

1989 No. 1462

PENSIONS

**The Local Government Superannuation (Water)
Regulations 1989**

<i>Made</i> - - - -	<i>9th August 1989</i>
<i>Laid before Parliament</i>	<i>11th August 1989</i>
<i>Coming into force</i> -	<i>1st September 1989</i>

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972(a), and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:-

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Superannuation (Water) Regulations 1989, and shall come into force on 1st September 1989, but regulation 2(11) shall have effect as from 1st January 1989, and regulations 9(b) and 12(a) shall have effect as from 7th July 1989.

(2) In these Regulations “the principal Regulations” means the Local Government Superannuation Regulations 1986(b) and unless the context otherwise requires any expression which is also used in the principal Regulations has the same meaning as in those Regulations.

Transfer of superannuation funds maintained by the Severn-Trent Water Authority

2.—(1) In this regulation-

- (a) “the old main fund” means the superannuation fund which the Severn-Trent Water Authority became required to maintain by virtue of regulation 5 of the Local Government Superannuation (National Water Council Dissolution) Regulations 1983(c) (“the dissolution Regulations”);
“the old second fund” means the superannuation fund which the Severn-Trent Water Authority became required to maintain by virtue of regulation 3 of the dissolution Regulations;
- (b) “new fund” means a superannuation fund which the National Rivers Authority are required to maintain under regulation P1(1) of the principal Regulations (as amended by regulation 9(a) of these Regulations);
“the new main fund” means the new fund to which the old main fund is transferred by paragraph (2)(a) below;

(a) 1972 c.11.
(b) S.I. 1986/24, amended by S.I. 1986/380, 1987/293, 1579, 2110, 1988/466, 1989/371, 372.
(c) S.I. 1983/1271.

“the new second fund” means the new fund to which the old second fund is transferred by paragraph (2)(b) below;

- (c) (i) any reference to an old fund shall be construed as a reference to the old main fund or the old second fund, as the case may be, and
- (ii) in relation to an old fund, any reference to the appropriate new fund shall be construed as a reference to the new fund to which that old fund is transferred by paragraph (2) below.

(2)(a) The old main fund shall vest in the National Rivers Authority, and shall become the new main fund;

(b) the old second fund shall vest in the National Rivers Authority, and shall become the new second fund.

(3) All rights and liabilities of the Severn-Trent Water Authority in respect of an old fund shall vest in the National Rivers Authority in respect of the appropriate new fund.

(4) Any liability of any body or person to make payments into an old fund shall become a liability to make payments into the appropriate new fund.

(5) Subject to paragraph (6) below, all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given by or to the Severn-Trent Water Authority or any other body on their behalf for the purposes of an old fund shall be of full force and effect in favour of, or against, the National Rivers Authority.

(6) Any admission agreement made under regulation B3 of the principal Regulations (or continued in force by paragraph (9) of that Regulation as if so made) whereby employees of any body are, or can be, admitted to participate in the benefits of the old second fund shall, without prejudice to any rights or liabilities arising in respect of service by any such employees before 1st September 1989, cease to have effect.

(7) Any action or proceeding or cause of action or proceeding pending or existing immediately before 1st September 1989 by or against the Severn-Trent Water Authority in respect of an old fund shall be of full force and effect in favour of, or against, the National Rivers Authority.

(8) Where the Severn-Trent Water Authority would have become liable, or would have been empowered, on the happening of any event, to make a payment out of an old fund or to take any other action as administering authority in respect of any person who has ceased to participate in the benefits of an old fund before 1st September 1989, then on the happening of any such event such payment or action shall, or as the case may be, may be made out of the appropriate new fund or taken by the National Rivers Authority.

(9) Where a person has ceased to contribute to an old fund before 1st September 1989 and has not become a contributor to any other superannuation fund maintained under the principal Regulations, the appropriate new fund shall after 31st August 1989 be deemed to be the fund to which he was last a contributor.

(10) All legal proceedings pending on 1st September 1989 may be amended in such manner as may be necessary or proper in consequence of these Regulations.

(11) Notwithstanding regulation P5 of the principal Regulations (periodical valuation of superannuation fund), the Severn-Trent Water Authority shall not be required to obtain an actuarial valuation of the assets and liabilities of an old fund as at 31st March 1989.

(12) In its application to the new funds Part P of the principal Regulations shall have effect subject to the modifications set out in the Schedule to these Regulations.

(13) Any expenses incurred by the Severn-Trent Water Authority in respect of an old fund in consequence of this regulation shall be paid out of the appropriate new fund.

Continuance of employer's functions

3.—(1) As from 1st September 1989 every employer's function not already exercised shall become a function of the National Rivers Authority.

