

## 1973 No. 313

## PENSIONS

**The Local Government Superannuation (Miscellaneous Provisions) Regulations 1973**

<i>Made</i> - - - -	26th February 1973
<i>Laid before Parliament</i>	9th March 1973
<i>Coming into Operation</i>	30th March 1973

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(a), as read with paragraph 5(1) of Schedule 7 to that Act, 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, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

*Title and commencement*

1. These regulations may be cited as the Local Government Superannuation (Miscellaneous Provisions) Regulations 1973 and shall come into operation on 30th March 1973.

*Interpretation*

2.—(1) In these regulations—

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

“the benefits regulations” means the Local Government Superannuation (Benefits) Regulations 1954(c).

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

(a) references to any enactment or instrument shall be construed as references thereto as amended, modified, extended, applied or re-enacted by or under any other enactment or instrument (including these regulations); and

(b) references to the Act of 1937 and to the benefits regulations shall, additionally, be construed as references thereto as having effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972.

(3) The Interpretation Act 1889(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if these regulations and the regulations revoked by regulation 27 below were Acts of Parliament.

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(a) 1972 c. 11.

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

(b) 1937 c. 68.

(d) 1889 c. 63.

*Purport and retrospective operation of these regulations*

3. The Act of 1937 and the benefits regulations shall be amended in accordance with the provisions of these regulations; and certain of these amendments shall have effect from a date earlier than the making of these regulations, as provided in regulations 26 and 27 below.

*Superannuation funds*

4. In section 1 of the Act of 1937 (which relates to superannuation funds), after subsection (2) there shall be inserted the following subsection—

“(2A) As from the date of their first meeting, a superannuation fund shall be maintained for the purposes of this Part of this Act by each county council constituted by the Local Government Act 1972(a).”.

*Contributory employees*

5.—(1) In section 3(2) of the Act of 1937 (which lists classes of contributory employee)—

(a) at the end of paragraph (a) there shall be inserted the following paragraph—

“(aa) in the circumstances mentioned in Part VI of Schedule 2 to this Act, a whole-time servant of such a local authority as aforesaid;”;

(b) in paragraph (b), for the words “every servant, or part-time officer,” there shall be substituted the words “every part-time officer or servant”.

(2) At the end of section 3 of the Act of 1937 there shall be added the following subsection—

“(5) An employing authority may resolve that a person who falls within subsection (2)(a) or (aa) of this section shall not become a contributory employee unless he has undergone a medical examination to their satisfaction; and a resolution under this subsection may apply to any specified person or to any specified class or description of persons.”.

*Employer's contributions*

6. In section 6(2) of the Act of 1937 (which requires employing authorities to pay certain sums into the appropriate superannuation fund)—

(a) for the words “equivalent contribution” there shall be substituted the words “employer's contribution”;

(b) after the words “contributory employees” there shall be inserted the words “together with a further amount equal to 30 per cent. of such contributions”.

*Return of employee's contributions*

7. In section 10 of the Act of 1937 (which relates to return of employee's contributions)—

(a) in subsection (6), after the word “thereunder” there shall be inserted the expression “(a)” and at the end there shall be added the words—

“or

(b) to a contributory employee—

- (i) who ceases to be employed by an employing authority on or after 1st April 1972 and
- (ii) whose remuneration on which contributions were payable by virtue of section 6 of this Act has at any time exceeded the annual rate of £5,000”;

(b) at the end of the section there shall be added the following subsection—

“(8) On making any repayment of contributions (with or without interest) under this section on or after 1st April 1972, the administering authority shall be entitled to deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970 (a) (which relates to charge to tax on repayment of employee’s contributions).”.

*Reckoning of service*

8. At the end of section 12(2) of the Act of 1937 (which provides for the reckoning of service as non-contributing service) there shall be added the words “if he becomes a contributory employee before 1st April 1973; but a person who becomes a contributory employee on or after that date may reckon such service as non-contributing service only—

- (a) if he is entitled by virtue of section 13 of this Act to reckon as contributing service an earlier period of service in the employment either of his employing authority or some other authority; or
- (b) so far as rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(b) may entitle him to reckon any earlier period of employment as non-contributing service; or
- (c) if immediately before 1st April 1973, he is a servant in the course of serving a qualifying period referred to in a statutory resolution of his employing authority specifying a class or description for purposes of section 3(2)(b) of this Act as originally enacted”.

