
STATUTORY INSTRUMENTS

1996 No. 1240

EDUCATION, ENGLAND AND WALES

The Local Government Reorganisation
(Compensation for Redundancy or Loss of
Remuneration) (Education) Regulations 1996

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| <i>Made</i> | - - - - | <i>3rd May 1996</i> |
| <i>Laid before Parliament</i> | | <i>10th May 1996</i> |
| <i>Coming into force</i> | - - | <i>1st June 1996</i> |

The Secretary of State, in exercise of the powers conferred by section 24 of the Superannuation Act 1972(1), with the consent of the Treasury(2), hereby makes the following Regulations:—

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Local Government Reorganisation (Compensation for Redundancy or Loss of Remuneration) (Education) Regulations 1996 and shall come into force on 1st June 1996.

General interpretation

2. In these Regulations—

“the 1978 Act” means the Employment Protection (Consolidation) Act 1978(3);

“the 1992 Act” means the Local Government Act 1992(4);

“the 1994 Act” means the Local Government (Wales) Act 1994(5);

(1) 1972 c. 11.
(2) See S.I.1981/1670.
(3) 1978 c. 44.
(4) 1992 c. 19.
(5) 1994 c. 19.

“the 1988 Regulations” means the Teachers' Superannuation (Consolidation) Regulations 1988(6);

“the 1989 Regulations” means the Teachers (Compensation for Redundancy and Premature Retirement) Regulations 1989(7);

“abolished authority” means Avon, Cleveland or Humberside County Councils;

“eligible person” means a person entitled to compensation under Part III of these Regulations;

“local education authority” has the meaning given to that expression by section 114 of the Education Act 1944(8) as read with regulation 5(6) of the Local Government Changes for England Regulations 1994(9);

“the material date” means the date on which a person ceases to hold relevant employment;

“qualifying employment” in relation to a person to whom Part II of these Regulations applies has the same meaning as in the Local Government (Compensation for Redundancy) Regulations 1994(10);

“relevant body” means—

- (a) in England, a local education authority which is the subject of a structural change or boundary change (or both such changes) under a section 17 order;
- (b) in Wales, a local education authority which ceases to exist by virtue of, or which is established under, the 1994 Act;

“relevant compensation period” means any period of 36 months beginning on the date on which an eligible person suffers a reduction or further reduction in remuneration to which regulation 15 applies;

“relevant employment” means employment with a relevant body—

- (a) as a teacher other than a teacher employed in a school or institution providing further or higher education (within the meaning of section 41(3) of the Education Act 1944 or section 120(1) of the Education Reform Act 1988(11) respectively) (or both) maintained by a local education authority; or
- (b) which is pensionable employment (within the meaning of the 1988 Regulations) by virtue of regulation B3 of those Regulations or which would be pensionable employment had the person in question—
 - (i) not made an election under regulation B6 of those Regulations; or
 - (ii) if he was in part-time employment, made an election under, or having effect as if made under regulation B1(4) of those Regulations;

and “relevant employer” shall be construed accordingly;

“relevant local government service” has the same meaning as in section 81 of the 1978 Act as modified by paragraph 1 of Schedule 2 to the Redundancy Payments (Local Government) (Modification) Order 1983(12) (and taking the material date as the relevant event for the purposes of that section);

“the reorganisation date” means—

- (a) in relation to a local education authority in England, the date (being 1st April in any year) which is specified as such in relation to that authority in a section 17 order, and

(6) S.I. 1988/1652; relevant amending instruments are S.I. 1989/378 and 1993/114.

(7) S.I. 1989/298 as amended by S.I. 1994/1059.

(8) 1944 c. 31; section 114 was amended by section 21(1) of the 1994 Act.

(9) S.I. 1994/867, a relevant amending instrument is S.I. 1996/661.

(10) S.I. 1994/3025 as amended by S.I. 1996/456.

(11) 1988 c. 40.

(12) S.I. 1983/1160 as amended by S.I. 1988/907, 1989/532, 1990/826, 1991/881, 1993/784, 1994/417, 1995/1157.

