

2003 No. 61

LOCAL GOVERNMENT

The Local Government (Early Termination of Employment)
(Discretionary Compensation) Regulations
(Northern Ireland) 2003

Made - - - - - *10th February 2003*

Coming into operation *24th March 2003*

ARRANGEMENT OF REGULATIONS

PART I
GENERAL

1. Citation and commencement
2. General interpretation
3. General and special application of Regulations

PART II
INCREASE OF STATUTORY REDUNDANCY PAYMENTS

4. Power to increase statutory redundancy payments

PART III
DISCRETIONARY COMPENSATION FOR REDUNDANCY: GENERAL

5. Discretionary compensation for redundancy: general

PART IV
ALTERNATIVE DISCRETIONARY AWARDS FOR THOSE AGED 50 AND OVER

6. Persons eligible for discretionary awards
7. Award of credited period by way of compensation
8. Period of residual entitlement
9. Lump sum compensation
10. Annual compensation: general provisions

PART V

EFFECT OF OTHER RECEIPTS ON PART IV COMPENSATION

11. Effect of occupational pension
12. Effect of redundancy payments
13. Effect of other termination payments
14. Effect of periodic payments

PART VI

EFFECTS OF NEW EMPLOYMENT ON PART IV COMPENSATION

15. Interpretation: Part VI
16. Reduction of annual compensation

PART VII

EFFECT OF CESSATION OF NEW EMPLOYMENT ON PART IV COMPENSATION

17. Interpretation: Part VII
18. Effect of cessation of new employment

PART VIII

SURRENDERS AND AWARDS TO SURVIVING SPOUSES AND CHILDREN

19. Surrender of part of annual compensation
20. Awards to surviving spouses
21. Amount of surviving spouses's short-term and long-term compensation
22. Short-term compensation for children
23. Long-term compensation for children
24. Payment of children's compensation

PART IX

INFORMATION ABOUT AND PAYMENT OF COMPENSATION

25. Policy statements
26. Information relevant to compensation – employing authorities
27. Information relevant to compensation – individuals
28. Payments and repayments
29. Interest on late payments
30. Authority by whom compensation is payable

PART X

MISCELLANEOUS AND SUPPLEMENTARY

31. Finance
32. Transitional provisions and savings
33. Consequential amendments
34. Revocations and savings

SCHEDULES

Schedule 1	Interpretation
Schedule 2	Table for determination of “appropriate percentage”
Schedule 3	Employing Authorities to which Parts IV to VIII apply

The Department of the Environment, in exercise of the powers conferred on it by Articles 9 and 19 of the Superannuation (Northern Ireland) Order 1972^(a) and now vested in it^(b) and of every other power enabling it in that behalf and after consultation with the Northern Ireland Local Government Association, the Northern Ireland Local Government Officers’ Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to it to be appropriate, hereby makes the following Regulations:

PART I GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003 and shall come into operation on 24th March 2003.

General interpretation

2.—(1) Schedule 1 contains definitions of expressions used in these Regulations which apply for their interpretation.

(2) Expressions not defined in Schedule 1 but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations or, if the expression is not defined in those Regulations, but is defined in the 2000 Regulations, as in the 2000 Regulations.

(3) Schedule 2 has effect for the purposes of the definition of “appropriate percentage” in Schedule 1.

(4) Where these Regulations refer to anything done, required or arising under any provision of the Pension Regulations, those references shall include anything done, required or arising under the corresponding provision of the 2000 Regulations, the 1992 Regulations or the 1981 Regulations.

(5) Where these Regulations refer to a Scheme member or a person who would be or would have been a Scheme member, those references shall include a pensionable employee and a person who would be or would have been a pensionable employee.

General and special application of Regulations

3.—(1) These Regulations apply in relation to, or as the case may be, in consequence of the death of, a person –

- (a) whose employment is terminated –
 - (i) by reason of redundancy;
 - (ii) in the interests of the efficient exercise of the Scheme employer’s functions; or
 - (iii) in the case of a joint appointment, because the other holder of the appointment has left it; and

(a) S.I. 1972/1073 (N.I. 10)

(b) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(b) who, on his final day of employment, is eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for a relevant disqualification, and in the following provisions of these Regulations “person” shall be construed accordingly.

(2) Where an additional requirement is specified in any provision of Parts II to IX in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.

PART II

INCREASE OF STATUTORY REDUNDANCY PAYMENTS

Power to increase statutory redundancy payments

4.—(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Order on the termination of his employment.

(2) The amount which may be paid must not be more than the difference between –

- (a) the redundancy payment to which he is entitled under Part XII of the 1996 Order; and
- (b) the payment to which he would have been entitled if there had been no limit on the amount of a week’s pay used in the calculation of his redundancy payment^(a).

(3) The power to pay compensation is exercisable by the body by which he is employed immediately before the termination date.

PART III

DISCRETIONARY COMPENSATION FOR REDUNDANCY: GENERAL

Discretionary compensation for redundancy: general

5.—(1) This Part applies where a person –

(a) ceases to hold his employment with a Scheme employer;

(b) in respect of that cessation –

(i) has not lost his right to a redundancy payment under Part XI of the 1996 Order by agreement under Article 240(2) of that Order (agreements to exclude rights to redundancy payments on expiry of fixed term contracts);

(ii) may not count an additional period of membership under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50); and

(iii) either is not entitled to have his case considered for compensation under Part IV or is so entitled but has not been awarded a credited period;

(c) is over 18 and under 65 on the termination date;

(d) if under 50 on the termination date, is entitled to count a qualifying employment of at least two years; and

(e) has a total membership not exceeding 40 years.

(2) Where this Part applies, the Scheme employer may, not later than six months after the termination date, decide to pay compensation under this Part; and in that event shall, as soon

(a) See Article 23(1)(c) of the Employment Rights (Northern Ireland) Order 1996

as reasonably practicable after the decision, notify the person in whose favour it has been made, giving details of the calculation of the compensation.

