

1974 No. 73
LOCAL GOVERNMENT, ENGLAND AND WALES
**The Water Authorities (Retirement of Chief Officers)
Regulations 1974**

<i>Made - - - -</i>	<i>18th January 1974</i>
<i>Laid before Parliament</i>	<i>1st February 1974</i>
<i>Coming into Operation</i>	<i>22nd February 1974</i>

ARRANGEMENT OF REGULATIONS
PART I
PRELIMINARY

1. Title and commencement.
2. Interpretation.

PART II
ENTITLEMENT TO BENEFIT

3. Persons to whom the regulations apply.
4. Exercise of election to benefit under the regulations.

PART III
BENEFIT UNDER THE REGULATIONS

5. Factors governing payment of benefit.
6. Benefit payable to widow or dependant.
7. Benefit where death grant would have been payable.

PART IV
ADJUSTMENT OF BENEFIT

8. Benefit payable under relevant superannuation scheme.
9. Further employment.

PART V
MISCELLANEOUS

10. Notification of benefit.
11. Supply of information.
12. Procedure for payment of benefit.
13. Authorities responsible for payment of benefits.
14. Transitional procedures.

SCHEDULES

- Schedule 1. Definition of "Recognised Officer".
Schedule 2. Acceptance of other employment.
Schedule 3. Form of notice of election.

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 260 of the Local Government Act 1972(a) as applied by section 34 of the Water Act 1973(b) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

PART I

PRELIMINARY

Title and commencement

1. These regulations may be cited as the Water Authorities (Retirement of Chief Officers) Regulations 1974 and shall come into operation on 22nd February 1974.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"accrued pension", in relation to a person duly entitled, means—

- (a) if his relevant superannuation scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme in respect of every employment which he ceases to hold on the day immediately before the payment date according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any payments in respect of added years which he was in the course of making; and
- (b) in any other case, such portion of the pension (if any) of which he had reasonable expectations as the new authority consider equitable, having regard to any practice of the employing authority, his age, the length of his employment at the date of termination of his employment in consequence of the notice of election and all the other circumstances of the case;

"accrued retiring allowance", in relation to a person duly entitled, means—

- (a) if his relevant superannuation scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme in respect of every employment which he ceases to hold on the day immediately before the payment date according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any payments in respect of added years which he was in the course of making; and

(a) 1972 c. 70.

(b) 1973 c. 37.

(b) in any other case, such portion of the lump sum payment (if any) of which he had reasonable expectations as the new authority consider equitable, having regard to any practice of the employing authority, his age, the length of his employment at the date of termination of his employment in consequence of the notice of election and all the other circumstances of the case;

“the Act” means the Local Government Act 1972;

“added years”, in relation to a person duly entitled, means—

(a) in the case of a contributory employee or local Act contributor, any additional years of service reckonable by him in his employment immediately prior to its termination, under regulation 12 of the Local Government Superannuation (Benefits) Regulations 1954(a), or any corresponding provision of a local Act scheme, or that regulation or any such provision as aforesaid as applied by or under any enactment, and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of interchange rules, and

(b) in the case of any other person, any additional years of service, similar to those mentioned in paragraph (a) of this definition, reckonable by him under the relevant superannuation scheme,

being in either case additional years which were being purchased partly at the expense of the employer and partly at the expense of the person under arrangements which were entered into before the making of these regulations;

“chief officer” means a person employed by a water authority—

(a) as clerk or chief officer on terms which on 1st October 1973 were negotiable by—

(i) the National Joint Committee for Clerks and Treasurers of Water Boards and their Deputies,

(ii) the Joint Committee for Water Engineers’ Salaries, or

(iii) the Joint Negotiating Committee for Chief Officers of Local Authorities,

(b) who is not described in paragraph (a) of this definition, but is employed as clerk or secretary to that authority on terms which on 1st October 1973 were equivalent to those negotiable by—

(i) the Joint Negotiating Committee for Clerks of County Councils, or

(ii) the Joint Negotiating Committee for Town Clerks and District Council Clerks, or

