
STATUTORY INSTRUMENTS

1996 No. 456

LOCAL GOVERNMENT, ENGLAND AND WALES

**Local Government (Compensation for
Redundancy) (Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>28th February 1996</i>
<i>Laid before Parliament</i>		<i>28th February 1996</i>
<i>Coming into force</i>	- -	<i>20th March 1996</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972(1), 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) (Amendment) Regulations 1996 and shall come into force on 20th March 1996 but regulations 2 to 5 shall have effect as from 28th December 1994.

(2) In these Regulations “the 1994 Regulations” means the Local Government (Compensation for Redundancy) Regulations 1994(2).

Interpretation

2. Regulation 2 of the 1994 Regulations is amended—

(a) by inserting before the definition of “eligible employee” the following—

““continuous employment” means a period of employment computed in accordance with the provisions of section 151 of and Schedule 13 to the Employment Protection (Consolidation) Act 1978(3) as modified by the Redundancy Payments (Local Government) (Modification) Order 1983(4).”;

(1) 1972 c. 11.

(2) S.I.1994/3025.

(3) 1978 c. 44; section 151 was substituted with savings by the Employment Act 1982 (c. 46) section 20, Schedule 2, paragraph 7(1) and Schedule 13 was amended by the Employment Act 1980 (c. 42), section 20, Schedule 1, paragraphs 31 and 32, the Employment Act 1982, section 20, Schedule 2, paragraph 7(2) and section 21, Schedule 3, Part I and II and Schedule 4, the Reserve Forces (Safeguard of Employment) Act 1985 (c. 17), section 21, Schedules 4 and 5, the Social Security (Consequential Provisions) Act 1992 (c. 6), section 4, Schedule 2, paragraph 51, the Trade Union Reform and Employment Rights Act 1993, (c.19), sections 49(1) and (2) and 51 and Schedule 7, paragraph 14, Schedule 8, paragraph 31(a) and (b) and Schedule 10, the Health Authorities Act 1995 (c. 17) Schedule 1, paragraph 103 and the Employment Protection (Part-time Employees) Regulations 1995, S.I. 1995/31.

- (b) in the definition of “eligible employee” by adding the following—
- “or;
- (c) a person who on the material date is a member of the occupational pension scheme constituted by the 1995 Regulations or is eligible to be a member or would be eligible but for the fact that he is not eligible under regulation B2(2) of the 1995 Regulations;”;
- (c) in the definition of “employing body” by inserting—
- (i) after the words “the Local Government Superannuation Regulations 1986” the words “an LGPS employer within the meaning of the 1995 Regulations”; and
- (ii) after the words “the Local Government (Wales) Act 1994” the words “or a National Park authority in Wales”;
- (d) by inserting before the definition of “the prescribed period” the following—
- ““material date” in relation to an eligible employee means the date upon which he ceases to hold the employment which ceases as described in regulations 3(a), 5(a) or 13(a);
- “National Park authority in Wales” means the authority established for a National Park in Wales by article 3 of the National Park Authorities (Wales) Order 1995(5);
- “the 1986 Regulations” means the Local Government Superannuation Regulations 1986(6);
- “the 1995 Regulations” means the Local Government Pension Scheme Regulations(7);”;
- (e) in the definition of “the prescribed period” by substituting for the date “31st March 1997” the date “30th September 1997”;
- (f) by inserting before the definition of “relevant body” the following—
- ““qualifying employment” in relation to an eligible employee means a period of employment with an employer in relation to which the employing body is satisfied that the employee—
- (a) was in local government employment within the meaning of the 1995 Regulations or would have been treated as being in local government employment but for a relevant disqualification; or
- (b) was in pensionable employment within the meaning of the Teachers Superannuation (Consolidation) Regulations 1988(8) or was in employment which would have been pensionable employment but for a relevant disqualification; or
- (c) was in pensionable employment within the meaning of the National Health Service Pension Scheme Regulations 1995(9) or was in employment which would have been pensionable employment but for a relevant disqualification, but excludes—
- (d) periods of employment in an independent school within the meaning given in section 114(1) of the Education Act 1944(10); and

(4) S.I. 1983/1160 as amended by S.I. 1988/907, 1989/532, 1990/826, 1991/881, 1993/784.

