

SCHEDULE M2

Regulation M2.

MODIFICATION IN SPECIAL CASES

Preliminary

1.—(1) References in this Schedule to these regulations applying to a person with the age 70 modification mean that in their application to that person they have effect—

- (a) as if in paragraph (3) of regulation B2 (latest retirement age and LRD) for the reference to 65 there was substituted a reference to 70 or any lesser age (not being less than 65) at which the person reaches the maximum referred to in paragraph (6) of that regulation; and
- (b) as if in Schedule D3 (additional membership in cases of ill-health) for “65”, wherever it occurs, there was substituted “70”.

(2) References in this Schedule to a relevant decision are to a decision made under—

- (a) regulation B16 (increase of membership at discretion of employing authority),
- (b) regulation C21(4) (return of contributions in case of offence etc. in connection with employment), or
- (c) regulation H4 (forfeiture of rights).

Employees of magistrates' courts committees

2.—(1) In their application to a person employed by a magistrates' courts committee these regulations have effect—

- (a) subject to the modifications in sub-paragraphs (2) to (7), and
- (b) in the case of a justices' clerk (outside the inner London area), subject also to the age 70 modification.

(2) Where—

- (a) a person is employed by two or more magistrates' courts committees, and
- (b) any of the employments is an employment for which he does not receive separate remuneration,

his remuneration for that employment is—

- (i) where the remuneration for more than one employment is paid by the same body, such part of his total remuneration for those employments as may be agreed between him and the body, or, in default of agreement, determined by the Secretary of State; or
- (ii) otherwise, that part of his total remuneration which is paid by the body responsible for defraying the expenses of the employing committee.

(3) Without prejudice to regulation B5(1), a person who holds two or more clerkships under a magistrates' courts committee or is employed by a magistrates' courts committee to assist a justices' clerk or clerks in two or more clerkships shall be deemed for the purposes of these regulations (except regulation C1) to be in separate employments under separate LGPS employers as respects any clerkships for which the remuneration is paid by different bodies.

(4) Regulation C26 (statement of remuneration received otherwise than from employing authority) does not apply.

(5) The body paying the person's remuneration are to be treated—

- (a) as his employing authority for the purposes of regulation C25 (deduction and recovery of contributions) and regulation L13(1) to (3) (employer's further payments),

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- (b) as employing him for the purposes of regulation L12 (employer’s contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer’s further payments).

(6) A magistrates' courts committee are to report any relevant decision made by them to the body paying the person’s remuneration.

(7) Regulation J5 (appeals) has effect as if the body receiving the report were a person mentioned in paragraph (5)(b) of that regulation (service of notice of appeal) and paragraph (2) were omitted.

Certain employees of the magistrates' courts committee for the inner London area

3.—(1) In their application to a person who is eligible to be a member by virtue of paragraph 4(1) of Schedule B3 these regulations have effect—

- (a) in any case, subject to the modifications in sub-paragraphs (2) and (3), and
- (b) in the case of a justices' clerk (inner London area), subject also to the age 70 modification.

(2) The Receiver for the Metropolitan Police District is to be treated—

- (a) as the person’s employing authority for the purposes of regulation C25 (deduction of contributions) and regulation L13(1) to (3) (employer’s further payments),
- (b) as employing him for the purposes of regulation L12 (employer’s contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer’s further payments).

(3) The magistrates' courts committee are to report any relevant decision made by them to the Secretary of State; and such a decision has no effect until approved by him.

Employees of probation committees

4.—(1) In their application to a person employed by a probation committee these regulations have effect subject to the modifications in the following sub-paragraphs.

(2) For the purposes of the definition of “employee” in Schedule A1, a probation officer whose appointment is determinable within three months unless confirmed by the Secretary of State is not for that reason to be treated as being a person appointed to a post in a temporary capacity for a period of not more than three months.

(3) In relation to an employee of the probation committee for the inner London area, the Receiver for the Metropolitan Police District is to be treated—

- (a) as his employing authority for the purposes of regulations C25 (deduction of contributions), C26 (statement of remuneration received otherwise than from employing authority) and regulation L13(1) to (3) (employer’s further payments),
- (b) as employing him for the purposes of regulation L12 (employer’s contributions), and
- (c) as the LGPS employer concerned for the purposes of regulation L13(4) (employer’s further payments).

(4) The probation committee for the inner London area are to report any relevant decision made by them to the Secretary of State; and such a decision has no effect until approved by him.

(5) The probation committee for an area other than the inner London area are to report any relevant decision made by them to the body responsible for defraying the expenses of the committee, or, where two or more bodies contribute to the defraying of those expenses, to each of those bodies.

(6) Regulation J5 (appeals) has effect as if a body receiving such a report were a person mentioned in paragraph (5)(b) of that regulation (service of notice of appeal) and paragraph (2) were omitted.

(7) In the application of regulation B15(1)(b) and (3) (calculation of part-time service) to part-time service as a probation officer, the proportionately reduced period is to be determined by making a separate calculation in respect of each year of part-time service and, subject to sub-paragraph (8), in respect of any year of part-time service the period is the same proportion of that year as the remuneration received by him in the year of part-time service bears to the mean of the annual salary scale applicable to probation officers in respect of that year.

