
STATUTORY INSTRUMENTS

1979 No. 785 (S. 76)**LOCAL GOVERNMENT, SCOTLAND****The Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979***Made - - - - - 28th June 1979**Laid before Parliament 16th July 1979**Coming into Operation 7th August 1979***ARRANGEMENT OF REGULATIONS****PART I****GENERAL**

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In exercise of the powers conferred on me by section 24 of the Superannuation Act 1972(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979 and shall come into operation on 7th August 1979.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, any reference to a regulation or to a Schedule shall be construed as a reference to a regulation contained in, or to a Schedule to, these regulations, as the case may be, any reference to a paragraph shall be construed as a reference to a paragraph in the same regulation or Schedule, as the case may be and any reference to a sub-paragraph shall be construed as a reference to a sub-paragraph contained in the same paragraph.

(2) Any reference to the annual rate of compensation payable to a beneficiary immediately before the date of his death shall, if he died before he had been credited with an additional period of service under regulation 5, include a reference to the annual rate of compensation which would have been payable if he had been so credited before his death.

Definitions

3. In these regulations, unless the context otherwise requires—

“beneficiary” means an eligible person who has been credited (whether before or after his death) with an additional period of service under regulation 5;

“eligible child” means—

- (a) a legitimate child of a marriage of a beneficiary which took place on or before the material date, born before the expiration of one year after that date;
- (b) an adopted child of a beneficiary, adopted on or before the material date; or
- (c) a step-child or illegitimate child of a beneficiary, an adopted child of the wife of a marriage of a beneficiary which took place before the material date or a child accepted by a beneficiary as a member of the family, being a child wholly or mainly dependent on him both on the material date and at the time of his death;

“eligible person” means a person who is described in regulation 4;

“employing authority”, in relation to a person, means the body specified in Schedule 1 whose employment of that person ceased as described in regulation 4(a);

“enactment” includes any instrument made under an Act;

“former employment”, in relation to an eligible person or a beneficiary, means the employment which ceased as described in regulation 4(a); and paragraphs (5) to (8) of regulation E15 of the Superannuation Regulations shall apply for the purposes of these regulations, as if reference in those paragraphs to “former employment” were a reference to former employment within the meaning of these regulations;

“instrument” includes an Order in Council, regulation, order, rule, scheme, direction or agreement;

“material date”, in relation to an eligible person or a beneficiary, means the date upon which he ceased to hold his former employment;

“new employment”, in relation to a beneficiary, means employment with a scheduled body which he enters after the material date; and paragraphs (7) to (9) of regulation E15 of the Superannuation Regulations shall apply for the purposes of these regulations, as if reference in those paragraphs to “new employment” were a reference to new employment within the meaning of these regulations;

“occupational pension”, in relation to an eligible person, means payments (other than lump sum payments) made in accordance with any contract, scheme or arrangement associated with his employment for the payment of superannuation benefits;

“pensionable employee”, “pensionable remuneration”, “qualifying service”, “reckonable service” and “remuneration” have the same respective meanings as in the Superannuation Regulations;

“scheduled body” means—

- (a) a scheduled body within the meaning of the Superannuation Regulations;

- (b) a scheduled body within the meaning of the Local Government Superannuation Regulations 1974(a); or
- (c) the Scottish Special Housing Association;

but references to employment with such a body shall not include employment by virtue of which a beneficiary is entitled to participate in benefits provided under regulations made under section 9 of the Superannuation Act 1972; and

“the Superannuation Regulations” means the Local Government Superannuation (Scotland) Regulations 1974(b).

Persons to whom the regulations apply

4. Subject to the provisions of regulation 5, these regulations shall apply to a pensionable employee who—

- (a) on or after 1st April 1976, ceases to hold his employment with an employing authority by reason of redundancy or in the interests of the efficient exercise of that authority's functions, and in relation to whom that authority have certified in accordance with regulation E2(3)(a) of the Superannuation Regulations;
- (b) on ceasing to hold that employment—
 - (i) has attained the age of 50 years but has not attained the age of 65 years, and
 - (ii) is entitled to reckon an aggregate of not less than 5 years' reckonable service and qualifying service; and
- (c) is not entitled to have his case considered for payment of compensation, in respect of loss of that employment, under any instrument within the meaning of Part I of Schedule 2.

