

STATUTORY INSTRUMENTS

1984 No. 846 (S. 83)

LOCAL GOVERNMENT, SCOTLAND

**The Local Government (Compensation for Redundancy and
Premature Retirement) (Scotland) Regulations 1984**

<i>Made</i>	- - - -	18th June 1984
<i>Laid before Parliament</i>		3rd July 1984
<i>Coming into Operation</i>		1st August 1984

In exercise of the powers conferred on me by section 24 of the Superannuation Act 1972(a), and of all other powers enabling me in that behalf, with the consent of the Treasury (b), I hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 and shall come into operation on 1st August 1984.

Interpretation

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

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978(c);

“the principal regulations” means the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979(d);

“a teacher” means a person in relation to whom regulations may be made under section 9 of the Superannuation Act 1972.

(a) 1972 c.11.

(b) See the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(c) 1978 c.44.

(d) S.I. 1979/785, amended by S.I. 1982/917.

PART II

COMPENSATION IN CERTAIN CASES OF REDUNDANCY

Persons to whom Part II applies

3. This Part shall apply to any person, other than a teacher, who is entitled to a redundancy payment under the 1978 Act and who, on or after the date upon which these regulations come into operation, ceases to hold his employment with an authority specified in Schedule 1 to the principal regulations.

Compensation

4. The authority who ceases to employ a person to whom this regulation applies may pay him compensation of an amount which does not exceed the difference between—

- (a) the redundancy payment to which he is entitled under Part VI of the 1978 Act, and
- (b) the redundancy payment to which he would have been so entitled if paragraph 8(1)(c) of Schedule 14 to the 1978 Act (weekly pay in excess of specified limit to be disregarded in calculating redundancy payment) had been repealed.

PART III

AMENDMENT OF PRINCIPAL REGULATIONS

Definitions in the principal regulations

5.— (1) At the beginning of regulation 3 of the principal regulations there shall be inserted the following definition:—

““the Act of 1972” means the Superannuation Act 1972;”.

(2) In the said regulation 3 of the principal regulations after the definition of “enactment” there shall be inserted the following definition:—

““excepted payment”, in relation to an employment of a beneficiary, means a payment received by him which is—

- (a) a redundancy payment in respect of the cessation of that employment, including any amount by which that payment is reduced in accordance with the Redundancy Payments Pensions Regulations 1965(a); or
- (b) a payment in respect of that employment made under regulations, or under provisions having effect as provisions of regulations, made under section 7 of the Act of 1972; or
- (c) a payment in lieu of annual or other leave to which he was entitled in that employment; or
- (d) a payment in lieu of notice of termination of that employment, which does not exceed the remuneration he would have received if

(a) S.I. 1965/1932.

he had remained in that employment for a period of three months after the material date; or

- (e) in the case of a payment in lieu of notice of termination of that employment which exceeds that remuneration, so much of that payment as is equal to that remuneration;”.

(3) In the said regulation 3, after the definition of “pensionable employee” there shall be inserted the following definition:—

““redundancy payment” has the meaning given in regulation 3A;”.

Meaning of redundancy payment

6. After regulation 3 of the principal regulations there shall be added the following regulation:—

“Meaning of redundancy payment

3A. In these regulations, unless the context otherwise requires, “redundancy payment” means—

- (a) in relation to the former employment of a beneficiary, the aggregate of—
- (i) the redundancy payment to which he is entitled under Part VI of the Employment Protection (Consolidation) Act 1978, and
 - (ii) any compensation which is paid to him under regulation 4 of the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 (in this regulation referred to as “the 1984 Regulations”),

in respect of the cessation of that employment;

- (b) for the purposes of item (a) in the definition of “excepted payment” in regulation 3, with respect to loss of a beneficiary’s employment, or his retirement or removal from an employment, as described in paragraph 6 of Schedule 2, the aggregate of the redundancy payment to which he is entitled under Part VI of the Employment Protection (Consolidation) Act 1978 and—
- (i) where the loss, retirement or removal occurred before the date upon which the 1984 Regulations came into operation, any amount paid to him in pursuance of a contract or arrangement and calculated by reference to that payment, a period of continuous employment or employments (subject to a maximum period of 20 years) and his remuneration in that employment, or
 - (ii) where the loss, retirement or removal occurred on or after the date upon which the 1984 Regulations came into operation, any compensation paid to him under regulation 4 of those regulations or any corresponding provision in other regulations made under section 24 of the Act of 1972(a), which applies to persons

(a) 1972 c.11.

in relation to whom regulations may be made under section 7 or 9 of that Act,
in respect of that loss, retirement or removal;”.

Lump sum compensation and annual compensation

7. For regulation 6 of the principal regulations there shall be substituted the following regulation:—

“6.— (1) Subject as hereafter in these regulations provided, a beneficiary shall be entitled to receive compensation in accordance with paragraphs (2) and (3).

