

## SCHEDULE M1

Regulation M1.

### EMPLOYEES AFFECTED BY REORGANISATION UNDER LOCAL GOVERNMENT ACTS ETC.

#### *Preliminary*

**1.** In this Schedule, unless the context otherwise requires—

“Health Service regulations” means the National Health Service (Superannuation) Regulations 1961 to 1973<sup>(1)</sup> as in force immediately before 1st April 1974;

“transferred employee” means—

- (a) a person transferred on or after 1st April 1974—
- (i) by or under an order made under section 84 of the London Government Act 1963<sup>(2)</sup> or an agreement made under section 24(7) of that Act; or
  - (ii) by virtue of a scheme made under Part I of the Police Act 1964<sup>(3)</sup>; or
  - (iii) by the operation of the Public Libraries and Museums Act 1964<sup>(4)</sup>; or
  - (iv) by or under an order made under section 17 of the Transport Act 1968<sup>(5)</sup>; or
  - (v) by or under an order made under section 46 of the Children and Young Persons Act 1969<sup>(6)</sup>; or
  - (vi) by or under an order or regulations made under the Local Government Act 1972<sup>(7)</sup> which, in accordance with the provisions of section 255 of that Act, contains a provision as to the transfer of that person; or
  - (vii) by regulation 5 of and Schedule 1 to the Valuation and Community Charge Tribunals (Transfer of Jurisdiction) Regulations 1989<sup>(8)</sup>;
- (b) any person appointed by a local authority, or the National Water Council or a water authority (within the meaning of the Water Act 1973<sup>(9)</sup>) to hold any office or employment before or as from 1st April 1974 who, but for the appointment, would have been transferred on that day under section 255 of the Local Government Act 1972; and
- (c) any person who on 1st April 1974 remained in the employment of the same body as immediately before that day but who, in consequence of the Local Government Act 1972, or anything done under that Act, or of the 1974 regulations, became on that day entitled to participate in the benefits of a superannuation fund maintained under those regulations by a body different from the body which maintained the superannuation fund in the benefits of which he was immediately before that day entitled to participate;

“new employment” means employment to which a person has been so transferred or appointed;

“new employing body” means the body which has become the employing authority in relation to a person so transferred or appointed; and, in relation to a person so appointed, his taking up of the office or employment to which he was appointed shall for the purpose of this Schedule be deemed to be a transfer.

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(1) S.I. 1961/1441, 1966/1523, 1972/1339, 1537, 1973/242, 731, 1649.

(2) 1963 c. 33.

(3) 1964 c. 48.

(4) 1964 c. 75.

(5) 1968 c. 73.

(6) 1969 c. 54; section 46 was amended by the Powers of Criminal Courts Act 1973 (c. 62), sections 56(1), 60(2), Schedule 5, paragraph 36, and the Probation Service Act 1993 (c. 47), section 32, Schedule 3, paragraph 3(3).

(7) 1972 c. 70.

(8) S.I. 1989/440.

(9) 1973 c. 37.

*Status:* This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

*Continuity of employment and preservation of status*

- 2.—(1) Subject to sub-paragraph (2)—
- (a) these regulations have effect, in relation to a transferred employee, as if his new employment and his former employment had been one continuous employment, and
  - (b) notwithstanding anything in these regulations, a transferred employee who is transferred after 28th February 1986 and was a member immediately before the date on which he is transferred continues to be a member in his new employment.
- (2) Sub-paragraph (1) does not affect the operation of paragraph 3 or of regulations K20 to K22.

*Discretionary powers*

- 3.—(1) Where—
- (a) a transferred employee has continued in the employment of his new employing body,
  - (b) immediately before he was transferred (whether before or after the commencement date) it was the prevailing practice of the body employing him, in relation to employees of that description, to exercise so as to secure the payment of, or of an increase in, allowances or pensions any discretionary power exercisable by them by virtue of any enactment relating to pensions, and
  - (c) that or any corresponding power becomes exercisable in relation to him,
- the new employing body shall exercise the power in a way which is not less beneficial than the general character of that practice.

- (2) Where—
- (a) in consequence of regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986<sup>(10)</sup> a discretionary power becomes exercisable by any body; and
  - (b) it was the prevailing practice of the Greater London Council or, as the case may be, the metropolitan county council, to exercise that power in a way that was beneficial to employees,
- the body shall exercise the power in a way which is not less beneficial than the general character of that practice.

*Contributions of transferred manual workers*

4. A transferred employee who immediately before he was transferred (whether before or after the commencement date) was paying contributions at a rate appropriate to a manual worker shall continue to contribute at the same rate so long as he continues to be employed by his new employing body on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

*Former employees of Manchester Corporation*

- 5.—(1) Where a transferred employee—
- (a) was immediately before he was transferred a contributor to the Manchester pension fund, and
  - (b) has continued in the employment of his new employing body,

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<sup>(10)</sup> S.I. 1986/380.

these regulations have effect in relation to him, so long as he continues in the employment of that body, as if for any reference to an expression in column (1) of the following Table (which lists certain expressions used in these regulations) there were substituted a reference to the expression appearing opposite it in column (2).

TABLE

1. The Acts of 1937 to 1953, or the regulations made under them. The Acts of 1937 to 1953, or the regulations made under them, applying as amended or extended by any local Act or scheme or together with any such provisions.	The Manchester pension provisions.
2. The appropriate superannuation fund within the meaning of the Act of 1937. A superannuation fund maintained under Part 1 of the Act 1937.	The Manchester pension fund.
3. Contributory employee.	Contributor to the Manchester pension fund.
(a) (a) Contributing service, and (b) Non-contributing service, for the purposes of the former regulations.	Service for purposes of the Manchester pension provisions.
5. The former regulations	The Manchester pension provisions.
6. A provision in the former regulations.	The corresponding or similar provision in the Manchester pension provisions.

