
 STATUTORY INSTRUMENTS

1978 No. 1378 (S. 125)

PENSIONS

**The Local Government Superannuation (Scotland) Amendment
(No. 2) Regulations 1978**

<i>Made</i>	- - - -	14th September 1978
<i>Laid before Parliament</i>		27th September 1978
<i>Coming into Operation</i>		18th October 1978

In exercise of the powers conferred on me by sections 7 and 12 of the Superannuation Act 1972(a) and section 110 of the National Insurance Act 1965(b) as continued in force by regulation 3 of the National Insurance (Non-participation—Transitional Provisions) Regulations 1974(c) as read with section 3(3) of and paragraph 7 of Schedule 3 to the Social Security (Consequential Provisions) Act 1975(d) being the appropriate Minister for the purposes of the said section 110 in relation to the schemes for the provision of pensions and other benefits under regulations made under section 7 of the Superannuation Act 1972, and of all other powers enabling me in that behalf, after consultation with such associations of local authorities as appeared to me to be concerned and such representatives of other persons likely to be affected by the regulations as appeared to me to be appropriate, I hereby make the following regulations:—

Title and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1978 and shall come into operation on and have effect from 18th October 1978 except regulations 22 and 25 which shall have effect as from 16th May 1974 and regulations 18 to 21, 23, 24, 26 and 28 which shall have effect as from 6th April 1975.

(2) The Local Government Superannuation (Scotland) Regulations 1974 to 1978(e) (in these regulations referred to as “the principal regulations”) and these regulations may be cited together as the Local Government Superannuation (Scotland) Regulations 1974 to 1978.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, words and expressions to which meanings are assigned by the principal regulations have the same respective meanings.

(2) In these regulations, unless the context otherwise requires, any reference to any enactment or regulation shall be construed as a reference to that enactment or regulation as amended, modified, extended or applied by or under any other enactment or regulation (including these regulations).

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

(a) 1972 c. 11.
(d) 1975 c. 18.

(b) 1965 c. 51.
(e) S.I. 1974/812; 1975/638; 1978/425.

(c) S.I. 1974/2057.
(f) 1889 c. 63.

Amendment of definitions in the principal regulations

3.—(1) In regulation A3(1) of the principal regulations the following definition shall be inserted after the definition of “enactment”—

“‘equivalent pension benefits’ has the meaning assigned to that expression by section 57(1) of the Insurance Act;”.

(2) In the said regulation A3(1) the following definition shall be inserted after the definition of “non-local government scheme”—

“‘non-participating employment’ has the same meaning as in section 56(1) of the Insurance Act;”.

(3) In the said regulation A3(1) the following definition shall be substituted for the definition of “participating employment”—

“‘participating employment’ means, in relation to any period which is reckonable as service for the purpose of these regulations, any employment in which a person—

(a) was required to pay graduated contributions under the paragraph (c) inserted in section 4(1) of the Insurance Act by section 1(2) of the National Insurance Act 1969(a), as amended by section 2(2) of the National Insurance and Supplementary Benefits Act 1973(b) and by section 2(2)(a) of the National Insurance Act 1974(c); or

(b) would have been required to pay such contributions if the amount which was paid in any income tax week on account of his remuneration (or which would have been paid but for any suspension of remuneration due to leave of absence) exceeded the amount first mentioned in section 4(1) of the Insurance Act, as so amended,

and includes any similar period of employment in which a person was, or would have been, required to pay graduated contributions under the Northern Ireland Act or the Isle of Man Act; but the expression does not include any period of national service in respect of which contributions were paid under the Superannuation (Local Government Staffs) (National Service) (Scotland) Rules 1949 to 1954(d) if immediately prior to entering national service the person had been in non-participating employment;”.

Definition of enactments in the principal regulations

4. In regulation A4 of the principal regulations the following definition shall be inserted after the definition of “the Northern Ireland Act”—

“‘the Transitional Provisions Regulations’ means the National Insurance (Non-participation—Transitional Provisions) Regulations 1974;”.

Amendment of the principal regulations relating to leave of absence from duty

5. The following regulation shall be substituted for regulation C2 of the principal regulations—

“C2. A pensionable employee of an employing authority who is on leave of absence from duty, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall—

(a) for the period of 30 days beginning with the date on which he went on leave of absence; and

(a) 1969 c. 44.
(c) 1974 c. 14.