Discretion to credit an additional period of service

5. Subject as hereafter in these regulations provided, an employing authority may in their discretion, within 6 months after the date upon which these regulations come into effect or the material date, whichever is the later, credit an eligible person with an additional period of service not exceeding the shortest of the following periods—

- (a) a period which, when added to his reckonable service and any period in respect of which he has become (or on attaining some greater age will become) entitled to an occupational pension, does not in aggregate exceed 40 years;
- (b) a period equal to the period beginning with the day following the material date and ending with the day immediately preceding the day on which he attains the age of 65 years, less any period of residual entitlement which he has to his credit (as described in Part II of Schedule 2);
- (c) a period equivalent to his reckonable and qualifying service; or
- (d) a period of 10 years.

(a) S. I. 1974/520.

(b) S.I. 1974/812, relevant amending instruments are S.I. 1975/638, S.I. 1978/425 and S.I. 1978/1926.

PART II

COMPENSATION

Lump sum compensation and annual compensation

6.—(1) Subject as hereafter in these regulations provided, a beneficiary shall be entitled to receive compensation in accordance with paragraphs (2) and (3).

(2) Where a beneficiary, on ceasing to hold his former employment, becomes entitled under the Superannuation Regulations to receive a retiring allowance in relation to that employment, he shall be entitled to receive lump sum compensation equal to the amount by which that allowance would be increased in accordance with those regulations if a period, equal to the period with which he is credited under regulation 5, were added to service after 31st March 1972 which he is entitled to reckon as reckonable service.

(3) On ceasing to hold his former employment, a beneficiary shall be entitled to receive annual compensation at a rate equal to the rate by which his annual retirement pension under the Superannuation Regulations would be increased in accordance with those regulations if a period, equal to the period with which he is credited under regulation 5, were added to his reckonable service.

(4) In this regulation, reference to entitlement under the Superannuation Regulations means entitlement by virtue of regulation E2(1)(b)(iii) and E2(3)(a) of those regulations.

Allocation of part of annual compensation

7.—(1) This regulation shall apply to a beneficiary who—

- (a) has been allowed, in accordance with regulation E4 of the Superannuation Regulations, to surrender a part of the retirement pension to which, on ceasing to hold his former employment, he would otherwise be entitled; and
- (b) not later than one month after receiving, under regulation 17, written notification of the amount of his annual compensation has given notice to his employing authority that he desires this regulation to apply to him.

(2) A beneficiary to whom this regulation applies shall be entitled to surrender such part of his annual compensation as is described in paragraph (3), on the like terms and conditions and for the like consideration as if his annual compensation were a retirement pension to which he had become entitled by virtue of regulation E2(1)(b)(iii) and (3)(a) of the Superannuation Regulations.

(3) The part of his annual compensation which a beneficiary is entitled to surrender in accordance with paragraph (2), is any part which bears a proportion to his annual compensation that is equal to or less than the proportion which the part of the retirement pension which he has been allowed to surrender bears to the retirement pension to which he would otherwise be entitled.

(4) In this regulation, "annual compensation" means the compensation payable to a beneficiary under regulation 6(3), without any adjustment in accordance with Part III of these regulations.

Entitlement to widow's short-term compensation and long-term compensation

8.—(1) Subject to paragraph (2) and as hereafter in these regulations provided, if a male beneficiary dies and he is survived by a widow who is entitled to receive a pension under regulation E5(1) of the Superannuation Regulations in relation to his former employment, his widow shall be entitled to receive widow's short-term compensation in respect of the period of 3 months after the day of his death and widow's long-term compensation :

Provided that—

(a) a widow shall not be entitled to receive widow's short-term compensation or widow's long-term compensation—

- (i) if the marriage took place after the material date; or
- (ii) if at the material date or at the date of his death the beneficiary and his wife were judicially separated; and

(b) a widow shall not be entitled to receive payment in respect of widow's long-term compensation until the day following the expiration of the period of 3 months after the day of the beneficiary's death.

(2) Widow's short-term compensation and widow's long-term compensation shall not be payable to a widow—

- (a) if she re-marries, in respect of any period after the re-marriage;
- (b) if on the day of the death of the beneficiary she is living with another man as his wife, in respect of any period after that day; or
- (c) if after that day she commences to live with a man as his wife, in respect of any period after so commencing :

Provided that if at any time—

- (i) after her re-marriage, she has again become a widow or that marriage has been dissolved, or
- (ii) she is no longer living with a man as his wife,

the employing authority may, in their discretion, bring widow's long-term compensation into payment as from that time.

