

1990 No. 2380

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government (Compensation for Redundancy
and Premature Retirement) (Amendment) Regulations
1990**

<i>Made - - - -</i>	<i>28th November 1990</i>
<i>Laid before Parliament</i>	<i>7th December 1990</i>
<i>Coming into force</i>	<i>28th December 1990</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government (Compensation for Redundancy and Premature Retirement) (Amendment) Regulations 1990 and shall come into force on 28th December 1990 but, subject to regulation 8, regulations 2 to 7 shall have effect as from 1st April 1989.

(2) In these Regulations —

“the 1982 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations 1982(b);

“the 1984 Regulations” means the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1984(c).

Definitions

2. Regulation 3 of the 1982 Regulations is amended by substituting for the definition of “employing authority” —

““employing authority”, in relation to a person whose employment ceased as described in regulation 4(1)(a), means the body by whom he is employed on the material date, being —

(a) a body specified in Part 1 of Schedule 1, or

(b) his employer in an employment of a kind specified in column 1 of Part 2 of that Schedule;”.

Additional service

3. In regulation 5 (which shall become regulation 5(1)) of the 1982 Regulations, at the end there shall be added —

“(2) If his former employment was of a kind specified in paragraph 5 or 6 of Part 2 of Schedule 1, an eligible person may not be credited with a period of service without the consent —

(a) 1972 c.11. (b) S.I. 1982/1009, amended by S.I. 1984/740, 1986/151, 1988/466, 1989/372, 1815. (c) S.I. 1984/740.

- (a) where the employment was of the kind specified in paragraph 5, of every local education authority providing the institution with assistance, and
- (b) where it was of the kind specified in paragraph 6, of the Secretary of State.”.

Paying authority

4. Regulation 20 of the 1982 Regulations is amended by substituting for paragraphs (2) and (3) the following:

“(2) In the case of an eligible person whose former employment was of a kind specified in column 1 of Part 2 of Schedule 1, compensation shall, subject to paragraphs (3) to (3C), be paid by the paying authority ascertained from column 3.

(3) Where –

- (a) the former employment was of a kind specified in paragraph 4, 5, 6 or 7 of Part 2 of Schedule 1, and
- (b) in consequence of any amalgamation, merger or other arrangement the institution becomes part of another (the “successor establishment”) and ceases to have a separate governing body,

the governing body of the successor establishment becomes the paying authority.

(3A) Where –

- (a) the former employment was of a kind specified in paragraph 4 or 5 of Part 2 of Schedule 1, and
- (b) the institution closes and there is no successor establishment,

the local education authorities who provided the institution with assistance become, jointly, the paying authority, and each is to meet that proportion of the cost which the aggregate of the assistance it provided during the three years preceding the closure bears to the aggregate of the assistance provided by them all.

(3B) Where –

- (a) the former employment was of a kind specified in paragraph 6 or 7 of Part 2 of Schedule 1, and
- (b) the institution closes and there is no successor establishment,

the Secretary of State becomes the paying authority.

(3C) Where the former employment was of the kind specified in paragraph 3 of Part 2 of Schedule 1, the Secretary of State may –

- (a) require the governing body of the school to repay him any amounts paid by him in respect of compensation, or
- (b) accept from the governing body a single payment of a sum equal to the actuarial value of the total compensation payable, or
- (c) accept from them the payment of such a sum by not more than five annual instalments.”.

Persons employed in educational establishments

5. There shall be substituted for regulation 21 of the 1982 Regulations the following:

“21.—(1) These Regulations shall apply to an eligible person whose former employment was of a kind specified in column 1 of Part 2 of Schedule 1 as if the references to the employing authority –

- (a) in regulation 5 and paragraph 7 of Schedule 2 were references to the deciding authority ascertained from column 2 of Part 2 of Schedule 1, and
- (b) in regulations 7(1), 8(2), 10(3), 12(2)(b), 14(2), 17, 18(1) and (2) and 20(4) were references to the person who, under regulation 20(2) to (3C), is for the time being the paying authority.