(b) 1973 c. 42.
(d) S.I. 1949/581; 1952/75; 1954/1258.

- (b) if he gives notice in writing for the purpose to that employing authority not later than 30 days after the day before the date on which he went on leave of absence, for the period beginning with the day after the expiration of the period specified in sub-paragraph (a) and ending with the expiration of 36 months from the day before the date on which he went on leave of absence,

make contributions to the appropriate superannuation fund on such remuneration as he would have received during that period in his employment under that employing authority but for that leave of absence from duty.”.

Amendment of the principal regulations relating to return of employee's contributions in certain cases

6.—(1) The following regulation shall be substituted for regulation C8(1) of the principal regulations—

“(1) This regulation shall apply to a pensionable employee of an employing authority—

- (a) who before becoming entitled to any benefit under these regulations, other than a retirement pension under regulation E2(1A), ceases to be employed by that authority; and
- (b) who does not, after an interval not exceeding one month after ceasing to be so employed enter further employment with any scheduled body and within the said period become in that further employment a pensionable employee; and
- (c) whose remuneration on which contributions were paid under regulation C1 or C2, or under Part I of the Act of 1937 or under a local Act scheme, or were paid under some other superannuation scheme in respect of service or employment which became, by virtue of interchange rules, reckonable for the purposes of the former regulations, or in respect of employment in respect of which he became, by virtue of Part P, entitled to reckon a period as reckonable service, has not in any income tax year exceeded the sum of £5,000.”.

(2) In regulation C8(2)(b) of the principal regulations—

- (a) after the word “elects” there shall be inserted the words “, not earlier than one month after the day after the date on which he ceases to be employed as mentioned in paragraph (1)(a),”; and
- (b) for the words “ceases to be employed as mentioned in paragraph (1)(a)” there shall be substituted the words “so ceases to be employed”.

(3) The following regulation shall be substituted for regulation C8(4) of the principal regulations—

“(4) Notwithstanding anything in the foregoing provisions of this regulation, no payment shall be made thereunder—

- (a) to a person who, having ceased to be employed by the employing authority in the circumstances mentioned in regulation E2(1)(c) and before giving a notice under paragraph (2)(b) of this regulation, again becomes a pensionable employee and gives notice under regulation E2(4)(e); or
- (b) in the case of a person whose period of reckonable service and qualifying service after 5th April 1975 is not less than 5 years, in respect of any period of reckonable service and qualifying service after that date; or

- (c) in the case of a person whose period of reckonable service and qualifying service commenced before 6th April 1975 and is not less than 5 years, in respect of any period of reckonable service and qualifying service after 5th April 1975 of less than 5 years unless a payment under this regulation is being or has been made in respect of the period of reckonable service and qualifying service before 6th April 1975.”

(4) In regulation C8(5)(ii) of the principal regulations after the word “payment” there shall be inserted the words “made not earlier than one month after the day after the date on which he ceases to be employed as mentioned in paragraph (1)(a),”.

Amendment of the principal regulations relating to reduction of returned contributions following payment in lieu of contributions

7. The following regulations shall be substituted for regulation C9 of the principal regulations—

“C9.—(1) Subject to the provisions of this regulation, where a pensionable employee leaves employment in circumstances—

- (a) to which regulation 6 of the Transitional Provisions Regulations does not apply; and
- (b) in which returned contributions are due and a payment in lieu of contributions has previously been made in respect of him in circumstances in which returned contributions were not due,

those returned contributions shall be reduced by a sum equal to the amount, or the aggregate of the amounts, by which under section 60(5) of the Insurance Act (which defines an employer’s rights against an insured person in respect of payments in lieu of contributions) they could have been reduced if returned at the time when the previous payment in lieu of contributions was made.

(2) Paragraph (1) shall also apply for the reduction of returned contributions where a payment in lieu of contributions has been made under any insurance code in respect of any period of former employment which is reckonable as service as a pensionable employee if—

- (a) that payment in lieu was made in circumstances not involving the return of any superannuation contributions made by him in that employment; and
- (b) the transfer value payable in respect of that employment has been adjusted to take account of that payment in lieu,

and where no superannuation contributions were payable in that employment, any amount returnable in respect of contributions deemed to have been made therein shall be reduced by a sum equal to one half of that payment in lieu.

(3) No payment in lieu of contributions shall be taken into account for the purposes of paragraphs (1) and (2)—

- (a) on more than one occasion; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of

Equivalent Pension Benefits) Regulations 1960(a) or any corresponding enactment in force in Northern Ireland or the Isle of Man.