Amount of widow's short-term compensation and long-term compensation

9.—(1) Subject as hereafter in these regulations provided, short-term compensation payable to the widow of a beneficiary shall be at an annual rate equal to the rate at which any annual compensation would have been payable to the beneficiary in accordance with these regulations, immediately before his death, if no account had been taken of any adjustment in accordance with regulations 14(2)(b) or (insofar as concerns a reduction under paragraph 6 of Schedule 4) 16(2).

(2) Subject as hereafter in these regulations provided, long-term compensation payable to the widow of a beneficiary shall be one half of any annual compensation which would have been payable to the beneficiary in

accordance with these regulations, immediately before his death, if no account had been taken of any adjustment in accordance with regulations 7, 13(4), 14(2)(b) or (insofar as concerns a reduction under paragraph 6 of Schedule 4) 16(2), and—

- (a) where the beneficiary, at the time of his death, was in a new employment in which he was not a pensionable employee, if no account had been taken of any adjustment in accordance with regulation 15(2), or
- (b) where the beneficiary, at the time of his death, was in a new employment in which he was a pensionable employee, if that annual compensation were reduced in the manner described in paragraph 4 of Schedule 4, on the assumption that the reckonable service referred to in paragraph 5(1)(b)(ii) of that Schedule were the service which he would have been entitled to reckon as reckonable service if he had been, at the time of his death, a person such as is mentioned in regulation E2(1)(b)(i) of the Superannuation Regulations.

Entitlement to children's short-term compensation and long-term compensation

10.—(1) Subject to paragraph (2) and as hereafter in these regulations provided, if a male beneficiary dies and he is survived by an eligible child or eligible children entitled to receive a pension under regulation E8(1) of the Superannuation Regulations in relation to his former employment, children's short-term compensation in respect of the period of 3 months after the day of his death and children's long-term compensation shall be payable to or for the benefit of such eligible child or eligible children:

Provided that—

- (a) where widow's short-term compensation is payable to the widow of the beneficiary, children's short-term compensation shall not be payable during the period the widow's short-term compensation is payable; and
- (b) children's long-term compensation shall not be payable until the day following the expiration of the period of 3 months after the death of the beneficiary.

(2) Children's short-term compensation and children's long-term compensation shall not be paid to or for the benefit of a female eligible child—

- (a) if on the day of the death of the beneficiary she is married or living with another man as his wife, in respect of any period after that day; or
- (b) if after that day she marries or commences to live with a man as his wife, in respect of any period after marriage or so commencing:

Provided that if at any time—

- (i) after the marriage, she has become a widow or the marriage has been dissolved, or
- (ii) she is no longer living with a man as his wife,

the employing authority may, in their discretion, pay the children's short-term compensation or as the case may be the children's long-term compensation to her or for her benefit as from that time.

Amount of children's short-term compensation and long-term compensation

11.—(1) Children's short-term compensation shall be at an annual rate equal to the rate at which any annual compensation would have been payable to the beneficiary in accordance with these regulations, immediately before his death, if no account had been taken of any adjustment in accordance with regulations 14(2)(b) or (insofar as concerns a reduction under paragraph 6 of Schedule 4) 16(2).

(2) Subject to paragraph (3), children's long-term compensation shall be—

(a) where the beneficiary is survived by a widow to whom there is payable, or would be payable apart from proviso (a)(ii) to paragraph (1) of regulation 8 or paragraph (2) of that regulation, widow's short-term compensation or widow's long-term compensation, at an annual rate which, opposite to the number of eligible children in respect of whom it is for the time being payable specified in column (1) of the following table, is specified in column (2) thereof; and

(b) where the beneficiary is not survived by such a widow as is mentioned in sub-paragraph (a) or in respect of any period after the death of such a widow, at an annual rate which, opposite to the number of eligible children in respect of whom it is for the time being payable specified as aforesaid, is specified in column (3) of that table:—

TABLE

(1)	(2)	(3)
Number of eligible children	Annual rate of children's long-term compensation where there is a surviving widow of the beneficiary	Annual rate of children's long-term compensation where there is not a surviving widow of the beneficiary
1 child	One quarter of the beneficiary's annual compensation	One third of the beneficiary's annual compensation
2 or more children	One half of the beneficiary's annual compensation	Two thirds of the beneficiary's annual compensation

