
STATUTORY INSTRUMENTS

1994 No. 3068 (S.162)

LOCAL GOVERNMENT, SCOTLAND

The Local Government (Compensation for Redundancy) (Scotland) Regulations 1994

<i>Made</i>	- - - -	<i>1st December 1994</i>
<i>Laid before Parliament</i>		<i>5th December 1994</i>
<i>Coming into force</i>	- -	<i>28th December 1994</i>

The Secretary of State, in exercise of the powers conferred upon him by section 24 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994 and shall come into force on 28th December 1994, but shall have effect for the purposes of regulations 2, 5 and 6 from 1st April 1980.

Interpretation

2.—(1) In these Regulations—

“eligible employee” means—

- (a) a pensionable employee; or
- (b) a person who the employing authority are satisfied would either be, or be treated as being, a pensionable employee but for a relevant disqualification;

“reckonable service” means any period of reckonable service within the meaning of the Superannuation Regulations, together with any period of special service not being special service consisting of periods of unpaid leave or other unpaid absence from duty;

“relevant assumptions” mean the assumptions that—

- (a) during any period of special service a person was a pensionable employee;
- (b) the person's reckonable service for the purpose of the Superannuation Regulations included any periods of special service which did not consist of periods of unpaid leave or other unpaid absence from duty;
- (c) any notice or determination which, on the assumptions mentioned above, might have been given or made under regulation E22(3)(b) of those Regulations with respect to a period of special service had been given or made;
- (d) any notice or determination which, on the assumptions mentioned above, might have been given or made under regulation E22(4) or (5)(c) of those Regulations with respect to a period of special service had not been given or made; and
- (e) regulation E22(7) of those Regulations did not apply with respect to a period of special service;

"relevant disqualification" in relation to a person means—

- (a) the failure of a medical examination required under regulation B2(2) of the Superannuation Regulations;
- (b) the absence of an election under regulation B3(1) of those Regulations with respect to any period;
- (c) the giving of a notification under regulation B4A of those Regulations;
- (d) the making of an election with respect to any period under regulation 47(1)(c) of the Local Government Superannuation (Scotland) Amendment Regulations 1989(2); and
- (e) the fact that in terms of his contract of employment he is required to work fewer than 35 weeks per annum;

in consequence of one or more of which (either individually or cumulatively) that person has not become, has ceased to be, or has not been treated as being, a pensionable employee;

"relevant year" means the period of 365 days ending on the material date or, where it would yield a higher amount of remuneration, either of the two years immediately preceding the start of that period.

"remuneration", in the case of a pensionable employee, means pensionable remuneration and, in the case of an eligible employee who is not a pensionable employee, means the remuneration which, but for a relevant disqualification and on the relevant assumptions, would be his pensionable remuneration, in both cases during the relevant year;

"special service" means any period of employment with respect to which the employing authority is satisfied that the person concerned would have been, or been treated as being, a pensionable employee but for either a relevant disqualification or the fact that he was a part-time employee, as defined in Schedule 1 to the Superannuation Regulations, who was not at the relevant time eligible to elect to become a pensionable employee, except that, in relation to any employment ending before he began his former employment, it only includes such periods as are continuous with the former employment; and a period of employment is continuous with the former employment for this purpose if in the interval between its ending and the former employment beginning there have been no breaks in employment with a scheduled body for periods greater than one month and one day;

"the Superannuation Regulations" means the Local Government Superannuation (Scotland) Regulations 1987(3);

(2) 1989/802.

(3) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220, 1597 and 3025, 1993/1593, 2013 and 3044 and 1994/531.

“the 1979 Regulations” means the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979(4).

(2) In these Regulations, subject to paragraph (1) of this regulation and unless the context otherwise requires, any expression which is also used in the 1979 Regulations has the same meaning as in those Regulations.

PART II

COMPENSATION TO PERSONS CEASING EMPLOYMENT ON OR AFTER 28TH DECEMBER 1994

Persons to whom this Part applies

3. This Part applies to an eligible employee who—
- (a) ceases on or after 28th December 1994 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;
 - (b) is not, in respect of the loss of that employment, entitled to have his case considered for the payment of compensation under any instrument within the meaning of Part I of Schedule 2 to the 1979 Regulations; and
 - (c) on the material date—
 - (i) has attained the age of 18 years, but has not attained the age of 50 years and is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
 - (ii) has attained the age of 50 years and is entitled to count reckonable service and qualifying service amounting in aggregate to less than 2 years.

