



LGPS Forfeiture Policy

APPENDIX 2

91. Forfeiture of pension rights after conviction for employment-related offences

91. - (1) If a member is convicted of a relevant offence, the former Scheme employer may apply to the Secretary of State who may issue a forfeiture certificate.
- (2) A relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment.
- (3) Where a former Scheme employer applies for a forfeiture certificate, it must at the same time send the convicted person and the appropriate administering authority a copy of the application.
- (4) Where a forfeiture certificate is issued, the member's former Scheme employer may direct that any of the member's rights under these Regulations are forfeited.
- (5) The former Scheme employer must serve a notice of its decision to make a direction on the member.
- (6) A forfeiture certificate is a certificate that the offence-
- (a) was gravely injurious to the State, or
 - (b) is liable to lead to a serious loss of confidence in the public service.
- (7) If the former Scheme employer incurred loss as a direct consequence of the relevant offence, it may only give a direction under paragraph (4) if it is unable to recover its loss under regulation 93 (recovery or retention where former member has misconduct obligation) or otherwise, except after an unreasonable time or at disproportionate cost.
- (8) A direction under paragraph (4) may only be given if an application for a forfeiture certificate has been made by the former Scheme employer before the expiry of the period of three months beginning with the date of conviction.

92. Interim payments directions

92. - (1) If-
- (a) a person leaves an employment in which that person was a member of the Scheme because of an offence in connection with that employment; and
 - (b) a forfeiture certificate has been issued under regulation 91(1) (forfeiture of pension rights after conviction of employment-related offences) in respect of that offence,

the former Scheme employer may give an interim payments direction to the appropriate administering authority.

- (2) But it may not give such a direction if it has-

- (a) notified the person of a decision under regulation 72 (first instance decisions) on any question as to entitlement to benefit; or
- (b) given any direction under regulation 91(4) ("a forfeiture direction").

(3) An interim payments direction is a direction to make interim payments to any person who appears to the former Scheme employer to be a person who would be entitled to receive payment of a benefit under the Scheme if no forfeiture direction were given.

(4) The person to whom payments must be made and the amounts must be specified in the direction.

(5) The amounts must not exceed the amounts which the person specified would be entitled to be paid if no forfeiture direction were given.

(6) An interim payments direction is not a decision under regulation 72 (first instance decisions) as to any person's entitlement to a benefit.

(7) Payments in accordance with an interim payments direction shall be deemed to be payments in respect of a benefit to which the recipient was entitled (regardless of any contrary forfeiture direction or decision under regulation 72).

93. Recovery or retention where former member has misconduct obligation

Please click here for a list of the Statutory Instruments which have amended this regulation since its introduction.

93. - (1) This regulation applies where a person-

- (a) has left an employment in which that person was or had at some time been a member of the Scheme, in consequence of grave misconduct or a criminal, negligent or fraudulent act or omission in connection with that employment;
- (b) has incurred some monetary obligation, arising out of that misconduct, act or omission, to the body that was the Scheme employer in that employment; and
- (c) is entitled to benefits under these Regulations, which for the purposes of this regulation includes entitlement to a refund of contributions.

(2) The former Scheme employer may recover or retain out of the appropriate fund the lesser of-

- (a) the amount of the monetary obligation; or
- (b) the value at the time of recovery or retention of all benefits in respect of the former employee with respect to that person's previous membership (as determined by an actuary, except where the benefit is a refund of contributions).

(3) The rights specified in paragraph (2)(b) do not include earned pension credited under regulation 101 (effect of acceptance of transfer value), additional pension purchased by the member under regulation 16 (additional pension contributions) or additional voluntary contributions paid by the member under regulation 17 (additional voluntary contributions).

(4) The former Scheme employer must give the former employee-

- (a) not less than three months' notice of the amount to be recovered or retained under paragraph (2); and

- (b) a statement showing the amount recovered or retained, how it is calculated and the effect on the person's benefits or prospective benefits.
- (5) If there is any dispute over the amount of the monetary obligation specified in paragraph (1)(b), the former Scheme employer may not recover or retain any amount under paragraph (2) until the obligation is enforceable under an order of a competent court or the award of an arbitrator.

94. Adjustment of accounts following forfeiture etc

Please click here for a list of the Statutory Instruments which have amended this regulation since its introduction.

- 94. -(1) Where a direction for forfeiture is issued under regulation 91 (forfeiture of pension rights after conviction for employment-related offences) the appropriate administering authority must transfer out of the member's pension account the benefits which are forfeited and pay the relevant Scheme employer an amount determined by an actuary as representing the capital value of those benefits.
- (2) Where an amount is recovered or retained under regulation 93 (recovery or retention where former member has misconduct obligation), the appropriate administering authority must transfer out of the member's pension account the amount recovered or retained and pay it to the relevant Scheme employer.
- (3) If the effect of a forfeiture direction, or of the recovery or retention of an amount, is to extinguish the member's entitlement to benefits, the administering authority must close the member's pension account.

95. Protection of guaranteed minimum pension rights

Please click here for a list of the Statutory Instruments which have amended this regulation since its introduction.

- 95. -(1) The power to direct forfeiture of benefits under regulation 91 (forfeiture of pension rights after conviction for employment-related offences) or to recover or retain amounts under regulation 93 (recovery or retention where former member has misconduct obligation) may not be exercised so as to deprive a person of the guaranteed minimum pension or any widow's, widower's or surviving civil partner's guaranteed minimum pension.

- (2) But such a power may be exercised if the person is convicted-
- (a) of the offence of treason; or
- (b) of one or more offences under the Official Secrets Acts 1911 to 1989 (54) for which the person has been sentenced on the same occasion-
 - (i) to a term of imprisonment of at least 10 years, or
 - (ii) to two or more consecutive terms amounting in the aggregate to at least 10 years.