(3) For the purposes of paragraph (2) "the beneficiary's annual compensation" means any annual compensation which would have been payable to the beneficiary in accordance with these regulations, immediately before his death, if no account had been taken of any adjustment in accordance with regulations 7, 13(4), 14(2)(b) or (insofar as concerns a reduction under paragraph 6 of Schedule 4) 16(2), and—

(a) where the beneficiary, at the time of his death, was in a new employment in which he was not a pensionable employee, if no account had been taken of any adjustment in accordance with regulation 15(2); or

(b) where the beneficiary, at the time of his death, was in a new employment in which he was a pensionable employee, if that annual compensation were reduced in the manner described in paragraph 4 of Schedule

4 on the assumption that the reckonable service referred to in paragraph 5(1)(b)(ii) of that Schedule were the service which he would have been entitled to reckon as reckonable service if he had been, at the time of his death, a person such as is mentioned in regulation E2(1)(b)(i) of the Superannuation Regulations.

(4) If an eligible child who has attained the age of 16 and to whom or for whose benefit children's long-term compensation is payable is in receipt of remuneration in respect of full-time training for a trade, profession or calling, at an annual rate in excess of £250, increased from time to time by the amount (if any) by which an annual pension of £250 would be increased under section 2 of the Pensions (Increase) Act 1971(a), and section 59 of the Social Security Pensions Act 1975(b) if the eligible child were in receipt of such a pension and that pension were specified in Part II of Schedule 2 to the Pensions (Increase) Act 1971 and were one which began for the purposes of that Act on 16th May 1974, the annual rate of the children's long-term compensation shall be reduced by the amount of the excess less any reduction made in the children's long-term pension in respect of such excess under regulation E9(4) of the Superannuation Regulations, or if it would result in a smaller reduction of the children's long-term compensation, the child shall be disregarded for the purpose of calculating the amount of that compensation.

(5) Children's short-term compensation and children's long term compensation shall be payable to or among the eligible children in respect of whom it is for the time being payable in such proportions as the employing authority think fit:

Provided that that authority may if they think fit pay any such compensation or any part thereof to such other person as they may, in their discretion, determine and any person to whom any such compensation or part thereof is so paid shall apply it in accordance with any directions given by the employing authority for the benefit of the eligible children in respect of whom that compensation is for the time being payable.

Compensation of widowers, etc.

12. A female beneficiary who—

(a) has either—

- (i) a husband who on the material date was permanently incapacitated by reason of ill-health or infirmity of mind or body, and was wholly or mainly dependent on her, or
- (ii) no husband, but an eligible child or children; and

(b) not later than one month after being notified under regulation 17 of the compensation payable or 13 weeks after the coming into operation of these regulations, whichever is the later, notifies the employing authority in writing that she wishes to have the provisions of this regulation applied to her,

shall participate in the benefits provided by these regulations as if references therein to a male beneficiary and a man were references respectively to a female beneficiary and a woman; as if references to a wife and a widow were

(a) 1971 c. 56.

(b) 1975 c. 60.

references respectively to a husband and a widower; and as if references to regulations E5(1) or E8(1) of the Superannuation Regulations were references to those regulations as modified by regulation E12 of the Superannuation Regulations:

Provided that, in any case where a female beneficiary has notified the appropriate administering authority under the said regulation E12 and has died before the expiry of the period ascertained in accordance with paragraph (b) without giving notification under this regulation, the provisions of this regulation shall apply in relation to her as if she had given such notification.

PART III

ADJUSTMENT

Adjustment of compensation to take account of redundancy payments

13.—(1) This regulation applies to a beneficiary who—

- (a) is credited under regulation 5 with an additional period of service in excess of $6\frac{2}{3}$ years; and
- (b) has received, or is entitled to receive, a redundancy payment.

(2) Where a beneficiary to whom this regulation applies is entitled to receive lump sum compensation—

- (a) that compensation shall be reduced by an amount determined in accordance with the formula in paragraph (3), and
- (b) if the amount determined in accordance with the formula in paragraph (3) exceeds the lump sum compensation, the amount of the excess (hereinafter referred to as the “outstanding balance”) shall be dealt with in accordance with paragraph (4).

(3) The formula mentioned in paragraph (2) is—

$$\left(\frac{3R}{10} \times E\right) - Y$$

where:—

R is the amount of the redundancy payment referred to in paragraph (1)(b),

Y is the amount, if any, by which the redundancy payment is reduced in accordance with the provisions of the Redundancy Payments Pensions Regulations 1965(a), and

E is the period of service, expressed in years and fractions of a year, with which the beneficiary is credited under regulation 5 in excess of $6\frac{2}{3}$ years.