- (b) in relation to a local education authority in Wales, 1st April 1996;
- “section 17 order” means an order under section 17 of the 1992 Act;
- “a week’s pay” shall be calculated in accordance with the provisions of Schedule 14 to the 1978 Act but, for the purposes of these Regulations, the calculation date shall be the material date and the Schedule shall be applied as if paragraph 8(1)(c) has been repealed.

PART II

COMPENSATION FOR REDUNDANCY

Interpretation of Part II

3. In this Part “the prescribed period” means—
- (a) in respect of a relevant body in England, the period beginning on the day on which the section 17 order is made and ending 18 months after the reorganisation date; and
 - (b) in respect of a relevant body in Wales, the period from 1st January 1996 to 30th September 1997.

Persons to whom Part II applies

- 4.—(1) This Part applies to a person who—
- (a) ceases during the prescribed period to hold his employment with a relevant body by reason of redundancy or in the interests of the efficient exercise of that body’s functions;
 - (b) immediately before he ceased to hold his employment was in relevant employment; and
 - (c) meets the prescribed conditions.

Prescribed conditions

- 5.—(1) The provisions of the following paragraphs are prescribed conditions for the purposes of regulation 4.
- (2) The first condition is that the person has on the material date—
- (a) attained the age of 18 but has not attained the age of 50 and is entitled to count relevant local government service or qualifying employment amounting in total to not less than 2 years; or
 - (b) has attained the age of 50 but has not attained the age of 65.
- (3) The second condition is—
- (a) where the relevant body was an abolished authority, that the body which is specified in Part I of the Schedule as the successor in relation to that body certifies that—
 - (i) the person would otherwise have been entitled to payment under these Regulations; and
 - (ii) the loss of employment was attributable to a section 17 order;
 - (b) where the relevant body is a local education authority in England other than an abolished authority, that it certifies that the loss of employment is attributable to a section 17 order;
 - (c) where the relevant body was an old authority as defined in section 64(1) of the 1994 Act, that the body which is specified in Part II of the Schedule as the successor in relation to that relevant body certifies that—

- (i) the person would otherwise have been entitled to payment under these Regulations; and
 - (ii) the loss of employment was attributable to any provision made by or under the 1994 Act; or
 - (d) where the relevant body is a county council or county borough council established under the 1994 Act, that it certifies that the loss of employment is attributable to any provision made by or under that Act.
- (4) The third condition is that the person is not a person who has entered into an agreement as is mentioned in section 142(2) of the 1978 Act to exclude any right to a redundancy payment under Part VI of that Act and on whose cessation of employment on the material date such exclusion takes effect.
- (5) The fourth condition is that—
- (a) the person has not been made an offer as set out in section 82(3) of the 1978 Act (as modified by the Redundancy Payments (Local Government) (Modification) Order 1983); or
 - (b) if he has been made such an offer—
 - (i) in circumstances where the conditions in subsection (5)(a) or (b) of that section apply, he must have reasonably refused that offer; or
 - (ii) in circumstances where the conditions in subsection (6) of that section apply and he enters into a trial period as referred to in that subsection, he must have reasonably terminated the contract or have reasonably given notice to terminate it where the contract is, in consequence, terminated.

Computation of compensation

- 6.—(1) Before the relevant date a relevant body—
- (a) shall determine to pay the compensation prescribed in regulation 7(2) to a person who meets the requirements of regulation 7(1);
 - (b) may determine to pay the compensation prescribed in regulation 7(5) to a person who meets the requirements of regulation 7(1);
 - (c) may determine to pay the compensation prescribed in regulation 8 to a person who meets the requirements of regulation 8(1);
 - (d) may determine to pay the compensation prescribed in regulation 9 to a person who meets the requirements of regulation 9(1); and
 - (e) may determine to pay the compensation prescribed in regulation 10 to a person to whom they have determined to pay the compensation prescribed in regulation 8 or 9 as the case may be.
- (2) In paragraph (1)—
- (a) “the relevant date” is
 - (i) 1st December 1996; or
 - (ii) the date six months after the material date, whichever occurs later; and
 - (b) in any case to which regulation 5(3)(a) or (c) applies, the reference to the relevant body shall be a reference to the body which is specified in the Schedule as the successor to the relevant body by whom the person was employed immediately before he ceased to hold his employment.
- (3) Where—

- (a) in accordance with paragraphs (1) and (2) a payment is to be made by a body specified in Part II of the Schedule as a successor authority; and
- (b) the area of the old authority as referred to in regulation 5(3)(c) is divided among two or more new local government areas by the 1994 Act,

no compensation shall be paid by the successor authority under sub-paragraphs (b), (c), (d) or (e) of paragraph (1) unless the council of each such new local government area has consented to the payment.

