

1990 No. 1709

PENSIONS

**The Local Government Superannuation (Amendment)
Regulations 1990**

<i>Made</i> - - - -	<i>20th August 1990</i>
<i>Laid before Parliament</i>	<i>24th August 1990</i>
<i>Coming into force</i>	<i>17th September 1990</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12(1) 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 (Amendment) Regulations 1990 and shall come into force on 17th September 1990, but regulation 2 shall have effect as from 1st April 1990.

(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.

Appropriate superannuation fund

2. In Regulation C1(5) of the principal Regulations^(c), after sub-paragraph (i), there shall be inserted the following:

“or (j) at any time after 31st March 1990 ceases to be a pensionable employee of the London Residuary Body, and within one month and a day after ceasing to be such an employee becomes a pensionable employee of a London borough council or of the Common Council,”.

Additional payments in respect of previous part-time service

3. After regulation C7 of the principal Regulations there shall be inserted the following:

“Additional payments in respect of previous part-time service

C7A.—(1) In this regulation—

“eligible person” shall be construed in accordance with paragraph (2);

“employing authority”, in relation to a person who has ceased to be a pensionable employee, means the body which was his employer when he was last a pensionable employee.

^(a) 1972 c.11.

^(b) S.I. 1986/24, amended by S.I. 1986/380, 1987/293, 1579, 2110, 1988/466, 1989/371, 372, 1462, 1624, 1815, 1990/503.

^(c) Regulation C1(5) was amended by S.I. 1986/380, regulation 7, and S.I. 1989/1815, article 7(1) and (2).

(2) Subject to paragraph (3), an eligible person is a person who became entitled by virtue of regulation D12(a) to reckon a period of service as qualifying service, or who would have been so entitled if that regulation and Part IV of Schedule 2 had come into force on 1st April 1986 and if the words " or 5 "(b) had been inserted after the words " paragraph 1(1) " in regulation D12(1)(a).

(3) A person is not an eligible person if—

(a) he has ceased to hold a local government employment and, on ceasing to hold such employment, was not entitled to any benefits under regulation E2(1)(c); or

(b) he has ceased to be a pensionable employee by virtue of a notification under regulation B1B(d) unless he again becomes a pensionable employee before 17th March 1991.

(4) An eligible person may, or, if he has died, his widow or widower may on his behalf, by notice given in accordance with paragraph (6), elect to make payment to the appropriate superannuation fund in order to become entitled under regulation D13 to reckon an additional period as whole-time reckonable service.

(5) As soon as is reasonably practicable after 17th September 1990, and in any event within 12 months after that date, an eligible person's employing authority shall notify him or his widow or widower in writing of the right of election under paragraph (4) and of the requirements of paragraph (6) as to notice.

(6) A notice of election—

(a) shall be given in writing to the eligible person's employing authority not later than six months after he or his widow or widower has received a notification under paragraph (5);

(b) shall specify the length of the period which the eligible person or his widow or widower wishes to be taken into account for the purpose of reckoning an additional period of whole-time reckonable service under regulation D13;

(c) shall be irrevocable but, subject to paragraph (7), an eligible person or his widow or widower may by further notice given in accordance with sub-paragraph (a) increase the period specified under sub-paragraph (b).

(7) The length of the period specified under paragraph (6) shall not exceed the length of the period of service which the eligible person became entitled (or, in the circumstances described in paragraph (2), would have become entitled) to reckon as qualifying service before 1st April 1986 by virtue of regulation D12.

(8) Subject to paragraph (9), the amount payable by or on behalf of an eligible person pursuant to an election under paragraph (4) shall be a capital sum calculated in accordance with Part I of Schedule 4A.

(9) The employing authority may, in respect of an eligible person, agree to pay a proportion, not exceeding one half, of the sum referred to in paragraph (8), in which case the amount payable by or on behalf of that person shall be reduced accordingly.

(10) As soon as is reasonably practicable after receiving a notice of election, the employing authority shall send it to the appropriate administering authority together with a written statement of the proportion (if any) of the sum referred to in paragraph (8) that they have agreed to pay.

(11) As soon as is reasonably practicable thereafter, the appropriate administering authority shall calculate the sum referred to in paragraph (8), and shall send to the employing authority and the eligible person or his widow or widower a statement of that sum and of the amount payable by each of them and, where appropriate, the frequency and amount of any instalments to be paid in accordance with paragraph (14).

(a) Regulation D12 was inserted by S.I. 1987/293, regulation 13.

(b) Part IV of Schedule 2 was inserted by S.I. 1987/293, regulation 20. Paragraph 5 of that Part was deleted with effect from 6th April 1988 by S.I. 1988/466, regulation 3(7)(c), but was in force at all times which were material for the purposes of regulation D12 (1)(a).

(c) Regulation E2 was amended by S.I. 1989/371, regulation 4.

(d) Regulation B1B was inserted by S.I. 1988/466, regulation 3.