(4) Where a beneficiary to whom this regulation applies is, apart from the provisions of this regulation, not entitled to receive lump sum compensation or where there is an outstanding balance, his annual compensation shall be reduced by an amount the capital value whereof is equal to the amount of the redundancy payment or, as the case may be, the outstanding balance, such amount to be calculated in accordance with Schedule 3.

(5) In this regulation—

“annual compensation” means the compensation payable to a beneficiary under regulation 6(3), adjusted in accordance with regulation 7;

“lump sum compensation” means the compensation payable to a beneficiary under regulation 6(2);

“redundancy payment” means a redundancy payment within the meaning of the Redundancy Payments Act 1965(a) or the Employment Protection (Consolidation) Act 1978(b) which is payable to a beneficiary in respect of the cessation of his former employment and includes—

(a) any deduction from any such payment in accordance with the provisions of the Redundancy Payments Pensions Regulations 1965; and

(b) any amount by which any such payment is increased by his employing authority in pursuance of any contract or arrangement or any enactment, whenever passed or made.

Other payments

14.—(1) Where a beneficiary receives a termination payment on ceasing to hold his former employment, his compensation shall be abated as provided in paragraph (2).

(2) The abatement referred to in paragraph (1) shall be effected in the following manner—

(a) where a beneficiary is entitled to receive lump sum compensation—

(i) that compensation shall be reduced by the amount of the termination payment, and

(ii) if the termination payment exceeds the lump sum compensation, the amount of the excess (hereinafter referred to as the “excess amount”) shall be dealt with in accordance with sub-paragraph (b), and

(b) where a beneficiary is, apart from the provisions of this regulation, not entitled to receive lump sum compensation or where there is an excess amount, the amount of the termination payment or, as the case may be, the excess amount shall be deducted from the instalments of annual compensation as they accrue, so that no instalment becomes payable to the beneficiary until the aggregate of deductions from instalments equals the amount of the termination payment or the excess amount.

(a) 1965 c. 62.

(b) 1978 c. 44.

(3) In this regulation—

“annual compensation” means the compensation payable to a beneficiary under regulation 6(3), adjusted as may be necessary in accordance with regulations 7, 13(4), 15(2) and (insofar as concerns a reduction under paragraph 4 of Schedule 4) 16(2);

“lump sum compensation” means the compensation payable to a beneficiary under regulation 6(2), adjusted as may be necessary in accordance with regulation 13(2); and

“termination payment” means, in relation to a beneficiary, any payment (other than a redundancy payment or a payment made under regulations, or under provisions having effect as provisions of regulations, made under section 7 of the Superannuation Act 1972) made to him by his employing authority in consequence of the loss of his former employment, under any enactment or under any contract or arrangement with that authority and includes so much of any payment in lieu of notice as exceeds the remuneration he would have received if he had remained in his former employment for a period of three months after the material date.

New employment

15.—(1) This regulation applies to a beneficiary who enters new employment.

(2) The rate of annual compensation payable to a beneficiary to whom this regulation applies shall, for so long as he holds a new employment, not exceed the amount calculated in accordance with Part I of Schedule 4.

(3) Where, in relation to any beneficiary, two or more awards of annual compensation fall to be reduced in accordance with this regulation, each such award shall be reduced in proportion to its amount.

(4) In this regulation and Part I of Schedule 4, “the rate of annual compensation” means the rate at which compensation is payable to a beneficiary under regulation 6(3), adjusted in accordance with regulations 7, 13(4) and 16(2).

Cessation of new employment

16.—(1) This regulation applies to a beneficiary who has ceased to hold a new employment in which he was a pensionable employee.

(2) The annual compensation of a beneficiary to whom this regulation applies shall be reduced in the manner described in Part II of Schedule 4, if the aggregate of—

- (a) his reckonable service on the material date (disregarding the period described in (b), and any period described in (c), below),
- (b) the additional period of service with which he is credited under regulation 5,
- (c) any period of residual entitlement which he has to his credit (as described in Part II of Schedule 2), and
- (d) the reckonable service he is entitled to reckon in relation to his new employment, including any additional period which, in relation to that

employment, he is treated as being entitled to reckon as reckonable service in accordance with regulation E3(7) of the Superannuation Regulations,

exceeds the reckonable service he would have been entitled to reckon if he had held his former employment until he had attained the age of 65 years.