(5) S.I. 1995/2803.

(6) S.I. 1986/24; relevant amending instruments are S.I. 1989/371, 1991/2471, 1992/172.

(7) S.I. 1995/1019, amended by S.I. 1995/1985, 2249, 2953, 1996/185.

(8) S.I. 1988/1652; a relevant amending instrument is S.I. 1995/2004.

(9) S.I. 1995/300.

(10) 1944 c. 31.

- (e) any period in relation to which a pension or other benefits (other than a refund of contributions) under the qualifying scheme are being or have been paid;
“qualifying scheme” means an occupational pension scheme under which qualifying employment accrues or is deemed to accrue;”;
- (g) in the definition of “relevant body” by adding the words “and for the purposes of this definition as it applies in Wales, a National Park authority in Wales shall be treated as if it were a body referred to in that section”;
- (h) by inserting after the definition of “relevant body” the following—
 - ““relevant disqualification” means—
 - (a) the failure of any medical examination required for membership of the qualifying scheme in question;
 - (b) the requirement that a manual worker should have completed any period of continuous employment before he may become a member of the Scheme;
 - (c) the making of any election to opt out of or the absence of an election to opt into membership of the qualifying scheme in question with respect to any period;
 - (d) any restriction on part-time employment being pensionable employment;
 - (e) the fact that, where the employment is part-time, the person has not elected that it should be pensionable; or
 - (f) the fact that a person is not eligible to be a member of the Scheme under regulation B2(2) of the 1995 Regulations,in consequence of one or more of which (either individually or cumulatively) that person has not become or has ceased to be or has not been treated as being eligible for the qualifying scheme in question;
“the Scheme” has the same meaning as in the 1995 Regulations;
“a week’s pay” shall be calculated in accordance with the provisions of Schedule 14 to the Employment Protection (Consolidation) Act 1978 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.”;
- (i) by deleting the definitions of “remuneration” and “special service”.

Part II

3. Part II of the 1994 Regulations is amended—

- (a) in regulation 3—
 - (i) in sub-paragraph (c) by substituting for the words “reckonable service and qualifying service amounting in aggregate” the words “qualifying employment amounting”; and
 - (ii) by inserting after sub-paragraph (d) the following—
 - “; and
 - (e) is not a person who has entered into an agreement as is mentioned in section 142(2) of the Employment Protection (Consolidation) Act 1978 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.”; and
- (b) in regulation 4—
 - (i) in paragraph (1) by substituting for the word “within” the words “no later than”;

- (ii) by substituting for the words “reckonable service” where they appear in paragraphs (3) and (4) the words “qualifying employment”;
- (iii) by deleting the words “on or” where they appear in paragraphs (3)(a) and (4)(a) and where they appear for the second time in paragraphs (3)(b) and (4)(b);
- (iv) by substituting for the word “remuneration” where it appears the word “pay”;
- (v) by substituting for the word “aggregate” where it appears the word “total”; and
- (vi) by adding the following after paragraph (5)—

“(6) Subject to paragraph (8), for the purpose of calculating the compensation payable to a person under this Part, the employing body shall not include in the calculation any years of qualifying employment or continuous employment which it or a previous employing body or relevant body has taken into account for the purpose of calculating compensation which has been paid previously to the person under these Regulations or other regulations made under section 24 of the Superannuation Act 1972.

(7) Subject to paragraph (8), no period of 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.

(8) A period of qualifying employment of a person with an employing body which is concurrent with a continuous or qualifying employment with that employing body or another employing body may be included in the calculation of qualifying employment under this Part by that employing body.”.

Part III

4. The 1994 Regulations are amended by substituting for Part III the following—

“Part III

Persons to whom this Part applies

5. This Part applies to an eligible employee 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; and
 - (b) meets the prescribed conditions.

Prescribed conditions

6.—(1) The provisions of the next subsequent paragraphs are the prescribed conditions for the purposes of regulation 5.

(2) The first condition is that the person is not entitled to have his case considered for the payment of compensation within the meaning of Part I of Schedule 2 to the 1982 Regulations.

