
STATUTORY INSTRUMENTS

1997 No. 1143 (S.102)

**LOCAL GOVERNMENT, SCOTLAND
PENSIONS**

**The Local Government Superannuation (Scottish
Environment Protection Agency) (Scotland) Regulations 1997**

<i>Made</i>	- - - -	<i>2nd April 1997</i>
<i>Laid before Parliament</i>		<i>4th April 1997</i>
<i>Coming into force</i>	- -	<i>28th April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972⁽¹⁾ and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate in accordance with section 7(5) of that Act, and not having considered consultation with any individual local authority desirable, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Superannuation (Scottish Environment Protection Agency) (Scotland) Regulations 1997 and shall come into force on 28th April 1997, but shall have effect from 1st April 1996.

(2) In these Regulations—

“the Principal Civil Service Pension Scheme” means the scheme made under section 1 of the Superannuation Act 1972 and referred to as such in section 2(10) of that Act;

“the principal Regulations” means the Local Government Superannuation (Scotland) Regulations 1987⁽²⁾ and, unless the context otherwise requires, any expression which is also used in the principal Regulations has the same meaning as in those Regulations;

“the Scottish Environment Protection Agency” has the same meaning as in the Environment Act 1995⁽³⁾.

(1) 1972 c. 11; section 7(3) was extended by the Pensions (Increase) Act 1974 (c. 9), section 2(2).
(2) 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, 1994/531, 1995/214, 750 and 3294 and 1996/414 and 1241.
(3) 1995 c. 25.

Special provision for former employees of the Scottish Office transferring to SEPA

2. After regulation G4 of the principal Regulations there shall be inserted the following new regulation:–

“Former employees of the Scottish Office transferring to SEPA

G5.—(1) This regulation applies to a person who–

- (a) is or has been employed by the Scottish Environment Protection Agency and while so employed is or was a pensionable employee;
- (b) immediately before that employment was employed in the civil service of the State and was a member, or was eligible to be a member, of the Principal Civil Service Pension Scheme; and
- (c) transferred to the employment of the Scottish Environment Protection Agency either–
 - (i) on 1st April 1996 as a consequence of the transfer under the Environment Act 1995 of functions which on that date became functions of the Scottish Environment Protection Agency; or
 - (ii) as a consequence of a transfer to the Scottish Environment Protection Agency of the undertaking in which he was employed to which transfer the Transfer of Undertakings (Protection of Employment) Regulations 1981(4) apply.

(2) In their application to a person to whom this regulation applies and for the purpose only of determining entitlement to, or calculating the amount of, any benefit payable in respect of his SEPA service, these Regulations shall have effect subject to deletion of regulation E3(14) and Schedule 11.

(3) In relation to a person to whom this regulation applies, the provisions contained in Schedule 16A shall have effect.

(4) In this regulation and in Schedule 16A–

“the Principal Civil Service Pension Scheme” means the scheme made under section 1 of the Superannuation Act 1972 and referred to as such in section 2(10) of that Act;

“SEPA service” means–

- (a) the period during which the person concerned has been in continuous pensionable employment of the Scottish Environment Protection Agency following his transfer to their employment as described in paragraph (1)(c); and
- (b) where a transfer value has been accepted in respect of his accrued rights from the Principal Civil Service Pension Scheme, the period of reckonable service which he is entitled to count under regulation J9(1)(a).”.

Glossary of expressions

3. Schedule 1 to the principal Regulations shall be amended by inserting after the definition of “Scheme managers” the following:–

““Scottish Environment Protection Agency” has the same meaning as in the Environment Act 1995.”.

(4) S.I. 1981/1794; a relevant amendment to the definition of “undertaking” was made by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

Provisions in relation to a person to whom regulation G5 applies

4. The principal Regulations shall be amended by inserting after Schedule 16 the following:–

“SCHEDULE 16A

Regulation G5

PROVISIONS IN RELATION TO FORMER EMPLOYEES OF HM INDUSTRIAL POLLUTION INSPECTORATE AND SCOTTISH OFFICE TRANSFERRING TO SEPA

1. The following provisions of this Schedule shall have effect in relation to a person to whom regulation G5 applies.

2. In relation to such a person who–

- (a) if a man, had service which under the PCSPS Rules was reckonable service prior to 1st June 1972; or
- (b) if a woman, had service which under the PCSPS Rules was reckonable service prior to 1st June 1972 or after 31st May 1972 but before 6th April 1988,

regulations E3(7) to (11) and, in regulation E11(3), the definition of D shall apply as if–

- (i) references to reckonable service included references to that reckonable service; and
- (ii) the reference to payment under regulation C8 which has been or is to be treated as having been completed included a reference to any contribution paid or treated as paid under the PCSPS Rules which would have reduced the potential lump sum contribution under rule 4.18 of the PCSPS Rules in the case of a man or rule 4.23c in the case of a woman.