(c) who is not described in paragraph (a) or (b) of this definition, but is employed as clerk, chief executive, manager, secretary, chief financial officer, treasurer or engineer to that authority;

“contributory employee”, “local Act contributor” and “local Act scheme” have the same meanings as in the Local Government Superannuation Act 1937(b);

“deputy chief officer” means a person employed by a water authority as a deputy to a chief officer if—

(a) the terms of his employment were on 1st October 1973 either negotiable by one of the Committees referred to in paragraph (a) of the definition

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

(b) 1937 c. 68.

of “chief officer” or equivalent to those negotiable by one of the Committees referred to in paragraph (b) of that definition, or

(b) the terms of his employment were not on 1st October 1973 as described in paragraph (a) of this definition, but he holds his employment in the capacity of deputy to a chief officer in consequence of a resolution of the employing authority;

“enactment” means any Act or any instrument made under any Act;

“employing authority”, in relation to a person to whom these regulations apply, means the water authority by whom he is employed;

“fund authority”, in relation to any person, means the authority maintaining a superannuation fund or account in relation to that person;

“interchange rules” means rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(a) (which provides for the pensions of persons transferring to different employment) and includes any similar instrument made, or having effect as if made, under any other Act which makes similar provision;

“local authority” means the Greater London Council, the council of any London Borough, the Common Council of the City of London and any authority specified in either section 1(10) or (11) of the Act (other than the council of an urban parish) or section 20(6) of the Act (other than a parish council, a parish meeting, a representative body of a parish and a common parish council);

“new authority” means—

(a) in relation to a person who gives notice of election before 1st April 1974, the authority to whom he would, if he were to continue employment with his employing authority, be transferred by an order of transfer, subject to the provisions of regulation 14, and

(b) in relation to a person who gives notice of election on or after 1st April 1974, the authority to whom he is transferred by an order of transfer;

“normal retiring age” has the meaning given by section 260(6) of the Act;

“notice of election” means a notice which complies with the provisions of regulation 4(2);

“order of transfer”, in relation to a person to whom these regulations apply, means an order made under the Act which, in accordance with the provisions of section 255 of the Act, contains a provision as to the transfer of that person;

“payment date”, in relation to any person, means the date on which the sums specified in regulation 5(1) become payable in accordance with the provisions of regulation 5(9);

“pension scheme”, in relation to a person duly entitled, means any form of arrangement associated with his employment for the payment of superannuation benefits, whether subsisting by virtue of enactment, trust, contract or otherwise;

“person duly entitled” means a person to whom these regulations apply as described in regulation 3(1) and who gives a notice of election, and to whom no notice of objection has been given as described in section 260(2) of the Act;

“reckonable service” has the meaning given by section 260(6) of the Act;

“recognised officer” has the meaning given by Schedule 1;

“relevant superannuation scheme” has the meaning given by section 260(6) of the Act;

“Water Act” means the Water Act 1973;

“water authority” means

- (a) any body specified in section 33(c) to (h) of the Water Act,
- (b) any local authority prior to 1st April 1974 exercising functions which on and after that date will, pursuant to the Water Act, be exercised by an authority specified in section 2(1) of the Water Act, and
- (c) any authority specified in section 2(1) of the Water Act.

(2) The holder of any office, appointment, place, situation or employment shall, for the purposes of these regulations, be regarded as an officer employed in that office, appointment, place, situation or employment and the expressions “officer” and “employment” shall be construed accordingly.

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

- (a) references to any enactment shall be construed as references thereto as amended, re-enacted, applied or modified by any subsequent enactment; and
- (b) references to the Local Government Superannuation Act 1937 and the Local Government Superannuation (Benefits) Regulations 1954, shall, additionally, be construed as references thereto as having effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972(a).

(4) References in these regulations to a numbered regulation or Schedule shall, unless the reference is to a regulation or a Schedule of specified regulations, be construed as references to the regulation or Schedule bearing that number in these regulations.

(5) References in any of these regulations to a numbered paragraph shall, unless the reference is to a paragraph of a specified regulation, be construed as references to the paragraph bearing that number in the first mentioned regulation.