(3) For the purposes of paragraph (2)(a) and (d), the reckonable service of a beneficiary shall include service which, but for this paragraph, would have ceased to be reckonable service by reason of a transfer value having been paid, as described in regulation D3(2)(b) of the Superannuation Regulations.

(4) In this regulation and Part II of Schedule 4, (subject as mentioned in paragraph 6 thereof) "annual compensation" means the compensation payable to a beneficiary under regulation 6(3), adjusted in accordance with regulations 7 and 13(4).

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Notification of compensation

17. An employing authority, after—

- (a) crediting a beneficiary with an additional period of service under regulation 5,
- (b) the death of a beneficiary, or
- (c) making any adjustment in accordance with Parts II or III of these regulations,

shall as soon as reasonably practicable give the beneficiary, or such other person or persons to whom compensation is payable in accordance with these regulations, written notification of the compensation payable or of any adjustment and, in each case, of the calculation thereof.

Supply of information

18. A person to whom compensation is payable in accordance with these regulations shall—

- (a) furnish all such information as the employing authority may at any time reasonably require and shall verify that information in such manner, including the production of documents in his possession or control, as may be reasonably so required, and
- (b) not later than one month after his entering or ceasing to hold a new employment, give his employing authority written notification of that fact.

Procedure for payment of compensation

19.—(1) Compensation (other than lump sum compensation) which is payable to a person under these regulations shall be payable at intervals equivalent to those at which his pension is or would have been payable under

the Superannuation Regulations, or at such other intervals as may be agreed between him and the authority that in accordance with regulation 20 pays the compensation.

(2) Subject to any statutory provision in that behalf, any compensation payable under these regulations, shall be payable to or in trust for, the person entitled to receive the compensation and shall not be assignable.

(3) Without prejudice to any other right of recovery, any compensation paid in error may be recovered by the authority that in accordance with regulation 20 pays the compensation by deduction from any compensation payable under these regulations.

Paying authority

20.—(1) Compensation payable under these regulations shall, subject to paragraph (2), be paid by the employing authority.

(2) An authority, which under the Superannuation Regulations is required to maintain a superannuation fund in relation to a beneficiary to whom, or in respect of whom, compensation is payable under these regulations, may agree with the employing authority to pay that compensation on their behalf and to recover the amount thereof from them immediately or at such intervals as may be agreed.

New St. Andrew's House,
Edinburgh.
28th June 1979.

George Younger,
One or Her Majesty's Principal
Secretaries of State.

Regulation 3

SCHEDULE 1

Employing authorities who may credit certain pensionable employees with an additional period of service

- (a) a regional council, an islands council or a district council;
- (b) a joint board or joint committee appointed under any Act or any statutory order or statutory scheme, if all the constituent authorities are councils described in paragraph (a);
- (c) a water development board established under section 3 of the Water (Scotland) Act 1967(a);
- (d) a river purification board established under section 135 of the Local Government (Scotland) Act 1973(b);
- (e) the Scottish Special Housing Association.

(a) 1967 c. 78.

(b) 1973 c. 65.

SCHEDULE 2

*Regulation 4(c)**Other entitlement*

PART I

Exclusive entitlement

1. Regulations made under section 219 of the Local Government (Scotland) Act 1973 or any similar instrument.

PART II

Residual entitlement

*Regulations 5(b)
and 16(2)(c)*

2. Where, prior to his ceasing to hold his former or, as the case may be, his new employment, the reckonable service of a beneficiary has been increased by a period or he has been credited with an additional period of service, for the purpose of calculating—

- (a) retirement compensation under regulations made under section 219 of the Local Government (Scotland) Act 1973, or any similar instrument, on account of loss of his employment,
- (b) benefit under regulations made under section 220 of the Local Government (Scotland) Act 1973 or any similar instrument,
- (c) compensation under any scheme made under section 1 of the Superannuation Act 1972, or any similar instrument, on account of his retirement in the public interest, or
- (d) compensation under these regulations or any other regulations made under section 24 of the Superannuation Act 1972 or any similar instrument, on account of his ceasing to hold an employment with an authority by reason of redundancy or in the interests of the efficient exercise of the functions of that authority,

he shall, for the purposes of regulation 5(b) or, as the case may be, regulation 16(2)(c), have to his credit a period of residual entitlement, which shall be calculated in accordance with paragraph 3 or, as the case may be, paragraph 4.