(2) Where a beneficiary is entitled to a retiring allowance under the Superannuation Regulations(a)—

- (a) he shall be entitled to receive lump sum compensation equal to the amount by which that allowance would be increased in accordance with those regulations, if the service after 31st March 1972 which he is entitled to reckon as reckonable service were increased by the period of his additional service; but
- (b) the amount of such compensation payable to a beneficiary, whose material date falls on or after the date of the coming into operation of the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 shall be reduced by the amount of any lump sum to which he is previously entitled calculated in accordance with paragraph 7(a) of Schedule 2.

(3) From the day following the material date—

- (a) a beneficiary shall be entitled to receive annual compensation at a rate equal to the rate by which his annual retirement pension under the Superannuation Regulations would be increased in accordance with those regulations, if his reckonable service were increased by the period of his additional service; but
- (b) the amount of such compensation payable to a beneficiary, whose material date falls on or after the date of the coming into operation of the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984, in respect of any period which begins after the material date, shall be reduced by the amount of any allowance to which he is previously entitled in respect of that period calculated in accordance with paragraph 7(b) of Schedule 2.

(4) In this regulation, in relation to a beneficiary, reference to an allowance or pension under the Superannuation Regulations means an allowance or pension to which, on ceasing to hold his former employment, he is entitled by virtue of regulation E2(1)(b)(iii) and E2(3)(a) of those regulations; and the amount of any lump sum or allowance to which he is

(a) S.I. 1974/812; relevant amending instruments are S.I. 1975/638, 1978/425, 1926, 1980/198, 342, 1885, 1981/1892, 1982/385, 1303, 1983/1421, 1984/254.

previously entitled shall be calculated in accordance with Part III of Schedule 2.”.

Amount of widow’s short-term compensation and long-term compensation

8. In regulation 9(2) of the principal regulations for the figures “13(4)” there shall be substituted the figure “13”.

Amount of children’s short-term compensation and long-term compensation

9.— (1) In regulation 11(3) of the principal regulations for the figures “13(4)” there shall be substituted the figure “13”.

(2) In regulation 11(4) of the principal regulations for the figure “16” there shall be substituted the figure “17”.

Compensation of widowers, etc.

10. For regulation 12 of the principal regulations there shall be substituted the following regulation:—

“12.— (1) A female beneficiary—

- (a) who has notified the appropriate administering authority under regulation E12 of the Superannuation Regulations, or
- (b) who has no husband but an eligible child or eligible children, or
- (c) to whom paragraph 2 applies,

shall participate in the benefits provided by these regulations as if references therein to a male beneficiary and a man were references respectively to a female beneficiary and a woman; as if references to a wife and a widow were references respectively to a husband and a widower and as if references to regulations E5(1) or E8(1) of the Superannuation Regulations were references to those regulations as modified by regulation E12 of the Superannuation Regulations.

(2) This paragraph applies to a female beneficiary who has a husband who on the material date is permanently incapacitated by reason of ill-health or infirmity of mind or body, and who is wholly or mainly dependent on her, and who not later than one month after she is given written notification in accordance with regulation 17 of the compensation payable to her notifies the employing authority in writing that she wishes the provisions of this regulation to apply to her.”.

Adjustment of compensation to take account of redundancy payments

11. For regulation 13 of the principal regulations there shall be substituted the following regulation:—

“13. Where—

- (a) the period of a beneficiary’s additional service exceeds $6\frac{2}{3}$ years, and
- (b) he has received, or is entitled to receive, a redundancy payment in respect of the cessation of his former employment,

his compensation under these regulations shall be abated in accordance with Schedule 3.”.

Other payments

12. In regulation 14(3) of the principal regulations—

- (a) in the definition of “annual compensation”, for the figures “13(4)” there shall be substituted the figure “13”;
- (b) in the definition of “lump sum compensation”, for the figures “13(2)” there shall be substituted the figure “13”; and
- (c) for the definition of “termination payment” there shall be substituted the following definition:—

““termination payment” means the aggregate of any lump sum payments made to him by his employing authority, in consequence of or as compensation for the loss of his former employment, under an enactment (whenever enacted) or under a contract or arrangement with that authority, but does not include—

- (a) an excepted payment in relation to that employment, or
- (b) his lump sum compensation.”.

New employment

13. In regulation 15(4) of the principal regulations for the figures “13(4)” there shall be substituted the figure “13”.

Cessation of new employment

14. In regulation 16(4) of the principal regulations for the figures “13(4)” there shall be substituted the figure “13”.

Other entitlement

15. After Part II of Schedule 2 to the principal regulations there shall be added the following Part:—

“

PART III

Previous entitlement

Regulation 6(4)

6. Where a beneficiary has become entitled to receive a lump sum, or an allowance for life or other period, under an enactment (whenever enacted) or under a contract or arrangement with his employer as compensation for loss of an employment, or his retirement or removal from an employment, which loss, retirement or removal occurred before the material date and that lump sum or allowance—

- (a) is not compensation or benefit described in paragraph 2, or an excepted payment in relation to that employment, and
- (b) was calculated by reference to a period of service which the

employing authority has taken into account for the purpose of granting him additional service,
 he is previously entitled to a lump sum or an allowance for the purposes of regulation 6.