- (3) The second condition is that the person has on the material date—

- (a) attained the age of 18 years but has not attained the age of 50 years, and is entitled to count continuous or qualifying employment amounting in total to not less than 2 years; or
 - (b) has attained the age of 50 years.
- (4) The third condition, which applies only to the case of a person who ceases to be employed by a relevant body in Wales in circumstances under which he is otherwise entitled to payment under these Regulations, is that—
- (a) where the relevant body is an old authority as defined in section 64(1) of the Local Government (Wales) Act 1994, the body which is specified in the Schedule to these Regulations as the successor in relation to that relevant body certifies to the relevant body that—
 - (i) the person would otherwise be entitled to payment under these Regulations; and
 - (ii) the loss of employment is attributable to any provision made by or under the Local Government (Wales) Act 1994 or Part III of the Environment Act 1995⁽¹¹⁾; or
 - (b) where the relevant body is a county council or county borough council established under the Local Government (Wales) Act 1994 or the Residuary Body for Wales established under section 39 of that Act or a National Park authority in Wales, it certifies that the loss of employment is attributable to any provision made by or under that Act of 1994 or, as the case may be, Part III of the Environment Act 1995.
- (5) The fourth condition is that he is not a person who has entered into an agreement as is mentioned in section 142(2) of the Employment Protection (Consolidation) Act 1978 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.

Computation of compensation

- 7.—(1) No later than six months after the material date a relevant body—
- (a) shall determine to pay the compensation prescribed in regulation 8(2) to a person who meets the requirements of regulation 8(1);
 - (b) may determine to pay the compensation prescribed in regulation 8(5) to a person who meets the requirements of regulation 8(1);
 - (c) may determine to pay the compensation prescribed in regulation 9 to a person who meets the requirements of regulation 9(1);
 - (d) may determine to pay the compensation prescribed in regulation 10 to a person who meets the requirements of regulation 10(1); and
 - (e) may determine to pay the compensation prescribed in regulation 11 to a person to whom they have determined to pay the compensation prescribed in regulation 9 or 10 as the case may be.
- (2) In any case in which regulation 6(4)(a) applies, the reference in paragraph (1) to the relevant body shall, after 31st March 1996, be a reference to the body which is specified in the Schedule as the successor in relation to that relevant body.
- (3) Where—

(11) 1995 c. 25.

- (a) in accordance with paragraphs (1) and (2), a payment is to be made by a successor relevant body, and
- (b) the area of the old authority as referred to in regulation 6(4)(a) is divided among two or more new local government areas by the Local Government (Wales) Act 1994

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

General mandatory compensation and additional discretionary compensation

8.—(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 years but has not attained the age of 50 years and who is entitled to count continuous or qualifying employment amounting in total to not less than 2 years; or
- (b) has attained the age of 50 years and who is entitled to count continuous or qualifying employment amounting in total to less than 2 years.

(2) The compensation payable under regulation 7(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 continuous employment 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 continuous employment 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 two weeks' pay for each complete year of continuous employment after the attainment of age 18; and
- (b) where such cessation is on or after the attainment of age 41, a sum equivalent to three weeks' pay for each complete year of continuous employment after the attainment of age 41.

(5) The compensation which may be payable under regulation 7(1)(b) is such sum when aggregated with the compensation payable under regulation 7(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 paragraphs (3) or (4) as applicable but with the substitution for the words "continuous employment" of the words "qualifying employment".

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 continuous or qualifying employment amounting in total to 2 or more but less than 5 years.
- (2) The compensation which may be payable under regulation 7(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 continuous employment after the attainment of age 18;
 - (b) a sum equivalent to two and one half weeks' pay for each complete year of continuous employment 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 15; and
 - (b) he waives his right to the immediate payment of benefits under regulation E2(1)(b)(iii) and (4) of the 1986 Regulations or, by notice in writing under regulation D6(3) of the 1995 Regulations, under regulation D6(1) of those Regulations.

Discretionary compensation for certain persons

- 10.**—(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 continuous or qualifying employment amounting in total to not less than 5 years.
- (2) The compensation which may be payable under regulation 7(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 9(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 5(1) of the 1982 Regulations.

Discretionary compensation

- 11.**—(1) The compensation which may be payable under regulation 7(1)(e) is such sum which when aggregated with the compensation payable under regulations 9 or 10 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; or
 - (b) the total of—
 - (i) a sum equivalent to 2 weeks' pay for each complete year of qualifying employment after the attainment of age 18; and
 - (ii) a sum equivalent to 3 weeks' pay for each complete year of qualifying employment after the attainment of age 41.

