

1989 No. 1161

WATER, ENGLAND AND WALES

**The Water Reorganisation (Pensions etc.) Regulations
1989**

<i>Made</i> - - - -	<i>6th July 1989</i>
<i>Laid before Parliament</i>	<i>7th July 1989</i>
<i>Coming into force</i>	<i>1st September 1989</i>

The Secretary of State for the Environment and the Secretary of State for Wales, acting jointly in exercise of the powers conferred on them by section 185(2) of, and paragraph 2(2) of Schedule 26 to, the Water Act 1989(a), and all other powers enabling them in that behalf, hereby make the following Regulation:-

Citation and commencement

1. These Regulations may be cited as the Water Reorganisation (Pensions etc.) Regulations and shall come into force on 1st September 1989.

Interpretation

2. In these Regulations -

“the 1989 Act” means the Water Act 1989;

“former water authority” means any of the following bodies -

The Upper Tame Main Drainage Authority;

The Derwent Valley Water Board;

The Durham County Water Board;

The Fylde Water Board;

The Staffordshire Potteries Water Board;

The West Lancashire Water Board;

The Wirral Water Board; and

The Metropolitan Water Board;

“pension” includes an allowance or gratuity and a payment by way of an increase in a pension or by way of compensation for loss of office or for any other reason; and

“preserved” in relation to any pension means a pension to which a person has become entitled but which has not become payable at the transfer date.

Savings of provisions

3. Notwithstanding the repeal by the 1989 Act of the enactments specified in the first column of Schedule 1 hereto, those enactments shall continue to have effect on and after the transfer date to the extent mentioned in the second column of that Schedule, but with the modifications specified in the third column.

Transfer of liabilities in respect of pensions etc.

4.—(1) Subject to paragraph (3), all liabilities relating to pensions payable to, or in respect of, any person to whom this paragraph applies which would, but for the 1989 Act, fall to be discharged on or after the transfer date by a water authority by virtue of any provision mentioned in Schedule 1 or 2 hereto (other than from a fund maintained for the purposes of regulations made under section 7 of the Superannuation Act 1972(a)) shall become liabilities of the National Rivers Authority.

(2) Paragraph (1) applies to a person who has at any time been the chairman or otherwise been a member of or an employee of –

- (a) a water authority;
- (b) a former water authority(b); or
- (c) the National Water Council(c).

(3) Paragraph (1) shall not apply to any liability relating to the payment of a pension which is not a preserved pension to, or in respect of, a person who –

- (a) immediately before the transfer date is the chairman or other member of a water authority; and
- (b) on that date becomes a director of a successor company or of a company nominated in accordance with section 82(1) of the 1989 Act as the nominated holding company of a successor company.

(a) 1972 c.11. (b) The pensions liabilities of these bodies were transferred to the National Water Council by regulation J.2 of the Local Government Superannuation Regulations 1974 (S.I. 1974/520). (c) Established by section 4 of the Water Act 1973 (c.37) and dissolved by the Water Act 1983 (Dissolution of the National Water Council) Order 1983 (S.I. 1983/1927). The Council's liabilities in respect of payments of the kind to which these Regulations apply were transferred to the Severn-Trent Water Authority by the Water (Compensation) Regulations 1983 (S.I. 1983/1267), the Pensions Increase (Local Authorities etc. Pensions) (Amendment) Regulations 1983 (S.I. 1983/1315) and the Water (Pensions and Pension Liabilities) Regulations 1983 (S.I. 1983/1319).

Transfer of certain pension liabilities of the Thames Water Authority

5. All liabilities of the Thames Water Authority to pay any pension to or in respect of a person who has at any time been an officer or servant of –

- (a) the Conservators of the River Thames; or
- (b) the Lee Conservancy Catchment Board,

being liabilities which would, but for the 1989 Act, fall to be discharged by that Authority on or after the transfer date, shall on that date become liabilities of the successor company to that Authority.

Consequential provision

6.—(1) For the purpose of enabling the National Rivers Authority to discharge the liabilities transferred by regulation 4, the provisions specified in Schedule 2 shall have effect on and after the transfer date with the necessary modifications.

(2) For the purpose of enabling the successor company to discharge the liabilities transferred by regulation 5 –

- (a) section 20(2) of the Superannuation Act 1972 shall have effect on and after the transfer date as if for the words from the beginning to “subsection (1)(b) above” there were substituted the words “The company nominated in accordance with section 4 of the Water Act 1989 to succeed the Thames Water Authority shall pay to or in respect of the persons to whom this section applies”;
- (b) section 20(3) of that Act shall have effect on and after the transfer date as if for the words “The Conservators and the Catchment Board” there were substituted the words “The company referred to in subsection (2) above”; and
- (c) any pension scheme applied by virtue of section 20(2) of that Act shall have effect on and after the transfer date with the necessary modifications.

