

1972 No. 931**PENSIONS****The Pensions Increase (Approved Schemes) (Local Government) Regulations 1972**

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| <i>Made</i> | - - - | <i>22nd June 1972</i> |
| <i>Laid before Parliament</i> | | <i>3rd July 1972</i> |
| <i>Coming into Operation</i> | | <i>1st August 1972</i> |

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 13(3) to (5) of the Pensions (Increase) Act 1971(a) and of all other powers enabling him in that behalf, with the approval of the Minister for the Civil Service, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Pensions Increase (Approved Schemes) (Local Government) Regulations 1972, and shall come into operation on 1st August 1972.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act of 1937” means the Local Government Superannuation Act 1937(b);

“the Act of 1971” means the Pensions (Increase) Act 1971;

“the Act of 1972” means the Superannuation Act 1972(c);

“average remuneration”, in relation to a person, means the annual average of the remuneration of his employment as assessed for the purposes of calculating the employer’s superannuation contribution during the last 3 years of his reckonable service;

“the civil service pension scheme” means the principal civil service pension scheme within the meaning of section 2 of the Act of 1972 and for the time being in force;

“contributory employee” means a contributory employee within the meaning of section 3(1) of the Act of 1937 to whom the provisions of the Local Government Superannuation (Benefits) Regulations 1954(d) (other than regulation 17) apply;

“dependant”, in relation to a woman, means a person who is to the satisfaction of the relevant local authority wholly or mainly supported by that woman and who either has not attained the age of 16 years or is receiving

(a) 1971 c. 56.

(b) 1937 c. 68.

(c) 1972 c. 11.

(d) S.I. 1954/1048 (1954 II, p. 1595).

full-time instruction at an educational establishment or is undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than 2 years;

“Health Service Regulations” means the National Health Service (Superannuation) Regulations 1961(a);

“local authority” has the meaning assigned to it by section 40 of the Act of 1937;

“minimum pensionable age”, in relation to a person, means the earliest age at which he could have become entitled to receive a pension (other than a pension payable consequent on physical or mental infirmity) if in his employment he had been a contributory employee;

“reckonable service”, in relation to a person, has the meaning assigned to it by Schedule 1 to these regulations;

“relevant local authority”, in relation to a person, means the local authority by whom an amount will be payable under regulation 6 hereof if the conditions set out in regulation 4 are satisfied;

“the Secretary of State” means the Secretary of State for the Environment;

“superannuation scheme” means the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved by the Minister for the Civil Service for the purposes of section 13 of the Act of 1971.

(2) In these regulations, unless the context otherwise requires, any reference to any enactment or regulation specified in Schedule 2 to these regulations or any provision thereof shall be construed as a reference to that enactment, those regulations or that provision as having effect by virtue of paragraph 5(1) of Schedule 7 to the Act of 1972.

(3) In these regulations, unless the context otherwise requires, any reference to any enactment or regulations shall be construed as a reference to that enactment or those regulations as amended or extended by any other enactment or regulations.

(4) The Interpretation Act 1889(b) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Effect of these regulations

3. These regulations shall apply for the payment to persons described in regulation 4 hereof of the amounts described in regulation 6, being amounts which appear to the Secretary of State to be appropriate having regard to the benefits provided by Part I of the Act of 1971 for persons whose superannuation benefits are regulated under the civil service pension scheme.

Persons to whom the regulations apply

4.—(1) These regulations shall apply to any person who—

(a) either—

(i) has ceased to be employed by a local authority at or after attaining minimum pensionable age, or

(ii) having ceased to be employed by a local authority at or after

(a) S.I. 1961/1441 (1961 II, p. 2824).

(b) 1889 c. 63.

attaining the age of 50 years but before attaining minimum pensionable age, attains minimum pensionable age or is to the satisfaction of the relevant local authority disabled by physical or mental infirmity, or

- (iii) has ceased to be employed by a local authority on account of physical or mental infirmity; and
- (b) immediately before so ceasing to be employed—
 - (i) was subject to a superannuation scheme, and
 - (ii) had completed 10 years' reckonable service; and
- (c) has received or has become entitled to receive payment of any retirement benefit under the superannuation scheme mentioned in paragraph (1)(b)(i) of this regulation; and
- (d) either—
 - (i) has attained the age of 60 years or such reduced age as may be provided for by an order made under section 3(8) of the Act of 1971, or
 - (ii) has ceased to be employed by the local authority on account of physical or mental infirmity or is to the satisfaction of the relevant local authority disabled by physical or mental infirmity, or
 - (iii) is a woman who has at least one dependant.