General mandatory compensation and additional discretionary compensation

7.—(1) This regulation applies to a person to whom this Part applies and who, on the material date—

- (a) has attained the age of 18 but has not attained the age of 50 and who is entitled to count relevant local government service or qualifying employment amounting in total to not less than 2 years; or
- (b) has attained the age of 50 and who is entitled to count relevant local government service or qualifying employment amounting in total to less than 2 years.

(2) The compensation payable under regulation 6(1)(a) shall be an amount equal to the lesser of—

- (a) a sum equivalent to 66 weeks' pay; or
- (b) the relevant total sum referred to in paragraphs (3) and (4).

(3) In the case of cessation of employment before the age of 23 the relevant total sum shall be—

- (a) a sum equivalent to one half week's pay for each complete year of relevant local government service after the attainment of age 18; and
- (b) where such cessation is on or after the attainment of age 20, a sum equivalent to one half week's pay for each complete year of relevant local government service after the attainment of age 20.

(4) In the case of cessation of employment on or after the attainment of age 23 the relevant total sum shall be—

- (a) a sum equivalent to 2 weeks' pay for each complete year of relevant local government service after the attainment of age 18; and
- (b) where such cessation is on or after the attainment of age 41, a sum equivalent to 3 weeks' pay for each complete year of relevant local government service after the attainment of age 41.

(5) The compensation which may be payable under regulation 6(1)(b) is such sum which when aggregated to the compensation payable under regulation 6(1)(a) shall not exceed the lesser of—

- (a) a sum equivalent to 66 weeks' pay; or
- (b) the relevant total sum calculated in accordance with the formula set out in paragraph (3) or (4) as applicable but with the substitution for the words “relevant local government service” of the words “qualifying employment”.

Discretionary compensation for certain persons

8.—(1) This regulation applies to a person to whom this Part applies and who—

- (a) ceases employment on or after the attainment of age 50; and
- (b) is entitled to count relevant local government service or qualifying employment amounting in total to 2 or more but less than 5 years.

(2) The compensation which may be payable under regulation 6(1)(c) shall be the relevant total sum calculated in accordance with paragraph (3);

(3) The relevant total sum shall be—

- (a) a sum equivalent to one and one half weeks' pay for each complete year of relevant local government service after the attainment of age 18;
- (b) a sum equivalent to two and one half weeks' pay for each complete year of relevant local government service after the attainment of age 41; and
- (c) a sum equivalent to one half week's pay.

(4) No payment shall be made to a person under this regulation unless—

- (a) the person gives written consent to such payment after receipt of the written notification referred to in regulation 12; and
- (b) he waives his right to the immediate payment of benefits under regulation E4(7) of the 1988 Regulations.

Discretionary compensation for certain persons

9.—(1) This regulation applies to a person to whom this Part applies and who—

- (a) ceases employment on or after the attainment of age 50; and
- (b) is entitled to count relevant local government service or qualifying employment amounting in total to not less than 5 years.

(2) The compensation which may be payable under regulation 6(1)(d) to a person shall be an amount equal to the lesser of—

- (a) a sum equivalent to 45 weeks' pay; or
- (b) the relevant total sum calculated in accordance with regulation 8(3).

(3) If a relevant body determines to pay to a person the compensation prescribed in this regulation they shall not credit that person with a period of service under regulation 6(1) of the 1989 Regulations.

Further discretionary compensation

10.—(1) The compensation which may be payable under regulation 6(1)(e) is such sum which, when aggregated to the compensation payable under regulation 8 or 9 as the case may be, shall not exceed the relevant maximum.