3. Even in a case where a transfer value is not accepted by the fund authority under regulation J8 in relation to a person to whom regulation G5 applies–

- (a) that person shall, for the purposes of–
 - (i) regulation E2(1)(b)(i) (permanent ill-health etc.);
 - (ii) regulation E2(1)(c)(i) (entitlement to preserved benefits);
 - (iii) regulation E3(12) (entitlement to additional period under Schedule 10 in cases of early retirement on grounds of ill-health);
 - (iv) regulation E4(2) (entitlement to ill-health lump sum retiring allowance); and
 - (v) regulation E5(1)(c)(i) (entitlement to widow’s pension),

be entitled to count as a period to which regulations D2, D3(6), D8A, D10, D11(1) and (3) and E29 apply the period which he would have been entitled to count under regulation J9(1)(b) if a transfer value had been accepted under regulation J8 in relation to him and his accrued rights under the Principal Civil Service Pension Scheme; and

- (b) the additional period in relation to him referred to in regulation E3(12) shall be a period calculated as mentioned in paragraph 2 of Schedule 10, but on the assumption that his relevant reckonable service includes the period which he would have been entitled to count as a period of reckonable service under regulation J9(1)(a) if a transfer value had been accepted under regulation J8 in relation to him (“the PCSPS period”).

4. Where the Scottish Environment Protection Agency is paying, in recognition of the difference between the contribution rates of members of the Principal Civil Service Pension Scheme and pensionable employees, a supplement to any person, the amount of the supplement shall not be included in remuneration for the purposes of these Regulations.

- 5.—(1) If a person ceases to hold a local government employment and–

- (a) (i) his reckonable service and any qualifying service when added together amount to not less than two years, or
- (ii) a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the appropriate pension fund in relation to him; and
- (b) he has attained the age of 50,

he is entitled, in respect of his SEPA service—

- (i) to a retirement pension (calculated in accordance with regulation E3 and reduced in accordance with sub-paragraph (3) below) and
- (ii) a retiring allowance (so calculated and so reduced),

which are payable to him, on his so requesting the administering authority in writing, either immediately on his ceasing to hold that employment or, at his option, at any time before he attains the age of 60.

(2) If a person to whom sub-paragraph (1)(a) applies has not attained the age of 50 when he ceases to hold the local government employment, he is entitled in respect of his SEPA service—

- (i) to a retirement pension (calculated in accordance with regulation E3 and reduced in accordance with sub-paragraph (3) below) and
- (ii) a retiring allowance (so calculated and so reduced),

which are payable to him, on his so requesting the administering authority in writing, either immediately on his attaining the age of 50 or, at his option, at any time before he attains the age of 60.

(3) Subject to regulation E1, for the purposes of sub-paragraphs (1) and (2) a person's retirement pension and retiring allowance are reduced by the appropriate percentage for the person's pension advancement period.

(4) In sub-paragraph (3)—

- (a) “the person's pension advancement period” means the period remaining from the date from which the benefits become payable to the date of the person's 60th birthday; and
- (b) “the appropriate percentage” means the percentage shown in tables produced from time to time by the Government Actuary for the purpose of calculating the reduction in a person's pension under sub-paragraph (3).

6. A person who has entered into a contract under the PCSPS Rules to purchase an additional period of membership under the Principal Civil Service Pension Scheme shall be entitled, for so long as he is in continuous pensionable employment of the Scottish Environment Protection Agency following his transfer to their employment as described in regulation G5(1)(c), to continue to make additional periodic payments as if they were made pursuant to an election made under regulation C5 or C6 of these Regulations and in respect of the same additional period of membership and in the same amount as required under the Principal Civil Service Pension Scheme, and Schedules 4 and 5 shall not apply.

7. A person who has elected under the Principal Civil Service Pension Scheme to pay contributions to an additional voluntary contributions scheme may continue, for so long as he is in continuous pensionable employment of Scottish Environment Protection Agency following his transfer to their employment as described in regulation G5(1)(c), to make voluntary contributions on the same terms as if the payment of contributions were made under regulation C9A of these Regulations and by notice under paragraph 1(1) of Schedule 7A.

8. The provisions of Schedule 7A, where applicable, shall have effect in relation to contributions payable under an additional voluntary contributions scheme referred to in paragraph 7 as if references in that Schedule to contributions under regulation C9A and notice under

paragraph 1(1) (except the reference in paragraph 9 to a new election under regulation C9A by notice under paragraph 1 in relation to his new employment) were references to contributions to that additional voluntary contributions scheme and notice given to contribute to that scheme.

9. These Regulations—

- (a) shall have effect in relation to a person to whom regulation G5 applies as if they conferred on him rights relating to service overseas corresponding to those which he would have enjoyed if he had remained subject to the PCSPS Rules; and
- (b) shall continue so to have effect so long as the person is in continuous pensionable employment of the Scottish Environment Protection Agency following his transfer to their employment as described in regulation G5(1)(c).

10. In relation to a person to whom regulation G5 applies regulation J8(1) shall have effect as if for the words “within 12 months of entering local government employment” there were substituted the words “within 12 months of the coming into force of the Local Government Superannuation (Scottish Environment Protection Agency) (Scotland) Regulations 1997”.

11.—(1) A person shall be entitled to treat his relevant employment as if it had been a period of pensionable employment for the purposes of calculating his pensionable remuneration.