Computation of compensation

4.—(1) An employing authority may, within 6 months after the material date, determine to pay compensation under these Regulations to a person to whom this Part applies.

(2) The compensation payable in respect of such a person under this Part shall not exceed the lesser of—

- (a) a sum equivalent to 66 weeks' remuneration; and
- (b) the relevant aggregate sum referred to in paragraph (3) or (4) below.

(3) In the case of cessation of employment before the age of 23, the relevant aggregate sum shall be—

- (a) a sum equivalent to one half week’s remuneration for each complete year of reckonable service on or after the attainment of age 18; and
- (b) where such cessation is on or after the attainment of age 20, a sum equivalent to one half week’s remuneration for each complete year of reckonable service on or after the attainment of age 20.

(4) In the case of cessation of employment on or after the attainment of age 23, the relevant aggregate sum shall be—

- (a) a sum equivalent to two weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18; and
 - (b) where such cessation is on or after the attainment of age 41, a sum equivalent to three week's remuneration for each complete year of reckonable service on or after the attainment of age 41.
- (5) From the compensation payable under these Regulations to a person to whom this Part applies there shall be deducted an amount equivalent to any redundancy payment made to that person.

PART III

COMPENSATION TO PERSONS CEASING EMPLOYMENT ON OR AFTER 1ST APRIL 1980 AND BEFORE 28TH DECEMBER 1994

Persons to whom this Part applies

5. This Part applies to an eligible employee who—
- (a) ceased on or after 1st April 1980 but before 28th December 1994 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;
 - (b) is not, in respect of the loss of that employment, entitled to have his case considered for the payment of compensation under any instrument within the meaning of Part I of Schedule 2 to the 1979 Regulations; and
 - (c) on the material date—
 - (i) has attained the age of 18 years, but has not attained the age of 65 years; and
 - (ii) is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years.

Lump sum compensation

6.—(1) An employing authority may, within 6 months after the date upon which these Regulations come into force, determine to pay compensation under these Regulations to a person to whom this Part applies.

(2) The compensation payable in respect of such a person under this Part shall not exceed a sum calculated by reference to the following formula:—

$$\left(A \times \frac{66}{52} \right) - B;$$

Where—

A is the person's remuneration; and

B is the amount of any redundancy payment paid to the person in respect of the cessation of his former employment.

PART IV

NOTIFICATION AND PAYMENT

Notification of compensation

7. An employing authority after making a determination in accordance with regulation 4 or 6 shall as soon as reasonably practicable give the person in respect of whom that determination is made, or any other person or persons to whom compensation is payable by virtue of that determination in accordance with these Regulations, written notification of the compensation payable, and the calculation thereof.

Payment of compensation

8. Subject to any statutory provision in that behalf, any compensation payable under these Regulations shall be paid by the employing authority as soon as practicable after making a determination in accordance with regulation 4 or 6 in the form of a lump sum payment to or in trust for the person entitled to receive the compensation and shall not be assignable.

PART V

SUPPLEMENTARY PROVISION

Amendment of 1979 Regulations

9. In regulation 14(3) of the 1979 Regulations the definition of the term “termination payment” shall be amended by the addition at the end of the definition of the following words:—

“or

- (c) any compensation payable in relation to that employment under the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994.”.

1st December 1994

Fraser of Carmyllie
Minister of State, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations allow a lump sum payment to be made to certain employees falling within the definition of eligible employees who cease to hold local government employment by reason of redundancy or in the interests of the efficiency of their employing authority.

Part II of the Regulations applies to employees who leave employment after these Regulations come into force. The maximum payment to such employees will be calculated on a sliding scale according to age and complete years of service subject to an overall limit equivalent to 66 weeks' remuneration.

Part III of the Regulations applies to employees who ceased employment on or after 1st April 1980 but before 28th December 1994. The maximum payment available for such employees is calculated by a fixed formula. Regulations 2, 5 and 6 are, by virtue of section 24(3)(c) of the Superannuation Act 1972, made to apply retrospectively from 1st April 1980.

The amount of any compensation payable under these Regulations is reduced by the aggregate of any redundancy payment under the Employment Protection (Consolidation) Act 1978 (c. 44) and any compensation paid under Part II of the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 (S.I.1984/846).

Part IV of the Regulations deals with notification and payment of compensation. Part V of the Regulations contains provision amending the definition of the term "termination payment" in regulation 14 of the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979 (S.I. 1979/785) as amended to exclude from that definition payments made under these Regulations.