Offset of redundancy payment and other payments

12.—(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 continuous or qualifying employment which it or a previous employing body or relevant body has taken into account for the purpose of calculating compensation which has been paid previously to the person under these Regulations or the 1982 Regulations.

(3) Subject to paragraph (4), no period of continuous 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 continuous or qualifying employment of a person with a relevant body which is concurrent with a continuous or qualifying employment with that relevant body or another employing body may be included in the calculation of qualifying employment under this Part by that relevant body.”.

Schedule

5. The 1994 Regulations are amended by adding the following as a schedule—

“SCHEDULE

(Regulation 6(4)(a))

SUCCESSOR RELEVANT BODIES IN WALES

<i>Successor Authority</i>	<i>Old Authority</i>
Aberconwy and Colwyn County Borough Council	Aberconwy Borough Council and Colwyn Borough Council
Anglesey County Council	Ynys Môn—Isle of Anglesey Borough Council
Blaenau Gwent County Borough Council	Blaenau Gwent Borough Council
Bridgend County Borough Council	Ogwr Borough Council
Caernarfonshire and Merionethshire County Council	Arfon Borough Council, Cyngor Dosbarth Dwyfor, Meirionnydd District Council and Gwynedd County Council
Caerphilly County Borough Council	Islwyn Borough Council and Rhymney Valley District Council
Cardiff County Council	Cardiff City Council and South Glamorgan County Council
Cardiganshire County Council	Cyngor Dosbarth Ceredigion
Carmarthenshire County Council	Carmarthen District Council, Dinefwr Borough Council, Llanelli Borough Council and Dyfed County Council
Denbighshire County Council	Rhuddlan Borough Council and Glyndŵr District Council

<i>Successor Authority</i>	<i>Old Authority</i>
Flintshire County Council	Delyn Borough Council, Alyn and Deeside District Council and Clwyd County Council
Merthyr Tydfil County Borough Council	Merthyr Tydfil Borough Council
Monmouthshire County Council	Monmouth Borough Council
Neath and Port Talbot County Borough Council	Neath Borough Council and Port Talbot Borough Council
Newport County Borough Council	Newport Borough Council and Gwent County Council
Pembrokeshire County Council	Preseli Pembrokeshire District Council and South Pembrokeshire District Council
Powys County Council	Brecknock Borough Council, Radnorshire District Council, Montgomeryshire District Council and Powys County Council
Rhondda, Cynon, Taff County Borough Council	Cynon Valley Borough Council, Taff-Ely Borough Council, Rhondda Borough Council and Mid Glamorgan County Council
Swansea County Council	Swansea City Council, Lliw Valley Borough Council and West Glamorgan County Council
Torfaen County Borough Council	Torfaen Borough Council
The Vale of Glamorgan County Borough Council	Vale of Glamorgan Borough Council
Wrexham County Borough Council	Wrexham Maelor Borough Council*

Eligibility for Part III of the 1994 Regulations

6. Regulation 6 of the 1994 Regulations is further amended by adding the following—

“(6) The fifth condition is that—

- (a) the person has not been made an offer as set out in section 82(3) of the Employment Protection (Consolidation) Act 1978 (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) and (b) of that section apply, he must have reasonably refused that offer; or
 - (ii) in circumstances where the conditions of 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.”

Retrospective effect

7.—(1) Nothing in these Regulations shall place any person who is qualified to participate in the benefits for which the 1994 Regulations provide in a worse position than he would have been in if these Regulations had been framed so as to have effect only from the date of their making.

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(2) Where, before the date on which these Regulations are made, a person has been given by his employer an estimate in writing of the compensation his employer intended to make to him under the 1994 Regulations on a date after the date these Regulations are made and the effect of the amendments made by—

(a) regulation 2(a), (f), (h) or (i); or

(b) the substitution for the words “reckonable service” and “qualifying service” of the words “continuous employment” or “qualifying employment” as the case may be

is to place the person in a worse position than he would have been in had such amendments not been made then the 1994 Regulations shall be applied in respect of the compensation payable to such person as if such amendments had not been made.

