
STATUTORY INSTRUMENTS

1995 No. 1019

The Local Government Pension Scheme Regulations 1995

PART D

RETIREMENT BENEFITS

Overriding provisions (contracting-out and Finance Act requirements, etc.)

Guaranteed minimum pensions for members in contracted-out employment, etc.

D17.—(1) Where—

- (a) the employment of a member in any local government employment is contracted-out employment; and
- (b) the member has a guaranteed minimum under section 14 of the Pension Schemes Act 1993⁽¹⁾ in relation to benefits under these regulations,

then paragraphs (2) to (4) apply as respects the member's employment.

(2) The member who ceases to hold his local government employment is from the date on which he attains state pensionable age entitled to a pension at a weekly rate equal to that guaranteed minimum (unless on ceasing to hold his local government employment he is entitled to a retirement pension at a higher rate).

(3) If the member—

- (a) attains state pensionable age while in local government employment;
- (b) continues in the same employment for a further period of 5 years; and
- (c) does not then cease to hold it,

then he is entitled from the end of that period to so much of his retirement pension as equals that guaranteed minimum (unless he consents to a postponement of the entitlement).

(4) The guaranteed minimum referred to in paragraphs (2) and (3) shall, so far as it is attributable to earnings factors for the tax year 1988 89 or for subsequent tax years, be increased in accordance with the requirements of section 109 of the Pension Schemes Act 1993.

(5) A person's retirement pension is not to be reduced under regulation D13 to less than the aggregate of—

- (a) any minimum rate of equivalent pension benefits applicable under the Insurance Acts, and
- (b) the annual rate obtained by multiplying one eightieth of the person's pensionable remuneration by the length in years of the whole period of the person's membership in contracted-out employment during the period beginning with the relevant date and ending with 30th April 1995.

(6) In paragraph (5) "the relevant date" means—

(1) 1993 c. 48.

- (a) in the case of a man, 17th May 1990; and
 - (b) in the case of a woman, 6th April 1978.
- (7) Where a person's local government employment is or was contracted-out employment, a surrender under regulation D14 (together with any previous surrenders) shall not result—
- (a) in the annual rate of the retirement pension being less than one eightieth of the pensionable remuneration, multiplied by the length in years of the whole period of his membership in contracted-out employment after 5th April 1978, or
 - (b) (disregarding the effect of the preceding paragraphs) in the weekly rate of the retirement pension being less than his guaranteed minimum, if any.
- (8) Where a person making a surrender under regulation D14—
- (a) is in local government employment,
 - (b) has attained normal retirement age, and
 - (c) has a statutory pension entitlement,

references in paragraph (7) to the retirement pension are references to the retirement pension which would become payable if he were to cease to hold his employment on the day on which the surrender takes effect.

- (9) Where this regulation applies it overrides any provision in these regulations to the extent to which it conflicts with it, except—
- (a) regulation D15 and Part I of Schedule D5 (reduction of retirement pension in the case of certain re-employed pensioners);
 - (b) regulation H4 (forfeiture of rights); and
 - (c) regulation H5 (commutation of small pensions).

Revaluation of guaranteed minimum in certain cases

- D18.**—(1) This regulation applies where—
- (a) a person has ceased to be a member; and
 - (b) the guaranteed minimum in relation to his pension is appropriately secured (within the meaning of section 19 of the Pension Schemes Act 1993).
- (2) The earnings factors of such a person shall be determined for the purposes of section 14(2) of that Act—
- (a) by reference to the last order under section 21 of the Social Security Pensions Act 1975⁽²⁾ or section 148 of the Social Security Administration Act 1992⁽³⁾ to come into force before the end of the tax year in which he ceased to be a member; and
 - (b) without reference to the last such order to come into force before the end of the final relevant year.
- (3) The weekly equivalent mentioned in section 14(2) of the Pension Schemes Act 1993 is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 55(5) of that Act (exclusion from liability to pay a limited revaluation premium).
- (4) In this regulation “final relevant year” has the meaning given in section 16(5) of that Act.

(2) 1975 c. 60; section 21 was repealed by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3(1) and Schedule 1.

(3) 1992 c. 5.

Equivalent pension benefits

D19.—(1) If when a member ceased to hold a local government employment—

- (a) he was not entitled in relation to that employment to a retirement pension under regulation D5, D6, D7, D9 or D11, and he receives a return of contributions,
- (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment,
- (c) a period of his service in a non-participating employment came to an end by reason—
 - (i) of the repeal of section 56(1) of the National Insurance Act 1965(4), or
 - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-participation-Assurance of Equivalent Pension Benefits) Regulations 1960(5) (as modified by regulation 9(2)(a) or (b) of the National Insurance (Non-participation-Transitional Provisions) Regulations 1974(6)); and
- (d) at some time during the settlement period (within the meaning of regulation 2 of those Regulations of 1974) he became, and has remained, assured of equivalent pension benefits,

then he is entitled in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership in service in a non-participating employment or which relates to service with a non-local government employer in a non-participating employment.

(2) A retirement pension to which a person has become entitled by virtue of paragraph (1) is payable from the first date on which he—

- (a) has attained state pensionable age, and
- (b) is no longer in any local government employment.

(3) For the purposes of these regulations a member to whom this regulation applies shall be treated as having ceased to hold the employment in respect of which he receives a return of contributions on the day before the date of receipt.

National insurance

D20.—(1) Subject to paragraph (2), where a pension is payable to a member who attains state pensionable age in respect of a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), no provision in these regulations—

- (a) for the surrender or assignment of a pension, or
- (b) for the reduction, termination or suspension of a pension,

shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable in respect of that period of service under the Insurance Acts.

(2) Paragraph (1) does not apply to any provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 57(1)(c) of the National Insurance Act 1965 (equivalent pension benefits).

(3) For the purposes of paragraph (1) “excepted service”, in relation to any person, means any earlier period of such service as there mentioned, being service in respect of which—

- (a) a payment in lieu of contributions has been made, or

(4) 1965 c. 51; section 56(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28.

(5) S.I. 1960/1103.

(6) S.I. 1974/2057.

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- (b) equivalent pension benefits satisfying the requirements of the Insurance Acts have already been assured to him.

Limitations on benefits etc.

D21.—(1) The provisions of this Part are subject to Schedule C5 (limitations on contributions and benefits) and to the general provisions in Part H.