*Payments to superannuation fund*

9. In paragraph (b) of section 21(2) of the Act of 1937 (which requires certain sums to be carried to a superannuation fund) for the words “equivalent contributions” there shall be substituted the words “employer’s contributions”.

*Whole-time servants*

10. After section 28 of the Act of 1937, there shall be added the following section—

“28A. The provisions of Part VI of Schedule 2 to this Act shall have effect with respect to whole-time servants.”.	Whole-time servants.
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(a) 1970 c. 24

(b) 1948 c. 33.

*Temporary appointments*

11. In section 30 of the Act of 1937 (which relates to whole-time officers appointed in a temporary capacity), after the words “whole-time officer”, in each place where those words occur, there shall be inserted the words “or servant”.

*Interpretation of Act of 1937*

12. In section 40(1) of the Act of 1937 (interpretation)—

(a) at the end of the definition of “part-time officer” there shall be added the words “and “part-time servant” shall be construed accordingly”;

(b) for the definition of “whole-time officer” there shall be substituted the following definition—

“ “whole-time officer” means, in relation to any local authority, an officer whose contractual minimum hours of employment regularly or usually amount to 30 hours or more in each week; and “whole-time servant” shall be construed accordingly.”.

*Whole-time servants*

13. At the end of Part V of Schedule 2 to the Act of 1937, there shall be added the following—

“PART VI  
*Whole-time servants*

Sections 3  
and 28A

1. A whole-time servant shall become a contributory employee—

(a) when he has completed 12 months’ continuous whole-time employment with his employing authority or

(b) if he entered the employment of that authority, without a disqualifying break of service, after other employment in which he was a contributory employee.

2. A whole-time servant who is not a contributory employee immediately before 1st July 1973 may by notice in writing given to his employing authority within the three months preceding that date elect that he shall not become a contributory employee so long as he continues to be a whole-time servant in the employment of that authority.”.

*Average remuneration*

14. In regulation 3(1) of the benefits regulations (which defines average remuneration)—

(a) for the words from the beginning to the words “in relation to that employment” there shall be substituted the following—

“(1) Subject to the provisions of this regulation, the average remuneration of a contributory employee in relation to any employment which he ceases to hold shall be taken to be the remuneration of the employment during the final year, ending with the day on which he ceases to hold that

employment or the day on which he completes 45 years' reckonable service, whichever is the earlier:";

(b) in paragraph (d) of the proviso, for the words "three years" there shall be substituted the words "one year";

(c) in each of paragraphs (e) and (f) of the proviso, for the words "during the said period of three years" there shall be substituted the words "during the final year of his employment";

(d) at the end of the proviso there shall be added the following paragraph—

"(g) where a contributory employee ceases to hold an employment after less than a year therein, but service in some previous employment, falling within the year preceding the day on which he ceased to hold the first-mentioned employment, is reckonable as service, his remuneration in that employment shall be treated as remuneration in the first-mentioned employment."

#### *Calculation of service*

**15.** For regulation 4(1) of the benefits regulations (which sets out the method of calculating service) there shall be substituted the following—

"(1) Subject to the provisions of this regulation, a contributory employee's service shall be calculated for the purposes of these regulations—

(a) by aggregating all periods of contributing service and then

(b) by aggregating all periods of non-contributing service,

and the result in each case shall be expressed in terms of completed years and completed days.

(1A) Where any aggregation required by paragraph (1) above yields a result which is not expressed in terms of completed years alone, each completed day over and above the completed years shall be expressed as 1/365 of a year.

(1B) Where service aggregated under paragraphs (1)(b) and (1A) above would, if halved, include an odd half day, one day of that service shall be disregarded.

(1C) A contributory employee's entitlement to any benefit under these regulations shall be calculated by reference to the completed years and completed days of his service; and any provision in these regulations requiring a benefit to be calculated, or to be reduced, at a specified rate or at a rate expressed as a fraction or percentage of an average remuneration in respect of any year of service shall be construed accordingly."