(12) Subject to paragraph (13), the employing authority shall pay to the appropriate administering authority, not later than one month (or such longer period as the authorities may agree) after receiving the statement referred to in paragraph (11), the amount shown therein as payable by them, and regulation P10(6) shall apply to an amount payable under this paragraph as it applies to sums payable under regulation P10.

(13) The employing authority and the appropriate administering authority may agree that paragraph (12) shall not apply, in which case the amount payable by the employing authority shall be recoverable under regulation P7 (employer's contributions) in the three year period following the next periodical valuation of the fund under regulation P5.

(14) Where the eligible person is a pensionable employee, the amount payable by him under paragraph (8) shall, subject to paragraph (15), be paid by instalments of equal amounts at such intervals as the appropriate administering authority may agree over a period—

(a) equal in length to the period of qualifying service specified in the notice of election under paragraph (6) or such longer period as the appropriate administering authority may agree, or

(b) until his 65th birthday,

whichever is the lesser period, and the first such instalment shall be paid not later than two months after service of the statement under paragraph (11).

(15) Instalments paid under paragraph (14) shall not in any year exceed such amount as, when added to all other payments made by the eligible person in that year under Part C, is equal to the limit specified in paragraph 21 of Schedule 6 to the Finance Act 1989(a).

(16) Where the eligible person has ceased to be a pensionable employee on the date of service of the statement under paragraph (11) or dies before he has paid any instalments under paragraph (14), the amount payable by or on behalf of him under paragraph (8) shall be paid in full to the appropriate administering authority in a single payment made not later than three months after that date.

(17) The appropriate administering authority shall carry and credit payments made in pursuance of paragraph (12) or (16) to the appropriate superannuation fund.

(18) Payment in accordance with paragraph (14) may be discontinued if the eligible person satisfies the appropriate administering authority that its continuance would cause financial hardship.

Discontinuance of periodical payments in certain cases

C7B.—(1) This regulation applies to a pensionable employee who has elected under regulation C6 to make additional contributions and who, before he has completed payment of those contributions, makes an election under regulation C7A.

(2) An employee to whom this regulation applies may, within three months after receiving the statement referred to in regulation C7A(11), give notice in writing to the appropriate administering authority that he does not intend to complete payment of additional contributions under regulation C6.

(3) Where an employee gives notice under paragraph (2), paragraph 3 of Schedule 8 shall apply as if payment of additional contributions had been discontinued under regulation C6(5),”.

Increase of reckonable service of part-time employees

4. After regulation D12 of the principal Regulations there shall be inserted the following regulation:

“ Increase of reckonable service of part-time employees

D13.—(1) A person who has made, or whose widow or widower has made, one or more payments under regulation C7A(14) or (16) is entitled to reckon as whole-time reckonable service an additional period calculated in accordance with Part II of Schedule 4A.

(a) 1989 c. 26.

(2) The additional period shall be disregarded for the purposes of regulation K1(4)(b)(a).

(3) In respect of a person who is entitled to reckon service after 5th April 1988 as reckonable service under regulation D1, the additional period shall be treated as reckonable service after that date. In any other case, it shall be treated as reckonable service before 6th April 1988.”.

Disregard of certain reckonable service in determining entitlement to benefits

5. In regulation E27 of the principal Regulations, in paragraph (b), after the words “D7” there shall be inserted the words “or D13”.

Increase in certain benefits already payable

6. After regulation E33 of the principal Regulations(b) there shall be inserted the following regulation:

“Increase in certain benefits already payable

E34.—(1) This regulation applies where a person has become entitled under regulation D13 to reckon an additional period as whole-time reckonable service by virtue of a lump sum payment having been made in accordance with regulation C7A(16).

(2) Where this regulation applies—

- (a) the additional period shall be treated as having been reckonable at the time when the person ceased to be a pensionable employee, and
- (b) the person shall be entitled to receive, within one month after making the lump sum payment, a sum equal to the additional amount he would have received if any benefits already paid to him had been calculated by reference to the increased reckonable service.”.

Payments by employing authorities to administering authorities

7. In regulation P10(4)(bb) of the principal Regulations(c), after the words “in respect of,” there shall be inserted the words “instalments under regulation C7A or”.

Payment for additional reckonable service of part-time employees

8. After Schedule 4 to the principal Regulations there shall be inserted as Schedule 4A the Schedule set out in the Schedule to these Regulations.

Signed by authority of the
Secretary of State for the Environment

20th August 1990

Michael Portillo
Minister of State,
Department of the Environment

(a) A new Part K was substituted by S.I. 1987/293, regulation 16, and regulation K1(4)(b) was amended by S.I. 1988/466, regulation 9(2).

(b) Regulation E33 was inserted by S.I. 1989/372, regulation 4.

(c) Regulation P10(4)(bb) was inserted by S.I. 1988/466, regulation 4(3).