(3) The amount of compensation must not exceed one week's pay for each complete week between the termination date and the person's 65th birthday and, subject to that, must not exceed 66 weeks' pay or, if less, whichever of sub-paragraphs (a) to (d) applies to him –

- (a) if the employee is at least 18 but under 20 on the termination date, half a week's pay for each complete year of qualifying employment after he became 18;
- (b) if the employee is at least 20 but under 23 on the termination date –
 - (i) half a week's pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional half a week's pay for each complete year of qualifying employment after he became 20;
- (c) if the employee is at least 23 but under 41 on the termination date, two weeks' pay for each complete year of qualifying employment after he became 18; or
- (d) if the employee is at least 41 on the termination date –
 - (i) two weeks' pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional three weeks' pay for each complete year of qualifying employment after he became 41.

(4) Chapter IV of Part I of the 1996 Order (calculation of a week's pay) shall apply for the purpose of calculations under paragraph (3) as it applies for the purpose of calculating redundancy payments but –

- (a) with the substitution for references to the calculation date of references to the termination date; and
- (b) without the limit in a week's pay imposed by Article 231 of that Order.

(5) In calculating compensation under this Part the Scheme employer shall exclude any years of qualifying employment which that Scheme employer or any other Scheme employer has taken into account when calculating compensation already paid under these Regulations or other regulations made under Article 19 of the 1972 Order, other than years of concurrent qualifying employment.

(6) If the person in whose favour a decision under paragraph (2) has been made receives a redundancy payment under Part XII of the 1996 Order or compensation under Part II of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under this Part.

(7) Compensation payable under this Part shall be paid by the Scheme employer, as soon as practicable after the decision under paragraph (2), in the form of a lump sum.

PART IV

ALTERNATIVE DISCRETIONARY AWARDS FOR THOSE AGED 50 AND OVER

Persons eligible for discretionary awards

6.—(1) A person is an eligible person for this Part if he satisfies the requirements in paragraph (2).

(2) The requirements are that, on the termination date of his employment by an employing authority –

- (a) he is not entitled to have his case considered for long-term compensation or retirement compensation under section 137 (compensation of officers) of the 1972 Act or under any statutory provision to similar effect;

- (b) that his total membership is not to be increased under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50) because of the terminated employment;
- (c) that he is not to receive compensation for the terminated employment under regulation 5;
- (d) he is at least 50, but under 65;
- (e) the total of –
 - (i) his total membership(a),
 - (ii) any periods of superannuable membership(b), and
 - (iii) any increase in membership under regulation 11 of the Transitional Regulations, is 5 years or more; and
- (f) his total membership is not more than 40 years; or
- (g) if he is an assumed member, his total membership –
 - (i) amounts in total to at least 5 years; and
 - (ii) does not in total exceed 40 years.

Award of credited period by way of compensation

- 7.—(1) An employing authority may award a credited period to an eligible person.
- (2) A credited period must not exceed whichever is the shortest of –
- (a) the difference between his total membership and 40 years;
 - (b) the period beginning with the day after the termination date and ending on his 65th birthday, less the period of his residual entitlement (if any) (see regulation 8);
 - (c) the total of –
 - (i) his total membership; and
 - (ii) any period which counts as a period of superannuable membership; and
 - (iii) any increase in membership under regulation 11 of the Transitional Regulations, or, if he is an assumed member, any period which would count or any increase which would be awarded apart from a relevant disqualification and on the relevant assumptions; and
 - (d) 10 years.
- (3) An award may not be made later than six months after the termination date.

Period of residual entitlement

8.—(1) A person has a period of residual entitlement under regulation 7(2)(b) if he has been awarded a credited period in respect of an earlier cessation.

- (2) The period of his residual entitlement is that found by applying the formula –

$$(A + B + C) - D$$

where –

A is his earlier extra service, or if paragraph (3) applies to him, that service as reduced in accordance with paragraph (4);

B is the length of the terminated employment;

C is the total of any other periods during which he was or could have been a Scheme member, being periods between the end of the first employment for which earlier extra service was granted and the beginning of the terminated employment; and

D is the period between the end of the first employment for which earlier extra service was granted and the termination date.

(a) See regulation 8(2) of the Pension Regulations

(b) See regulation 9 of the Pension Regulations

- (3) This paragraph applies to a person –
- (a) who, after an earlier cessation or, if there has been more than one, the first of them, has ceased to hold another employment (“his subsequent employment”); and
 - (b) whose earlier extra service has been reduced by the whole or part of the period of his subsequent employment; or
 - (c) whose retirement payment attributable to that earlier extra service has been reduced on account of the whole or part of the period of his subsequent employment.

(4) The earlier extra service of a person to whom paragraph (3) applies shall be reduced by the period of his subsequent employment or, where the reduction in paragraph (3)(b) or (c) was of, or attributable to, part of that period, by that part.

Lump sum compensation

9.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to compensation in the form of a lump sum if –

- (a) on ceasing to hold the terminated employment, he is entitled to a retirement grant under regulation 28 (redundancy, etc.) of the Pension Regulations; or
- (b) but for a relevant disqualification, he would be so entitled on the relevant assumptions.

(2) The amount of lump sum compensation payable, unless adjusted in accordance with Part V, is an amount equal to that by which his retirement grant would be increased on the relevant assumptions and in accordance with the Pension Regulations if his total membership were increased by the credited period.

Annual compensation: general provisions

10.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to annual compensation.

(2) The rate at which annual compensation is payable, unless adjusted in accordance with Part V, VI or VII, is the same as that by which the pension to which –

- (a) he is entitled under regulation 28 of the Pension Regulations; or
- (b) would be so entitled, but for a relevant disqualification

would be increased, on the relevant assumptions and in accordance with those Regulations, if his total membership were increased by the relevant credited period.

- (3) Annual compensation is payable from the day after the termination date.

PART V

EFFECT OF OTHER RECEIPTS ON PART IV COMPENSATION

Effect of occupational pension

11.—(1) Where the conditions in paragraph (2) are met, an eligible person’s basic entitlement shall, if necessary, be reduced so that the total of the annual rates for the time being of –

- (a) any occupational pension to which that person is entitled and which is being paid;
- (b) his pension under regulation 28 of the Pension Regulations; and
- (c) his annual compensation,

is not more than the relevant amount.

