
STATUTORY INSTRUMENTS

2000 No. 1410

PENSIONS, ENGLAND AND WALES

**The Local Government (Early Termination of
Employment) (Discretionary Compensation)
(England and Wales) Regulations 2000**

<i>Made</i>	- - - -	<i>24th May 2000</i>
<i>Laid before Parliament</i>		<i>31st May 2000</i>
<i>Coming into force</i>	- -	<i>21st June 2000</i>

The Secretary of State for the Environment, Transport and the Regions, 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, 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:

PART I
GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000.

(2) They shall come into force on 21st June 2000.

General interpretation

2.—(1) Schedule 1 contains definitions of expressions used in these Regulations which apply for their interpretation unless the context indicates that they have a different meaning.

(2) Expressions not defined in Schedule 1 but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations or, if the expression is not defined in those Regulations, but is defined in the 1995 Regulations, as in the 1995 Regulations.

(1) 1972 c. 11. Section 24 was amended by the Police Pensions Act 1976 (c. 35), Schedule 2, paragraph 10.

(3) Schedule 2 has effect for the purposes of the definition of “appropriate percentage” in Schedule 1.

(4) Where these Regulations refer to anything done, required or arising under any provision of the Pension Regulations, those references shall include anything done, required or arising under the corresponding provision of the 1995 Regulations, the 1986 Regulations or the 1974 Regulations, unless the context indicates otherwise.

(5) Where these Regulations refer to a Scheme member or a person who would be or would have been a Scheme member, those references shall include a pensionable employee and a person who would be or would have been a pensionable employee, unless the context indicates otherwise.

Application to the Isles of Scilly

3. These Regulations apply to the Isles of Scilly as if they were a district in the county of Cornwall and the Council of the Isles of Scilly were a council of that district.

General and special application of Regulations

4.—(1) These Regulations apply in relation to, or as the case may be, in consequence of the death of, a person—

(a) whose employment is terminated—

(i) by reason of redundancy;

(ii) in the interests of the efficient exercise of the authority’s functions; or

(iii) in the case of a joint appointment, because the other holder of the appointment has left it; and

(b) who, on his final day of employment, is eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for a relevant disqualification,

and in the following provisions of these Regulations “person” shall be construed accordingly, unless the context indicates that it has a different meaning.

(2) Where an additional requirement is specified in any provision of Parts II to IX in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.

(3) Part IV of these Regulations applies to the descriptions of employee mentioned in Schedule 3 subject to the modifications specified in that Schedule.

PART II

INCREASE OF STATUTORY REDUNDANCY PAYMENTS

Power to increase statutory redundancy payments

5.—(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Act on the termination of his employment.

(2) The amount which may be paid must not be more than the difference between—

(a) the redundancy payment to which he is entitled under Part XI of the 1996 Act; and

(b) the payment to which he would have been entitled if there had been no limit on the amount of a week’s pay used in the calculation of his redundancy payment(2).

(3) The power to pay compensation is exercisable—

(2) See section 227 of the Employment Rights Act 1996 (c. 18).

- (a) where the employment was at a voluntary, foundation or foundation special school (within the meaning of section 20 of the School Standards and Framework Act 1998(3)) by the local education authority;
- (b) in any other case, by the body by whom he is employed immediately before the termination date.

PART III

DISCRETIONARY COMPENSATION FOR REDUNDANCY: GENERAL

Discretionary compensation for redundancy: general

- 6.—(1) This Part applies where a person—
- (a) ceases to hold his employment with a Scheme employer;
 - (b) in respect of that cessation—
 - (i) has not lost his right to a redundancy payment under Part XI of the 1996 Act by agreement under section 197(3) of that Act (agreements to exclude rights to redundancy payments on expiry of short fixed term contracts);
 - (ii) may not count an additional period of membership under regulation 52 (power of employing authority to increase total membership of members leaving employment at or after 50) of the Pension Regulations; and
 - (iii) either is not entitled to have his case considered for compensation under Part IV or is so entitled but has not been awarded a credited period;
 - (c) is over 18 and under 65 on the termination date;
 - (d) if under 50 on the termination date, is entitled to count a qualifying employment of at least two years; and
 - (e) has a total membership not exceeding 40 years.
- (2) Where this Part applies, the Scheme employer may, not later than six months after the termination date, decide to pay compensation under this Part; and in that event shall, as soon as reasonably practicable after the decision, notify the person in whose favour it has been made, giving details of the calculation of the compensation.
- (3) The amount of compensation must not exceed one week's pay for each complete week between the termination date and the person's normal retirement date ("NRD") or, if he is not a Scheme member, the date that would be his NRD if he were and, subject to that, must not exceed 66 weeks' pay or, if less, whichever of sub-paragraphs (a) to (d) applies to him—
- (a) if the employee is at least 18 but under 20 on the termination date, half a week's pay for each complete year of qualifying employment after he became 18;
 - (b) if the employee is at least 20 but under 23 on the termination date—
 - (i) half a week's pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional half a week's pay for each complete year of qualifying employment after he became 20;
 - (c) if the employee is at least 23 but under 41 on the termination date, two weeks' pay for each complete year of qualifying employment after he became 18; or

