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STATUTORY INSTRUMENTS

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**1998 No. 192**

**The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998**

**PART IV**

**COMPENSATION FOR REDUNDANCY WHERE PART III DOES NOT APPLY**

**Supplementary provisions**

**37.**—(1) Sections 220 to 224 and 226 to 229 of the 1996 Act (calculation of a week's pay) shall apply for the purposes of calculating a week's remuneration for the purposes of this Part, but with the omission of section 227(1)(c) and the substitution for references to the calculation date of references to the material date.

(2) For the purpose of calculating the compensation payable to a person under this Part, the LGSS employer shall not include any years of qualifying employment which they or a previous LGSS employer have taken into account in calculating compensation which has been paid to him previously under these Regulations or other regulations made under section 24 of the 1972 Act<sup>(1)</sup> (except for concurrent qualifying employment).

(3) No period of qualifying employment which has been taken into account in calculating compensation paid under this Part may be taken into account for the purposes of calculating compensation to be paid under these Regulations or other regulations made under that section (except, in the case of a calculation by a LGSS employer, for concurrent qualifying employment.)

(4) In this Part—

“concurrent qualifying employment”, in relation to a calculation by a LGSS employer, means qualifying employment with that employer which is concurrent with qualifying employment with that or another LGSS employer;

“excluded employment” means a period of employment—

- (a) in an independent school (within the meaning of section 135(1) of the Education (Scotland) Act 1980<sup>(2)</sup>); or
- (b) in relation to which a pension or other benefits (other than a refund of contributions) are being or have been paid under an occupational pension scheme;

“qualifying employment”, in relation to an employee, means a period of employment (other than excluded employment) in relation to which the LGSS employer is satisfied that the employee was in local government employment (within the meaning of the LGSS Regulations) or pensionable employment (within the meaning of the Teachers Superannuation (Scotland) Regulations 1992<sup>(3)</sup> or of the National Health Service Superannuation Scheme (Scotland)

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(1) Section 24 of the Superannuation Act 1972 (c. 11) was amended by the Police Pensions Act 1976 (c. 35), section 13(1), Schedule 2, paragraph 10.

(2) 1980 c. 44.

(3) S.I.1992/280.

Regulations 1995(4) or was in employment which would have been such employment but for a relevant disqualification;

“relevant disqualification”, in relation to an occupational pension scheme (including the LGSS) which applies to qualifying employment, means any of the following reasons in consequence of which (either alone or taken together) a person has not become, has ceased to be or has not been treated as being eligible for membership of the scheme, namely–

- (a) the failure of a medical examination required for such membership;
- (b) 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;
- (c) a restriction excluding some part-time employment from being employment to which the scheme applies;
- (d) in the case of the LGSS–
  - (i) ineligibility under regulation B4B(6) of the Superannuation Regulations; or
  - (ii) in the case of a manual worker, failure to complete a period of continuous employment required to be a pensionable employee;

and other expressions used in this Part and in Part III have the same meaning as in that Part.