#### *Retirement pension*

**16.—**(1) In regulation 5(1) of the benefits regulations (which sets out the qualifying conditions for retirement pension)—

(a) in sub-paragraph (a), for the word "ten" there shall be substituted the word "five";

(b) in sub-paragraph (b), for the word “forty” there shall be substituted the word “twenty-five”; and

(c) in sub-paragraph (c), for the word “ten” there shall be substituted the word “five”.

(2) In regulation 5(2) of the benefits regulations (which sets out scales of retirement pension), for the words “on the following scale” there shall be substituted the words “at the following rate”.

(3) In regulation 5(3) of the benefits regulations (which provides for a minimum pension in cases of retirement on grounds of ill-health), after the word “regulation” there shall be inserted the words “to an employee who has completed ten years’ service”.

#### *Retirement grant*

**17.**—(1) In regulation 6(1) of the benefits regulations (which sets out the qualifying conditions for retirement grant)—

(a) in sub-paragraph (a), for the word “ten” there shall be substituted the word “five”; and

(b) in sub-paragraph (b), for the word “forty” there shall be substituted the word “twenty-five”.

(2) In regulation 6(2) of the benefits regulations (which sets out scales of retirement grant), for the words “on the following scale” there shall be substituted the words “at the following rate”.

(3) In regulation 6(4) of the benefits regulations (which relates to retirement grants in certain cases), for the words “by two eightieths” there shall be substituted the words “at the rate of two eightieths” and for the words “by two one hundred and sixtieths” there shall be substituted the words “at the rate of two one hundred and sixtieths”.

#### *Widow’s pension*

**18.** In regulation 8 of the benefits regulations (which relates to widow’s pension)—

(a) in paragraph (1)(b), for the word “ten” there shall be substituted the word “five”; and

(b) in paragraph (4), for the words “one third” there shall be substituted the words “one half”.

#### *Death grant*

**19.** In regulation 10(6) of the benefits regulations (which relates to death grant), for the words “sub-paragraphs (a) and (b)” there shall be substituted the words “sub-paragraph (a)”.

#### *Joint appointments*

**20.** In regulation 11 of the benefits regulations (which relates to joint appointments), for the word “ten” there shall be substituted the word “five”.

*Added years*

21. In regulation 12(6) of the benefits regulations (which provides for added years, and for contributions in respect of them), for sub-paragraph (a) there shall be substituted the following—

“(a) contributions equal to the amount of the contributions payable by the employee by way of additional contributions under paragraph (3) of this regulation; and”.

*Optants for previous benefits*

22. At the end of regulation 17 of the benefits regulations (which provided an option for certain employees to retain earlier rights to benefits) there shall be added the following paragraph—

“(4) Notwithstanding anything in the foregoing provisions of this regulation, in relation to a person who has exercised any such option and who ceases to be employed on or after 31st March 1972—

(a) regulation 3 of these regulations shall apply for the calculation of his average remuneration;

(b) regulation 4 shall apply for the calculation of his service; and

(c) regulation 5(1) shall apply for determining his entitlement to receive a superannuation allowance as if that allowance were a retirement pension.”.

*Protected rights*

23. In relation to any transferred employee to whom article 21(2) of the London Authorities (Superannuation) Order 1965(a) applies and who is entitled by virtue of a local Act scheme to the benefit of provisions corresponding to regulations 3 to 6 and 8 of the benefits regulations, those regulations shall apply, with any necessary modifications, to the exclusion of those corresponding provisions.

*Modification*

24. In sub-paragraph (b) of paragraph 2 of Schedule 1 to the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(b), after the word “completed years” there shall be inserted the words “and completed days”; and at the end of the sub-paragraph there shall be added the words “as computed for purposes of regulation 4 of the Benefits Regulations”.

*Right to opt out*

25.—(1) Any existing employee who would otherwise become a contributory employee in consequence of the revocations effected by regulation 27(1) below may by notice in writing given to his employing authority before 1st October 1973 elect not to become a contributory employee so long as he remains in the employment of that authority.