(6) References in these regulations to the Act or a section of the Act shall be construed as references to the Act or that section of the Act as applied by section 34 of the Water Act.

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

PART II

ENTITLEMENT TO BENEFIT

Persons to whom the regulations apply

3.—(1) These regulations shall apply to any person who is, subject to the provisions of paragraph (4), an officer described in paragraph (2) and fulfils each of the conditions specified in paragraph (3).

(2) The officers referred to in paragraph (1) are—

- (a) a chief officer,
- (b) a deputy chief officer, or
- (c) a recognised officer,

(a) 1972 c. 11.

(b) 1889 c. 63.

whose appointment as so described was (or would but for the reorganisation effected by the Water Act have been) permanent, and who is required to devote on the average not less than 30 hours per week in performing the duties of one or more water authorities.

- (3) The conditions referred to in paragraph (1) are that—
- (a) he attains or has attained the age of fifty on or before 31st March 1974;
 - (b) he is, subject to the provisions of paragraph (5), an officer within the meaning of paragraph (2) immediately before the commencement of these regulations;
 - (c) he will not attain normal retiring age—
 - (i) on or before 31st March 1974, or
 - (ii) on or before the payment date,whichever is the later;
 - (d) he has five years' reckonable service to his credit or will have five years' reckonable service to his credit on or before 31st March 1974;
 - (e) on or before the payment date he gives to the new authority an undertaking that an amount equal to any sum received by him by way of return of superannuation contributions (including interest) after termination of the employment in consequence of the notice of election will immediately be paid—
 - (i) to the fund authority, if the provisions of his relevant superannuation scheme enable him to be credited with benefit attributable to such sum, or
 - (ii) to the new authority, if the provisions of his relevant superannuation scheme do not enable him to be credited with benefit attributable to such sum;
 - (f) he has not, before the date which would otherwise be the payment date accepted an offer of employment described in—
 - (i) part 1 of Schedule 2, if employed (on 31st March 1974 or the day before the payment date, whichever is the earlier) by a water authority within the meaning of paragraph (a) of the definition of water authority, or
 - (ii) part 1 or part 2 of Schedule 2, if employed (on 31st March 1974 or the day before the payment date, whichever is the earlier) by a water authority within the meaning of paragraph (b) of the definition of water authority; and
 - (g) he is alive on the payment date.
- (4) An officer, notwithstanding that he is described in paragraph (2) and complies with the conditions in paragraph (3) shall only be a person to whom these regulations apply if—
- (a) in a case where the payment date is not later than 1st April 1974, he would, were he not to become a person duly entitled, be a person to whom an order of transfer would apply, or
 - (b) in a case where the payment date is after 1st April 1974, he is a person to whom an order of transfer has been applied.

(5) Notwithstanding condition (b) in paragraph (3), a person shall not fail to be a recognised officer by reason only of the fact that the resolution described in paragraph 1(a) of Schedule 1 is passed after the commencement of these regulations.

Exercise of election to benefit under the regulations

4.—(1) A person described in regulation 3(2) who fulfils conditions (a), (b), (c) and (d) in regulation 3(3), may elect that section 260 of the Act (which provides for early retirement in lieu of compensation for loss of office) shall, and section 259 of the Act (which provides for compensation for loss of office) shall not, apply to him by giving notice before 30th June 1974 in the manner prescribed in paragraph (2).

(2) The notice shall be given to the employing authority in the form set out in Schedule 3 or a form substantially to the like effect.

(3) A person who gives a notice of election before 1st April 1974 shall give a copy thereof to the new authority.

(4) A notice of election shall have effect only for the purposes of these regulations and shall not otherwise have any legal consequence as respects the person duly entitled or his employing authority.

PART III

BENEFIT UNDER THE REGULATIONS

Factors governing payment of benefit

5.—(1) A person duly entitled shall, subject to the provisions of these regulations, with effect from the payment date be entitled—

- (a) to receive an annual sum equal to the amount of his accrued pension, and
- (b) to receive a lump sum equal to the amount of his accrued retiring allowance,

such sums being adjusted in accordance with paragraphs (2) to (6) and (10).