(2) In paragraph (1) “relevant maximum” means the lesser of—

- (a) a sum equivalent to 66 weeks' pay; and
- (b) the total of—
 - (i) a sum equivalent to 2 weeks' pay for each complete year of relevant local government service after the attainment of age 18; and
 - (ii) a sum equivalent to 3 weeks' pay for each complete year of relevant local government service after the attainment of age 41.

Offset of redundancy payment and other payments

11.—(1) From the total sum payable to a person to whom this Part applies there shall be deducted an amount equivalent to any redundancy payment made to that person.

(2) Subject to paragraph (4), for the purpose of calculating the compensation payable to a person under this Part, the relevant body shall not include in the calculation any years of relevant local

government service or qualifying employment which they or a previous relevant body has taken into account for the purposes of calculating compensation which has been paid previously to the person under this Part or the 1989 Regulations.

(3) Subject to paragraph (4), no period of relevant local government service or qualifying employment which has been taken into account in calculating compensation paid under this Part may be taken into account for the purposes of calculating compensation to be paid under these Regulations or other regulations made under section 24 of the Superannuation Act 1972.

(4) A period of relevant local government service or qualifying employment of a person with a relevant body which is concurrent with relevant local government service or qualifying employment with that relevant body or another employing body may be included in the calculation of relevant local government service or, as the case may be, qualifying employment under this Part by that relevant body.

(5) In paragraph (4) above “employing body” means an employing authority within the meaning of the Local Government Superannuation Regulations 1986(13), an LGPS employer within the meaning of the Local Government Pension Scheme Regulations 1995(14) or a National Park Authority in Wales.

Notification of compensation

12. A relevant body, after making a determination in accordance with regulation 6, shall as soon as reasonably practicable give the person in respect of whom that determination is made written notification of the compensation payable, and the calculation thereof.

Payment of compensation

13. Any compensation payable under this Part shall be paid by the relevant body as soon as practicable after making a determination in accordance with regulation 6 in the form of a lump sum payment to the person entitled to receive the compensation and shall not be assignable or chargeable with his debts or other liabilities.

PART III

COMPENSATION FOR LOSS OF REMUNERATION

Interpretation of Part III

14. In this Part—

“the prescribed period” means—

- (a) in relation to a relevant body in England, the period commencing at the beginning of the preliminary period, that is to say the period specified as such in the section 17 order which relates to that body and ending 18 months after the reorganisation date; and
- (b) in relation to a relevant body in Wales, the period from 4th May 1995 to 30th September 1997.

“remuneration” means all the salary, wages, and other payments made to an eligible person by an employer for his own use and the money value of any accommodation, vehicle or other

(13) S.I. 1986/24; relevant amending instruments are S.I. 1986/380, 1987/293, 1988/466, 1989/372, 14621990/503, 1991/2471, 1992/172, 1993/1367, 1814, 3030 and 3043.

(14) S.I. 1995/1019.

allowances in kind arising from his employment so far as they are for that person's private use, but shall not include—

- (a) any payment in respect of non-contractual overtime, or non-contractual bonus,
- (b) any payment made in consequence of the undertaking of additional duties attributable, in England, to a section 17 order or, in Wales, to any provision made by or under the 1994 Act,
- (c) any allowance payable to him to cover the cost of providing office accommodation or clerical or other assistance,
- (d) any travelling or subsistence allowance, or other moneys to be spent, or to cover expenses incurred by him for the purposes of his employment,
- (e) any payment as compensation for loss of holiday entitlement,
- (f) any payment in lieu of notice terminating his employment,
- (g) any compensation payable to him under this Part.

Persons to whom Part III applies

15.—(1) Subject to paragraph (6), any person falling within the cases specified in paragraphs (2) to (4) is entitled to compensation under this Part.

(2) This paragraph applies to a person—

- (a) whose relevant employment terminates on a date falling within the prescribed period (“the former employment”); and
- (b) who, since the termination of his former employment, has not been in alternative employment and who returns within the prescribed period to employment (“the new employment”)—
 - (i) in England, with a district council or county council which is the subject of a structural change or boundary change (or both such changes) under the same section 17 order as that by which his former relevant employer was affected;
 - (ii) in Wales, with the Residuary Body for Wales, or a county borough council or county council established under the 1994 Act;
- (c) whose commencing annual rate of remuneration in his new employment is lower than the annual rate he was paid at the termination of his former employment; and
- (d) who satisfies the qualifying condition mentioned in paragraph (5).

