
STATUTORY INSTRUMENTS

1986 No. 380

PENSIONS

**The Local Government Superannuation
(Miscellaneous Provisions) Regulations 1986**

<i>Made</i>	- - - -	<i>3rd March 1986</i>
<i>Laid before Parliament</i>		<i>6th March 1986</i>
<i>Coming into Operation</i>		<i>1st April 1986</i>

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972, and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable, and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986 and shall come into operation on 1st April 1986, but regulations 8 and 10 shall have effect as from 1st March 1986.

(2) In these regulations “the principal regulations” means the Local Government Superannuation Regulations 1986, and unless the context otherwise requires expressions which are also used in the principal regulations have the same meaning as they have in those regulations.

Transferred superannuation funds

2.—(1) Every superannuation fund vested by section 60(1) of the Local Government Act 1985 in a residuary body or under section 66 of that Act in a district council (each of which is referred to in this regulation as an “old fund”) shall be carried by the body in whom it is vested (“the new authority”) to the fund which they are required to maintain under the principal regulations (“the new fund”).

(2) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given by or to the Greater London Council or a metropolitan county council (or any other body on their behalf) for the purposes of an old fund shall be of full force and effect in favour of, or against, the new authority.

(3) Without prejudice to the generality of paragraph (2), any admission agreement in force immediately before 1st April 1986 whereby employees of any body specified in regulation B3(8) of the principal regulations (or deemed to be such a body) were, or could be, admitted to participate in the benefits of an old fund shall have effect as an agreement under regulation B3 of the principal regulations between the body and the new authority.

(4) Any action or proceeding or course of action or proceeding pending or existing immediately before 1st April 1986 by or against the Greater London Council or a metropolitan county council in respect of an old fund shall be of full force and effect in favour of, or against, the new authority.

(5) Where the Greater London Council or a metropolitan county council would have become liable, or would have been empowered, on the happening of any event, to make a payment out of an old fund or take any other action as administering authority in respect of any person who has ceased to participate in the benefits of an old fund before 1st April 1986, then on the happening of that event such payment or action shall, or as the case may be may, be made out of the new fund or taken by the new authority.

(6) Where a person has ceased to contribute to an old fund before 1st April 1986 and has not become a contributor to any other superannuation fund maintained under the principal regulations, the new fund shall after 31st March 1986 be deemed to be the fund to which he was last a contributor.

(7) All legal proceedings pending on 1st April 1986 may be amended in such manner as may be necessary or proper in consequence of these regulations.

Employer's functions and changes of fund authority

3.—(1) As from 1st April 1986 every employer's function not already exercised shall become a function of the appropriate residuary body.

(2) In paragraph (1) “employer's function” means a function under the principal regulations, the 1974 regulations or the former regulations which—

- (a) had become exercisable in relation to a person by the Greater London Council or a metropolitan county council, or would have become so exercisable but for the abolition of the council concerned, and
- (b) had or would have become so exercisable by virtue only of the person's having been at some time before 1st April 1986 an employee of the council concerned and in relation to that employment,

and “appropriate residuary body” has the meaning given in section 57(2) of the Local Government Act 1985.

(3) Where—

- (a) in consequence of paragraph (1) a discretionary power becomes exercisable by the appropriate residuary body in relation to a person, 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 which was beneficial to employees,

the appropriate residuary body shall exercise the power in a way which is not less beneficial than the general character of that practice.

(4) For the purposes of regulation Q2 of the principal regulations (change of local government employment and fund authority), where the previous fund authority has ceased to exist the body in whom the relevant superannuation fund is vested by section 60(1) or under section 66 of the Local Government Act 1985 is to be treated as being the previous fund authority.

Employees of public transport companies

4.—(1) Where a passenger transport executive or a district council (“the transferring body”) have formed a company under section 59 or 67 of the Transport Act 1985 they may, subject to paragraphs (3) and (4), with the agreement of the company, by a statutory resolution resolve that every qualified employee of the company shall for the purposes of the principal regulations be deemed to be employed by the transferring body.

(2) A qualified employee is one who—

- (a) during a period ending no earlier than 12 months before the start of his employment with the company was in an employment with the transferring body in which he was a pensionable employee, or
- (b) immediately before the start of his employment with the company was in an employment with the transferring body in which, if he had continued in it, he might have become a pensionable employee.

(3) No resolution may be passed under this regulation after, as the case may be, a scheme has come into force under section 59(5) or (6) or 68(5) or (6) of the Transport Act 1985 or an order made under section 69 of that Act has come into operation.

(4) Where the company was formed by district councils acting jointly, a resolution passed by one of them under this regulation is of no effect unless such a resolution is passed by every one of them.