- (d) if the employee is at least 41 on the termination date—
- (i) two weeks' pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional three weeks' pay for each complete year of qualifying employment after he became 41.

(4) Chapter II of Part XIV (interpretation) of the 1996 Act (calculation of a week's pay) shall apply for the purpose of calculations under paragraph (3) as it applies for the purpose of calculating redundancy payments but with the substitution for references to the calculation date of references to the termination date.

(5) In calculating compensation under this Part the Scheme employer shall exclude any years of qualifying employment which they or any other Scheme employer have taken into account when calculating compensation already paid under these Regulations or other regulations made under section 24 of the 1972 Act, other than years of concurrent qualifying employment.

(6) If the person in whose favour a determination under paragraph (2) has been made receives a redundancy payment, the equivalent amount shall be deducted from the compensation otherwise payable to him under this Part.

(7) Compensation payable under this Part shall be paid by the Scheme employer, as soon as practicable after the determination under paragraph (2), in the form of a lump sum.

PART IV

ALTERNATIVE DISCRETIONARY AWARDS FOR THOSE AGED 50 AND OVER

Persons eligible for discretionary awards

- 7.—(1) A person is an eligible person for this Part if he satisfies the requirements in paragraph (2).
- (2) The requirements are that, on the termination date—
- (a) he is not entitled to have his case considered for long-term compensation or retirement compensation under section 259 (compensation for loss of office) of the Local Government Act 1972⁽⁴⁾ or under any statutory provision to similar effect;
 - (b) that his total membership is not to be increased under regulation 52 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50) because of the terminated employment;
 - (c) that he is not to receive compensation for the terminated employment under regulation 6 of these Regulations;
 - (d) he is at least 50, but under 65 or, if he is a coroner, under 70;
 - (e) the total of—
 - (i) his total membership⁽⁵⁾,
 - (ii) any periods of superannuable membership⁽⁶⁾, and
 - (iii) any increase in membership under regulation 13 of the Transitional Regulations, is 5 years or more; and
 - (f) his total membership is not more than 40 years; or

⁽⁴⁾ 1972 c. 70.

⁽⁵⁾ See regulation 9(2) of the Pension Regulations.

⁽⁶⁾ See regulation 10 of the Pension Regulations; amended by S.I.1998/1238.

- (g) if he is an assumed member, any periods which would count as periods of special service—
 - (i) amount in total to at least 5 years; and
 - (ii) do not in total exceed 40 years.

Award of credited period by way of compensation

- 8.—(1) An employing authority may award a credited period to an eligible person.
- (2) A credited period must not exceed whichever is the shortest of—
- (a) the difference between his total membership and 40 years;
 - (b) the period beginning with the day after the termination date and ending on his 65th birthday, less the period of his residual entitlement (if any);
 - (c) the total of—
 - (i) his total membership; and
 - (ii) any period which counts as a period of superannuable membership; and
 - (iii) any increase in membership under regulation 13 of the Transitional Regulations, or, if he is an assumed member, any period which would count or any increase which would be awarded apart from a relevant disqualification and on the relevant assumptions; and
 - (d) 10 years.
- (3) An award may not be made later than six months after the termination date.

Period of residual entitlement

9.—(1) A person has residual entitlement (regulation 8(2)(b)) if he has been awarded a credited period in respect of an earlier cessation.