(2) Notwithstanding the provisions of paragraph (1)(a)(ii) of this regulation, these regulations shall not apply to any person who, having ceased to be employed as therein mentioned, —

- (a) within 12 months of so ceasing to be employed entered any of the employments described in paragraph 2 of Schedule 1 to these regulations, or
- (b) before attaining minimum pensionable age again became employed in any employment in which he was subject to the superannuation scheme mentioned in paragraph (1)(b)(i) of this regulation.

(3) For the purposes of paragraph (1) of this regulation, a person who was entitled to receive, and received, payment of any retirement benefit under a superannuation scheme within 12 months of minimum pensionable age shall be deemed to have attained that age.

Notional pension and notional lump sum

5.—(1) There shall be ascribed to each person to whom these regulations apply a notional pension calculated on the following basis—

- (a) for each year of reckonable service, one eightieth of his average remuneration, and
- (b) for any additional part of a year of reckonable service which amounts to or exceeds 6 months, one one hundred and sixtieth of his average remuneration.

(2) Where a person to whom these regulations apply has ceased to be employed as mentioned in regulation 4(1)(a)(ii) of these regulations, there shall be ascribed to him a notional lump sum calculated on the following basis—

- (a) for each year of reckonable service, three eightieths of his average remuneration, and

(b) for any additional part of a year of reckonable service which amounts to or exceeds 6 months, three one hundred and sixtieths of his average remuneration.

(3) Where the amount of a notional pension ascribed, under paragraph (1) of this regulation, to any person does not exceed £26 a year, these regulations shall not apply to him.

(4) In calculating, under paragraph (1) of this regulation, the notional pension of a person to whom an allowance was payable before the coming into operation of these regulations under or by reference to the Pensions Increase (Approved Schemes) (Local Government) Regulations 1968 and 1969(a) any fraction of a pound in the resulting sum shall be treated as a whole pound.

Payment of benefits equivalent to pensions increase

6.—(1) Subject to paragraph (2) of this regulation, a local authority shall, in respect of any period beginning on or after 1st September 1971, pay to any person to whom these regulations apply and who was employed by them on the day when his reckonable service ended or, in connection with functions afterwards transferred to that authority, was employed on that day by another local authority an amount equal to the increase which would be payable to him under the Act of 1971—

(a) if there were payable to him—

(i) a superannuation allowance under the civil service pension scheme, beginning on the day following the termination of his reckonable service and of an amount equal to the notional pension ascribed to him under regulation 5(1) of these regulations, and

(ii) in a case where a notional lump sum is ascribed to him under regulation 5(2) of these regulations, a lump sum under the civil service pension scheme, beginning on the day following the termination of his reckonable service, becoming payable on his attaining minimum pensionable age or satisfying the local authority that he is disabled by physical or mental infirmity, as the case may be, and of an amount equal to that notional lump sum, and

(b) if any allowance which might (but for the Act of 1971) have been paid to him under the Pensions Increase (Approved Schemes) (Local Government) Regulations 1968 and 1969 were a relevant increase within the meaning of section 6(10) of that Act.

(2) Where by virtue of section 18(2) of the Act of 1971 (which, in respect of any period between 31st August 1971 and the coming into force of regulations under a provision of Part II of the Act of 1971, permits the payment on certain pensions of the like increase or supplement as was authorised by regulations under an enactment (repealed by the Act of 1971) corresponding to that provision) any allowance which might (but for the Act of 1971) have been paid to a person to whom these regulations apply under the Pensions Increase (Approved Schemes) (Local Government) Regulations 1968 and 1969 has been paid to him, there shall be deducted from the amount payable to him under paragraph (1) of this regulation the amount of the allowance so paid.

(a) S.I. 1968/1284, 1969/1720 (1968 II, p. 3597; 1969 III, p. 5413).

SCHEDULE 1

Regulation 2(1)

MEANING OF RECKONABLE SERVICE

1. Subject to the provisions of this schedule, a person's reckonable service shall be a period equivalent to the aggregate of any periods of employment which have both—

- (a) been spent in any employment described in paragraph 2 of this schedule, and
- (b) become reckonable under the superannuation scheme mentioned in regulation 4(1)(b)(i) of these regulations as described in paragraph 3 of this schedule.

2. The employments to which paragraph 1 of this schedule relates are—

- (a) employment under a local authority or a local authority within the meaning of section 34 of the Local Government Superannuation (Scotland) Act 1937(a);
- (b) employment under any voluntary organisation, undertakers or body who have entered into an admission agreement under section 15 of the Local Government Superannuation Act 1953(b) or section 7 of the Superannuation (Miscellaneous Provisions) Act 1948(e);
- (c) employment under an authority which was or was deemed to be an employing authority for the purposes of the Health Service Regulations or the National Health Service (Superannuation) (Scotland) Regulations 1961(d);
- (d) employment in which the person was subject to any regulations or scheme made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(e), or section 61 of the Health Services Act (Northern Ireland) 1948(f) or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);
- (e) employment in the civil service of the State;
- (f) employment by a county or district nursing association during any period when a local health authority had arrangements with, or paid contributions to, that association under Part III of the National Health Service Act 1946(g), Part III of the National Health Service (Scotland) Act 1947(h) or section 10 of the Health Services and Public Health Act 1968(i).

