
STATUTORY INSTRUMENTS

2007 No. 573

The Local Authorities (Capital Finance and Accounting) (Amendment) (England) Regulations 2007

Back payment following unequal pay – temporary accounting treatment

5.—(1) Paragraph (2) of this regulation, and regulation 30A of the Principal Regulations inserted by that paragraph, shall be revoked on 1st April 2011.

(2) After regulation 30 of the Principal Regulations (retirement benefits), insert—

“Back payment following unequal pay

30A.—(1) For the purposes of this regulation—

- (a) a reference to an employee of a local authority includes a reference to a former employee, an officer or a former officer of the authority;
- (b) a reference to the contract under which an employee was or is employed includes a reference to the terms of appointment under which an officer held or holds office; and
- (c) an employee of a local authority received unequal pay when the amount of pay he received from the authority for work done by him during a particular period is less than the appropriate amount of pay for that work done during that period.

(2) In this regulation—

“appropriate amount of pay”, in relation to an employee of a local authority, means the amount of pay to which the employee is entitled in accordance with any equality clause deemed to be included, by virtue of section 1(1) of the Equal Pay Act 1970⁽¹⁾, in the contract under which he was or is employed;

“back payment” means a payment of arrears of remuneration made by a local authority, for work—

- (a) done by an employee of the authority;
- (b) in respect of which the employee received unequal pay; and
- (c) done before the employee first receives any increase in pay as a result of receiving that unequal pay,

which is paid to the employee, or part of which is paid to the employee (“the net payment”) and part of which is paid to another person on behalf of the employee (“relevant deductions”), because the employee received unequal pay for that work; and “social security costs” means any contributions by a local authority to any state social security or pension scheme, fund or arrangement.

(3) Where a local authority—

- (a) is required by an employment tribunal or a court to make a back payment;

- (b) (i) considers that it is probable that an employment tribunal or a court will require it to make a back payment; and
- (ii) is able to make a reasonable estimate of the amount of such back payment;
- (c) has reached an agreement or otherwise determined to make a back payment; or
- (d) (i) considers that it is probable that it will reach an agreement or otherwise determine to make a back payment; and
- (ii) is able to make a reasonable estimate of the amount of such back payment,

paragraph (4) shall apply.

(4) Where this paragraph applies, the authority need not charge to a revenue account an amount in respect of—

- (a) the back payment; or
- (b) social security costs or other costs incurred by the authority in relation to that back payment,

until the date on which the authority must pay that back payment, or the net payment, to the employee (as required by the tribunal or court or in accordance with the agreement or determination, as the case may be).”.