(2) In calculating the amount of an accrued pension and the amount of an accrued retiring allowance as described in paragraph (1), the actual period of reckonable service shall be increased by whichever is the shortest of the following periods—

- (a) a period that, when added to his reckonable service, would amount to the maximum period of reckonable service to which he would have become entitled had he continued to be employed until normal retiring age, or
- (b) a period equivalent to his reckonable service, or
- (c) a period of fifteen years.

(3) The benefit in respect of the additional period of service shall be calculated at the same rate as is applicable for service rendered on the last day of the employment terminated in consequence of a notice of election.

(4) The period so added shall be aggregated with any period of his reckonable service entailing reduction of the relevant pension or retiring allowance because

of a retirement pension payable under section 30 of the National Insurance Act 1965(a) (which provides for flat-rate retirement pension by virtue of own insurance).

(5) In calculating the amount of the annual sum which is equal to the accrued pension of a person duly entitled, no account shall be taken of any reduction falling to be made in that pension by reason of the provisions of any Act relating to National Insurance until the person reaches the age at which under his relevant superannuation scheme the pension would have been so reduced.

(6) Where a person accepts the offer of a temporary or an acting appointment referred to in paragraph 2 or 4 of Schedule 2 which is pensionable under the relevant superannuation scheme, and the appointment is concurrent with an employment which is subsequently terminated in consequence of a notice of election, then in calculating the increase of reckonable service under paragraph (2) the reckonable service in relation to the accrued pension and accrued retiring allowance attributable to the temporary or acting appointment shall not be aggregated with the reckonable service in relation to the accrued pension and accrued retiring allowance attributable to the employment terminated in consequence of the notice of election.

(7) The employment of a person duly entitled who gives his notice of election before 28th February 1974—

(a) shall terminate on 31st March 1974, unless he agrees with his employing authority as described in the next succeeding sub-paragraph;

(b) may be terminated before 31st March 1974 by agreement between him and the employing authority if he will, on or before such termination, have attained the age of fifty and have to his credit five years' reckonable service.

(8) The employment of a person duly entitled who gives notice of election in the period beginning on 28th February 1974 and ending on 29th June 1974—

(a) shall terminate on 31st July 1974, unless he agrees with his employing authority as described in the next succeeding sub-paragraph;

(b) may be terminated in the period beginning on 1st April 1974 and ending on 30th July 1974 by agreement between him and the employing authority.

(9) The sums described in paragraph (1) shall be payable with effect from the day immediately following the date of termination ascertained in accordance with paragraphs (7) and (8).

(10) If under his relevant superannuation scheme a person would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependant, then if he so desires and informs the new authority by notice in writing accordingly within one month after the payment date, he may surrender a proportion of so much of the benefit payable under these regulations as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the fund authority as if the said annual sum were a pension to which he had become entitled under the relevant superannuation scheme.

Benefit payable to widow or dependant

6.—(1) Where a person duly entitled dies on or after the payment date, payments in accordance with this regulation shall be made to or for the benefit of the widow, child or other dependant or to the personal representatives of that person or, as the case may be, to trustees empowered by him to stand possessed of any benefit under the relevant superannuation scheme.

(2) If the widow, child or other dependant of that person has become, or but for termination of that person's employment in consequence of the notice of election would have been, entitled to a pension under the relevant superannuation scheme, the widow, child or other dependant, as the case may be, shall be entitled to receive—

- (a) where the scheme provides for a prescribed proportion, benefits calculated on the same basis as the method prescribed by the scheme as if the benefits under regulation 5(1)(a) payable to the person duly entitled immediately before his death were a pension payable under the scheme, or
- (b) where the scheme does not provide for a prescribed proportion, an annual sum as provided by paragraph (3).

(3) The sum mentioned in paragraph (2)(b) shall, subject to the provisions of paragraph (4), be an annual sum equal to the annual amount of the pension to which the widow, child or other dependant of the person duly entitled would have become entitled if he had died immediately before termination of his employment in consequence of the notice of election, having then complied with any requirements of the relevant superannuation scheme as to a minimum period of qualifying service or contribution and completed any payments in respect of added years which he was then in the course of making.