Signed by authority of the Secretary of State

Department of the Environment
28th February 1996

Paul Beresford
Parliamentary Under Secretary of State,

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Local Government (Compensation for Redundancy) Regulations 1994 (“the 1994 Regulations”) which provide for compensation on loss of local government employment where the termination is by reason of redundancy or in the interests of the efficient exercise of the employer’s functions.

Regulation 2 introduces new definitions of continuous and qualifying employment for the purposes of calculating the amount of compensation payable. To be eligible for compensation a person must, at the date when his employment terminates, be in an employment which entitles him to be a member of the Local Government Pension Scheme.

Qualifying employment is employment in respect of which an occupational pension scheme for local government employees, teachers or persons engaged in health services is or was in operation and which the employee was eligible to join or would have been eligible but for a specified reason.

Continuous employment, which is used for the purpose of calculating entitlement under Part III of the Regulations, which apply to employees of local authorities affected by local government reorganisation, is a period of employment computed in accordance with the provisions of section 151 and Schedule 13 to the Employment Protection (Consolidation) Act 1978 as modified by the Redundancy Payments (Local Government) (Modification) Order 1983.

National Park authorities in Wales are included in the definitions of “employing body” and “relevant body” by regulation 2(c) and (g).

Regulation 2(e) extends the prescribed period in Wales to 30th September 1997.

Regulation 2(h) and (i) replaces the definition of “remuneration” with a reference to a week’s pay as computed for the purposes of the Employment Protection (Consolidation) Act 1978 but without applying the maximum for the purposes of redundancy under Part VI of that Act.

Regulation 3 amends Part II of the 1994 Regulations. It provides that periods of qualifying employment may be used in calculating compensation. It also provides that an employing body may not include in the calculation of compensation under Part II of the 1994 Regulations a period of service which has already been taken into account in calculating a prior award of compensation under these Regulations (except in the case of concurrent employment). Nor may a period used to calculate compensation under Part II be used in the future when calculating compensation payable under regulations made under section 24 of the Superannuation Act 1972, save for concurrent employment. A similar provision is introduced by regulation 4 for Part III.

Regulation 3(a)(ii) introduces a condition that the employee must not be one whose employment terminates only because his fixed term contract has expired without being renewed and who has waived his right to a redundancy payment under Part VI of the Employment Protection (Consolidation) Act 1978 in such circumstances. This condition is also introduced by regulation 4 for the purposes of Part III.

Regulation 4 substitutes a new Part III of the 1994 Regulations which covers the payment of compensation during periods of local government reorganisation. Certain changes are made as follows—

- for mandatory compensation and the fixed discretionary compensation, only continuous employment is used in the calculation of compensation;

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- for other discretionary compensation, all periods of qualifying employment may be taken into account subject to the permitted maximum;
- the Schedule, added by regulation 5 of these Regulations, sets out which new Welsh authorities, established by the Local Government (Wales) Act 1994 which take over responsibility for local government administration from the old county and district councils on 1st April 1996, are to be the successor authorities for the purposes of regulation 6(4)(a) of the 1994 Regulations or, as the case may be, the relevant bodies for the purposes of regulations 6(4)(b) and 7 of the 1994 Regulations;
- if the area of an old authority in Wales is divided between two or more new local government areas after 31st March 1996, the consent of all the councils of those new areas is required to any discretionary payment under regulation 7 of the 1994 Regulations by the successor authority.

Regulation 6 adds a condition to the prescribed conditions in Part III of the 1994 Regulations that an employee is not eligible if, before the termination of his employment, he receives from his employer or an associated employer within the meaning of the Redundancy Payments (Local Government) (Modification) Order 1983 an offer to renew his contract or an offer of suitable employment to commence within four weeks of the termination unless his refusal of such offer, or termination of his new contract during a trial period following such offer, is reasonable.

Regulations 2 to 5 have effect from the 28th December 1994, the date on which the 1994 Regulations came into force. There is a saving provision in regulation 7(1) for those who would be put in a worse position than they would have been if the Regulations had only come into effect on the date of their making. Regulation 7(2) preserves the use of the definitions of service and remuneration in the 1994 Regulations in respect of employees to whom written estimates of proposed benefits calculated by reference to those 1994 Regulations definitions have been given prior to the date that these Regulations are made if it would be to the employee's benefit.