(4) Where the employment of a pensionable employee comes to an end in circumstances to which regulation 6 of the Transitional Provisions Regulations applies, the amount of returned contributions to which he is entitled shall be reduced by any amount which, under section 60 of the Insurance Act as modified by the said regulation 6, the person who has made or is liable to make a payment in lieu of contributions in respect of such employee or would be so liable had the employee not been assured of equivalent pension benefits is entitled either to recover from the person liable for the returned contributions or to retain out of the returned contributions.

(5) Where returned contributions are due in the circumstances mentioned in paragraph (1) or paragraph (4) on the cessation of two or more concurrently held employments, the reduction required by that paragraph shall be made by such one of the authorities paying the returned contributions as they may agree or, in default of agreement, as is determined by the Secretary of State, and where those employments were held under the same employing authority, the reduction shall be made in relation to such one only of the employments as is determined by the authority.

(6) Where returned contributions are reduced under paragraph (1) or under section 60(5) of the Insurance Act or the said section 60(5) as modified by regulation 6 of the Transitional Provisions Regulations or under any corresponding provision of the Northern Ireland Act or the Isle of Man Act, any sum so deducted shall not form part of any amount payable to or in respect of him, either as returned contributions or as a benefit ascertained by reference to the amount of the contributions paid by him, on the occasion of any later cessation of his employment.

(7) In this regulation 'returned contributions' means an amount payable under regulation C8 to or in respect of a pensionable employee by way of a return of contributions."

Amendment of the principal regulations relating to exclusion from reckonable and qualifying service

8.—(1) In regulation D3(1) of the principal regulations —

(a) after sub-paragraph (b)(ii) there shall be inserted the following words—
“or

(c) where he has entered the employment in which he is a pensionable employee after an interval not exceeding one month after ceasing on or after 6th April 1975 to hold an employment in which he is a pensionable employee and in respect of his so ceasing a return of contributions has been made under these regulations and he had become a pensionable employee in his employment under that body within the said period.”; and

(b) after the word “benefit” at the end there shall be inserted the words “or in respect of which the return of contributions was made”.

(2) The following regulation shall be substituted for regulation D3(2)(a) of the principal regulations—

“(a) where before entering the employment in which he is a pensionable employee he was previously a pensionable employee under a scheduled body and by reason of his ceasing to be a pensionable employee under

that body a return of contributions has been made under these regulations, any service, employment or period in respect of which the return of contributions was made:

Provided that this sub-paragraph shall not apply to a pensionable employee who entered the employment in which he is a pensionable employee in the circumstances mentioned in paragraph (1)(c) and became a pensionable employee in that employment within the period mentioned therein; or”.

Amendment of the principal regulations relating to previous service of certain re-employed pensioners

9. The following regulation shall be substituted for regulation D16 of the principal regulations—

“Previous service of certain re-employed persons

D16.—(1) Where a person—

(a) either—

(i) has become entitled to a retirement pension, other than by virtue of regulation E2(1A), and has entered or enters further employment with any scheduled body; or

(ii) is in receipt of a pension payable out of public funds or under a local Act scheme, enters the employment of any scheduled body and his pension is on that account liable to be reduced or suspended; or

(iii) after an interval not exceeding one month after ceasing on or after 6th April 1975 to hold an employment in which he was a pensionable employee entered further employment with any scheduled body and in respect of his so ceasing a return of contributions has been made under these regulations; and

(b) is in his new employment a pensionable employee and, where he entered his new employment in the circumstances mentioned in sub-paragraph (a)(iii), became a pensionable employee in that employment within the period mentioned in that sub-paragraph,

then, on ceasing to hold his employment, he shall be entitled to reckon as qualifying service any service, employment or period in respect of which he became entitled to the retirement pension, or the pension referred to in sub-paragraph (a)(ii) was granted or the return of contributions was made, as the case may be.

(2) For the purposes of this regulation ‘retirement pension’ includes a superannuation allowance under Part I of the Act of 1937 and an annual pension under the former regulations.”.

Amendment of the principal regulations relating to entitlement to retirement pension and retiring allowance

10.—(1) The following regulation shall be substituted for regulation E2(1)(c) of the principal regulations—

“(c) he is not entitled to a benefit under sub-paragraph (a) or (b) and either the reckonable service and qualifying service he is entitled to reckon amounts in aggregate to not less than 5 years or, by reason of his not being such an employee as is referred to in regulation C8(1)(c), he is not a person who is entitled on so ceasing to a return of contributions under that regulation.”.

