
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART C

MEMBERS' CONTRIBUTIONS

Effect of absences on contributions

Leave of absence from duty

C5.—(1) A member who is on leave of absence from duty in an employment with reduced or no remuneration (otherwise than by reason of illness or injury) shall not make any contribution under regulation C4 in respect of the employment for the period of his absence.

(2) Unless regulation C6 (maternity leave) applies to a member who is so absent, the member shall—

- (a) for a period of 30 days beginning on the first day of the leave of absence, or
- (b) if the period of absence is shorter, for the period of it,

make contributions of amounts equal to the contributions he would have been required to make under regulation C4 on the remuneration he would have received during that period but for the leave of absence.

(3) If the member gives notice in writing for the purpose to the employing authority not later than 30 days after—

- (a) the day on which he returns to duty, or
- (b) the day on which he ceases to be employed by that authority,

whichever is the earlier, he shall make such contributions as are mentioned in paragraph (2) relating to the period of 36 months, or the period of his absence, if shorter.

(4) Where the leave of absence was given to enable the employee to attend—

- (a) for jury service in pursuance of a summons under the Juries Act 1974⁽¹⁾, or
- (b) as a juror at an inquest under the Coroners Act 1988⁽²⁾,

and such attendance continues after the expiration of the period of 30 days mentioned in paragraph (2), the employee shall be deemed to have given such a notice as is mentioned in paragraph (3).

(5) This regulation does not apply where the leave of absence is given to enable the employee to perform relevant service (within the meaning of regulation C8 (absence on reserve forces service)).

(1) 1974 c. 23.
(2) 1988 c. 13.

Maternity absence

- C6.—**(1) This regulation applies to a person who—
- (a) has a period of maternity absence; and
 - (b) immediately before that period was a member or had applied under regulation B10 or B13 to become a member.
- (2) A person to whom this regulation applies—
- (a) in relation to any period (“the relevant period”) which is, or is part of, a period maternity absence for which she is entitled to receive remuneration, shall make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4, if her remuneration in the employment were equal to the remuneration which she is entitled to receive for the relevant period; and
 - (b) in relation to any period (“the unpaid period”) which is, or is part of, a period of maternity absence and for which she is not entitled to receive remuneration, may elect to make contributions of the same amount as those which (apart from regulation C5) she would have been required to make under regulation C4 if for the unpaid period her remuneration in the employment were equal to the remuneration she was entitled to receive immediately before the beginning of the unpaid period.
- (3) An election under paragraph (2)(b) shall be made by notice in writing to the employing authority given before the expiry of the period of 30 days beginning with the earlier of—
- (a) the day on which the member returns to duty; and
 - (b) the day on which she ceases to be employed by that authority.
- (4) Paragraph (2) does not affect the right of an employee to give notice under regulation B12 (leaving the Scheme) during a period of maternity absence.
- (5) In this Part “period of maternity absence” means any period throughout which a woman—
- (a) is absent from duty by reason of pregnancy or confinement; and
 - (b) may exercise the right under her contract of employment to return to work.
- (6) For the purposes of this regulation references to “the relevant period” and “the unpaid period” do not include any period before the day on which the application under regulation B10 or B13 to become a member first has effect.

Absence owing to trade dispute

- C7.—**(1) This regulation applies to a person who—
- (a) has been absent from duty, otherwise than on leave of absence, for a period of one or more days during and in consequence of a trade dispute, and
 - (b) was a member immediately before—
 - (i) that period, or
 - (ii) where two or more periods of absence occurred in consequence of a single trade dispute, the first of those periods;
 and in this regulation a period for which a person to whom this regulation applies was so absent is referred to as a “relevant absence”.
- (2) Subject to paragraph (4) and regulation C27, if a person to whom this regulation applies gives notice in writing that he wishes this paragraph to apply (or, in case within paragraph (7), his personal representatives do so) an amount equal to 16 per cent. of the difference between—
- (a) the person’s remuneration (if any) for the relevant contribution period, and

(b) the remuneration he would have received for that period if it had not included any relevant absence or part of a relevant absence,

is payable in respect of the relevant contribution period to the authority to whom notice was given; and in this regulation “relevant contribution period” means a period which—

- (i) is coextensive with one of the intervals at which a person to whom this regulation applies was required under regulation C4 to make standard contributions, and
- (ii) includes all or part of a relevant absence.

(3) An authority shall pay to the appropriate pension fund any sum they receive by way of full or part payment of the amount mentioned in paragraph (2).

(4) Notice under paragraph (2) shall be given in writing to the authority who are or, as the case may be, were last the employing authority in relation to the person to whom the notice relates, before the expiry—

- (a) of the period of three months beginning with the day after the last day of the relevant contribution period,
- (b) where all or part of more than one relevant contribution period is included in a relevant absence which occurred in consequence of a single trade dispute, of the period of three months beginning with the last day of the last of the relevant contribution periods, in respect of which the notice is given, or
- (c) in the case of a notice within paragraph (7), of the period of twelve months beginning with the date of the deceased employee’s death, or
- (d) within such longer period as the authority may allow;

and, in any case where the notice relates to more than one relevant contribution period included in a relevant absence which occurred in consequence of a single trade dispute, the notice is of no effect unless it is given in respect of all the relevant contribution periods.