(4) The calculation referred to in paragraph (3) shall be made on the basis of the method prescribed by the relevant superannuation scheme of the person in question for the calculation of benefits for a widow, child or other dependant and insofar as the age at which he died is relevant for the purposes of the said calculation, the calculation shall be made by reference to his age at the date of death.

(5) Benefits payable to or for the benefit of a widow, child or other dependant under this regulation shall cease to be payable when a corresponding pension under the relevant superannuation scheme would have ceased to be payable; and where the scheme provides for payment of the pension to any person on behalf of a child or other dependant, benefits payable under this regulation to a child or other dependant shall be paid to that person on behalf of the child or dependant in the like manner and for the like period as is provided in the scheme.

(6) In this regulation "prescribed proportion" means the proportion which, by the provisions contained in the relevant superannuation scheme of a person duly entitled, the pension payable to his widow, child or other dependant is to bear to his pension.

Benefit where death grant would have been payable

7.—(1) If the widow, the personal representatives of a person duly entitled or trustees empowered by such a person to stand possessed of any benefit under his relevant superannuation scheme might have become entitled to a death grant under that scheme, she or they, as the case may be, shall be entitled to receive a sum calculated in accordance with paragraph (2).

(2) The amount of the sum referred to in paragraph (1) shall be ascertained in accordance with the method of calculation prescribed by the scheme for the ascertainment of death grant as if the person duly entitled had died immediately before termination of his employment in consequence of the notice of election, subject to the following modifications—

- (a) account shall be taken of any additional period of service credited to him under regulation 5(2) to the extent of the period between the termination of employment in consequence of the notice of election, and the person's death;
- (b) if the aggregate of reckonable service and the additional period of service specified in sub-paragraph (a) above is less than the period of qualifying service prescribed by the scheme for the receipt of a death grant, the said sum shall not exceed the proportion of the death grant calculated as aforesaid which the aggregate of service bears to the minimum period of qualifying service or period prescribed by the scheme; and
- (c) there shall be deducted from the sum described above the amount of any benefits paid to the person under these regulations, or where any part of such benefit has been surrendered under regulation 5(10), the amount which would have been so paid but for such a surrender.

(3) For the purpose of calculating a death grant under this regulation, any benefit payable under regulation 6(2)(a) to or for the benefit of the widow, child or other dependant shall be deemed to be a pension payable to or for the benefit of the widow, child or dependant, as the case may be.

PART IV

ADJUSTMENT OF BENEFIT

Benefit payable under relevant superannuation scheme

8.—(1) Any benefit payable under these regulations to or in respect of a person duly entitled shall be reduced, in accordance with paragraphs (2) to (6), to take account of any benefits payable to or in respect of him under the relevant superannuation scheme.

(2) Subject to the provisions of paragraph (5), the benefit payable under these regulations to or in respect of a person duly entitled which relates to his actual reckonable service (before any addition is made under the provisions of regulation 5(2)) shall be reduced by amounts equivalent to any benefits payable under the scheme which relate to the same service.

(3) Subject to the provisions of paragraphs (4) and (5), the benefit payable under these regulations to or in respect of a person duly entitled which relates to the additional period of service reckonable by virtue of regulation 5(2) shall be reduced by an amount equivalent to any further benefits payable under the scheme to or in respect of that person which are attributable to any service rendered by him that begins after termination of the employment in consequence of a notice of election; and for the purposes of this paragraph—

- (a) if, in calculating the period of service after termination of the employment, that period exceeds the additional period of service, the excess service and the benefits attributable thereto shall be disregarded, and