(2) After regulation E2(1) of the principal regulations there shall be inserted the following regulation—

“(1A) Subject as hereafter in these regulations provided, a pensionable employee of an employing authority shall, on ceasing to hold an employment under them, be entitled in relation to that employment to an annual retirement pension if—

- (a) he is not entitled to a benefit under sub-paragraph (a), (b) or (c) of paragraph (1);
- (b) the whole or some part of the reckonable service he is entitled to reckon was service in a non-participating employment;
- (c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 56(1) of the Insurance Act or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960 as modified by regulation 9(2)(a) or 9(2)(b) of the Transitional Provisions Regulations; and
- (d) no payment in lieu of contributions is made in respect of such service as is mentioned in sub-paragraphs (b) and (c).

For the purposes of this paragraph a pensionable employee who, on ceasing to hold an employment, became entitled to a benefit under sub-paragraph (c) of paragraph (1) and to whom in respect of his so ceasing a return of contributions is made under these regulations shall be treated as ceasing to hold that employment on the day immediately before the date on which the return of contributions is made and as not being entitled in respect of his so ceasing to a benefit under the said sub-paragraph.”.

(3) In regulation E2(4)(a)(iv) of the principal regulations, the words “three months” shall be substituted for the words “one month”.

Amendment of the principal regulations relating to amount of retirement pension and retiring allowance

11.—(1) In regulation E3(1) of the principal regulations the figure “(9A)” shall be inserted after the figure “(9)”.

(2) After regulation E3(9) of the principal regulations there shall be inserted the following regulation—

“(9A) Notwithstanding any provision in these regulations where a pensionable employee becomes entitled to a retirement pension by virtue of regulation E2(1A), that pension shall be payable in respect of any period of reckonable service in a non-participating employment and shall be the rate of equivalent pension benefits applicable in respect of that period and the employee shall be entitled to receive payments in respect of such pension when he has retired and has attained the age of 65 years in the case of a man or 60 years in the case of a woman.”.

(3) The following regulation shall be substituted for regulation E3(10) of the principal regulations—

“(10) For the purpose of calculating the amount of any benefit under the preceding provisions of this regulation—

- (a) subject to paragraphs (11) to (13), no account shall be taken of reckonable service before attaining the age of 60 years beyond a total of 40 years; and

(b) in the case of a pensionable employee in respect of whom any recovery or retention is made under regulation L16, no account shall be taken of so much of his reckonable service as equals such a period as would result in the actuarial value, at the time of such recovery or retention, of the rights referred to in paragraph (1)(ii) of that regulation being reduced by the amount so recovered or retained.”.

(4) In regulations E3(11), (12) and (13) of the principal regulations after the words “paragraph (10)” there shall be inserted the word “(a)”.

Amendment of the principal regulations relating to entitlement to widow’s short-term pension and widow’s long-term pension

12. At the end of paragraph (a)(ii) of the proviso to regulation E5(1) of the principal regulations the word “and” shall be deleted and there shall be inserted the following—

“or

(iii) by virtue of sub-paragraph (a) or (c), if her husband became entitled to the retirement pension by virtue of regulation E2(1A); and”.

Amendment of the principal regulations relating to entitlement to children’s short-term pension and children’s long-term pension

13. At the end of paragraph (b) of the proviso to regulation E8(1) of the principal regulations the full-stop shall be deleted and there shall be inserted the following—

“; and (c) a children’s short-term pension or a children’s long-term pension shall not be payable by virtue of sub-paragraph (a) or (c) if the deceased person became entitled to the retirement pension by virtue of regulation E2(1A).”.

Amendment of the principal regulations relating to pensions of widowers, etc.

14. In regulation E12 of the principal regulations after the word “widower” there shall be inserted the words “and as if any reference to the husband of the wife or widow of such a person included a reference to her”.

Amendment of the principal regulations relating to additional benefits granted at discretion of employing authority in the case of certain female nursing, etc. staff

15. In regulation E13(1)(d) of the principal regulations after the word “pension” there shall be inserted the words “(not being a retirement pension to which she becomes entitled by virtue of regulation E2(1A))”.