(8) In relation to any year of part-time service before 1st April 1965, sub-paragraph (7) applies as if the mean of the annual salary scale applicable to probation officers in respect of that year were—

- (a) in a case where the date on which that year commenced was on or after 1st July 1937 and before 1st July 1944, for male officers £330 and for female officers £290;
- (b) in a case where that date was on or after 1st July 1944 and before 1st December 1946, for male officers £375 and for female officers £330;
- (c) in a case where that date was on or after 1st December 1946 and before 1st April 1954, for male officers £485 and for female officers £420; and
- (d) in a case where that date was on or after 1st April 1954, for male officers £620 and for female officers £555.

(9) Sub-paragraphs (7) and (8) apply with the necessary modifications to periods of part-time service of less than a year.

Coroners

5. In their application to a coroner who is a member by virtue of paragraph 4 of Schedule B2 these regulations have effect with the age 70 modification.

Certain former contributory employees

6.—(1) This paragraph applies to a person who—

- (a) immediately before 1st April 1974 was a contributory employee to whom the Acts of 1937 to 1953 and the regulations made under them applied either as modified or extended by, or together with, any local Act or scheme,
- (b) became on 1st April 1974 a pensionable employee under a scheduled body (within the meaning of the 1986 regulations), and
- (c) to whom immediately before the commencement date regulation G6 of the 1986 regulations applied,

and in relation to such a person the provisions which applied as mentioned in paragraph (a) are referred to in this regulation as his former occupational pension scheme.

(2) Where any relevant provision of the person's former occupational pension scheme would have been more beneficial than the corresponding provision of these regulations, these regulations have effect, for the appropriate period, as if the relevant provision had applied.

(3) For the purposes of sub-paragraph (2) a provision of the former scheme is a relevant provision if it was similar to one of the following provisions of these regulations—

- (a) regulations B2(3) (latest retirement age and LRD);
- (b) regulation C2(2)(a) (exclusion from the definition of “remuneration” of payments for non-contractual overtime);
- (c) regulation C4 (member's standard contributions);
- (d) regulation C3(1) (normal retirement age and NRD);
- (e) regulation D1 (pensionable remuneration);

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- (f) regulation D14 (surrender of part of pension in favour of spouse or dependant);
- (g) Part I of Schedule D5 (reduction of pension of re-employed pensioner);

but paragraph (f) only applies where no election was made under regulation E19 of the 1974 regulations.

(4) Where the person—

- (a) having ceased to be employed during the appropriate period by reason of his voluntary resignation, becomes entitled to receive a payment under regulation C21 (return of contributions), and
- (b) if his former occupational pension scheme had still applied to him, would have been entitled under it to receive a return of contributions together with interest,

he is entitled to receive out of the appropriate pension fund interest on so much of the amount payable to him under regulation C21 as is equal to the contributions paid by him in respect of service before 1st April 1972 to any superannuation fund under Part I of the Act of 1937 or under a local Act scheme.

(5) Interest under paragraph (4) is to be calculated, to the date on which the person ceased to be employed, at the same rate and with the same rests as if it had been payable under his former occupational pension scheme.

(6) If—

- (a) the person dies during the appropriate period, and
- (b) under his former occupational pension scheme a death gratuity would have been calculated by reference to a fraction (“the relevant fraction”) of his average remuneration (within the meaning of the Benefits regulations) greater than three eightieths,

the amount of the death grant payable under Part E is increased by an amount equal to the differential fraction of his pensionable remuneration, multiplied by the length in years of his period of membership before 1st April 1972.

(7) For the purposes of this paragraph—

“the differential fraction” is the difference between the relevant fraction and three eightieths (expressed as a fraction); and “the appropriate period” is—

- (a) the period of application specified in the relevant provision of the person’s former occupational pension scheme, or
- (b) if no period is so specified, the period during which he continues in the employment of the body mentioned in sub-paragraph (1)(b).

Former clerks of the peace etc.

7.—(1) A person—

- (a) to whom paragraph 13(2) of Schedule 10 to the Courts Act 1971(1) (“paragraph 13(2)”) applied, and
- (b) who immediately before the commencement date was under regulation G7 of the 1986 regulations contributing to the appropriate superannuation fund the amount specified in paragraph 13(2) (“the paragraph 13(2) amount”),

may, for as long as he continues in the employment of the same body, continue to contribute the paragraph 13(2) amount.

(1) 1971 c. 23; Schedule 10, paragraph 13 was repealed by the Superannuation Act 1972 (c. 11), section 29(2) and (4), Schedule 7, paragraph 5, Schedule 8.

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(2) For the purpose of calculating the amount of any benefit, a person shall be treated as having received, for any period for which he has, under regulation J10 of the 1974 regulations, regulation G7 of the 1986 regulations or this paragraph, contributed the paragraph 13(2) amount, the remuneration which he would have received but for the reduction by virtue of which paragraph 13(2) became applicable to him.

Persons entitled before 1st April 1974 to preserved benefits

8. In the case of a person who is entitled to preserved benefits to which he became entitled by virtue of regulation E2(1)(c) of the 1974 Regulations as applied by Part K of those Regulations—

- (a) the preserved benefits (including any increases under the Pensions (Increase) Act 1971⁽²⁾ and the Pensions (Increase) Act 1974⁽³⁾) are subject to reduction, but
- (b) on return to local government employment previous service becomes reckonable on repayment of a sum equal to the amount of returned contributions,

as if regulations D1(2) (with the substitution for “the appointed day” of “1st April 1989”), D1(3) and K1(7) of the 1974 Regulations had continued to have effect.

(2) 1971 c. 56.
(3) 1974 c. 9.