(2) The conditions are –

- (a) that immediately before the termination date the eligible person was entitled to an occupational pension in respect of any period (whether or not it was being paid); and

- (b) that the total of that period, his total membership and any credited period is more than 40 years.

Effect of redundancy payments

12.—(1) This regulation applies to an eligible person who, in respect of any terminated employment –

- (a) has been awarded a credited period that is longer than $6\frac{2}{3}$ years; and
(b) has received, or is entitled to receive, a redundancy payment under Part XII of the 1996 Order or compensation under Part II of these Regulations.

(2) If, but for this paragraph, such a person would be entitled –

- (a) to lump sum compensation of an amount which is equal to or less than the calculated amount, he shall not be entitled to any such compensation;
(b) to lump sum compensation of an amount which is greater than the calculated amount, his lump sum compensation shall be reduced by the calculated amount.

(3) If a person to whom this regulation applies has no entitlement to lump sum compensation –

- (a) because sub-paragraph (a) of paragraph (2) applies, his basic entitlement shall be reduced by the appropriate percentage of the difference (if any) between the amounts referred to in that sub-paragraph;
(b) for any other reason, his basic entitlement shall be reduced by the appropriate percentage of the calculated amount.

(4) The calculated amount is that found by applying the formula –

$$(A \times B) - C$$

where –

A is an amount equal to 30 per cent of the total amount of the redundancy payment and compensation referred to in paragraph (1)(b);

B is the amount, expressed in years and fractions of a year to the nearest day, by which the credited period exceeds $6\frac{2}{3}$; and

C is the total amount of any reductions made in the redundancy payment and compensation referred to in paragraph (1)(b) in accordance with the 1965 Regulations.

Effect of other termination payments

13.—(1) This regulation applies to an eligible person who –

- (a) has been awarded a credited period; and
(b) receives a termination payment from his employing authority.

(2) Such a person shall not be entitled to lump sum compensation if, after deduction of the calculated amount (where required by regulation 12), the amount of that compensation would be the same as, or less than, the termination payment.

(3) The amount payable to a person who is entitled to lump sum compensation under paragraph (2) is the amount remaining after the deduction of the termination payment and, where required, the calculated amount.

(4) The basic entitlement of a person to whom this regulation applies shall be adjusted (in addition to any other adjustment required by regulations 12, 16, 18 and 19) –

- (a) if, after the deduction of the calculated amount (where required by regulation 12), his termination payment exceeds his lump sum compensation, by the deduction of the amount of that excess;
(b) if he is not entitled to lump sum compensation for a reason other than the operation of paragraph (2), by the deduction of the amount of the termination payment;
(c) if he receives the whole or part of the termination payment after a credited period has been awarded and his compensation has not been adjusted on account of that payment, by the deduction of the amount received.

(5) Where adjustments to a person's basic entitlement are required in accordance with paragraph (4), no instalment of annual compensation is payable to him until the total of the deductions under that paragraph equals the amount of the adjustment.

Effect of periodic payments

14.—(1) An eligible person who receives periodic payments from his employing authority shall not be entitled to annual compensation for any period in which the total of the periodic payments received is greater than his basic entitlement (as adjusted, where required, under regulations 12, 13, 16 and 18) otherwise payable for that period.

- (2) The amount payable to an eligible person who –
- (a) receives periodic payments from his employing authority; and
 - (b) is entitled to annual compensation for a period,

is the amount of his basic entitlement for that period (as adjusted, where required, under regulations 12, 13, 16 and 18) less the total of the periodic payments received for that period.

PART VI

EFFECT ON NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VI

15.—(1) In this Part, “annual compensation” means the annual compensation, after any necessary adjustment in accordance with Part V, which would, apart from regulation 16, be payable to a person under these Regulations.

- (2) For the purposes of this Part, an eligible person –
- (a) whose contractual hours in a new employment are altered; or
 - (b) who is transferred to another post with the same employing authority at an altered rate of pay,

shall be treated as if he had again entered a new employment.

Reduction of annual compensation

16.—(1) Where an eligible person to whom a credited period has been awarded enters a new employment, the employing authority must reduce his annual compensation by such amount (if any) as it considers appropriate.

(2) In deciding what is appropriate, the employing authority must secure that that person is not able to obtain for himself a total annual amount comprising –

- (a) the annual rate of pay from his new employment; and
- (b) financial benefits under these Regulations and the Pension Regulations,

greater than the annual rate of pay to which he would have been entitled had he remained in his terminated employment.

(3) If that position cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall be suspended.

(4) The reduction or suspension referred to in paragraph (3) shall apply for so long as the person concerned holds the new employment.

(5) For the purposes of this regulation, the reference to the “annual rate” of pay of the terminated employment is a reference to the annual rate of such pay at the termination date with official increases.

(6) For the purposes of this regulation, “new employment” shall not include employment with an admission body unless the person is eligible to be a member of the Scheme in that employment.

PART VII

EFFECT OF CESSATION OF NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VII

17.—(1) In this Part, “annual compensation” means the compensation payable to an eligible person under regulation 10 after any necessary adjustment in accordance with regulation 12.

(2) For the purposes of this Part, an eligible person –

(a) whose contractual hours in a new employment are altered; or

(b) who is transferred to another post with the same employing authority at an altered rate of pay,

shall be treated as if he had again entered a new employment.

Effect of cessation of new employment

18.—(1) Where an eligible person who has been awarded a credited period has ceased to hold a new employment in which he was a Scheme member or an assumed member, and the sum, in years, of –

(a) his earlier extra service adjusted in accordance with paragraph (4) of regulation 8 if paragraph (3) of that regulation applies to him;

(b) his credited period, reduced as may be necessary in accordance with paragraph (5); and

(c) his total membership for the purpose of calculating under the Pension Regulations, on the relevant assumptions, his retirement pension on cessation of his new employment,

exceeds the total membership which would have been used for the purpose of that calculation if he had held his terminated employment until his 65th birthday, his employing authority must reduce his annual compensation by such amount as it considers appropriate.