Amendment of the principal regulations relating to reduction of retirement pension, etc., in the case of certain re-employed local government pensioners

16. In regulation E15(2) of the principal regulations for the words “one month” where those words first occur there shall be substituted the words “three months” and the words “or within one month after the appointed day, whichever period ends the later” shall be deleted.

Amendment of the principal regulations relating to combined benefits in the case of certain re-employed local government pensioners

17.—(1) In regulation E16(1)(a) of the principal regulations after the words “regulation E3(9)” there shall be inserted the words “or a retirement pension to which that person has become entitled by virtue of regulation E2(1A)”.

(2) In regulation E16(2) of the principal regulations for the words “one month” where those words first occur there shall be substituted the words “three months” and the words “or within one month after the appointed day, whichever period ends the later” shall be deleted.

Amendment of the principal regulations relating to national insurance modification arrangement of pensionable employees into classes

18.—(1) The following regulation shall be substituted for regulation F1(1) of the principal regulations—

“(1) The provisions of this Part shall have effect for modifying the contributions and other superannuation payments payable by and the benefits payable to pensionable employees who are or have been insured persons, to take account of contributions payable and benefits receivable under the Insurance Act, and to make provision consequential thereon; and for this purpose pensionable employees shall be divided into four classes, namely—

Case A

Any person who retains unmodified status;

Case B

Any person who does not enjoy unmodified status;

Case C

Any person who—

(a) at any time before 6th April 1975, was in participating employment; and

(b) immediately before the said date retained unmodified status;

Case D

Any person who—

(a) at any time before 6th April 1975, was in participating employment; and

(b) immediately before the said date did not enjoy unmodified status.”.

(2) In regulation F1(2) of the principal regulations—

(a) the following definition shall be substituted for the definition of “unmodified status”—

“the expression ‘unmodified status’ refers to the status of—

(a) a person whose contributions were by virtue of the Modification regulations or of interchange rules not subject immediately before the appointed day to reduction in connection with retirement pension under section 30 of the Insurance Act; or

(b) a person who—

(i) became employed by a scheduled body after ceasing to be employed in non-local government employment;

(ii) is entitled by virtue of regulation P8 to reckon a period as reckonable service; and

- (iii) in his non-local government employment was subject to a statutory scheme under which he was not in respect of the last day when he held that employment subject to a reduction of superannuation benefits in connection with retirement pension under section 30 of the Insurance Act or section 28 of the Social Security Act 1975(a),
and who in either case remains a pensionable employee without a disqualifying break of service;”
- (b) the definitions of “flat-rate pension” and “non-participating employment” shall be deleted.
- (c) the following definition shall be inserted after the definition of “graduated pension”—
“‘insured person’ means a person insured under the National Insurance Act, 1946(b), the Insurance Act or the Social Security Act 1975;”.
- (d) the following definitions shall be substituted for the definitions of “person contracted out of the graduated pension scheme” and “person within the graduated pension scheme”—
“‘person contracted out of the graduated pension scheme’ means a person who immediately before 6th April 1975 was in employment which was a non-participating employment; and ‘person within the graduated pension scheme’ means a person who immediately before that date was in participating employment;”.
- (e) in the definition of “Stage II” after the word “1964” there shall be inserted the words “to 5th April 1975”.

Persons within Case A

19. The following regulation shall be substituted for regulation F3 of the principal regulations—

“F3. The contributions payable by any person within Case A, and the benefits payable to any person in respect of any period of reckonable service while within Case A, shall not be subject to any reduction under this Part.”.

Persons within Case B

20. The following regulation shall be substituted for regulation F4 of the principal regulations—

“F4. Regulations F5 to F9 shall apply to any person in respect of any period of reckonable service while within Case B.”.

Reduction of contributions

21. The following regulation shall be substituted for regulation F6(1)(a) of the principal regulations—

“(a) by an employee to whom paragraph 1(a) of Schedule 6 applies, by way of additional contributions in respect of years added under regulation D10; or”.

Reduction of pension for a person within Case B

22. The following regulations shall be substituted for regulation F7(2) of the principal regulations—

“(2) In respect of a person who was not immediately before the appointed day a person entitled to the optant’s rate for the purposes of the Modification regulations the reduction shall be £1.70 in respect of each completed year of service as described in paragraph (1).

(2A) In respect of a person who immediately before the appointed day was a person entitled to the optant’s rate for the purposes of the Modification regulations the reduction shall be the amount of the basic reduction which would have been made in the case of that person under paragraph 1(3) of Schedule 1 to those regulations if those regulations had not been revoked by these regulations.”.