- (b) if the amount of benefits attributable to the period of service after termination of the employment exceeds the amount of benefit payable under these regulations which is attributable to an additional period of service of the same length, no reduction shall be made in respect of that excess.
- (4) In making any reduction under paragraph (3), the amount of pension or, as the case may be, lump sum payable under the scheme relating to the service which subsequently becomes reckonable and is to be taken into account shall be the amount of that pension or lump sum reduced by a fraction of such pension or lump sum, where—
- (i) the numerator of the fraction is equivalent to the aggregate of the amount of increases which would have been awarded under the provisions of the Pensions (Increase) Act 1971(a), during the period beginning with the day following the termination of the employment in consequence of a notice of election and ending on the day the person becomes entitled (whether immediately or on the happening of some event) to the further benefits under the scheme, on an official pension (within the meaning of that Act) of £100 a year which commenced from the first mentioned day, and
 - (ii) the denominator of the fraction is equivalent to the aggregate of an official pension of £100 and the amount of the increases so determined.
- (5) If any benefit payable under these regulations includes a lump sum, and a lump sum is payable under the scheme, whether immediately or on the happening of some event, the benefit which would (apart from this paragraph) be payable under these regulations, whether by instalments or lump sum or both, shall in the aggregate be reduced by the lump sum payable under the scheme.
- (6) For the purposes of this regulation—
- (a) no account shall be taken of any sum payable in consequence of the surrender by a person duly entitled of part of his benefits under any provision in that behalf in the scheme with a view to obtaining or increasing allowances for his widow, child or other dependant; and the person duly entitled shall be deemed to have received during any period the amount of benefits which he would have received but for the surrender; and
 - (b) if the benefits payable under the scheme described in paragraphs (2) and (3) are transferred at the request of that person to another pension scheme by means of a transfer value, the reductions described in those paragraphs shall apply as if those benefits were payable with effect from the date on which they would otherwise have become payable.

Further employment

9.—(1) If under the relevant superannuation scheme of a person duly entitled any benefit for which the scheme provided would have been subject to reduction or suspension on his taking up other specified employment, any benefit under regulation 5(1)(a) shall, where that employment is taken up, be reduced or suspended in the like manner and to the like extent: but in calculating the amount of the reduction there shall be aggregated with the emoluments of the employment taken up the amount of any superannuation benefit by way of annual amounts payable to the person under the relevant superannuation scheme.

(a) 1971 c. 56.

(2) Where a person duly entitled enters employment in which the benefits payable are subject to reduction or suspension as mentioned in paragraph (1) or ceases to hold such employment or receives any increase in his remuneration in such employment, he shall forthwith in writing inform the authority which at the time is paying to him the benefits under these regulations.

PART V

MISCELLANEOUS

Notification of benefit

10. The new authority shall, not later than 14 days after the payment date, give to the person duly entitled or, in the event of benefits being payable under regulation 6 or 7, the person or persons entitled thereunder, written notification as follows—

- (a) the amounts payable in accordance with these regulations;
- (b) the calculation of the amounts referred to in paragraph (a) above;
- (c) reasons for the particulars supplied in accordance with paragraphs (a) and (b) above.

Supply of information

11.—(1) Any person to whom benefits are payable under these regulations shall furnish all such information as the new authority may at any time require; and he shall verify that information in such manner, including the production of documents in his possession or control, as may be reasonably so required.

(2) Such a person to whom benefits are payable under these regulations shall, on receipt of reasonable notice, present himself for interview at any place that the new authority may reasonably require; and any person who attends for interview may, if he so desires, be represented by his adviser.

(3) Where in accordance with regulation 14(1) any requirement under this regulation is made by an employing authority, the person of whom the requirement is made shall furnish or verify the information or, as the case may be, present himself for interview, as required by the employing authority.

Procedure for payment of benefit

12.—(1) Benefits payable under these regulations shall be payable at intervals equivalent to those at which the corresponding benefits would have been payable under the relevant superannuation scheme, or at such other intervals as may be agreed between the person entitled to receive the benefits under these regulations and the authority that in accordance with regulation 13 pays those benefits.

(2) Subject to any statutory provision in that behalf, any benefits payable under these regulations shall be payable to, or in trust for, the person who is entitled to receive those benefits, and shall not be assignable.

(3) Without prejudice to any other right of recovery, any benefits under these regulations paid in error may be recovered by the new authority by deduction from any benefits properly so payable.

Authorities responsible for payment of benefits

13.—(1) Benefits under these regulations shall, subject to paragraph (2), be paid by the new authority.