- (2) The period of his residual entitlement is that found by applying the formula

$$(A + B + C) - D$$

where—

A is his earlier extra service, or if paragraph (3) applies to him, that service as reduced in accordance with paragraph (4);

B is the length of the terminated employment;

C is the total of any other periods during which he was or could have been a Scheme member, being periods between the end of the first employment for which earlier extra service was granted and the beginning of the terminated employment; and

D is the period between the end of the first employment for which earlier extra service was granted and the termination date.

- (3) This paragraph applies to a person—
- (a) who, after an earlier cessation or, if there has been more than one, the first of them, has ceased to hold another employment (“his subsequent employment”); and
 - (b) whose earlier extra service has been reduced by the whole or part of the period of his subsequent employment; or
 - (c) whose retirement payment attributable to that earlier extra service has been reduced on account of the whole or part of the period of his subsequent employment.

(4) The earlier extra service of a person to whom paragraph (3) applies shall be reduced by the period of his subsequent employment or, where the reduction in paragraph (3)(b) or (c) was of, or attributable to, part of that period, by that part.

Lump sum compensation

10.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to compensation in the form of a lump sum if—

- (a) on ceasing to hold the terminated employment, he is entitled to a retirement grant under regulation 26 (redundancy, etc.) of the Pension Regulations; or
- (b) but for a relevant disqualification, he would be so entitled on the relevant assumptions.

(2) The amount of lump sum compensation payable, unless adjusted in accordance with Part V, is an amount equal to that by which his retirement grant would be increased on the relevant assumptions and in accordance with the Pension Regulations if his total membership were increased by the credited period.

Annual compensation: general provision

11.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to annual compensation.

(2) The rate at which annual compensation is payable, unless adjusted in accordance with Parts V, VI or VII, is the same as that by which the pension to which—

- (a) he is entitled under regulation 26 of the Pension Regulations; or
- (b) would be so entitled, but for a relevant disqualification

would be increased, on the relevant assumptions and in accordance with those Regulations, if his total membership were increased by the relevant credited period.

(3) Annual compensation is payable from the day after the termination date.

PART V

EFFECT OF OTHER RECEIPTS ON PART IV COMPENSATION

Effect of occupational pension

12.—(1) Where the conditions in paragraph (2) are met, a person's basic entitlement shall, if necessary, be reduced so that the total of the annual rates for the time being of—

- (a) any occupational pension to which the person is entitled and which is being paid;
- (b) his pension under regulation 26 of the Pension Regulations; and
- (c) his annual compensation,

is not more than the relevant amount.

(2) The conditions are—

- (a) that immediately before the termination date the person was entitled to an occupational pension in respect of any period (whether or not it was being paid); and
- (b) that the total of that period, his total membership and any credited period is more than 40 years.

Effect of redundancy payments

- 13.—(1) This regulation applies to a person who, in respect of any terminated employment—
- (a) has been awarded a credited period that is longer than $6\frac{2}{3}$ years; and
 - (b) has received, or is entitled to receive, a redundancy payment under Part XI of the 1996 Act or compensation under Part II of these Regulations.
- (2) If, but for this paragraph, such a person would be entitled—
- (a) to lump sum compensation of an amount which is equal to or less than the calculated amount, he shall not be entitled to any such compensation;
 - (b) to lump sum compensation of an amount which is greater than the calculated amount, his lump sum compensation shall be reduced by the calculated amount.
- (3) If a person to whom this regulation applies has no entitlement to lump sum compensation—
- (a) because sub-paragraph (a) of paragraph (2) applies, his basic entitlement shall be reduced by the appropriate percentage of the difference (if any) between the amounts referred to in that sub-paragraph;
 - (b) for any other reason, his basic entitlement shall be reduced by the appropriate percentage of the calculated amount.
- (4) The calculated amount is that found by applying the formula—

$$(A \times B) - C$$

where—

A is an amount equal to 30 per cent of the total amount of the redundancy payment and compensation referred to in paragraph (1)(b),

B is the amount, expressed in years and fractions of a year to the nearest day, by which the credited period exceeds $6\frac{2}{3}$, and

C is the total amount of any reductions made in the redundancy payment and compensation referred to in paragraph (1)(b) in accordance with the 1965 Regulations.