(2) In sub-paragraph (1) “relevant employment” in relation to a person means his employment in the civil service of the State immediately before his transfer to the employment of the Scottish Environment Protection Agency, as described in regulation G5(1)(c), by virtue of which he was a member of the Principal Civil Service Pension Scheme.

12. Rules 1.6a and 1.7 of the PCSPS Rules shall continue to apply for the purposes of calculating a person’s pensionable remuneration and the provisions of regulation E22 shall be modified accordingly in relation to him.

13. For the purposes of this Schedule “the PCSPS Rules” means the rules constituting the Principal Civil Service Pension Scheme.”.

Calculation of transfer value

5.—(1) Where a person to whom regulation G5 of the principal Regulations (as added by these Regulations) applies gives written notice to the fund authority within 13 months of becoming a pensionable employee of the Scottish Environment Protection Agency or of being given relevant bulk transfer information and option forms, whichever is the later, that he wishes them to accept a transfer value, calculated under bulk transfer terms, in respect of all his accrued rights from the Principal Civil Service Pension Scheme, the transfer value in respect of those rights shall be calculated in accordance with paragraph (2) and the provisions of paragraph (3) shall apply in relation to that person.

(2) The transfer value shall be such amount as shall be agreed between the Government Actuary (with the approval of the Minister for the Civil Service) and the actuary to the appropriate superannuation fund and shall be adjusted to take account of any period between the date the person becomes a pensionable employee and the date of actual payment of the transfer value as those actuaries shall agree.

(3) The period which shall be counted under regulation J9(1)(a) of the principal Regulations in relation to the person shall, instead of being calculated in accordance with paragraph 2(1) of Schedule 17 to those Regulations, be equal to the actual length of his reckonable service under the Principal Civil Service Pension Scheme and the provisions of regulation J9(1)(a) shall be modified accordingly in relation to him.

(4) Paragraph (3) shall apply also in relation to a person to whom regulation G5 of the principal Regulations applies and who gives written notice to the fund authority under regulation J8(1) that

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he wishes them to accept an individual transfer value in respect of all his accrued rights from the Principal Civil Service Pensions Scheme.

St Andrew's House,
Edinburgh
2nd April 1997

James Douglas-Hamilton
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the Local Government Superannuation (Scotland) Scheme (“the LGSS”) constituted under the Local Government Superannuation (Scotland) Regulations 1987 (“the principal Regulations”) in connection with the establishment of the Scottish Environment Protection Agency (“SEPA”), and the transfer of staff to the Agency from the Civil Service. The Regulations have retrospective effect from 1st April 1996, as authorised by section 12(1) of the Superannuation Act 1972.

Regulations 2 and 4 add new regulation G5 and Schedule 16A to the principal Regulations. They deal with adjustments to be made to the Scheme and to benefits under it in respect of persons who become employees of SEPA on a transfer from employment in respect of which they were members, or were eligible to be members, of the Principal Civil Service Pension Scheme (“the PCSPS”), and who as employees of SEPA are members of the LGSS.

The main amendments provide that—

- (a) members of the PCSPS (or those eligible to be members) joining the LGSS will retain the right to retire at age 60 with no actuarial reduction to pension even where they have less than 25 years actual membership of the LGSS;
- (b) where a person opts to preserve his accrued PCSPS service he will nonetheless be entitled to treat such service as qualifying service for the purpose of certain provisions of the LGSS and as reckonable service for the purpose of early retirement on grounds of ill-health;
- (c) members of the PCSPS joining the LGSS and who subsequently cease to hold a local government employment before age 50 will retain the right to take actuarially reduced pensions in respect of their SEPA service (including any service transferred from the PCSPS) on attainment of that age or, at their option, at any time between the ages of 50 and 60. Similarly, persons ceasing to hold a local government employment after attaining age 50 can either take a reduced pension in respect of their SEPA service (including any service transferred from the PCSPS) immediately or, at their option, at any time before age 60. The factors used in calculating the pensions will be determined by the Government Actuary’s Department;
- (d) contracts for the purchase of added years of service and for in-house additional voluntary contributions under the PCSPS will, for so long as the persons concerned are in the continuous pensionable employment of SEPA, continue at no disadvantage to the individuals;
- (e) members of the PCSPS joining the LGSS will, for so long as they are in continuous pensionable employment of SEPA, retain the right to count earlier service abroad as increased service;
- (f) where a person opts to preserve his accrued PCSPS service he will nonetheless be entitled to treat such service as a period of pensionable employment with SEPA for the purpose of calculating his pensionable remuneration;
- (g) the provisions of the PCSPS Rules dealing with calculation of pensionable pay will continue to apply for the purpose of determining the pensionable remuneration on which a person’s pension is based.

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Regulation 5 makes provision for the calculation of transfer values to the LGSS from the PCSPS in respect of members whose employment transfers to SEPA. Where a transfer value in respect of accrued PCSPS service has been requested by an eligible person within the appropriate time limits (whether on bulk or individual terms), the transfer value will be calculated so as to provide year for year service credit in the LGSS.