(2) In any case where the person to or in respect of whom the benefits are payable was under the relevant superannuation scheme a contributory employee or a local Act contributor immediately before the payment date, the fund authority may agree with the new authority to pay those benefits on behalf of the new authority and to recover the amount of those benefits from the new authority.

Transitional procedures

14.—(1) Where under any provision of these regulations a power or duty is placed on a new authority to be exercised before 1st April 1974, that power or duty shall be exercised by the employing authority.

(2) Where before an order of transfer is made in relation to him a person is required under regulation 3(3)(e) to give an undertaking or make a payment to the new authority or under regulation 4(3) to send a copy notice to the new authority, he shall give the undertaking, make the payment or give the copy notice, as the case may be, to the employing authority; and that authority shall (when the order of transfer has been made) forward the undertaking, pay the money or give the copy notice to the new authority.

Regulation 2(1)

SCHEDULE 1

DEFINITION OF “RECOGNISED OFFICER”

1. For the purpose of these regulations, the expression “recognised officer” means a person employed by a water authority—

- (a) who, though not a chief officer or deputy chief officer, is treated by that authority as a chief officer or deputy chief officer by reason of the importance of his employment by that authority and is by resolution of that authority, passed before 1st April 1974, designated a recognised officer, and
- (b) whose salary on the date on which the resolution described in paragraph (a) above is passed is not less than two-thirds of the salary of the comparable chief officer, as determined in accordance with the succeeding provisions of this Schedule.

2. In relation to a person in the employment of a water authority, the comparable chief officer is the chief officer of that authority, required to devote on the average not less than 30 hours per week in performing the duties of that authority, who receives the lowest salary.

3. In any case where the post, which if occupied would be the post of the comparable chief officer, is vacant (for whatever reason) the salary of the comparable chief officer shall, subject to the provisions of paragraph 4(a) of this Schedule, be deemed to be the salary of the person who last held the post immediately before the post became vacant.

4. For the purposes of this Schedule—

- (a) where a chief officer is not on a fixed salary but on a salary scale, regard shall be had to the lowest point only of that scale;
- (b) the expression “salary” in relation to any person shall not include—
 - (i) any payments for overtime (whether or not such payments are a usual incident of the employment) or any fees or other payments paid or made to him as such for his own use, or the money value of any accommodation

or other allowances in kind appertaining to his employment, or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other monies to be spent, or to cover expenses incurred, by him for the purpose of his employment, or

- (ii) any salary or wages or any of the monies or things described in (i) above which are payable to, or receivable by, him in respect of his employment otherwise than as an officer described in regulation 3(2) but held by virtue of his employment as an officer so specified.

SCHEDULE 2

Regulation 3(3)(f)

ACCEPTANCE OF OTHER EMPLOYMENT

PART 1

1. An employment for the purpose of regulation 3(3)(f) (i) and (ii) shall be employment by a water authority being employment as—

- (a) a director general, director, assistant director, divisional manager, divisional chief officer, chief officer or other officer equivalent in status to an aforementioned officer, or
- (b) a deputy to an officer described in (a) of this paragraph, or any other officer equivalent in status to such a deputy;

and for the purpose of this paragraph, a water authority shall include any statutory water undertaker (as described in section 11(6) of the Water Act), the National Water Council (as described in section 4 of the Water Act) and the Water Space Amenity Commission (as described in section 23 of the Water Act).

2. A person described in regulation 3(3)(f)(i) who—

- (i) accepts an offer from any authority or other body described in paragraph 1 of this Schedule which is an offer of a temporary or acting appointment terminating on or before 31st July 1974, and
- (ii) does not accept or take up, on or before 1st August 1974, an employment described in that paragraph,

shall not thereby be a person who accepts an offer within the meaning of regulation 3(3)(f)(i).