(3) This paragraph applies to a person to whom paragraph (2) does not apply, but who—

- (a) was in relevant employment—
 - (i) with a local education authority in England at the beginning of the prescribed period, who continues in that employment and whose annual rate of remuneration is reduced during that period, or
 - (ii) at the beginning of the prescribed period and whose contract of employment is transferred by an order made under the 1992 Act, by virtue of any provision made by or under the 1994 Act, or otherwise by operation of law, and whose annual rate of remuneration is reduced by the relevant body to whom the contract is transferred, and
- (b) who satisfies the qualifying condition mentioned in paragraph (5).

(4) This paragraph applies to a person to whom either paragraph (2) or (3) above has applied, who suffers a further reduction in remuneration during the prescribed period whilst in relevant employment and who satisfies the qualifying condition mentioned in paragraph (5).

(5) For the purposes of paragraphs (2) to (4) above, a person satisfies the qualifying condition where the reduction in his remuneration is attributable—

- (a) to a section 17 order, or
- (b) to any provision made by or under the 1994 Act.

(6) A person shall not be entitled to compensation under these Regulations if—

- (a) he is aged 65 or over;
- (b) he is entitled to compensation under the 1989 Regulations;
- (c) he is entitled to compensation under Part II of these Regulations, or Part VI of the 1978 Act;
- (d) he is entitled to the immediate payment of benefits under the 1988 Regulations;
- (e) section 43(4) of the 1994 Act applies to him;
- (f) he was not in relevant employment on a date falling 12 months before the reorganisation date;
- (g) he can be required by his employer in accordance with his contract of employment to work variable hours and his reduction in remuneration is solely attributable to his employer requiring him to work fewer hours.

Amount of compensation in respect of loss or diminution of remuneration

16.—(1) A relevant body shall pay an eligible person an amount by way of compensation equal to three times the difference—

- (a) in a case to which regulation 15(2) applies, between the annual rate of remuneration at the termination of his former employment and the commencing annual rate of remuneration of his new employment; or
- (b) in a case to which regulation 15(3) applies, between the annual rate of remuneration before and after the reduction in question; or
- (c) in a case to which regulation 15(4) applies, between the annual rate of remuneration before and after the further reduction in question.

(2) The amount of compensation payable in accordance with paragraph (1) shall be recalculated on each occasion during the relevant compensation period when the annual rate of remuneration for the relevant employment is increased and shall cease to be payable at any time during which the annual rate of remuneration for the new employment equals or exceeds that for the former employment or, as the case may be, the rate before the reduction or further reduction in question.

(3) The relevant body shall calculate the amount of compensation payable in accordance with paragraph (1) and any change in the compensation payable in accordance with paragraph (2).

(4) Any change in the amount of compensation payable in accordance with paragraph (2) shall not affect entitlement to any instalment paid before the date on which the rate of remuneration was increased.

Payment of compensation

17.—(1) Subject to regulation 16(2) to (4), paragraphs (2) to (4) and regulation 19, the amount of compensation payable to an eligible person shall be paid in 36 monthly instalments of which the first shall be paid as soon as practicable after the initial calculation under regulation 16(3).

(2) A relevant employer may during the relevant compensation period at such intervals as they think fit make interim payments, or payments on account of any instalment of compensation to which

an eligible person has become entitled under these Regulations before a calculation is made under regulation 16(3).

(3) If the total of any instalments paid to an eligible person under paragraph (1) above exceeds or falls short of the total amount of compensation to which a person is entitled at the end of the relevant compensation period, the excess or shortfall is to be repaid by the eligible person or, as the case may be, paid by the relevant employer at the end of that period.

(4) If at any time during the relevant compensation period an eligible person ceases to be employed by one relevant employer and becomes employed by another, that person shall inform his new employer in writing of his entitlement to compensation under this Part and the new employer shall, subject to regulations 16(2) to (4) and 19 be liable to pay any remaining instalments of compensation required to be paid in accordance with regulation 16 and paragraphs (1) to (3).