(2) For the purposes of this regulation, “total membership” includes membership which would be excluded by virtue of paragraph (4) of regulation 8 of the Pension Regulations (periods of membership: “total membership”).

(3) In deciding what is appropriate, the employing authority must seek to secure that the person is not able to obtain for himself or for any dependant of his greater financial benefits under these Regulations and the Pension Regulations than those to which he or they would have been entitled had he remained in his terminated employment until age 65.

(4) But if the position referred to in paragraph (3) cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall cease.

(5) Where there has been a reduction of a person’s annual compensation in accordance with this regulation on account of a period of previous new employment or part of such a period (“the abatement period”) then, for the purposes of paragraph (1)(b), the length of his credited period shall be reduced by the abatement period.

(6) For the purposes of this regulation –

“new employment” shall not include employment with an admission body unless the person was eligible to be a member of the Scheme in that employment; and

“terminated employment” in paragraphs (1) and (3) refers, where there is more than one, to the first of them.

PART VIII

SURRENDERS AND AWARDS TO SURVIVING SPOUSES AND CHILDREN

Surrender of part of annual compensation

19.—(1) A person who, under regulation 36 (surrenders of pension) of the Pension Regulations has been allowed to surrender part of the retirement pension to which he would otherwise have been entitled on ceasing to hold his former employment, may (having been awarded a credited period) notify his employing authority, in accordance with paragraph (2) or (3), that he wishes to surrender part of his annual compensation.

(2) A person who has not entered a new employment must give notice within one month of the date on which he is notified of the award of a credited period or, if later, his 65th birthday^(a).

(3) A person who has entered a new employment must give notice within one month of –

(a) the date on which that employment ends;

(b) the date on which he is notified of any adjustment made by reason of the ending of that employment; or

(c) his 65th birthday,

whichever is the latest.

(4) A person to whom paragraph (1) applies may surrender the same percentage of his annual compensation as that surrendered under the Pension Regulations so that, if he is survived by his spouse or a dependant of his (“the beneficiary”), the equivalent value of that part is paid instead to the beneficiary.

(5) On the death of the person who has surrendered part of his annual compensation the beneficiary becomes entitled to annual compensation at a rate equivalent to the value of the surrender in the beneficiary’s favour at the time when the surrender was made.

(6) The equivalent rate is such rate as is indicated in guidance issued by the Government Actuary.

(7) If the surrender is allowed, it has effect from the date the person who has made the surrender retires from his employment.

(8) But it does not take effect if the beneficiary or that person dies before that date, and it ceases to have effect if the beneficiary dies before that person.

(9) A person to whom regulation 36 of the Pension Regulations does not apply, because of a relevant disqualification, may notify his employing authority as mentioned in paragraph (1) and paragraph (4) shall apply in his case as if –

(a) for “paragraph (1)” there were substituted “paragraph (9)”; and

(b) for “the same percentage of his annual compensation as that surrendered under the Pension Regulations” there were substituted “such part of his annual compensation, not exceeding one third, as he may specify in his notice under paragraph (2) or (3)”.

(10) In this regulation “annual compensation” means the compensation payable to a person under regulation 10, subject to any necessary adjustment –

(a) in accordance with regulation 12;

(b) if he is a person to whom an allowance for life has been granted (see regulation 14(2)), in accordance with that regulation;

(c) under regulation 18.

^(a) See regulation 26(2) of the Pension Regulations

Awards to surviving spouses

20.—(1) This regulation applies where, on the death of a person who has been awarded a credited period, there is a surviving spouse –

- (a) who is entitled to receive a pension under regulations 42 to 45 (surviving spouses' pensions) of the Pension Regulations in respect of the deceased's terminated employment; or
- (b) who would be so entitled apart from –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) This regulation also applies where the deceased is survived by more than one spouse if both, or all, of them are, or but for the matters mentioned in paragraph (1)(b) would be, jointly entitled to receive such a pension as is mentioned in paragraph (1)(a); and in such a case references in the following paragraphs (in whatever terms) to an entitlement of the surviving spouse are references to the joint entitlement of the surviving spouses.

(3) Where this regulation applies, the surviving spouse is entitled to receive –

- (a) surviving spouse's short-term compensation –
 - (i) for six months after the date of the death if the surviving spouse cares for one or more eligible children of the deceased;
 - (ii) otherwise, for three months after that date; and
- (b) after that period, surviving spouse's long-term compensation,

but if the marriage took place after the termination date, the surviving spouse is only entitled to receive compensation under this regulation if the surviving spouse is (or would be apart from the matters mentioned in paragraph (1)(b)), entitled to a surviving spouse's pension under the Pension Regulations.

(4) Where there is a joint entitlement under this regulation the employing authority may decide how it shall be apportioned.

(5) Subject to paragraphs (6) and (7), the surviving spouse of an eligible person who ceased employment before 1st February 2003 is not entitled to any compensation under this regulation during any subsequent marriage or period of cohabitation outside marriage, and is entitled to long-term compensation from the end of such marriage or period only if the employing authority so decides.

(6) Where a widower and a widow marry each other or cohabit with each other outside marriage and both –

- (a) are entitled to short-term or long-term compensation under this regulation; and
- (b) are the surviving spouses of eligible persons who ceased employment before 1st February 2003,

only such one of them as they may choose shall be so entitled; and the other shall cease to be so entitled until the end of the marriage or cohabitation.

(7) The employing authority may determine by resolution in any case where the surviving spouse had not, as at 1st February 2003 entered into a subsequent marriage or a period of cohabitation that paragraph (5) or (6), as appropriate, shall not apply.

Amount of surviving spouse's short-term and long-term compensation

21.—(1) Surviving spouse's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased immediately before his death in accordance with these Regulations, ignoring –

- (a) any adjustment in accordance with regulation 13 or 14; or
- (b) where the adjustment is under regulation 18 and is to take into account an entitlement to lump sum compensation, such an adjustment under that regulation.

(2) Surviving spouse's long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment –

- (a) under regulation 12, 13, 14 or 19; and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

(3) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by it under regulation 18 to the annual compensation is to be taken into account.