Effect of other termination payments

- 14.—(1) This regulation applies to a person who—
- (a) has been awarded a credited period; and
 - (b) receives a termination payment from his employing authority.
- (2) Such a person shall not be entitled to lump sum compensation if, after deduction of the calculated amount (where required by regulation 13), the amount of that compensation would be the same as, or less than, the termination payment.
- (3) The amount payable to a person who is entitled to lump sum compensation is the amount remaining after the deduction of the termination payment and, where required, the calculated amount.
- (4) The basic entitlement of a person to whom this regulation applies shall be adjusted (in addition to any other adjustment required by regulations 13, 17, 19 and 20)—
- (a) if, after the deduction of the calculated amount (where required by regulation 13), his termination payment exceeds his lump sum compensation, by the deduction of the amount of that excess;
 - (b) if he is not entitled to lump sum compensation for a reason other than the operation of paragraph (2), by the deduction of the amount of the termination payment;

(c) if he receives the whole or part of the termination payment after a credited period has been awarded and his compensation has not been adjusted on account of that payment, by the deduction of the amount received.

(5) Where adjustments to a person's basic entitlement are required in accordance with paragraph (4), no instalment of annual compensation is payable to him until the total of the deductions under that paragraph equals the amount of the adjustment.

Effect of periodic payments

15.—(1) A person who receives periodic payments from his employing authority shall not be entitled to annual compensation for any period in which the total of the periodic payments received is greater than his basic entitlement (as adjusted, where required, under regulations 13, 14, 17 and 19) otherwise payable for that period.

(2) The amount payable to a person who—

- (a) receives periodic payments from his employing authority; and
- (b) is entitled to annual compensation for a period,

is the amount of his basic entitlement for that period (as adjusted, where required, under regulations 13, 14, 17 and 19) less the total of the periodic payments received for that period.

PART VI

EFFECT OF NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VI

16.—(1) In this Part, “annual compensation” means the annual compensation, after any necessary adjustment in accordance with Part V, which would, apart from regulation 17, be payable to a person under these Regulations.

(2) For the purposes of this Part, a person—

- (a) whose contractual hours in a new employment are altered; or
- (b) who is transferred to another post with the same employing authority at an altered rate of pay,

shall be treated as if he had again entered a new employment.

Reduction of annual compensation

17.—(1) Where a person to whom a credited period has been awarded enters a new employment, the employing authority must reduce his annual compensation by such amount (if any) as they consider appropriate.

(2) In deciding what is appropriate, the employing authority must secure that the person is not able to obtain for himself a total annual amount comprising—

- (a) the annual rate of pay from his new employment, and
- (b) financial benefits under these Regulations and the Pension Regulations,

greater than the annual rate of pay to which he would have been entitled had he remained in his terminated employment.

(3) If that position cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall be suspended.

(4) The reduction or suspension referred to in paragraph (3) shall apply for so long as the person concerned holds the new employment.

(5) For the purposes of this regulation, the reference to the “annual rate” of pay of the terminated employment is a reference to the annual rate of such pay with official increases.

PART VII

EFFECT OF CESSATION OF NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VII

18.—(1) In this Part, “annual compensation” means the compensation payable to a person under regulation 11 after any necessary adjustment in accordance with regulation 13.

(2) For the purposes of this Part, a person—

- (a) whose contractual hours in a new employment are altered; or
- (b) who is transferred to another post with the same employing authority at an altered rate of pay,

shall be treated as if he had again entered a new employment.

Effect of cessation of new employment

19.—(1) Where a person who has been awarded a credited period has ceased to hold a new employment in which he was a Scheme member or an assumed member, and the sum, in years, of—

- (a) his earlier extra service adjusted in accordance with paragraph (4) of regulation 9 if paragraph (3) of that regulation applies to him; and
- (b) his total membership for the purpose of calculating under the Pension Regulations, on the relevant assumptions, his retirement pension on cessation of his new employment,

exceeds the total membership which would have been used for the purpose of that calculation if he had held his terminated employment until his 65th birthday, his employing authority must reduce his annual compensation by such amount as they consider appropriate.

(2) For the purposes of this regulation, “total membership” includes membership which would be excluded by virtue of paragraph (4) of regulation 9 of the Pension Regulations (periods of membership: “total membership” and transfer of rights).

(3) In deciding what is appropriate, the employing authority must seek to secure that the person is not able to obtain for himself or for any dependant of his greater financial benefits under these Regulations and the Pension Regulations than those to which he or they would have been entitled had he remained in his terminated employment until age 65.

(4) But if the position referred to in paragraph (3) cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall cease.

