

# IUOE Local 57 Annual Notices

## *Retiree Reemployment*

### **Section 6.09 Suspension of Benefits**

(a) If the Participant returns to work, his monthly benefit shall be suspended for any month in which he worked or was paid for at least 40 hours in Totally Disqualifying Employment. "Totally Disqualifying Employment" means employment (or self-employment) that is (A) in an industry covered by the Plan when the Participant's pension payments began, (B) in the geographic area covered by the Plan when the Participant's pension began, and (C) in any occupation in which the Participant worked under the Plan at any time or any occupation covered by the Plan at the time the Participant's pension payments began. However, if a Participant worked in Covered Employment only in a skilled trade or craft, employment or self-employment shall be Totally Disqualifying only if it is in work that involves the skill or skills of that trade or craft directly or, as in the case of supervisory work, indirectly. In any event, work for which Contributions are required to be made to the Plan shall be Totally Disqualifying.

(1) A Disability Pensioner cannot engage in any employment whatsoever.

(2) The term "industry covered by the Plan" means work performed by the International Union of Operating Engineers and any other industry in which employees covered by the Plan were employed when the Participant's pension began or, but for suspension under this Article, would have begun.

(3) The geographic area covered by the Plan is the Northeast Conference of the International Union of Operating Engineers Agreement and the International Union of Operating Engineers Agreement. The geographic area covered by the Plan shall also include any geographic area covered by a reciprocal agreement in effect when the Participant's pension payments began, provided the Participant accrued benefits under this Plan on the basis of contributions forwarded under the terms of that reciprocal agreement.

(4) If a retired Participant reenters Covered Employment to an extent sufficient to cause a suspension of benefits, and his pension payments are subsequently resumed, the industry and area covered by the Plan "when the Participant's pension began" shall be the industry and area covered by the Plan when his pension was resumed.

(5) Paid non-work time shall be counted toward the measure of 40 hours if paid for holiday, illness or other incapacity, layoff, jury duty, or other leave of absence. However, time compensated under a Worker's Compensation or temporary disability benefits law shall not be so counted.

(6) No benefits will be suspended under this Section 6.09 for months starting on and after a Participant's Required Beginning Date, as defined in Section 6.06(b) (I).

#### **(b) Definition of Suspension**

"Suspension of benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments, pursuant to subsection (g), and in accordance with Section 6.02.

#### **(c) Notices**

(1) Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and geographic area covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or geographic area covered by the Plan.

(2) A Pensioner shall notify the Plan in writing within 21 days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of days of such work. If a Pensioner has worked in disqualifying employment in any month and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he worked for at least 8 days (or separate work shifts) in such month and any subsequent month before the Participant gives notice that he has ceased disqualifying employment. The

Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that his work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

If a Pensioner has worked in disqualifying employment for any number of hours for a contractor at a building or construction site and he has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he has engaged in such work for as long as the contractor has been and remains actively engaged at that site. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that his work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

The Trustees shall inform all retirees at least once every 12 months of the re-employment notification requirements and the presumptions set forth in this paragraph.

(3) A Pensioner whose pension has been suspended shall notify the Plan when disqualifying employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Plan.

(4) A Participant may ask the Plan whether a particular employment will be disqualifying. The Plan shall provide the Participant with its determination.

(5) The Plan shall inform a Participant of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld.

(d) Review

A Participant shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension.

The same right to review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be disqualifying.

(e) Waiver of Suspension

The Trustees may, from time to time, adopt by resolution objective standards under which benefits will not be suspended for engaging in specified types or categories of Disqualifying Employment, for the period specified in the resolution granting the exemption.

(f) Resumption of Benefit Payments

(1) Benefits shall be resumed for the months after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of paragraph (d)(iii) above.

(2) Overpayments attributable to payments made for any month or months for which the Participant had disqualifying employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed 25 per cent of the pension amount (before deduction), except that the Plan may withhold up to 100 per cent of the first payment made upon resumption after a suspension. If a Pensioner dies before recoupment of overpayments has been completed, deductions shall be made from the benefits payable to his beneficiary or spouse receiving a pension subject to the 25 per cent limitation on the rate of deduction.

### **Section 6.10 Benefit Payments Following Suspension**

The monthly amount of pension when resumed after suspension shall be equal to the benefit the Participant was receiving at the time of suspension plus any additional benefit accrued from the time he returned to Covered Employment to the time he again retired. This additional benefit will be based on the benefit formula in effect at the time of re-employment.