3. For the purposes of regulation 5(b), a beneficiary's period of residual entitlement shall, subject as mentioned in paragraph 5(b), be—

- (a) the aggregate of the periods described in paragraph 2 and the period, if any, of his former employment on account of which the compensation or benefit described in paragraph 2 has not been reduced; less
- (b) the period beginning with the day immediately following the first cessation of employment in respect of which his reckonable service was increased or he was credited as described in paragraph 2, and ending on the day on which he ceased to hold his former employment.

4. For the purposes of regulation 16(2)(c), a beneficiary's period of residual entitlement shall, subject as mentioned in paragraph 5 (b), be—

- (a) the aggregate of the periods described in paragraph 2 and the period, if any, of his former employment and new employment on account of which the compensation or benefit described in paragraph 2 has not been reduced; less

(b) the period beginning with the day immediately following the first cessation of employment in respect of which his reckonable service was increased or he was credited as described in paragraph 2, and ending on the day on which he ceased to hold his new employment.

5. In this Schedule—

(a) a “similar instrument” means any instrument made under any provision to the like effect in any other enactment (whenever enacted), and

(b) in a case where the period described in paragraph 3(b) exceeds that described in paragraph 3(a), or where the period described in paragraph 4(b) exceeds that described in paragraph 4(a), no account shall be taken of the excess.

Regulation 13(4)

SCHEDULE 3

Adjustment on account of redundancy payments

The amount by which the annual compensation is to be reduced in the circumstances described in Regulation 13(4) shall be calculated in accordance with the following table:—

Age last birthday	Reduction of annual compensation per £100 of redundancy payment or outstanding balance	
	Male	Female
50	6.26	5.43
51	6.36	5.48
52	6.47	5.55
53	6.61	5.64
54	6.77	5.75
55	6.96	5.87
56	7.17	6.01
57	7.40	6.16
58	7.64	6.32
59	7.89	6.49
60	8.15	6.67
61	8.43	6.87
62	8.73	7.08
63	9.05	7.32
64	9.39	7.58

SCHEDULE 4

Adjustment on account of new employment

Regulation 15(2)

PART I

Reduction of annual compensation during new employment

1. The rate of annual compensation payable to a beneficiary to whom regulation 15 applies shall, during the period during which he holds the new employment, not exceed the amount (if any) by which the aggregate of the

annual rate of remuneration of the new employment and the annual rate of the retirement pension payable to him in relation to his former employment, falls short of the annual rate of remuneration of his former employment:

Provided that if concurrently with the former employment he held, within the period of 12 months immediately preceding the material date, any other employment with any scheduled body (in this part of this Schedule referred to as "concurrent employment") then if either—

- (a) he ceased to hold a concurrent employment before the material date, without having become entitled to receive a retirement pension in relation thereto, and enters new employment within 12 months after ceasing to hold the concurrent employment; or
- (b) he ceases to hold a concurrent employment on or after the material date, without having become entitled to receive a retirement pension in relation thereto, and thereafter has entered new employment,

the annual compensation shall—

- (i) not be reduced in relation to his new employment, unless he spends in that employment a time materially greater than the time which he spent in the concurrent employment during the year ending on the day on which he ceased to hold that concurrent employment;
- (ii) if he spends in his new employment a time materially greater than the time which he spent in the concurrent employment during the year ending on the day on which he ceased to hold that concurrent employment, be reduced only to the extent by which the aggregate of the annual compensation, the annual rate of remuneration of his new employment, and the annual rate of the retirement pension payable to him in relation to his former employment, exceeds the aggregate of the annual rate of remuneration of his former employment and the annual rate of remuneration of the concurrent employment during the year ending on the day on which he ceased to hold that concurrent employment.

2. For the purposes of this part of this Schedule—

- (a) "retirement pension" means a pension under regulation E2(1)(a) or (b) of the Superannuation Regulations and includes
 - (i) a superannuation allowance and an annual pension, within the meaning of regulation E15(12) of the Superannuation Regulations, and
 - (ii) the retirement pension that would be payable to a beneficiary, under regulation E2 of the Superannuation Regulations but for any transfer of benefits to another pension scheme or fund; and
- (b) references to the annual rate of retirement pension, of the remuneration of a former employment and of the remuneration of a concurrent employment are references to the annual rate of such a pension or remuneration increased by the amount (if any) by which an annual pension of an amount equal to the annual rate of that pension or remuneration would have been increased under section 2 of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975 during the period ending with the day immediately preceding the day on which the beneficiary entered the new employment if he were

in receipt of such a pension and that pension were specified in Part II of Schedule 2 to the Pensions (Increase) Act 1971 and were one which began for the purposes of that Act on the day the pension began or, as the case may be, the day immediately following the day on which he ceased to hold the employment and the person had, on the day on which the pension began or, as the case may be, he ceased to hold the employment, attained the age of 55 years.