Persons in concurrent, etc. employments

23. The following regulation shall be substituted for regulation F8 of the principal regulations—

“F8.—(1) Where a person within Case B is during any period a pensionable employee in the employment of one or more scheduled bodies concurrently and is also in other employment in which he is not a pensionable employee, then, if his employer in that other employment would, but for the repeal of section 3 of the Insurance Act, have been treated as his employer for the purposes of the said section 3, regulations F5 and F6 shall not apply to him.

(2) Where an insured person is a pensionable employee in the employment of two or more employing authorities concurrently, regulations F5 and F6 shall only apply in relation to him in his employment under the authority (if any) which, but for the repeal of the said section 3, would be treated as his employer for the purposes of the said section 3.

(3) Where an insured person is a pensionable employee in each of two or more separate employments under the same employing authority then, subject to paragraphs (1) and (2), regulations F5 and F6 shall apply in relation to him only in whichever of those employments occupies the greater part of his time or, if this cannot be readily ascertained, in whichever the authority may determine.”.

Persons within Cases C and D

24. The following regulation shall be substituted for regulation F10 of the principal regulations—

“F10. Regulations F11, F13 and F17 shall apply to persons within Case C or Case D in respect of any period of participating employment during Stage I or Stage II and regulations F12, F14, F15 and F16 shall apply to persons within Case C or Case D.”.

Reduction of pension for a person within Case C or D

25. The following regulation shall be substituted for regulation F13 of the principal regulations—

“F13.—(1) Where any period of service reckonable in calculating the amount of a retirement pension was in participating employment and modified contributions were paid during it, the part of the pension which is attributable to that period shall be reduced in accordance with the provisions of this regulation.

(2) In respect of a person within Case C the reduction shall be 1p for each completed 3 months of that service in respect of each £10 of relevant remuneration, less the sum of £1.70 for each completed year of that service.

(3) In respect of a person within Case D who was not immediately before the appointed day a person entitled to the optant's rate for the purposes of the Modification regulations the reduction shall be 1p for each completed 3 months of that service in respect of each £10 of relevant remuneration.

(4) In respect of a person within Case D who immediately before the appointed day was a person entitled to the optant's rate for the purposes of the Modification regulations the reduction shall be—

- (a) the sum of 1p for each completed 3 months of that service in respect of each £10 of relevant remuneration, less the sum of £1.70 for each completed year of that service; and
- (b) the amount of the basic reduction which would have been made in the case of that person under paragraph 1(3) of Schedule 1 to those regulations if those regulations had not been revoked by these regulations.

(5) In respect of a person within Case D to whom an old modification scheme applied or was deemed to apply immediately before 1st September 1947 and to whom regulation 14(1) of the Modification regulations applied immediately before the appointed day, the reduction shall be 1p for each completed 3 months of that service in respect of each £10 of relevant remuneration, less the sum of £1.70 for each completed year of that service, and regulation F9 shall apply to such a person.

(6) The reduction required by this regulation in respect of a person within Case D shall not be less than any reduction which would have been required if regulation F7 had been applicable.

(7) In this regulation the expression 'relevant remuneration', in relation to a person, means—

- (i) in respect of any period or part of a period of service during Stage I, his pensionable remuneration, up to a maximum of £780;
- (ii) in respect of any period or part of a period during Stage II, his pensionable remuneration, up to a maximum of £936.

(8) Reduction shall take effect on the date when a retirement pension becomes payable unless the person has not then reached pensionable age within the meaning of the Social Security Act 1975, in which case the reduction shall take effect on the date on which he reaches that age.

(9) No account shall be taken under this regulation of any part of a period of service in respect of which a retirement pension is reduced by virtue of interchange rules or Part P.

(10) No account shall be taken under this regulation of any period of participating employment as a pensionable employee during an income tax year if no graduated contributions had been paid under the Insurance Act in respect of any such period during that year.

(11) Where a person becomes entitled to a retirement pension on ceasing to be employed, or would have become entitled to a pension in those circumstances had he not continued in employment for more than 5 years

after attaining pensionable age within the meaning of the Social Security Act 1975, no account shall be taken under this regulation, in respect of any period of participating employment, of pensionable remuneration in excess of that specified during the period in a certificate of non-participation issued under section 56 of the Insurance Act as the level of his remuneration at which his employment would have become non-participating employment.