PART 2

3. An employment for the purpose of regulation 3(3)(f)(ii) shall (in addition to employment specified in part I of this Schedule) be employment by—

- (a) any authority specified in section 1(10) or (11) of the Act or section 20(6) of the Act,
- (b) the Greater London Council, the council of a London Borough, the Common Council of the City of London, a parish council or a community council,
- (c) any authority specified in section 2 or 21 of the Act,
- (d) any other authority or body not specified in (a) (b) or (c) above constituted for the purposes of local government in the United Kingdom,

- (e) any committee (including a joint committee) established by or under any enactment for the purpose of exercising the functions of or advising two or more authorities described in (a), (b), (c) or (d) above,
- (f) any two or more authorities or bodies described in (a), (b), (c), (d) or (e) above acting jointly or as a combined authority, or
- (g) the County Councils Association, the Association of Municipal Corporations, the Urban District Councils Association or the Rural District Councils Association, or in the event of such an association ceasing to exist, the association succeeding to the property and liabilities of that association,

being employment as a chief officer or deputy chief officer or other officer equivalent in status to such an officer.

4. A person described in regulation 3(3)(f)(ii) who—

- (i) accepts an offer from any authority or other body described in paragraph 1 or 3 of this Schedule which is an offer of a temporary or acting appointment terminating on or before 31st July 1974, and
- (ii) does not accept or take up, on or before 1st August 1974, an employment described in those paragraphs,

shall not thereby be a person who accepts an offer within the meaning of regulation 3(3)(f)(ii).

Regulation 4(2)

SCHEDULE 3

FORM OF NOTICE OF ELECTION

NOTICE OF ELECTION

Local Government Act 1972: section 260 (and the Water Act 1973 section 34)
 The Water Authorities (Retirement of Chief Officers) Regulations 1974

To (a).....
 of.....

1. I HEREBY GIVE NOTICE in accordance with section 260 of the Local Government Act 1972 electing that this section shall, and section 259 of the Act shall not, apply to me.

2. I am (b) to the (a)
 and (c)

3. I was born on (d)

4.(e) I have to my credit 5 years' reckonable service OR
 I will have to my credit 5 years' reckonable service on or before 31st March 1974.

5.(f) An order of transfer has been made whereby I am to be transferred to
(g) and I am accordingly today giving a copy of this notice to

OR

An order of transfer has not been made and accordingly I send a copy of this
notice to you (h).

6. I am a member of the

Superannuation fund.

Signature

Date

Footnotes

- (a) Insert name of the water authority which is the employing authority.
(b) Insert description of the employment.
(c) Insert appropriate details for the purpose of regulation 3(2), ie whether "chief officer" etc..
In the case of a deputy who qualifies pursuant to (b) of the definition of "deputy chief
officer" or in the case of a "recognised officer", reference should be made to the necessary
resolution.
(d) Insert date of birth.
(e) Delete the inappropriate—see regulation 3(3)(d).
(f) This paragraph is only to be completed if the notice is given before 1st April 1974. If
completed, delete as appropriate—see regulations 4(3) and 14.
(g) Insert name of new authority, if order of transfer has come into operation.
(h) If the order of transfer has not come into operation, the copy should go to the employing
authority—see regulation 14.

Geoffrey Rippon,

Secretary of State for the
the Environment.

18th January 1974.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations provide for persons identified as chief officers and deputy chief officers of water authorities to elect for early retirement on enhanced pension terms and thereby forgo any right to claim compensation which might otherwise have been exercised under section 259 of the Local Government Act 1972, as applied by section 34 of the Water Act 1973.

2. Part I contains definitions.

3. Part II specifies (Regulation 3 and Schedules 1 and 2) the persons to whom the Regulations apply, and (Regulation 4) the procedure for giving a notice of election. A person who satisfies these two Regulations, and to whom no notice of objection is given by the employing authority, becomes a person duly entitled to the benefit of the Regulations.

4. Part III sets out the benefits for a person duly entitled, which are based on that person's accrued pension rights supplemented by the addition of notional years of service—up to 15 years in certain cases (Regulation 5). Provision is made for widows and dependants if such a person dies after becoming entitled to benefit (Regulations 6 and 7).

5. Part IV provides for adjustment and reduction of benefits in certain circumstances.

6. Part V contains miscellaneous provisions as to procedure.

7. Schedule 3 contains a model form of notice of election, with footnotes.

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