SCHEDULE

Regulation 8

SCHEDULE TO BE INSERTED IN THE PRINCIPAL REGULATIONS

“ SCHEDULE 4A

Regulations C7A, D13

PAYMENT FOR ADDITIONAL RECKONABLE SERVICE OF PART-TIME EMPLOYEES

PART I

Regulation C7A(8)

AMOUNT TO BE PAID FOR ADDITIONAL PERIOD

1. The amount payable by or on behalf of an eligible person under regulation C7A(8) is—

$$\frac{(6 \times A \times B) + (12 \times A \times C)}{100}$$

where—

- A is the annual rate of his remuneration on the relevant date;
- B is the lesser of—
- (a) the length, expressed in complete years and any fraction of a year, of his qualifying service before 1st April 1978, and
 - (b) the length of the period specified in the notice of election under regulation C7A(6); and
- C is the length, expressed in complete years and any fraction of a year, by which the period specified in the notice of election exceeds B.
2. In paragraph 1—
- (a) the annual rate of remuneration shall be ascertained in accordance with paragraphs 4(a) to (e) and 5 of Part V of Schedule 16;
 - (b) “ the relevant date ” means—
 - (i) 31st March 1986 or, if earlier, the day before the eligible person first became a pensionable employee, or
 - (ii) if on that date he was not employed by a body mentioned in paragraph 1(2) of Part IV of Schedule 2, the last date before that date on which he was in such an employment;
 - (c) “ qualifying service ” means service which the eligible person became entitled (or, in the circumstances described in regulation C7A(2), would have become entitled) to reckon as qualifying service by virtue of regulation D12.

PART II

Regulation D13

CALCULATION OF ADDITIONAL PERIOD

3. Where payment of the sum payable by or on behalf of a person under regulation C7A(8) has been completed, he is entitled under regulation D13 to reckon as whole-time reckonable service an additional period calculated in accordance with the formula—

$$\frac{D}{E} \times F$$

where—

- D is the person's contractual hours of employment as at the relevant date (within the meaning of paragraph 2);
- E is the contractual hours of a comparable whole-time employment as at that date; and
- F is the additional period specified in the notice of election under regulation C7A(6).

4. A person who discontinues payment under regulation C7A(18) shall be entitled to reckon under regulation D13 as whole-time reckonable service an additional period calculated as—

$$\frac{L}{M} \times N$$

where—

L is the total amount paid by way of instalments under regulation C7A(14);

M is the total sum payable by him under regulation C7A(8); and

N is the length of the period of whole-time reckonable service which the person would have been entitled to reckon under regulation D13 if payment had been completed.

5. Paragraphs 6 to 8 apply where a person has begun to make payments under regulation C7A(14) but ceases to be a pensionable employee before he has completed payment of the sum payable by him under that regulation.

6. A pensionable employee who dies, or ceases to hold his employment by reason of permanent ill-health or infirmity of mind or body, shall be treated as having completed payment of that sum.

7. Subject to paragraph 8, a person who ceases to be a pensionable employee for any other reason shall be entitled to reckon under regulation D13 as whole-time reckonable service an additional period calculated as—

$$\frac{X}{Y} \times Z$$

where—

X is total amount paid by way of instalments;

Y is the total sum payable by him under regulation C7A(8); and

Z is the length of the period of whole-time reckonable service which the person would have been entitled to reckon under regulation D13 if payment had been completed.

8. A person to whom paragraph 7 applies by reason of his ceasing to be employed by a scheduled body may, within one month after the date on which he ceases to be a pensionable employee, pay to the appropriate administering authority the capital sum equal to the total of the instalments remaining unpaid, and he shall then be treated as having completed payment.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of amendments to the Local Government Superannuation Regulations 1986 (S.I. 1986/24) ("the principal Regulations").

Regulation 2 provides that the superannuation fund administered by the London Pensions Fund Authority is the appropriate fund in respect of employees of the London Residuary Body who subsequently become employed by a London borough council or the Common Council of the City of London. This regulation is by virtue of section 12(1) of the Superannuation Act 1972 made retrospective to 1st April 1990.

The remaining provisions of the Regulations enable certain part-time employees and former part-time employees to purchase additional reckonable service in order to increase the benefits payable to them under the principal Regulations. Part-time employees first became eligible to elect to be pensionable employees by virtue of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987 (S.I. 1987/293). An election could be made retrospectively to have effect from 1st April 1986. Regulations 3 to 8 apply to a person who made such an election, and also to a "term-time" employee (one who worked for fewer than 45 weeks per year) who elected before 1st April 1988 to become a pensionable employee.

Regulation 3 inserts new regulations C7A and C7B. Regulation C7A sets out the procedure for electing to purchase additional reckonable service and for payment. Employing authorities may meet up to half of the cost. Regulation C7B allows a person who is already paying additional contributions to purchase additional service to discontinue them.

Regulation 4 inserts a new regulation D13 which confers the entitlement to reckon an additional period, and regulation 6 inserts a new regulation E34 which provides for the situation where a person has already ceased to be employed. Regulation 8 inserts a new Schedule 4A which provides for the calculation of the sum to be paid by a person purchasing additional service and the length of additional service with which he will be credited. Regulations 5 and 7 make consequential amendments to the principal Regulations.