(2) Where –

- (a) the former employment was of the kind specified in paragraph 1 of Part 2 of Schedule 1, and
- (b) the employing authority is the local education authority, and

(c) the governing body of the school or institution request the authority to do so,

the authority must certify, or as the case may be declare themselves satisfied, as mentioned in regulation 4(1)(a).”.

Employment in connection with education

6. For Part 2 of Schedule 1 to the 1982 Regulations there shall be substituted the following:

“PART 2

EMPLOYMENT IN CONNECTION WITH EDUCATION

1	2	3
<i>Kind of employment</i>	<i>Deciding authority</i>	<i>Paying authority</i>
1. Employment at a single school or institution maintained by a local education authority which for the time being had a delegated budget within the meaning of Chapter III of Part I or Chapter III of Part II of the Education Reform Act 1988(a) (“the 1988 Act”).	Governing body of school or institution.	Local education authority.
2. Employment at a school or institution maintained by a local education authority which did not have a delegated budget, employment by a local education authority otherwise than at a school or institution, or employment at a maintained school or institution with a delegated budget which was concurrent with employment of either of those kinds or with employment at another such school or institution.	Local education authority.	Local education authority.
3. Employment at a school maintained under Chapter IV of Part I of the 1988 Act (grant-maintained schools).	Governing body of school.	Secretary of State.
4. Employment at an institution not maintained by a local education authority which for the time being had a delegated budget within the meaning of Chapter III of Part II of the 1988 Act.	Governing body of institution.	Governing body of institution.
5. Employment at an institution falling within section 218(10) of the 1988 Act which was designated as an institution substantially dependent for its maintenance on assistance from local education authorities and which did not have a delegated budget.	Governing body of institution.	Governing body of institution.

(a) 1988 c.40.

6. Employment at an institution falling within section 218(10) of the 1988 Act which was designated as an institution substantially dependent for its maintenance on grants under section 100(1)(b) of the Education Act 1944(a).	Governing body of institution.	Governing body of institution.
7. Employment at an institution falling within section 218(11) of the 1988 Act.	Governing body of institution.	Governing body of institution.

Compensation in certain cases of redundancy

7. The 1984 Regulations are amended –

- (a) in regulation 4(1), by substituting for the words from “an authority” to the end the words “an employing authority within the meaning of the principal regulations.”;
- (b) in regulation 5, by inserting after the word “employed” the words “or, where the employment was at an aided school within the meaning of section 15 of the Education Act 1944, the local education authority”.

Retrospective effect

8. Nothing in these Regulations shall place any individual who is qualified to participate in the benefits for which the 1982 Regulations or the 1984 Regulations provide in a worse position than he would have been in if regulations 2 to 7 above had been framed so as to have effect only from the date of their making.

28th November 1990

Chris Patten
Secretary of State for the Environment

(a) 1944 c.31.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments, consequential to the Education Reform Act 1988, to the Local Government (Compensation for Premature Retirement) Regulations 1982 ("the 1982 Regulations") and the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1984 ("the 1984 Regulations").

The 1982 and 1984 Regulations allow employers to pay compensation in certain cases to persons who have ceased their employment by reason of redundancy or in the interests of efficiency. These Regulations reflect the new financial arrangements for schools and institutions made by the Education Reform Act 1988, in that the authority which decides to award compensation will not in every case be the same as the authority which will be responsible for payment.

Regulations 5 and 6 amend regulation 21 of and Schedule 1 to the 1982 Regulations to specify which are the deciding authorities and paying authorities for each type of institution. Regulation 4 amends regulation 20 of those Regulations to provide for the devolution of liability to pay compensation in the event of the original authority ceasing to exist, and to enable the Secretary of State to recover compensation paid by him from the governing body where the employment was at a grant-maintained school. The remaining regulations make minor and consequential amendments.

Regulations 2 to 7 are by virtue of section 24(3) of the Superannuation Act 1972 made retrospective to 1st April 1989, but regulation 8 provides that no individual who is qualified to receive benefits under the 1982 or 1984 Regulations will be placed in a worse position than he would have been in if these Regulations had had effect only from the date of their making.