(2) In paragraph (1) "employer's function" means a function under the principal Regulations, the 1974 Regulations or the former Regulations which—

- (a) had, or but for the determination of their functions would have, become exercisable in relation to a person by a water authority or a body whose employees were admitted to participate in the benefits of the old second fund referred to in regulation 2 by virtue of an admission agreement to which regulation 2(6) refers, and
- (b) had or would have become so exercisable by virtue only of the person's having been at some time before 1st September 1989 an employee of the National Water Council, of that water authority or of that body, and in relation to that employment.

(3) The National Rivers Authority may pay out of the appropriate new fund, as defined in regulation 2, any costs, charges or expenses incurred by them in the discharge of functions which have become theirs by virtue of this regulation.

Power to admit employees of other bodies

4. Regulation B3(8) of the principal Regulations is amended—

- (a) in sub-paragraph (b), by deleting wherever they occur the words "or water authorities" and the words "or the functions of water authorities", and
- (b) by deleting sub-paragraphs (i), (j) and (k).

Appropriate superannuation fund

5. Regulation C1 of the principal Regulations is amended—

- (a) in paragraph (1), by substituting for the words "and (3)" the words ", (3) and (6)"; and
- (b) by substituting for paragraphs (6) and (7) the following:

“(6) In relation to a pensionable employee of the National Rivers Authority, the appropriate superannuation fund is the fund maintained by the National Rivers Authority in accordance with regulation P1(1A)”.

Certain persons who become subject to other superannuation schemes

6. Regulation J13(1)(a) of the principal Regulations is amended by deleting the words "or a water authority".

Transfers to Water Act Company schemes

7. The principal Regulations are amended by inserting after regulation J13 the following:

“J13A. Where a person—

- (a) is, on 31st August 1989, a pensionable employee or an admitted employee, and
- (b) on 1st September 1989 either—
 - (i) becomes an employee of a Water Act Company by virtue of any provision contained in, or made under the Water Act 1989(a), or
 - (ii) continues in an employment by virtue of which he was immediately before that date an admitted employee, and
- (c) on that date becomes subject to an approved non-local government scheme managed by or on behalf of a Water Act Company, and
- (d) on that date has not reached state pensionable age, and
- (e) on or before 31st December 1989 has made a written request to the appropriate administering authority for a transfer value to be paid to that scheme,

Regulation J14 shall apply to that person as if the requirements of paragraphs (1)(a),

(a) 1989 c.15.

(b), (c) and (d) of that regulation were satisfied and as if references to the employing authority were references to the Water Act Company.”.

Transfer of certain sums from the superannuation fund

8. Regulation M2(2) of the principal Regulations is amended by substituting for the words “the Severn-Trent Water Authority” the words “the National Rivers Authority”.

Superannuation funds

9. Regulation P1 of the principal Regulations is amended—

(a) in paragraph (1)—

(i) by inserting at the end of sub-paragraph (c) the word “and”,

(ii) in sub-paragraph (d), by deleting the word “and”,

(iii) by deleting sub-paragraph (e), and

(iv) by inserting, before the words “and every superannuation fund”, the words “the superannuation funds vested by regulation 2 of the Local Government Superannuation (Water) Regulations 1989 in the National Rivers Authority,”;

(b) by inserting after paragraph (1) the following:

“(1A) The National Rivers Authority shall establish and maintain a superannuation fund for the purposes of these Regulations.”; and

(c) in paragraph (2)—

(i) by deleting the words “(other than the Severn-Trent Water Authority)”, and

(ii) by inserting after the words “paragraph (1)” the words “or (1A)”.

Change of local government employment and fund authority

10. Regulation Q2(6) of the principal Regulations is amended by inserting after the words “the Local Government Act 1985” the words “or the Water Act 1989”.

Glossary of expressions

11. Schedule 1 to the principal Regulations is amended—

(a) by inserting after the entry relating to “The Miscellaneous Provisions regulations” the following:

““National Rivers Authority” The same meaning as in the Water Act 1989”; and

(b) by inserting after the entry relating to “War service provisions” the following:

““Water Act Company” A company nominated in accordance with section 4 of the Water Act 1989 as the successor company of a water authority, or a company nominated by order under section 83(1) of that Act”.

Pensionable employees

12. Part I of Schedule 2 to the Principal Regulations is amended in column (1)—

(a) by inserting after the item relating to a higher education corporation the following:

“The National Rivers Authority”;

(b) by deleting the words “A water authority”.

Fund apportionment where 100 or more transfer their pension rights under regulation J14

13. Schedule 18 to the principal Regulations is amended—

(a) in paragraph 4, by inserting before the words “The relevant date” the words “Subject to paragraph 4A,”;

(b) by inserting after paragraph 4 the following:

“4A. In relation to persons to whom regulation J14 applies by virtue of

regulation J13A, the relevant date for the purposes of paragraphs 5 and 6 is 31st March 1988.”;

- (c) in paragraph 11A, by inserting after the words “a water authority” the words “or admitted employees by virtue of an admission agreement made with the Severn-Trent Water Authority”;
- (d) in paragraph 18, by inserting before the words “The employing authority” the words “Subject to paragraph 18A.”;
- (e) by inserting after paragraph 18 the following:

“18A. Where regulation J14 applies by virtue of regulation J13A, the costs of apportioning the fund shall be paid out of that fund, but such costs shall be disregarded in calculating any apportionment under this Schedule.”.