Pensionable employees

5. Regulation B1 of the principal regulations is amended by deleting paragraph (18).

Persons treated as employees of a scheduled body

6. Regulation B2 of the principal regulations is amended—

(a) by substituting in column (2) of the Table in paragraph (1)—

(i) for the entry relating to rent officers and deputy rent officers, the following:

“Where subsection (9) of section 63 of the Rent Act 1977⁽¹⁾ applies (registration area a metropolitan county), the district council designated by the relevant scheme made under that section; and in any other case, the local authority for whose area the relevant scheme is made, or has effect as if made, under that section”

, and

(ii) for the entry relating to coroners falling within regulation B1(14), the following:

“Where appointed—

(a) by a metropolitan county council or the Greater London Council, the relevant council for the purposes of section 13 of the Local Government Act 1985;

(b) by the Common Council, that Council;

(c) by the council of a non-metropolitan county, that council”

; and

(b) in paragraph (4), by inserting after the word “subsidiary” the words “(other than a public transport company)”; and

(c) by inserting after paragraph (4) the following:

(1) 1977 c.42; section 63(9) was inserted by the Local Government Act 1985 (c.51), Schedule 8, paragraph 13(3).

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“(4A) Every employee of a public transport company (“the first company”) in relation to whom a resolution under regulation 4 of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986 has effect shall for the purposes of these regulations be deemed to be in employment with the passenger transport executive or district council who passed the resolution.

(4B) If a person in relation to whom such a resolution had effect becomes an employee of another public transport company (“the second company”)—

- (a) whose controlling authority—
 - (i) is not the body who passed the resolution or a composite authority of which that body was a component council, but
 - (ii) is an authority which has, or a composite authority each of whose component councils has, also passed such a resolution, or
- (b) which is a subsidiary of a passenger transport authority and has employees to whom paragraph (4A) applies by virtue of such a resolution,

for the purposes of these regulations he shall where sub-paragraph (a) applies be deemed to be in employment with the controlling authority of the second company or, where that authority is a composite authority, with such one of its component councils as the authority may decide, and where sub-paragraph (b) applies be deemed to be in employment with the passenger transport executive or district council who passed the resolution.

(4C) If the undertaking of the first company is divided among two or more companies formed under section 61 of the Transport Act 1985 by a passenger transport authority, an employee of any one of those companies (“the transferee company”) in relation to whom such a resolution had effect shall for the purposes of these regulations be deemed to be in employment with the passenger transport executive who passed the resolution.

(4D) If a person to whom paragraph (4A), (4B) or (4C) applies becomes an employee of a subsidiary of, as the case may be, the first company, the second company or the transferee company, the relevant paragraph continues to apply to him as if he had remained an employee of the company in question.

(4E) Paragraphs (4A) to (4C) cease to apply to a person if the first company or, as the case may be, the second company or the transferee company ceases to be a public transport company.

(4F) In paragraphs (4) to (4E) “public transport company”, “controlling authority”, “composite authority” and “component council” have the meanings given in section 72 of the Transport Act 1985, and “subsidiary” has the meaning given in section 137(1) of that Act.”.

Appropriate superannuation fund

7. Regulation C1 of the principal regulations is amended—
- (a) in paragraph (2), by substituting for the words “Greater London Council”, in the second place in which they occur, the words “London Residuary Body”;
 - (b) by deleting paragraph (3);
 - (c) in paragraph (4), by substituting for the words after “the Act of 1937 by” the following:
“the Greater London Council or Newham London borough council,

the appropriate superannuation fund is in the first case the fund maintained by the London Residuary Body and in the second case the fund maintained by Newham London borough council”;

(d) in paragraph (5)—

(i) by inserting after sub-paragraph (c) the following:

“or

(d) is a pensionable employee of the Lee Valley Regional Park Authority, or

(e) is a pensionable employee of the Inner London Education Authority established by section 18 of the Local Government Act 1985, or

(f) is a pensionable employee of the London Fire and Civil Defence Authority established by section 27 of that Act, or

(g) is a pensionable employee of the London Waste Regulation Authority, the West London Waste Authority, the North London Waste Authority, the East London Waste Authority or the Western Riverside Waste Authority (all of which authorities were established by the Waste Regulation and Disposal (Authorities) Order 1985(2)),”

, and

(ii) by substituting for the words “Greater London Council” the words “London Residuary Body”; and

(e) by inserting after paragraph (7) the following:

“(7A) In relation to a pensionable employee of a body the greater part of whose area falls within a metropolitan county specified in column (1) of the Table below, the appropriate superannuation fund is the fund maintained by the council of the district specified in relation to that county in column (2).

TABLE

(1)	(2)
Tyne and Wear	South Tyneside
West Midlands	Wolverhampton
West Yorkshire	Bradford”.

Continuation of certain payments

8. Regulation C9(4) of the principal regulations is amended by inserting after the words “paragraph (2)” the words “, and in relation to any payments under regulation D10 or D11 of those regulations which remain so payable, Schedule 5 to those regulations shall be deemed to have continued to have effect”.

Superannuation funds

9. Regulation P1 of the principal regulations is amended—

(a) by substituting for paragraph (a) the following:

“(a) by every non-metropolitan county council,”;

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- (b) by deleting paragraph (b); and
- (c) by inserting after paragraph (e) the words “and every superannuation fund vested by section 60(1) of the Local Government Act 1985 in a residuary body or under section 66 of that Act in a district council,”.