(2) In this paragraph—

“the Manchester pension fund” means the pension fund maintained immediately before 1st April 1974 by the Manchester City Council for the officers and servants of the Manchester Corporation; and

“the Manchester pension provisions” means the provisions of the enactments, and of the schemes and other instruments in force under them immediately before 1st April 1974, relating to the Manchester pension fund (including the provisions of the Acts of 1937 to 1953 and of any relevant instruments under them so far as applicable to that fund).

*Transferees under section 18(4)(a) of the National Health Service Reorganisation Act 1973*

6.—(1) Subject to sub-paragraphs (3) and (4), where a person who was transferred to the employment of a LGPS employer (“the new employment”) by or under an order made under section 18(4)(a) of the National Health Service Reorganisation Act 1973<sup>(11)</sup>, was immediately before that transfer in an employment (“the old employment”) in which he was an officer (within the meaning of the Health Service regulations), then—

(a) subject to sub-paragraph (3), he is entitled to count—

(i) as a period of membership any service which for the purposes of the Health Service regulations he was entitled to count in relation to the old employment as, or as a period of, contributing service, and

(11) 1973 c. 32.

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- (ii) as a period to which Part II of Schedule B6 applies any service which for the purposes of those regulations he was entitled to count in relation to that employment for the purpose of determining whether he was entitled to a benefit under those regulations, but for no other purpose, and
- (b) where immediately before he was transferred he was in the process of making payments which were or were deemed to be payments under Schedule 2 to the Health Service regulations, he is entitled—
  - (i) to make the outstanding payments as if they had been instalments of an amount payable under regulation D6 of the 1974 regulations, and
  - (ii) if he completes the payments in the manner provided in Schedule 6 to the 1986 regulations (as continued in effect by paragraph 9 of Schedule C6), to have the membership in respect of which they were made counted for all the purposes of these regulations at its full length, and
- (c) where immediately before he was transferred he was in the process of making payments in respect of added years, he is entitled—
  - (i) to make the outstanding payments as if they had been payments of an amount payable under regulation D10 of the 1974 regulations, and
  - (ii) in respect of the added years in respect of which those payments are made, shall enjoy rights and be subject to liabilities as if those years were added years which may be counted under paragraph 2 of Schedule C6 in the new employment.
- (2) For the purposes of sub-paragraph (1)(a)—
  - (a) any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period, and
  - (b) except for the purpose of—
    - (i) determining whether a person is entitled to, or to payment of, a benefit, or
    - (ii) ascertaining, where notice was given under Schedule 2 to the Benefits regulations or regulation D6 or D7 of the 1974 regulations, the maximum length of any additional period to which regulation C9 applies,any service which was reckonable under the Health Service regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall, subject to sub-paragraph (1)(b), be counted at half its length.
- (3) Where immediately before he was transferred such a person as is mentioned in sub-paragraph (1) was a person in respect of whom the Secretary of State—
  - (a) paid contributions under regulation 45 of the Health Service regulations (persons subject to non-statutory superannuation schemes and arrangements), or
  - (b) carried out any such scheme or arrangements as are referred to in that regulation,then, that person shall not be subject to any provisions of these regulations except those contained in this sub-paragraph, and the body to which that person was transferred shall—
  - (i) if immediately before 1st April 1974 the Secretary of State was paying under regulation 45 of the Health Service regulations in respect of that person the contributions authorised or required by the relevant scheme to be paid by the employer, pay those contributions, and
  - (ii) deduct from the person's remuneration the amount of any contribution required by the scheme or under the arrangements to be paid to the employee.

(4) In relation to a person who gave notice under regulation J17(3)(e) of the 1974 regulations that he did not wish to avail himself of the benefits provided under those regulations and to whom regulation H6(5) applied immediately before the commencement date—

- (a) sub-paragraphs (1) and (2) do not apply, and
- (b) these regulations have effect as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service regulations, and continue so to apply so long as he is employed without a disqualifying break of service by a LGPS employer on duties reasonably comparable to those on which he was engaged immediately before he was transferred.

(5) Notwithstanding anything in sub-paragraph (4), where that sub-paragraph applies—

- (a) paragraph 8 of Schedule B6 has effect as if—
  - (i) references to a period to which Part II of that Schedule applies included references to periods of service which count for the purpose of determining whether any benefit is payable,
  - (ii) in sub-paragraph (3), the reference to regulation D8 included a reference to regulation 8(1)(a)(iv) of the Health Service regulations, and
  - (iii) “retirement pension” included a pension payable by virtue of sub-paragraph (4), and
- (b) Part I of Schedule D5 (re-employed pensioners) has effect in lieu of regulation 39 of the Health Service regulations and as if—
  - (i) “retirement pension” included a pension payable by virtue of that sub-paragraph, and
  - (ii) for the purpose of ascertaining the remuneration of a former employment, entitlement to such a pension were not an entitlement under these regulations, the 1986 regulations or the 1974 regulations, and
- (c) regulation H4 (forfeiture) has effect in lieu of regulation 55 of the Health Service regulations.

*Transfers under the Local Government Act 1985 meaning of “previous fund authority”*

7. Where the previous fund authority for the purposes of regulation K20 has ceased to exist and the relevant pension fund is vested by section 60(1) or under section 66 of the Local Government Act 1985(12) in any body, that body is to be treated as being the previous fund authority.