(2) Any person to whom the provisions of regulation 7 above would otherwise apply, and who ceased his employment on or after 31st March 1972 and

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(a) S.I. 1965/621 (1965 I, p. 1970).

(b) S.I. 1969/793 (1969 II, p. 2227).

before the commencement of these regulations, may by notice in writing given to his employing authority before 1st October 1973 elect that those provisions shall not so apply.

*Date from which amendments take effect*

26.—(1) Any provision of these regulations mentioned in column (1) below shall have effect as from the date specified in column (2) in respect of that provision:—

(1)	(2)
Regulations 7 and 14 to 24	1st April 1972 in relation to any person who was a contributory employee on or after 31st March 1972.
Regulations 6, 8 and 9	1st April 1973
Regulations 5(1) and 10 to 13	1st July 1973.

(2) The revocations specified in regulation 27 below shall have effect from the dates specified therein.

*Revocations, etc.*

27.—(1) The following provisions of the Act of 1937 shall cease to have effect from the commencement of these regulations—

- (a) in section 3(4), paragraph (c) and the proviso;
- (b) section 16(1)(b).

(2) Sections 9(3) and 11 of the Local Government Superannuation Act 1953(a) shall cease to have effect from the commencement of these regulations.

(3) The following provisions of the benefits regulations are hereby revoked in relation to any person who was a contributory employee on or after 31st March 1972—

- (a) regulation 8(2);
- (b) regulation 9;
- (c) in regulation 10—
  - (i) in paragraph (1), the words from “after completing five years’ service” where they first occur to the words “having ceased to hold the employment” and the proviso;
  - (ii) paragraph (2);
  - (iii) in paragraph (3)(c), the words in the parentheses;
- (d) regulation 16(b);
- (e) in regulation 20(1), the words “or a short service grant”;
- (f) in regulation 23, the words “and thirty years for forty years”;
- (g) in Schedule 2, paragraph 4(b)(iv).



(4) The following provisions of regulation 11 of the benefits regulations are hereby revoked in relation to any person who is a contributory employee on or after 1st April 1973, that is to say, the words "either" and "or has completed twenty years' service".

*Geoffrey Rippon,*  
Secretary of State for the Environment.

26th February 1973.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations (i) improve the benefits payable under the local government superannuation scheme, (ii) provide for the admission of certain manual workers to that scheme and (iii) make miscellaneous amendments to that scheme.

The Regulations proceed by way of amendments to the enactments constituting that scheme. Although repealed by the Superannuation Act 1972, these enactments have effect by virtue of paragraph 5(1) of Schedule 7 to that Act as regulations made under section 7 of that Act.

The main changes with respect to benefits are—

- (1) Certain qualifying periods are reduced (regulations 16 to 20).
- (2) Benefits are to be calculated by reference to—
  - (a) years and days of service (instead of completed years) (regulation 15) and
  - (b) remuneration in the final year of service (instead of the average of the last three years) (regulation 14).
- (3) Widow's pension is to be half the husband's pension (instead of a third) (regulation 18).
- (4) Employer's contributions are to be 130 per cent. of employee's contributions (instead of 100 per cent.) (regulation 6).

The admission of manual workers is secured by bringing within the scope of compulsory superannuation any whole-time servants who satisfy certain conditions. The main condition (regulation 13) involves completion of 12 months' continuous service with the relevant employing authority.

Provision is made for opting out in certain cases.

The miscellaneous amendments are—

- (a) superannuation funds are to be maintained by county councils constituted under the Local Government Act 1972 (regulation 4);
- (b) employing authorities are empowered to require new entrants to pass a medical examination before they can become contributory employees (regulation 5);
- (c) the rights of new entrants to reckon non-contributing service are restricted (regulation 8);
- (d) whole-time employees are defined by reference to the number of hours worked (instead of by a “substantially” test) (regulation 12).

The provisions of the regulations which improve benefits are brought into force as from 31st March 1972, under powers conferred by section 12(1) of the Superannuation Act 1972. The increase in employers' contributions takes effect from 1st April 1973. The provisions relating to admission of manual workers take effect from 1st July 1973.

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