(4) The amount payable under regulation 20 for a period to a surviving spouse who receives periodic payments is the amount which would have been paid to that surviving spouse for that period, less the total of the periodic payments received for that period.

Short-term compensation for children

22.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a short-term pension under regulation 47 (children's short-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to, or to have paid for their benefit, children's short-term compensation for the same period as that for which their short-term pension is payable under regulation 47(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period during which he is in the care of a surviving spouse who is entitled to short-term compensation under regulation 20.

(4) Children's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased in accordance with these Regulations, ignoring any adjustment in accordance with regulation 13 or 14 or under regulation 18.

(5) If eligible children to whom or for whose benefit periodic payments are made are entitled to children's short-term compensation for a period, the amount payable to or for their benefit for that period is the amount which would have been paid to them (in accordance with paragraph (1) or (2)) for that period, less the total of any periodic payments made for that period.

Long-term compensation for children

23.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a long-term pension under regulation 48 (children's long-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to receive, or to have paid for their benefit, children's long-term compensation for the same period as that for which their long-term pension is payable under regulation 48(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period in which the total of periodic payments made to him and any other eligible children or for their benefit for that period is greater than the amount of children's short-term compensation which would otherwise have been paid to them or for their benefit for that period.

(4) Children's long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment –

- (a) under regulation 12, 13, 14 or 19; and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

(5) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by it under regulation 19 to the annual compensation is to be taken into account.

(6) The amounts payable under this regulation for a period to a child who receives periodic payments is the amount which would have been paid to him for that period, less the total of the periodic payments received for that period.

Payment of children's compensation

24.—(1) Where children's compensation is payable to, or for the benefit of, the same children to whom, or for whose benefit, children's pensions are payable under regulation 49 (discretions as to payment of children's pensions) of the Pension Regulations, the compensation shall be paid to the same person and, if applicable, in the same proportions as the pension is paid under that regulation.

(2) If the only reason why a children's pension is not paid under regulation 49 of the Pension Regulations is –

- (a) a relevant disqualification with respect to the deceased; or
- (b) the transfer of benefits to another pension scheme,

the employing authority shall decide to whom the children's compensation is to be paid and, if applicable, how it is to be apportioned amongst the eligible children.

PART IX

INFORMATION ABOUT AND PAYMENT OF COMPENSATION

Policy statements

25.—(1) Each Scheme employer must formulate, publish within four months of the commencement date, and keep under review –

- (a) the policy that it applies in the exercise of its discretionary powers under Parts II to IV and Parts VI to VIII; and
- (b) the policy it applies in the exercise of its duty under regulations 16 and 18 to reduce annual compensation.

(2) If the Scheme employer decides to change either policy, it must publish a statement of the amended policy within one month of the date of its decision.

(3) The Scheme employer must not give effect to any policy change until one month has passed since the date of publication of the statement under paragraph (2).

- (4) In formulating and reviewing its policies the Scheme employer must –
 - (a) have regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and

- (b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

Information relevant to compensation – employing authorities

26.—(1) Within one month after the date of –

- (a) the award of a credited period;
- (b) the death of a person in respect of whom a credited period had been awarded; or
- (c) the making of any adjustment affecting the compensation payable to, or for the benefit of, a person under any of Parts IV to VIII,

the employing authority must, by notice in writing, inform the recipient of the effect of the award or the adjustment, as the case may be, giving details of any relevant calculation.

(2) The employing authority may at any time, by notice in writing, require a person to whom compensation is payable under any of Parts IV to VIII –

- (a) to supply such information; and
- (b) to produce such documents in support of that information,

as it may reasonably require for the discharge of its functions under these Regulations; and may require the information and documents to be supplied and produced within such reasonable period as may be specified in the notice.

Information relevant to compensation – individuals

27.—(1) Within one month after the date of his entry into, or departure from, a new employment, a person to whom a credited period has been awarded must, by notice in writing, inform his employing authority of that fact.

(2) A person who has received a notice under regulation 26(2) must supply the information and produce the documents required (in so far as they are in his possession or under his control); and, if a period for their supply and production has been specified in the notice, must supply and produce them before the end of that period.

Payments and repayments

28.—(1) Any compensation payable under these Regulations –

- (a) is payable to or in trust for the person entitled to receive it;
- (b) is not assignable or chargeable with his debts or other liabilities; and
- (c) on his bankruptcy, shall not vest in his trustee in bankruptcy as part of his estate.

(2) Compensation (other than compensation payable in a lump sum) payable to, or in respect of, a person shall be payable where the entitlement arises under Part IV or VIII, at the same intervals as those at which his pension is payable under the Pension Regulations (or, but for a relevant disqualification and on the relevant assumptions or, as the case may be, the transfer of benefits to another pension scheme, would have been so payable).

(3) Where any compensation is paid in error to any person (including any overpayment) –

- (a) the paying authority must, as soon as possible after the discovery of the error –
 - (i) inform the person concerned, by notice in writing, giving details of the relevant calculation;
 - (ii) where there has been an underpayment, make a further payment;
 - (iii) where there has been an overpayment, specify a reasonable period for repayment;
- (b) a person who has received a notice under sub-paragraph (a) must repay any overpayment within the specified period; and
- (c) the paying authority may take such steps as it considers appropriate to recover from the person to whom it was paid any overpayment which has not been repaid within the specified period.

(4) The paying authority shall take into account the person's circumstances (so far as known or reasonably ascertainable), before taking steps under paragraph (3)(c).

Interest on late payments

29.—(1) Where all or part of any compensation due under either of Part IV or VIII is not paid by the paying authority within the relevant period after the due date, that authority must pay interest on the unpaid amount to the person to whom it is payable.

(2) Interest under paragraph (1) must be calculated at one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

Authority by whom compensation is payable

30.—(1) Unless other provisions of these Regulations have a different effect, compensation payable under either of Part IV or VIII shall be paid by the employing authority.

(2) The Committee in relation to any person who is entitled to any compensation under Part IV or VIII may agree with the employing authority to pay on its behalf such compensation arising in respect of that person and to recover the amount from the employing authority within such period (subject to paragraph (4)) and on such terms as the Committee may determine.