(5) A period of absence from duty without remuneration (otherwise than on leave of absence) does not count as a period of membership unless—

- (a) it was a relevant absence, and
- (b) the amount specified in paragraph (2) has been paid in respect of every relevant contribution period all or part of which was included in that relevant absence.

(6) Where the amount specified in paragraph (2) has been paid in respect of a relevant contribution period, so much of any relevant absence as was included in that period may count as a period of membership, whether or not a contract of employment continued to subsist during the relevant absence or any part of it.

(7) Where a person to whom this regulation applies dies before the end of the period of three months specified in paragraph (4)(a) without giving notice under paragraph (2), his personal representatives may give that notice.

(8) For the purposes of paragraph (1)—

- (a) where—
 - (i) a person’s contract of employment is terminated in consequence of a trade dispute, and
 - (ii) not later than the day after the end of the trade dispute, he again becomes an employee of the same LGPS employer and a member,notwithstanding the termination, he is to be treated as having been absent from duty;
- (b) it is immaterial whether or not—

(i) the person was participating in or financing or otherwise directly interested in the trade dispute, or

(ii) the employing authority were a party to the trade dispute.

(9) In this regulation “trade dispute” has the meaning given by section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁾.

Absence on reserve forces service

C8.—(1) Subject to the following provisions, this regulation applies where a person—

(a) ceases to be employed in the employment in which he is a member; or

(b) is granted leave of absence from duty in such an employment,

in order to perform relevant service; and, in relation to such a person, references to his former employment and employer are to that employment and his employer in that employment.

(2) Subject to paragraph (3), where this regulation applies—

(a) if the person is entitled under any provision of these regulations to pay additional contributions, make payment by instalments or make any other payment (except by lump sum) to the appropriate pension fund, he shall be treated for the purposes of these regulations as if he has paid them throughout the period of his relevant service;

(b) if (and only if) during any period of the person’s relevant service the total of—

(i) his pay for performing relevant service (including marriage, family and similar allowances), and

(ii) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁴⁾, equals or exceeds the remuneration he would have received if he had continued to be employed in his former employment, he shall pay to the appropriate pension fund all such contributions and payments as would have been payable under these regulations if he had so continued; and

(c) subject to regulation C25, all contributions and payments so made shall be treated for the purposes of these regulations as if made under the provision under which they would have been made if he had so continued.

(3) Paragraph (2) does not apply to contributions payable under regulation C24 (additional voluntary contributions), but if—

(a) before the commencement of his relevant service the person was paying such contributions which were not to be used to provide benefits payable in the event of death, and

(b) he has not elected to discontinue making those contributions,

he may continue to make those contributions during the period of his relevant service.

(4) Where this regulation applies to a person then, subject to paragraph (6)—

(a) the period of relevant service shall be counted as a period of membership in relation to his former employment;

(b) if during that period he dies or attains his normal retirement age, he shall be deemed to have been serving in that employment at that time; and

(c) if during that period he becomes incapable of discharging the duties of that employment by reason of permanent ill-health, injury or infirmity of mind or body, he shall be deemed to have been so serving at the time when he ceased to perform relevant service.

(3) 1992 c. 52.

(4) 1951 c. 65.

(5) Where—

- (a) a person to whom this regulation would otherwise apply is not a member when he ceases his employment or begins his leave of absence from it, but
- (b) before doing so he has duly made an application under regulation B10 or B13 to become a member,

then—

- (i) that application shall continue to have effect despite his so ceasing or his leave of absence so beginning and this regulation shall apply to him as if he were a member at that time, but
- (ii) the period before the date on which his application takes effect shall be excluded from his relevant service.

(6) This regulation does not apply to any person in respect of any period of relevant service—

- (a) after the date on which he elects to receive a return of contributions under regulation C21; or
- (b) if he elects that it is not to do so by giving notice in writing to the appropriate administering authority not later than 12 months after the end of the period of relevant service to which the notice relates (or within such longer period as they may allow).

(7) Subject to paragraph (6), in this regulation “relevant service” means service (other than for the purposes of training only)—

- (a) in pursuance of any notice or directions given under any enactment which provides for the calling out on permanent service, or the calling into actual service, or the embodiment of, any reserve or auxiliary force, or members of such a force, or the recall of service pensioners;
- (b) in pursuance of any obligation or undertaking to serve when called upon as a commissioned officer; or
- (c) rendered by virtue of section 14(1) or 34 of the Reserve Forces Act 1980(5);

and paragraph (b) applies whether or not the obligation or undertaking is legally enforceable, but not in the case of an obligation or undertaking—

- (i) to accept a permanent commission or a commission for a fixed term; or
- (ii) to serve for the purposes of periodical training.

(8) In paragraph (7)—

- (a) “reserve or auxiliary force” means the whole or part of the Royal Navy Reserve (including the Royal Fleet Reserve), the Royal Marines Reserve, the Territorial Army, the Army Reserve, the Air Force Reserve the Royal Air Force Volunteer Reserve or the Royal Auxiliary Air Force;

“service pensioner” means a person in receipt of a pension (other than a pension awarded in respect of disablement) granted—

- (b) in respect of service in the Royal Navy, the Royal Marines, the regular army and the regular air force or any reserve or auxiliary force which has been called out on permanent service or which has been embodied; or
- (c) in respect of that and other service.