Employer's contributions

14.—(1) As soon as is reasonably practicable after the establishment of the fund referred to in regulation 9(b), the National Rivers Authority shall obtain from an actuary a certificate specifying in respect of that fund, for the years ending on 31st March 1990, 31st March 1991, 31st March 1992 and 31st March 1993, the matters referred to in regulation P6(1) of the principal Regulations (common rate of employer's contribution and any individual adjustments).

(2) The said certificate, and the matters specified therein, shall be deemed for the purposes of regulation P7 of the principal Regulations (employer's contributions) to have been obtained and specified under the said regulation P6.

Retrospective effect

15. Where—

- (a) a person has become an employee of the National Rivers Authority on or after 7th July 1989, and
- (b) if these Regulations had come into force on 7th July 1989, he would at any time before 1st September 1989 have been entitled to make an election under regulation B1A of the principal Regulations, and
- (c) he gives notice of such an election within 3 months after 1st September 1989, the election may be expressed to have effect from the date on which he commenced his employment with the National Rivers Authority.

Colin Moynihan

Signed by authority of the Secretary of State Parliamentary Under Secretary of State,
9th August 1989 Department of the Environment

SCHEDULE

Regulation 2(12)

MODIFICATIONS TO PART P OF THE PRINCIPAL REGULATIONS IN RELATION TO THE NEW FUNDS

1. In regulation P1, delete paragraphs (2) to (9).
2. Delete regulation P4.
3. In regulation P5—
 - (a) in paragraph (1), for the word “1989” substitute the word “1992”; and
 - (b) in paragraph (3)(a), delete the words after “Secretary of State”.
4. For regulation P6 substitute the following:

“P6.—(1) The National Rivers Authority shall as soon as is reasonably practicable after obtaining a valuation under regulation P5 obtain from the same actuary a certificate

specifying the amount by which, in his opinion, the assets of each fund exceed or, as the case may be, fall short of, the amount required to meet its existing and prospective liabilities.

(2) Forthwith upon receiving a certificate under this regulation the National Rivers Authority shall send a copy of it to the Secretary of State.”.

5. Delete regulations P7 to P11.

6. For regulation P14 substitute the following:

“P14. Where a pension (within the meaning of the Pensions (Increase) Act 1971(a)) has become payable under these Regulations to or in respect of a person out of a fund the amount of any increase of the pension under that Act shall be paid out of that fund.”.

EXPLANATORY NOTE

(This Note does not form part of the Regulations)

These Regulations make provision for matters connected with the privatisation of the water industry under the Water Act 1989 (c.15).

Employees of the successor companies of the former water authorities will not be pensionable employees under the Local Government Superannuation Regulations 1986 (S.I. 1986/24) (“the principal Regulations”), and employees of bodies covered by admission agreements with the Severn-Trent Water Authority will cease to be treated as pensionable employees.

Regulation 2 transfers the two superannuation funds hitherto administered by the Severn-Trent Water Authority to the National Rivers Authority (“the NRA”), with necessary incidental and consequential provisions as to liabilities, agreements and other matters. No employees will contribute to these funds, and the Schedule modifies the application of Part P of the principal Regulations (Superannuation funds and payments by authorities) to reflect this.

Regulation 3 provides for the continuance, as functions of the NRA, of superannuation functions which were, or would have become, exercisable by a water authority or an admitted body by virtue of employment relationships.

Regulations 5 and 9(b) amend the principal Regulations to require the NRA to establish and maintain a superannuation fund for its own employees, and regulation 14 makes transitional provision for determining the amount of employer’s contributions in the first four years.

Regulations 7 and 13 amend the principal Regulations to provide for the transfer of the pension rights of water authority employees who are transferred to successor companies, and for consequential fund apportionment.

Regulations 4, 6, 8, 9(a) and (c), 10, 11 and 12 make consequential amendments to the principal Regulations.

Section 12 of the Superannuation Act 1972 (c.11) confers express power to make Regulations retrospective in effect. Regulation 2(11) is retrospective to 1st January 1989 in order to remove the Severn-Trent Water Authority’s obligation to obtain a valuation of its funds as at 31st March 1989, which is no longer necessary in consequence of these Regulations. Regulations 9(b) and 12(a) are retrospective to the date on which the NRA came into existence, and regulation 15 permits persons who become employees of the NRA before these Regulations come into force to elect retrospectively to become pensionable employees. The rights of former employees are not affected by the Regulations.

(a) 1971 c.56.