(3) Lump sum compensation may not be paid from the fund maintained by the Committee under the Pension Regulations.

(4) The amount of any compensation paid under Part IV or VIII from the fund by the Committee on behalf of the employing authority must be recovered from the employing authority within two months from the payment.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Finance

31. The cost of any payment to be made under these Regulations must not be met out of the fund.

Transitional provisions and savings

32. Regulations 20, 22, 23 and 24 shall have effect as if references in them to provisions of the Pension Regulations included, in relation to any case in which comparable provisions of the 2000 Regulations apply (by virtue of the Transitional Regulations), references to those comparable provisions.

Consequential amendments

33. In the Pension Regulations –

- (a) in paragraph (9) of regulation 54 (power of employing authority to increase total membership of members leaving employment at or after 50), immediately before the words “in respect of a cessation”, there shall be inserted “or regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003”;
- (b) in paragraph (2)(a) of regulation 130 (conversion of periods credited under Discretionary Payments Regulations etc. into membership), immediately before the words “with a period”, there shall be inserted “or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003”.

Revocations and savings

34.—(1) Subject to paragraph (2), the following provisions of the 2001 Regulations are hereby revoked –

- (a) Parts II to IV;
- (b) Part I of Schedule 1; and
- (c) Schedule 2.

(2) Where a person has been awarded a credited period under regulation 7 of the 2001 Regulations, regulations 16 and 17 of those Regulations shall continue to apply as if these Regulations had not been made.

Sealed with the Official Seal of the Department of the Environment on 10th February 2003.

(L.S.)

J. Ritchie

A senior officer of the Department of the Environment

SCHEDULE 1

Regulation 2(1) to (3)

INTERPRETATION

In these Regulations –

“the 1965 Act” means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a);

“the 1971 Act” means the Pensions (Increase) Act (Northern Ireland) 1971(b);

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972(c);

“the 1972 Order” means the Superannuation (Northern Ireland) Order 1972(d);

“the 1965 Regulations” means the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965(e);

“the 1992 Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1992(f);

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996(g);

“the 2000 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(h);

“the 2001 Regulations” means the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001(i);

“annual compensation”, except in Parts VI to VIII, means compensation under regulation 9 ignoring the effect of any provision of Part V or Part VI;

“annual rate” –

(a) of annual compensation and of any other official pension, includes increases under the 1971 Act;

(b) of an occupational pension which is not an official pension, includes increases under any enactment, contract, scheme or other arrangement;

“appropriate percentage” means the percentage specified in the Table in Schedule 2 in relation to a person of the person’s age and sex;

“assumed member” means a person in respect of whom his employing authority is satisfied that, but for a relevant disqualification, he would be, or be treated as, a Scheme member;

“basic entitlement” means the amount to which a person is entitled under regulation 10, ignoring the effect of any provision of Part V;

“calculated amount” means the amount calculated in accordance with regulation 12(4);

“concurrent employment” means employment with a Scheme employer held concurrently with a terminated employment and during the period of 12 months ending immediately before the termination date;

“credited period” in relation to a person, means a period with which he is credited under regulation 7;

“earlier cessation” means the cessation of an employment which began before the employment which ended on the termination date;

“earlier extra service” means –

(a) a period by which a person’s total membership has been increased; or

(b) a period of service with which he has been credited,

before the termination date, for the purpose of calculating a retirement payment or, if more than one period has been granted, the total of them;

(a) 1965 c. 19 (N.I.)

(b) 1971 c. 35 (N.I.)

(c) 1972 c. 9 (N.I.)

(d) S.I. 1972/1073 (N.I. 10)

(e) S.R. & O. (N.I.) 1965 No. 246

(f) S.R. 1992 No. 547 as amended by other instruments listed in Schedule M3 to S.R. 2000 No. 177

(g) S.I. 1996/1919 (N.I. 16)

(h) S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353

(i) S.R. 2001 No. 279

“employing authority”, in relation to a person, means an employer listed in Schedule 3 by whom he is employed immediately before the termination date;

“excepted payment”, in relation to a person’s terminated employment, means –

- (a) a redundancy payment to which he is entitled under the 1965 Act or Part XII of the 1996 Order or compensation under Part II of these Regulations in respect of that employment (including, in each case, any amount by which that payment is reduced in accordance with the 1965 Regulations); or
- (b) a payment in respect of that employment under regulations, or under provisions having effect as provisions of regulations, under Article 9 of the 1972 Order; or
- (c) a payment in lieu of annual or other leave to which he is entitled in respect of that employment; or
- (d) so much of any payment in lieu of notice of termination of that employment as is equal to or less than the pay that he would have received if he had remained in that employment for three months after the termination date;

“excluded employment” means a period of employment in relation to which a pension or other benefits (other than a refund of contributions) is being or has been paid under an occupational pension scheme;

“lump sum compensation” means compensation under regulation 9;

“new employment” means employment with a Scheme employer which a person enters after his termination date and, for the purposes of this definition, the words “by whom he is employed immediately before the termination date” shall be omitted from the definition of “employing authority”;

“occupational pension”, in relation to a person, means a pension, other than a lump sum, to which he has become entitled (whether or not it is being paid) which is –

- (a) an employment-linked pension which is payable under an enactment (other than the Social Security Contributions and Benefits (Northern Ireland) Act 1992^(a), the 2000 Regulations, or the Pension Regulations), contract, scheme or other arrangement, including a personal pension scheme in relation to which the Department for Social Development^(b) has paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986^(c) or section 39 of the Pension Schemes (Northern Ireland) Act 1993^(d); or
- (b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the 2000 Regulations or the Pension Regulations, or arising with respect to a pension of a kind mentioned in paragraph (a);

“official increases”, in relation to a pension or pay, means the increases (if any) by which an annual pension of an amount equal to the annual rate of that pension or pay would have been increased under the 1971 Act during the period ending immediately before the day preceding that on which the person in question entered the new employment, on the assumptions –