3. For the purposes of paragraph 1 of this schedule a period of employment shall be deemed to have become reckonable under the superannuation scheme referred to in that paragraph if—

- (a) during such period the person was subject to that superannuation scheme and the contributions authorised or required to be paid by the employer were duly paid, or
- (b) such period was taken into account in calculating a sum in the nature of a transfer value paid to that scheme under rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 or under the Health Service Regulations, or any corresponding provision in force in Scotland, Northern Ireland or the Isle of Man:
Provided that—
 - (i) so much of any period referred to in sub-paragraph (b) as consisted of non-contributing service shall be reckonable under this paragraph at half its actual length, and
 - (ii) so much of any such period as consisted of part-time service shall be reckonable under this paragraph as though it were whole-time service for a proportionately reduced period.

(a) 1937 c.69.

(b) 1953 c. 25.

(c) 1948 c. 33.

(d) S.I. 1961/1398 (1961 II, p. 2697).

(e) 1950 c. 10 (N.I.).

(f) 1948 c. 3 (N.I.).

(g) 1946 c. 81.

(h) 1947 c. 27.

(i) 1968 c. 46.

4. For the purposes of regulation 4(1)(b)(ii) of these regulations, there may be added to the service described in paragraph 1 of this schedule—

(a) any period of previous service which would have been reckonable under regulation 22 of the Health Service Regulations (which provides for the reckoning of qualifying service in certain cases) or any corresponding provision in force in Scotland, Northern Ireland or the Isle of Man, and

(b) any period of employment by a county or district nursing association during which a local authority had arrangements with that association under section 1 of the Midwives Act 1936(a) or section 1 of the Maternity Services (Scotland) Act 1937(b).

5. For the purposes of paragraph 3(a) of this schedule no account shall be taken of any period of employment preceding a break of 12 months or more during which the person was not in employment described in paragraph 2 hereof.

SCHEDULE 2

Regulation 2(2)

ENACTMENTS AND REGULATIONS HAVING EFFECT UNDER PARAGRAPH 5(1) OF SCHEDULE 7 TO THE ACT OF 1972

The Act of 1937

The Local Government Superannuation (Scotland) Act 1937

Section 7 of the Superannuation (Miscellaneous Provisions) Act 1948

The Local Government Superannuation Act 1953

The Local Government Superannuation (Benefits) Regulations 1954

22nd June 1972.

Peter Walker,

Secretary of State for the Environment.

Approval of the Minister for the Civil Service given under his official seal on 22nd June 1972.

(L.S.)

A. W. Wyatt,

Authorised by the Minister for the Civil Service.

(a) 1936 c. 40.

(b) 1937 c. 30.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Some people who entered local government employment chose not to enter local government superannuation but to keep their right to superannuation benefits through schemes providing lump sums or annuities, or both, by way of insurance policies. The relevant schemes are the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved by the Minister for the Civil Service. Benefits under these schemes are payable not by a local authority but by an insurance company, and therefore are not covered by the general provisions in the Pensions (Increase) Act 1971 for increasing the pensions of former local government employees.

These regulations provide for the local authority to pay to certain of those persons, being those who have left local government and satisfy certain conditions of entitlement (prescribed in regulation 4), amounts which increase their benefits to an extent broadly corresponding to increases which they would have received under the Pensions (Increase) Act 1971 had they been in local government superannuation. The conditions of entitlement combine, with necessary modifications, the conditions for increases under the Pensions (Increase) Act 1971 with those for a pension under the general local government scheme but include also a condition broadly similar to the variations made to that scheme in recent years by many local Acts, which have empowered local authorities to pay deferred superannuation benefits to certain persons leaving local government employment before attaining an age which under the general local government scheme would have entitled them to receive a pension ("minimum pensionable age") and subsequently attaining that age or becoming incapacitated.

The amounts to be paid are to be calculated on a notional pension and, where the person has left before minimum pensionable age, a notional lump sum, corresponding to the pension and lump sum which would have been received if he had been in the local government superannuation scheme and entitled to reckon under that scheme his service during which he was in the insurance policy scheme.

In accordance with the power conferred by section 13(5) of the Act of 1971, the regulations provide for the increases to take effect from 1st September 1971.

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