secure that a person entitled to make such an election is notified of his entitlement.

(8) Any contributions paid by a person with respect to a period during which, by virtue of a notification under paragraph (2), he is not a member of the Scheme shall be returned to him.

Rejoining the Scheme

B13.—(1) Subject to paragraph (3), a person who has once given a notification under regulation B12 may subsequently apply to become a member of the Scheme again.

(2) An application under paragraph (1) shall be made by notice in writing given to the applicant's employer or future employer.

(3) A person who has made an application under paragraph (1) and subsequently gives another notification under regulation B12(2) may only make a further application under paragraph (1) if his employer or future employer consents or—

- (a) he is beginning a new employment with a new employing authority by virtue of which he is eligible to be a member of the Scheme, and
- (b) he applies before or within the period of three months beginning with the day on which he begins that employment.

(4) Regulation B11 shall apply to an application under paragraph (1) as it applies to an application under regulation B10(1).

Membership periods

Periods of membership: “total period of membership”

B14.—(1) For the purposes of these regulations, in relation to any member the following periods count as periods of membership, in relation to an employment in which he is a member—

- (a) any period for which he has paid (or is treated as having paid) contributions under regulation C4, C5 or C6, (but subject to the provisions of regulation C7(5) and (6));
- (b) any period during which he is absent from duty by reason of illness or injury (whether or not he has paid such contributions for it);
- (c) any period which he is entitled to count as such by virtue of regulation C8;
- (d) any period which he is entitled to count as such by virtue of regulation B7(6), B16, B17, or C9;
- (e) any period which he is entitled to count as such by virtue of regulation K14(1)(a);
- (f) any other period which he is entitled to count as such under paragraph 7 of Schedule M4 and, in particular—
 - (i) any period he became entitled to count as reckonable service by virtue of regulation D1(1)(b) to (h) of the 1974 regulations, or regulation D4 to D7, D8A, D9 or D13 or Part F of the 1986 regulations,
 - (ii) any period of added years,
 - (iii) any period which by virtue of the interchange rules became reckonable under the former regulations,
- (g) any other period which he is entitled to count as such under Schedule C6.

(2) For the purposes of these regulations, a member's "total period of membership" is the aggregate of the periods he is entitled to count under paragraph (1) (disregarding any period which he is entitled to count under more than one of paragraphs (a) to (g), but subject—

- (a) to Part I of Schedule B6 (which provides for the exclusion of certain periods of membership for certain purposes);
- (b) to Part II of that Schedule (which provides for the inclusion for certain purposes in the total period of membership of certain periods, which are not periods of membership in relation to the employment in which a person is a member, as respects certain benefits in respect of that employment); and
- (c) to Schedule C5 (which provides for the limitation of periods, of membership for certain purposes).

Length of period of membership: calculation of benefit

B15.—(1) For the purpose of calculating the amount of any benefit under these regulations—

- (a) a period of membership in excess of a number of complete years shall be counted as the appropriate fraction of a year (and accordingly references to the length in years of membership shall be taken as references to the number of complete years and any fraction of a year in the period of membership); and
- (b) subject to paragraph (3), a period of membership in part-time service in local government employment shall be treated as though it had been a proportionately reduced period of membership in whole-time local government employment.

(2) In paragraph (1)— "the appropriate fraction" means the fraction of which—

- (a) the numerator is the number of complete days comprised in the excess; and
- (b) the denominator is 365; and

"proportionately reduced" means reduced in the proportion which the number of contractual hours during the period of part-time service in the employment, bears to the number of contractual hours of that employment if it were on a whole-time basis.

(3) Paragraph (1)(b) does not apply to the calculation of an increase in retirement grant under paragraph 1 of Schedule D2 (preservation of right under the 1974 regulations to increase in standard retirement grant), or in determining a member's total period of membership for the purposes of regulation D7(2) (qualification for enhancement of pension in cases of ill-health) and is subject to paragraph 4 of Schedule D3 (additional membership in such cases).

Special power of employing authority to increase period of membership.

B16.—(1) Subject to paragraphs (2) and (3), if the body employing an employee who is eligible to be a member of the Scheme (in these regulations referred to as "the employing authority") are satisfied that, having regard to the interests of the efficient exercise of their functions, there are exceptional reasons for doing so they may resolve to add an additional period of membership to a member's period of membership.

(2) A resolution under paragraph (1)—

- (a) may only be passed before or within 6 months after the person becomes a member in the authority's employment, and
- (b) may not be passed after he has attained the age of 59 years, unless he did so after becoming such a member.

(3) The additional period is to be specified in the resolution and is not to exceed the maximum period which would be applicable under regulation C10(1) (taking the references in regulation C10(6)(a) and

(b) to the date of the election as references to the date of the resolution and, in the case of a person who at the date of the resolution had not become a member in the employment of the authority, treating him as if he had on that date become such a member on the scale of remuneration at which the employment was offered to him).

(4) Where the employing authority have passed a resolution under paragraph (1) and the member—

(a) remains in his employment under that authority until his NRD (within the meaning of regulation C3(1)),

(b) on ceasing to hold that employment before his NRD is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body, or

(c) dies while in that employment,

the additional period specified in the resolution may be counted as a period of membership.

(5) In any other case where the employing authority have passed such a resolution the member is entitled to count as a period of membership the appropriate proportion of the additional period of membership specified in the resolution.

(6) In paragraph (5) “the appropriate proportion” means the proportion which the period during which the member has been in the employment of the employing authority bears to the period during which the member would have been in that employment if he had remained in it until his NRD (within the meaning of regulation C3(1)).

Special power of City of London bodies to increase period of membership

B17.—(1) Where a member who is employed by a City of London employing body

(a) was immediately before 1st October 1977 a contributor of the superannuation fund maintained by the Common Council under their local Act scheme;

(b) on 1st October 1977 became a member; and

(c) on ceasing to hold his employment under the City of London employing body becomes entitled to a retirement pension (otherwise than by virtue of regulation D9 or D11),

the body may, in consideration of special circumstances, resolve to add an additional period of membership of not more than 10 years to his period of membership.

(2) On passing a resolution under paragraph (1) a City of London employing body (other than the Common Council) shall immediately send a copy of it to the Common Council.

(3) In this regulation “City of London employing body” means—

(a) the Common Council,

(b) the magistrates' courts committee for the City of London,

(c) the probation committee for the City of London probation area, or

(d) the Board of Governors of the Museum of London.