Discretionary powers

7. Where –

- (a) immediately before the transfer date it was the prevailing practice of a water authority to exercise so as to secure the payment of, or of increased, pensions any discretionary power exercisable by them by virtue of any provision mentioned in Schedule 1 or 2 hereto or under any scheme referred to in regulation 6(2); and
- (b) that or any corresponding power becomes exercisable by the National Rivers Authority or the successor company on or after the transfer date,

the Authority or the company, as the case may be, shall exercise the power in relation to any liability which falls to be discharged by it by virtue of regulation 4 or 5 in a way which is not less beneficial than the general character of that practice.

Continuity

8.—(1) Anything done by or in relation to (or having effect as if done by or in relation to) a water authority in the discharge of or in connection with a liability transferred by regulation 4 or 5 shall, so far as is required for continuing its effect on or after the transfer date, have effect as if done by or in relation to the National Rivers Authority or the successor company, respectively.

(2) Without prejudice to the generality of paragraph (1), that paragraph applies to the making of any appeal, claim, decision or determination, to the giving of any notice or undertaking, and to the bringing of any action or proceeding.

(3) Any pending action or proceeding may be amended in such manner as may be necessary or proper in consequence of these Regulations.

Signed by the authority of the
Secretary of State
6th July 1989

Michael Howard
Minister of Water and Planning
Department of the Environment

6th July 1989

Peter Walker
Secretary of State for Wales

SCHEDULE 1
PROVISIONS SAVED

Regulation 3

<i>(1)</i> <i>Enactment</i>	<i>(2)</i> <i>Extent of saving</i>	<i>(3)</i> <i>Modifications</i>
Paragraph 2(1) of Schedule 3 to the Water Act 1973(a)	So far as the powers are exercisable to allow additional periods to be treated as periods of service reckonable for pension purposes under the Employment Security and Severance Schemes for the Water Industry 1977 and 1981 or under arrangements to similar effect(b).	(a) For the words "A water authority" and "the authority" there shall be substituted the words "The National Rivers Authority" and "the Authority"; and (b) for the words "any of their functions" there shall be substituted the words "any liabilities falling to be discharged in accordance with regulation 4 of the Water Reorganisation (Pensions etc.) Regulations 1989".
Paragraphs 5 and 7 of Schedule 3 to the Water Act 1973	Paragraph 5(1) and, so far as they apply for the interpretation of that paragraph, paragraphs 5(3) and 7 (pensions payable to members of water authorities in accordance with determinations made by the appropriate Minister).	(a) In paragraph 5(1) for the words "A water authority" there shall be substituted the words "The National Rivers Authority" and the words "are or" shall be omitted; and (b) paragraph 5(2) shall be omitted.

(a) 1973 c.37; paragraphs 2, 5 and 7 of Schedule 3 were substituted by Schedule 1 to the Water Act 1983 (c.23). (b) Made under paragraph 2(1) of Schedule 3 to the Water Act 1973, as substituted by Schedule 1 to the Water Act 1983.

PROVISIONS RELATING TO TRANSFERRED LIABILITIES

The Water Authorities (Retirement of Chief Officers) Regulations 1974(a).

The Local Government (Compensation) Regulations 1974(b).

The Water (Compensation) Regulations 1983(c).

The Pensions Increase (Local Authorities' etc Pensions) (Amendment) Regulations 1983(d).

The Water (Pensions and Pension Liabilities) Regulations 1983(e).

Parts K and L of the Local Government Superannuation Regulations 1986(f).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are consequential upon the Water Act 1989. Regulation 3 saves from the repeals made by the 1989 Act the provisions listed in Schedule 1 to the Regulations. Regulation 4 transfers to the National Rivers Authority certain liabilities of the water authorities in England and Wales to pay pensions, allowances and gratuities and to make other similar payments to or in respect of their members and employees and members and employees of certain bodies which formerly exercised functions connected with the supply of water or provision of sewerage services.

The transferred liabilities relate to payments in respect of which no funds were maintained by the water authorities. The liabilities imposed on the Authority by the Regulations will be financed by the Secretary of State in accordance with paragraph 2(5) of Schedule 26 to the Water Act 1989.

Regulation 5 transfers to the company which succeeds the Thames Water Authority liabilities relating to the payment of pensions etc. to former officers and servants of the Thames Conservancy and the Lee Conservancy Catchment Board.

Regulation 6 makes consequential provision relating to the discharge of the transferred liabilities. Regulation 7 requires the National Rivers Authority and the successor company to exercise any discretionary powers associated with the transferred liabilities in a way that is no less beneficial to the recipients than was the exercise of such powers by the water authorities. Regulation 8 provides for continuity in relation to the transferred liabilities.

(a) S.I. 1974/73. (b) S.I. 1974/463. (c) S.I. 1983/1267. (d) S.I. 1983/1315. (e) S.I. 1983/1319.
(f) S.I. 1986/24; relevant amending instruments are S.I. 1987/293, 1988/466 and 1989/371.