- (a) that the pension was specified in Part II of Schedule 2 to the 1971 Act and began for the purposes of that Act on the day the pension actually began or, as the case may be, the day after that on which he ceased to hold the employment; and
- (b) that he was 55 on that day;

“official pension” has the same meaning as in the 1971 Act;

“paying authority” means –

- (a) if regulation 30(2) applies, the Committee;
- (b) in any other case, the Scheme employer;

“Pension Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002^(e);

“periodic payment” –

- (a) in relation to a surviving spouse or a child (see regulations 21, 22 and 23), means an instalment of an allowance for life or other period granted to or in respect of the spouse or the child by the deceased’s employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of the deceased’s terminated employment;

(a) 1992 c.7

(b) See S.R. 1999 No. 283 (N.I.) Article 3(1) and S.R. 1999 No. 481, Article 8 and Schedule 6 Part II

(c) S.I. 1986/1888 (N.I. 18); Articles 3-16 were repealed by the Pension Schemes (Northern Ireland) Act 1993 c. 49 Schedule 4 Part 1

(d) 1993 c. 49 section 39 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 147 and Schedule 3 paragraph 34

(e) S.R. 2002 No. 352

- (b) in relation to any other person, means an instalment of an allowance granted to him by his employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of a terminated employment, but in neither case includes annual compensation or a payment which is an excepted payment in relation to that employment;

“relevant amount” –

- (a) if a retirement grant under Part II of the Pension Regulations is payable, means one half of the sum of –
- (i) the amount of his pensionable pay; and
 - (ii) the amount of the official increases by which an official pension at the annual rate of that pensionable pay would have been increased, if it had begun and first qualified for such increases on the day after the termination date;
- (b) if no such grant is payable, means two thirds of that sum;

“relevant assumptions” means that it is to be assumed that –

- (a) during any period of special service a person was a Scheme member;
- (b) a person’s total period of membership included any periods of special service other than unpaid periods of absence from duty;
- (c) with respect to a period of special service (applying the preceding assumptions), an election or determination under paragraph 2 of Schedule D1 to the 2000 Regulations (optional alternative relevant periods for calculating pensionable remuneration)(a) –
 - (i) had been made in a case within paragraph 3 of that Schedule (other than a case within paragraph 4 or 5 of that Schedule); and
 - (ii) had not been made in a case within paragraph 4 or 5 of that Schedule or regulation 23 (other final pay periods) or 24 (permanent reductions in pay; certificates of protection of pension benefits) of the Pension Regulations; and
- (d) paragraph 6(b) (periods of absence) of Schedule D1 to the 2000 Regulations did not apply with respect to any period of special service;

“relevant credited period” means the period awarded in accordance with regulation 7(2);

“relevant disqualification” –

- (a) in relation to an occupational pension scheme which applies to qualifying employment, means any of sub-paragraphs (i) to (v), as the result of which (either alone or taken together) a person has not become, has ceased to be or has been treated as ineligible to be, a Scheme member –
 - (i) the failure of a medical examination required for such membership;
 - (ii) the making of any election to opt out of, or the absence of an election to opt into, such membership with respect to any period of employment;
 - (iii) a restriction excluding some part-time employment from being employment to which the Scheme applies;
 - (iv) in the case of the Scheme, ineligibility under regulation B2(2) of the 2000 Regulations as in operation before 2nd April 2001;
 - (v) in the case of the Scheme and a manual worker, failure to complete a period of continuous employment required for membership of the Scheme;
- (b) in any other context, means any of sub-paragraphs (i) to (v), as the result of which (either alone or taken together) a person has not become, has ceased to be, or has not been treated as, a Scheme member –
 - (i) the failure of a medical examination required under regulation B1(6) of the 1992 Regulations(b);
 - (ii) the absence of an election under regulation B2 of those Regulations;
 - (iii) the absence of an application under regulation B9 of the 2000 Regulations or regulation 6 of the Pension Regulations for membership;
 - (iv) the giving of a notification under regulation B3 of the 1992 Regulations, regulation B11 of the 2000 Regulations or regulation 7 of the Pension Regulations;
 - (v) the making or absence of an election under regulation 15 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989(c);

(a) Schedule D1 continues to have effect as mentioned in S.R. 2002 No. 353

(b) See Schedule M2 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

(c) S.R. 1989 No. 345: revoked by S.R. 1992 No. 547

“relevant fraction” –

- (a) in regulation 21, means –
 - (i) if the deceased was entitled to lump sum compensation, one half;
 - (ii) if not, three eighths;
- (b) in regulation 23, means –
 - (i) where there is a surviving spouse to whom surviving spouse’s short-term or long-term compensation is payable (or would be payable but for regulation 20(5)) and one eligible child, one quarter;
 - (ii) where there is such a surviving spouse and two or more eligible children, one half;
 - (iii) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and one eligible child, one third;
 - (iv) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and two or more eligible children, two thirds;

“relevant period” –

- (a) in relation to lump sum compensation, means one month;
- (b) in relation to other compensation, means one year;

“retirement payment” means one of the following –

- (a) retirement compensation under an Act, under regulations under section 137 of the 1972 Act, or a similar instrument, on account of loss of employment;
- (b) compensation under any scheme under Article 3 of the 1972 Order, or a similar instrument, on account of his retirement in the public interest;
- (c) compensation under an Act or under these Regulations or any other regulations under Article 19 of the 1972 Order, or a similar instrument, on account of his ceasing to hold an employment with an employing authority for any of the reasons referred to in paragraph (a) or (b),

and in this definition “similar instrument” means any instrument to similar effect made under any statutory provision;

“retirement pension” means a pension under regulation 26, 28, 29 or 33 of the Pension Regulations, a single pension under regulation 31 of those Regulations or an occupational pension;

“Scheme employer” means an employing authority and, in relation to any person who is an admission agreement employee, his admission body;

“Scheme member” means a person who is a member of the Scheme;

“special service” means –

- (a) any period of employment with respect to which the employing authority is satisfied that –
 - (i) but for a relevant disqualification, the person concerned would have been, or would have been treated as, a member of the Scheme; or
 - (ii) sub-paragraph (i) would have applied but for the fact that the employment was qualifying part-time employment within the meaning of Part III of Schedule 2 to the 1992 Regulations; and
- (b) any period of former employment ending before the person concerned began the terminated employment, but only if any interval between the end of that former employment and the beginning of the terminated employment during which he was not employed by an employing authority was shorter than one month and two days;

“terminated employment” means employment which is terminated in one of the circumstances set out in regulation 3(1);

“termination date” means the date on which a person leaves his terminated employment;

“termination payment” means the total amount of any lump sums, other than lump sum compensation or any payment which is an excepted payment in relation to a terminated employment, paid under an enactment, contract, scheme or arrangement to a person in consequence of, or as compensation for, the loss of a terminated employment;

“total membership” includes any period of special service (other than special service consisting of periods of unpaid leave or other unpaid absence from duty); and

“Transitional Regulations” means the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002(a).