Employer's additional contributions

10. Regulation P8 of the principal regulations is amended—

- (a) by inserting before the words “Where immediately” the figure “(1)”; and
- (b) by adding at the end the following:

“(2) Where on the employee's ceasing to hold his employment the employing authority agree to pay a sum under paragraph 4A(5) of Schedule 5 to the 1974 regulations (as deemed by virtue of regulation C9(4) of these regulations to have continued to have effect) and the employee pays the required amount for the purposes of that paragraph, the employing authority shall pay the agreed sum to the appropriate superannuation fund before the end of the period of 1 month beginning on the date of the employee's payment.

(3) If all or part of the agreed sum remains unpaid at the end of that period, the administering authority may require the employing authority to pay interest, calculated at the standard rate on a day to day basis from the day after the end of the period to the date of payment, and compounded with 3-monthly rests, on the amount remaining unpaid.

(4) Interest paid under paragraph (3) shall be carried to the appropriate superannuation fund.”.

Change of local government employment and fund authority

11. Regulation Q2(6) of the principal regulations is amended by inserting after the words “London Government Act 1963” the words “, or is attributable to any provision made by or under the Local Government Act 1985,”.

Greater London housing staff transfers

12. Regulation Q4 of the principal regulations is amended—

- (a) by substituting for the words “Greater London Council”—
 - (i) in the first place in which they occur in paragraph (1), and
 - (ii) wherever occurring in paragraph (2)(a) to (c),
 the words “London Residuary Body”; and
- (b) by deleting paragraph (2)(d).

Expressions defined in principal regulations

13. Schedule 1 to the principal regulations is amended—

- (a) by inserting after the entry relating to the expression “Part-time employee” the following:

““Passenger transport authority”	A metropolitan county passenger transport authority established by section 28 of the Local Government Act 1985.”
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; and

- (b) by inserting after the entry relating to the expression “state pensionable age” the following:

““Statutory resolution”	A resolution passed in the manner in which an ordinary resolution of the body concerned may be passed, except that 28 days' notice of the meeting at which the resolution was passed and of the terms of the resolution and of the fact that it was to be proposed at that meeting must have been given in the manner in which notice for convening ordinary meetings of the body may be given.”.
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Pensionable employees

14. Part I of Schedule 2 to the principal regulations is amended—

- (a) in the first item in column (1), by deleting the words “the Greater London Council”;
- (b) in the second such item, by substituting for the words “or joint” the words “, body or”;
- (c) in the third such item, by inserting after the words “Fire Services Act 1947” the words “, a metropolitan county fire and civil defence authority established by section 26 of the Local Government Act 1985 and the London Fire and Civil Defence Authority established by section 27 of that Act”; and
- (d) by inserting after the item relating to the Lee Valley Regional Park Authority the following:

“A passenger transport authority. The Inner London Education Authority established by section 18 of the Local Government Act 1985. The Board of Trustees of the National Museums and Galleries on Merseyside constituted under section 46 of the Local Government Act 1985.	A person who was not, immediately before the start of his employment with the Board, employed by the former Merseyside County Council.”.
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3rd March 1986

Kenneth Baker
Secretary of State for the Environment

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EXPLANATORY NOTE

These regulations make provision in connection principally with the abolition on 1st April 1986, by the Local Government Act 1985, of the Greater London Council and the metropolitan county councils, and the formation, under the Transport Act 1985, of public transport companies.

Regulation 2 makes transitional, incidental and consequential provision as to agreements and other matters related to the superannuation funds of the abolished councils. Regulation 3 makes transitional provision for the continuance, as functions of the appropriate residuary body, of superannuation functions which were, or would have become, exercisable by an abolished council by virtue of employment relationships, and for the body in whom an abolished council's fund is vested to be treated as the previous fund authority for certain inter-fund adjustments. Regulations 6(a), 7, 9, 11, 12, 13(a) and 14 make necessary amendments to the Local Government Superannuation Regulations 1986 ("the principal regulations") in connection with the abolition of the councils and the transfer of their superannuation funds and certain of their functions.

Regulation 4 is a transitory provision enabling a passenger transport executive or district council to resolve that former employees who have become employees of a public transport company formed by them are to be deemed for the purposes of the principal regulations still to be employed by them. Regulation 6(b) and (c) makes related amendments to the principal regulations which secure that the employees remain pensionable employees while employed by, or by a subsidiary of, that or another public transport company. Regulations 5 and 13(b) make consequential amendments.

Regulations 8 and 10 clarify the application of the principal regulations to the discontinuance or compounding of certain payments for added years commenced under the regulations revoked by the principal regulations. They are (as expressly authorised by section 12 of the Superannuation Act 1972) retrospective to the commencement of the principal regulations, but do not adversely affect rights in relation to ex-employees.