7. The amount of the lump sum or allowance to which a beneficiary is previously entitled shall be ascertained in the following manner:—

(a) for the purposes of regulation 6(2), the amount is an amount equal to—

$$A \times \frac{C}{D}, \text{ and}$$

(b) for the purposes of regulation 6(3), the amount is an amount equal to—

$$B \times \frac{C}{D},$$

where—

A is the amount of the lump sum referred to in paragraph 6;

B is the annual rate of the allowance which is payable in respect of a period referred to in regulation 6(3)(b);

C is the period of service referred to in paragraph 6(b), expressed in years and fractions of a year; and

D is the period of service which the employer took into account for the purpose of granting him the lump sum or allowance referred to in paragraph 6, expressed in years and fractions of a year.”.

Adjustment on account of redundancy payments

16. For Schedule 3 to the principal regulations there shall be substituted the following Schedule:—

“

SCHEDULE 3

Regulation 13

Adjustment on account of redundancy payments

1. The compensation of a beneficiary to whom regulation 13 applies shall be abated as follows:—

- (a) where his lump sum compensation—
- (i) exceeds the amount ascertained under paragraph 2, it shall be reduced by that amount, or
 - (ii) is equal to the amount ascertained under that paragraph, it shall not be payable, or
 - (iii) is exceeded by the amount ascertained under that paragraph, it shall not be payable, and his annual compensation shall be reduced in accordance with sub-paragraph (b); and
- (b) his annual compensation shall be reduced by an amount the capital value whereof is equal to—
- (i) the outstanding balance (if any), or
 - (ii) where he is, apart from the provisions of sub-paragraph (a), not entitled to receive lump sum compensation, the amount ascertained under paragraph 2,

such reduction to be calculated in accordance with paragraph 3.

2. The amount ascertained under this paragraph is equal to—

$$\left(\frac{3R}{10} \times E\right) - Y$$

where—

E is the period of the beneficiary's additional service, expressed in years and fractions of a year, which is in excess of $6\frac{2}{3}$ years;

R is the amount of the redundancy payment referred to in regulation 13(b); and

Y is any amount by which that payment is reduced in accordance with the Redundancy Payments Pensions Regulations (a).

3. The amount by which the annual compensation payable to a beneficiary is to be reduced in the circumstances described in paragraph 1(b) shall be calculated in accordance with the following table—

(a) S.I. 1965/1932.

Age last birthday	Reduction of annual compensation per £100 of the outstanding balance or of the amount ascertained under paragraph 2	
	Male	Female
50	6.26	5.43
51	6.36	5.48
52	6.47	5.55
53	6.61	5.64
54	6.77	5.75
55	6.96	5.87
56	7.17	6.01
57	7.40	6.16
58	7.64	6.32
59	7.89	6.49
60	8.15	6.67
61	8.43	6.87
62	8.73	7.08
63	9.05	7.32
64	9.39	7.58

4. In this Schedule—

- (a) “annual compensation” means the compensation payable to a beneficiary under regulation 6(3);
- (b) “lump sum compensation” means the compensation payable to him under regulation 6(2); and
- (c) “outstanding balance” means the amount of the excess described in paragraph 1(a)(iii).”.

Adjustment on account of new employment

17. In paragraph 6(2)(b) of Part II of Schedule 4 to the principal regulations for the figures “13(2)” there shall be substituted the figure “13”.

George Younger,
One of her Majesty’s Principal
Secretaries of State.

New St. Andrew’s House,
Edinburgh.

7th June 1984.

We consent.

18th June 1984.

Donald Thompson,
Tristan Garel-Jones,
Two of the Lords
Commissioners of Her Majesty's
Treasury.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The Employment Protection (Consolidation) Act 1978 provides for compensation payments to be made to employees in cases of redundancy but limits the level of the employees' earnings to be taken into account in the calculation of such payments. Part II of these regulations gives employing authorities the power to make additional compensation payments up to a maximum of the difference between the amount payable under the Act and the amount which would have been payable had there been no earnings limit specified in the Act (regulations 3 and 4).

Secondly Part III of these regulations amends the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979 by—

- (1) clarifying the type of termination payments that are excluded from any abatement provisions in the regulations (regulation 5);
- (2) amending the definition of redundancy payment to take account of the additional payments which might be made in respect of earnings above the earnings limit (regulation 6);
- (3) ensuring that where prior to 1979, in respect of a previous employment a beneficiary has been awarded compensatory payments that relate to added years they will be taken into account when calculating benefits under the principal regulations (regulations 7 and 15);
- (4) raising the age limit of children from 16 to 17 (regulation 9);
- (5) removing the notification requirement for children's compensation to be payable in the case of a female employee who has eligible children but no husband (regulation 10); and
- (6) making consequential amendments (regulations 8, 9, 11, 12, 13, 14, 16 and 17).

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