
STATUTORY INSTRUMENTS

1998 No. 192

**The Local Government (Discretionary Payments
and Injury Benefits) (Scotland) Regulations 1998**

PART III

COMPENSATION FOR PREMATURE RETIREMENT

Adjustments to compensation: other receipts

Limit on annual compensation where entitlement to occupational pension

11.—(1) Where—

- (a) immediately before the material date a person is entitled to an occupational pension in respect of any period (whether or not it is in payment);
- (b) the aggregate of that period, his effective service and any credited period exceeds 40 years; and
- (c) at any time when the occupational pension is in payment, the aggregate of the annual rate for the time being—
 - (i) of that pension;
 - (ii) of his retirement pension under regulation E2(1)(b)(iii) of the Superannuation Regulations; and
 - (iii) of the annual compensation payable under regulation 9, would (apart from this paragraph) exceed the relevant amount specified in paragraph (2),the basic rate of the annual compensation shall be reduced so that that aggregate does not exceed the relevant amount.

(2) The relevant amount mentioned in paragraph (1) is—

- (a) if a retiring allowance under Part E of the Superannuation Regulations is payable, 50 per cent of the sum of—
 - (i) the amount of the eligible person's pensionable remuneration; and
 - (ii) the amount of the official increases by which an official pension at the annual rate of that pensionable remuneration would have been increased, if it had begun and first qualified for such increases on the day after the material date; and
- (b) if no such retiring allowance is payable, 66 per cent of the sum of those amounts.

(3) For the purposes of paragraph (1)—

- (a) the annual rates at any time of the annual compensation and of any other official pension are their annual rates with official increases;
- (b) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any enactment, contract, scheme or other arrangement.

(4) As respects an occupational pension which is—

- (a) a pension under a personal pension scheme in relation to which the Secretary of State paid contributions under section 1 of the Social Security Act 1986⁽¹⁾ or section 43 of the Pension Schemes Act 1993⁽²⁾; or
- (b) a pension derived from the payment of a transfer value calculated by reference to rights arising with respect to such a pension as is mentioned in sub-paragraph (a),

any reference in paragraph (1) to the period in respect of which a person is entitled to the occupational pension shall be construed as a reference—

- (i) to the period of employment by reference to which the Secretary of State has paid the contributions; and
- (ii) without prejudice to the generality of that expression in other cases, to any period of employment in relation to which a transfer value has been paid into the personal pension scheme.

(5) In this regulation—

“the basic rate”, in relation to annual compensation, means its basic rate for the purposes of the Pensions (Increase) Act 1971⁽³⁾;

“official increases” means any increases under that Act.

Redundancy payments

12.—(1) Where—

- (a) the period with which an eligible person is credited under regulation 8 exceeds 6 2/3 years; and
- (b) he has received, or is entitled to receive, in respect of the cessation of his former employment—
 - (i) a redundancy payment to which he is entitled under Part XI of the 1996 Act (redundancy payments)⁽⁴⁾; or
 - (ii) compensation paid to him under Part II of these Regulations,

his compensation under this Part shall be abated in accordance with the following provisions.

(2) In the case of lump sum compensation—

- (a) if it exceeds the amount calculated in accordance with paragraph (3), it shall be reduced by that amount; and
- (b) if the amount so calculated equals or exceeds it, it shall not be payable (and any such excess (“the outstanding balance”) shall be deducted from the annual compensation as mentioned in paragraph (4)).

(3) The amount to be calculated in accordance with this paragraph is an amount equal to 30 per cent of the aggregate amount of the redundancy payments referred to in paragraph (1)(b)(i) and (ii), multiplied by the excess mentioned in paragraph (1)(a) (expressed in years and fractions of a year), less the aggregate amount of any reductions made in those payments in accordance with the 1965 Regulations.

(4) Annual compensation payable under regulation 10 shall be reduced by the appropriate percentage—

(1) 1986 c. 50; section 1 was repealed by the Pension Schemes Act 1993 (c. 48), section 188 and Schedule 5.

(2) 1993 c. 48; section 43 was amended by the Pensions Act 1995 (c. 26), Schedule 5, paragraph 42.

(3) 1971 c. 56; see section 17(1).

(4) 1996 c. 18.

- (a) if paragraph (2)(b) applies, of the outstanding balance; or
- (b) if, apart from the provisions of paragraph (2), the person is not entitled to receive lump sum compensation, of the amount calculated in accordance with paragraph (3);

and in this paragraph “the appropriate percentage” means the percentage specified in the Table in Schedule 1 in relation to a person of the eligible person’s age and sex.

Other termination payments

13.—(1) Where an eligible person who has been granted a credited period under regulation 8 receives a termination payment to which this regulation applies—

- (a) his lump sum compensation is only payable if, and to the extent that, after abatement under regulation 12, it exceeds the amount of the termination payment;
- (b) if the termination payment exceeds his lump sum compensation after any such abatement, his annual compensation (after any necessary adjustments under regulations 12, 15, 16, 18 and 19) shall be reduced by the amount of the excess;
- (c) if (apart from paragraph (a)) he is not entitled to receive lump sum compensation, his annual compensation (after any such necessary adjustments) shall be reduced by the amount of the termination payment.

(2) Where—

- (a) the whole or part of the termination payment is received by a person after a period is credited to him under regulation 8; and
- (b) his compensation has not been abated on account of that payment in accordance with paragraph (1),

his annual compensation (after any necessary adjustments under regulations 12, 15, 16, 18 and 19) shall be reduced by the amount received in respect of the termination payment.

(3) Where a person’s annual compensation falls to be reduced by an amount under paragraph (1) (b) or (c) or (2), no instalment of annual compensation becomes payable to him until the aggregate of reductions equals that amount.

(4) In this regulation “termination payment” means the aggregate amount of any lump sum payments made to the eligible person by his employing authority in consequence of or as compensation for the loss of his former employment (other than lump sum compensation or any payment which is an excepted payment in relation to that employment), being payments made under an enactment or a contract or arrangement with that authority.

Periodic payments

14.—(1) Where periodic payments are received by a person in respect of any period, annual compensation is only payable to him in respect of that period if, and to the extent that, after any adjustments necessary under regulations 12, 13, 15, 16, 18 and 19 have been made, it exceeds the amount of the aggregate of those periodic payments.

(2) In this regulation, “periodic payment”, in relation to a person, means an instalment of an allowance for life or other period (other than annual compensation under this Part or a payment which is an excepted payment in relation to that employment) granted to him by his employing authority in consequence of or as compensation for the loss of former employment, being an allowance under an enactment or a contract or arrangement with that authority.