Regulation 16(2)

PART II

Reduction of annual compensation on cessation of new employment

3. The annual compensation of a beneficiary to whom regulation 16 applies shall (with effect from the day on which he becomes entitled under the Superannuation Regulations to receive a retirement pension in relation to his new employment) be reduced as described in this part of this Schedule.

4. The annual compensation shall, whether or not the beneficiary is entitled to lump sum compensation, be reduced each year by an amount calculated in accordance with paragraph 5.

5.—(1) An amount calculated in accordance with this paragraph shall be an amount equal to the product of—

- (a) the pensionable remuneration of his former employment or the pensionable remuneration of his new employment, whichever is the lesser, multiplied by
- (b) the shortest of the following three periods (expressed in years and fractions of a year)—
 - (i) the additional period of service with which he is credited under regulation 5,
 - (ii) the reckonable service he is entitled to reckon in relation to his new employment, as described in regulation 16(2)(d), and
 - (iii) the period of excess referred to in regulation 16(2), multiplied by
- (c) the relevant fraction.

(2) For the purposes of sub-paragraph (1)—

- (a) in comparing the pensionable remuneration of a beneficiary's former employment with that of his new employment, the pensionable remuneration of his new employment shall be the amount of that remuneration reduced by a fraction thereof where—
 - (i) the numerator of the fraction is equivalent to the aggregate of the amount of increases which would have been awarded under section 2 of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975 in respect of the period beginning with the day following cessation of the former employment and ending on the day the person becomes entitled to receive payment of a retirement pension in respect of the new employment,

on an official pension (within the meaning of the Pensions (Increase) Act 1971) of £100 a year which commenced from the first mentioned day, and

(ii) the denominator of the fraction is equivalent to the aggregate of an official pension of £100 and the amount of the increases so determined; and

(b) “the relevant fraction” means the fraction which, in accordance with the provisions of regulation E3 of the Superannuation Regulations, is used in determining the amount of—

(i) the annual compensation payable to a beneficiary under regulation 6(3), in the case of a calculation for the purposes of paragraph 4, and

(ii) the lump sum compensation payable to a beneficiary under regulation 6(2), in the case of a calculation for the purposes of paragraph 6.

6.—(1) Where the beneficiary is entitled to lump sum compensation, an amount calculated in accordance with paragraph 5 shall be deducted from instalments of annual compensation as they accrue, so that no instalment becomes payable until the aggregate of deductions from instalments equals the said amount.

(2) For the purposes of sub-paragraph (1)—

(a) “annual compensation” means the annual compensation payable to the beneficiary after reduction in accordance with paragraph 4, and

(b) “lump sum compensation” means the compensation payable to the beneficiary under regulation 6(2), adjusted in accordance with regulations 13(2) and 14(2)(a).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations provide for the payment of compensation to local government officers and certain other officers aged 50 or over who are prematurely retired by their employing authorities on redundancy or in the interests of the efficiency of their employing authorities' functions. The compensation is in the form of additions to accrued superannuation benefits.

2. Part I of the Regulations (with Schedule 1) contains definitions. It also sets out the persons to whom the Regulations apply (Regulation 4 and Schedule 2) and the number of years which may be credited at the discretion of employing authorities for compensation purposes (Regulation 5 and Schedule 2).

3. Part II of the Regulations relates to the compensation payable (Regulation 6) and provides for allocation of part of annual compensation on the same basis as that for superannuation benefits (Regulation 7). There is provision for the payment of compensation, on the death of an officer to whom the Regulations apply, to his widow (Regulations 8 and 9) and children (Regulations 10 and 11). Regulation 12 makes provision for compensation to be paid to a dependent widower of a female officer.

4. Part III and Schedules 3 and 4 provide for adjustment and reduction of compensation in certain circumstances.

5. Part IV contains miscellaneous provisions.

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