(12) A period of employment as a pensionable employee in respect of which a payment in lieu of contributions was made shall be treated for the purposes of this regulation as a period of participating employment in respect of which his pensionable remuneration equals maximum relevant remuneration.”.

Persons in concurrent, etc. employments

26. In regulation F17(1) of the principal regulations the word “is” wherever it occurs shall be substituted by the word “was”.

Amendment of the principal regulations relating to decisions to be taken by administering authorities as to status of employees

27. In regulation L3(2)(a)(v) of the principal regulations, the expression “F13(10)” shall be substituted for the expression “F13(6)”.

Amendment of the principal regulations relating to transmission of documents and information between authorities

28. In regulation L6(2)(c) of the principal regulations after the words “Insurance Act” there shall be inserted the words “or the said section 60(1) as modified by the Transitional Provisions Regulations”.

Addition to the principal regulations relating to recovery or retention by employing authority of certain sums from the superannuation fund

29. The following regulation shall be added after regulation L15 of the principal regulations—

“Recovery or retention by employing authority of certain sums from the superannuation fund

L16.—(1) If a pensionable employee is dismissed or resigns or otherwise ceases to hold his employment in consequence of a criminal, negligent or fraudulent act or omission on his part, being such an act or omission arising in connection with his employment, then if the employee has incurred some monetary obligation to his employing authority arising out of such act or omission, that authority shall be entitled to recover from or retain out of the appropriate superannuation fund a sum which (subject to any different agreement in writing between the employing authority and the employee) shall not exceed the lesser of the following amounts—

- (i) the amount of the said monetary obligation; and
- (ii) the actuarial value at the time of such recovery or retention of all rights enjoyed by or in respect of the employee with respect to his previous service (being rights under Parts C, D, E, F, J and N), and being rights enjoyed in respect of a period of service or in respect of contributions or other payments made by him as a pensionable employee, a contributory employee or a local Act contributor.

(2) The employing authority shall give to the employee not less than three months’ previous notice of the amount to be recovered or retained under paragraph (1).

(3) The employee shall be entitled to a certificate from the employing authority showing the amount recovered or retained under the said paragraph (1), the manner in which it is calculated and the effect of such recovery or retention upon his benefits or prospective benefits.

(4) In the event of any dispute as to the amount to be recovered or retained under paragraph (1), the employing authority shall not be entitled to such recovery or retention except after the monetary obligation referred to in that paragraph has become enforceable under an order of a competent court or the award of an arbitrator.”.

Amendment of the principal regulations relating to modifications to Part E in its application to persons with no entitlement under the former regulations to a retiring allowance and widow's pension or to a widow's pension

30. In paragraph 3 of Part I of Schedule 12 to the principal regulations the following sub-paragraphs shall be substituted for sub-paragraph (a)—

“(a) in paragraph (1)(b), the words ‘and retiring allowance’ shall be omitted and after the words ‘regulation E2(1)(c)’ there shall be inserted the words ‘or regulation E2(1A)’;

(aa) in paragraph (1)(c), the words ‘and retiring allowance’ and the words ‘or payment of that allowance’ shall be omitted and after the words ‘retirement pension’ there shall be inserted the words ‘(other than a person who became entitled thereto by virtue of regulation E2(1A))’;”.

Bruce Millan,

One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
14th September 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The Regulations amend the Local Government Superannuation (Scotland) Regulations 1974 to 1978 to take account of the Social Security Act 1973 and the Social Security Pensions Act 1975 with regard to the termination of the graduated pension scheme on 5th April 1975, the consequent requirement for the introduction of provision for the assurance of equivalent pension benefits and the requirements for preservation of pension benefits.

Provision is made for recovery from, or retention out of, the appropriate superannuation fund by an employing authority to whom an employee has incurred a monetary obligation arising out of a criminal, negligent or fraudulent act or omission in consequence of which he has ceased to hold his employment.

The Regulations make a relaxation to the existing provisions to allow the extension of certain time limits and to allow a more liberal interpretation of the Revenue restriction on refunds of contributions. They also make minor amendments of a corrective nature.

Under powers conferred by section 12(1) of the Superannuation Act 1972 the provisions of Regulations 22 and 25 are brought into force with effect from 16th May 1974 and Regulations 18 to 21, 23, 24, 26 and 28 are brought into force with effect from 6th April 1975.

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