Notification of compensation

18.—(1) A relevant employer shall, after making the necessary calculation in accordance with regulation 16(3), give an eligible person written notice of the amount of compensation payable in accordance with this Part.

(2) Written notice shall be given in accordance with paragraph (1) above not later than—

- (a) the date three months after the date on which the relevant compensation period commences, or
- (b) 1st September 1996,

whichever is the later.

Cessation of relevant employment

19.—(1) If an eligible person—

- (a) ceases to be employed in relevant employment in the circumstances mentioned in paragraph (2) below,
- (b) attains the age of 65 during the relevant compensation period, or
- (c) dies,

he shall cease to be entitled to any instalments of compensation payable after that event.

(2) The circumstances mentioned in paragraph (1) are that before the expiry of the compensation period an eligible person—

- (a) becomes entitled to compensation under the 1989 Regulations;
- (b) becomes entitled to compensation under Part II of these Regulations or Part VI of the 1978 Act;
- (c) becomes entitled to the immediate payment of benefits under the 1988 Regulations; or
- (d) voluntarily resigns from his employment or is dismissed by his employer

Department for Education and Employment
24th April 1996

Robin Squire
Parliamentary Under Secretary of State,

We consent

3rd May 1996

Derek Conway
Simon Burns
Two of the Lords Commissioners of Her
Majesty's Treasury

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SCHEDULE

Regulations 5(3)(a) and (c) and 6(2)(b)

SUCCESSOR RELEVANT BODIES

| <i>Successor Authority</i> | <i>Old Authority</i> |
|---|--------------------------------|
| Part I | |
| Authorities in England | |
| Bristol City Council | Avon County Council |
| Middlesbrough Borough Council | Cleveland County Council |
| East Riding of Yorkshire District Council | Humberside County Council |
| Part II | |
| Authorities in Wales | |
| Gwynedd County Council | Gwynedd County Council |
| Cardiff County Council | South Glamorgan County Council |
| Carmarthenshire County Council | Dyfed County Council |
| Flintshire County Council | Clwyd County Council |
| Newport County Borough Council | Gwent County Council |
| Powys County Council | Powys County Council |
| Rhondda, Cynon, Taff County Borough Council | Mid Glamorgan County Council |
| Swansea County Council | West Glamorgan County Council |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for payment of compensation to certain persons adversely affected by local government reorganisation. The persons to whom these Regulations apply are:—

- (a) teachers employed by a local education authority other than teachers employed in a school or further or higher education institution; and
- (b) certain administrative and support staff employed by a local education authority who are or would be eligible to be members of the Teachers' Superannuation Scheme (see the definition of “relevant employment” in regulation 2).

Part II makes provision for lump sum compensation to be paid to persons to whom the Regulations apply, who cease to hold employment by reason of redundancy or in the interests of the efficiency of their employer and who satisfy certain conditions. One condition which has to be satisfied is that the loss of employment is certified as attributable to an order made under section 17 of the Local Government Act 1992 (implementation of local government changes for England) or by or under any provision of the Local Government (Wales) Act 1994 (regulations 4 and 5). Regulations 6 to 10 provide for compensation. In the case of certain employees compensation is mandatory

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and is calculated by the methods set out in regulations 7 subject to a maximum of 66 weeks' pay. Additional discretionary compensation may also be payable to such persons. For other employees over the age of 50 with specified periods of service compensation is discretionary. Redundancy payments are deducted from the compensation payable under these Regulations (regulation 11(1)) and regulation 11(2) and (3) provides for other compensation payments to be taken into account in calculating compensation under Part II. Regulations 12 and 13 deal with notification and payment of compensation.

Part III provides for the payment of compensation to persons who suffer a loss or reduction of remuneration in consequence of any provision of an order made under section 17 of the 1992 Act or by or under any provision of the 1994 Act. Regulation 15 specifies the persons who are eligible for compensation. Regulation 16 provides for the amount of compensation to be payable and Regulations 17 and 18 contain administrative provisions about the payment of instalments of compensation and the notification by the relevant employer of decisions about the amount of compensation. Regulation 19 sets out the circumstances in which compensation ceases to be payable.