(a) S.R. 2002 No. 353

SCHEDULE 2

Regulation 2(3) and Schedule 1

TABLE FOR DETERMINATION OF "APPROPRIATE PERCENTAGE"

<i>Age last birthday</i>	<i>Appropriate percentage</i>	
	<i>Male</i>	<i>Female</i>
50	6.04	5.61
51	6.12	5.66
52	6.21	5.72
53	6.31	5.80
54	6.45	5.90
55	6.59	6.02
56	6.75	6.13
57	6.92	6.26
58	7.10	6.40
59	7.30	6.55
60	7.51	6.70
61	7.73	6.87
62	7.97	7.05
63	8.23	7.24
64	8.51	7.45

SCHEDULE 3

Schedule 1

EMPLOYERS TO WHICH PARTS IV TO VIII APPLY

- A district council;
- Northern Ireland Local Government Officers' Superannuation Committee;
- Northern Ireland Housing Executive;
- An Education and Library Board;
- Fire Authority for Northern Ireland;
- Local Government Staff Commission;
- Staff Commission for Education and Library Boards;
- University of Ulster, except that these regulations apply only to a person who was employed immediately before 1st October 1984 by the Governors of the Ulster Polytechnic;
- The governing body of a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(a);
- The Management Board of a training school set up under the provisions of section 138 of the Children and Young Persons Act (Northern Ireland) 1968(b);
- Probation Board for Northern Ireland;
- Northern Ireland Fishery Harbour Authority;
- The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(c);
- Laganside Corporation; and
- The Board of Governors of –
 - (a) a grammar school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 which is a voluntary school within the meaning of that Order; or
 - (b) a grant maintained integrated school within the meaning of Article 65(3) of the Education Reform (Northern Ireland) Order 1989(d).

(a) S.I. 1986/594 (N.I. 3) as amended by S.I. 1989/2406 (N.I. 20) (Article 166 and Schedule 9)
(b) 1968 c. 34 (N.I.) as substituted by Schedule 16 to S.I. 1972/1265 (N.I. 14) and replaced by Article 51 of and Schedule 4 to S.I. 1998/1504 (N.I. 9)
(c) S.I. 1997/1772 (N.I. 15)
(d) S.I. 1989/2406 (N.I. 20)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations revoke and replace Parts II to IV of the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 (“the 2001 Regulations”). They make provision for discretionary payments to persons employed by employers listed in Schedule 3 or by a Scheme employer (as defined in the Schedule 1 to these Regulations) whose employment terminated by reason of redundancy or in the interests of the efficient exercise of the employer’s functions (but not on ill-health grounds), or where a joint appointment comes to an end because one of the holders leaves. As a result of these Regulations, the 2001 Regulations now relate to injury allowances as respects non-pensionable service.

Part I (regulations 1 to 3) and Schedules 1 and 2 include provisions relating to the interpretation and application of the Regulations. Expressions which are also used in the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (referred to in these Regulations as “the Pension Regulations”), have the meanings given by Schedule 1 to those Regulations.

Regulation 3(1) and (2) provides for the application of the Regulations to persons if they are eligible to be members of the Local Government Pension Scheme (whether or not they are, in fact, members).

Part II (regulation 4) allows for the payment of compensation to persons who are entitled to a redundancy payment under the Employment Rights (Northern Ireland) Order 1996.

Part III (regulation 5) allows for a lump sum compensation payment, whether or not the person is eligible for compensation under Part II.

Part IV (regulations 6 to 10) provides an alternative form of compensation to that in Part III for persons aged 50 or more. It provides for the award of credited periods and the payment of lump sum and annual compensation. To be entitled to compensation under this Part, a person must be employed by an employer listed in Schedule 3. The Boards of Governors of certain schools have been added to the list of employers in that Schedule.

Parts V to VII (regulations 11 to 18) provide for the adjustment of compensation awarded under Part IV where the person entitled to it receives other payments or enters or leaves a new employment. A change from the 2001 Regulations is that no specific method of abatement is provided by the Regulations and it is for the employer to decide how to make the necessary adjustment.

Part VIII (regulations 19 to 24) relates to surrenders of annual compensation and payments to surviving spouses and children on the death of a person entitled to compensation under Part IV.

Part IX makes provision for –

- (a) the preparation of policy statements relevant to the exercise of discretionary powers and abatement under the Regulations, and the publication of those statements within four months of the commencement date, for the review of policy and the publication of amendments to it within one month of any amendment decision (regulation 25);
- (b) the supply of other information relevant to payments and adjustments under the Regulations (regulations 26 and 27);
- (c) the making of payments, the repayment of overpayments, and the payment of interest on late payments (regulations 28 and 29); and
- (d) identifying the authority which is to make the payments (regulation 30).

Part X contains miscellaneous and supplementary provisions.

Regulation 31 prevents the cost of payments under the Regulations being charged to the pension fund. Regulation 32 introduces the transitional provisions and savings. Regulation 33 introduces the consequential amendments. Regulation 34 revokes certain provisions of the 2001 Regulations, subject to savings.

£4.50

Published by The Stationery Office Limited

Printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N680. C3. 2/03. Gp. 130. 14567.

ISBN 0-337-94862-3