PART VIII

SURRENDERS AND AWARDS TO SURVIVING SPOUSES AND CHILDREN

Surrender of part of annual compensation

20.—(1) A person who, under regulation 33 (surrenders of pension) of the Pension Regulations, has been allowed to surrender part of the retirement pension to which he would otherwise have been entitled on ceasing to hold his former employment, may (having been awarded a credited period) notify his employing authority, in accordance with paragraph (2) or (3), that he wishes to surrender part of his annual compensation.

(2) A person who has not entered a new employment must give notice within one month of the date on which he is notified of the award of a credited period or, if later, his NRD⁽⁷⁾.

(3) A person who has entered a new employment must give notice within one month of—

- (a) the date on which that employment ends;
- (b) the date on which he is notified of any adjustment made by reason of the ending of that employment; or
- (c) his NRD,

whichever is the latest.

(4) A person to whom paragraph (1) applies may surrender the same percentage of his annual compensation as that surrendered under the Pension Regulations so that, if he is survived by his spouse or a dependant of his (“the beneficiary”), the equivalent value of that part is paid instead to the beneficiary.

(5) On the death of the person who has surrendered part of his annual compensation the beneficiary becomes entitled to annual compensation at a rate equivalent to the value of the surrender in the beneficiary’s favour at the time when the surrender was made.

(6) The equivalent rate is such rate as is indicated in guidance issued by the Government Actuary.

(7) If the surrender is allowed, it has effect from the date the person who has made the surrender retires from his employment.

(8) But it does not take effect if the beneficiary or that person dies before that date, and it ceases to have effect if the beneficiary dies before that person.

(9) A person to whom regulation 33 of the Pension Regulations does not apply, because of a relevant disqualification, may notify his employing authority as mentioned in paragraph (1) and paragraph (4) shall apply in his case as if—

- (a) for “paragraph (1)” there were substituted “paragraph (9)”; and
- (b) for “the same percentage of his annual compensation as that surrendered under the Pension Regulations” there were substituted “such part of his annual compensation, not exceeding one third, as he may specify in his notice under paragraph (2) or (3)”.

(10) In this regulation “annual compensation” means the compensation payable to a person under regulation 11, subject to any necessary adjustment—

- (a) in accordance with regulation 13;
- (b) if he is a person to whom an allowance for life has been granted (see regulation 15(2)), in accordance with that regulation;
- (c) under regulation 19.

(7) See regulation 25(3) of the Pension Regulations.

Awards to surviving spouses

21.—(1) This regulation applies where, on the death of a person who has been awarded a credited period, there is a surviving spouse—

- (a) who is entitled to receive a pension under regulations 40 to 43 (surviving spouses' pensions) of the Pension Regulations in respect of the deceased's terminated employment; or
- (b) who would be so entitled apart from—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) This regulation also applies where the deceased is survived by more than one spouse if both, or all, of them are, or but for the matters mentioned in paragraph (1)(b) would be, jointly entitled to receive such a pension as is mentioned in paragraph (1)(a); and in such a case references in the following paragraphs (in whatever terms) to an entitlement of the surviving spouse are references to the joint entitlement of the surviving spouses.

(3) Where this regulation applies, the surviving spouse is entitled to receive—

- (a) surviving spouse's short-term compensation—
 - (i) for six months after the date of the death if she has in her care one or more eligible children of hers or of another surviving spouse of the deceased;
 - (ii) otherwise, for three months after that date; and
- (b) after that period, surviving spouse's long-term compensation,

but if the marriage took place after the termination date, the surviving spouse is only entitled to receive compensation under this regulation if she is entitled to a surviving spouse's pension under the Pension Regulations (or would be so entitled apart from the matters mentioned in paragraph (1)(b)).

(4) Where there is a joint entitlement under this regulation the employing authority may decide how it shall be apportioned.

(5) Subject to paragraphs (6) and (7), the surviving spouse of an eligible person who ceased employment before 1st April 1998 is not entitled to any compensation under this regulation during any subsequent marriage or period of cohabitation outside marriage, and is entitled to long-term compensation from the end of such marriage or period only if the employing authority so decide.

(6) Where a widower and a widow marry each other or cohabit with each other outside marriage and both—

- (a) are entitled to short-term or long-term compensation under this regulation; and
- (b) are the surviving spouses of eligible persons who ceased employment before 1st April 1998,

only such one of them as they may choose shall be so entitled; and the other shall cease to be so entitled until the end of the marriage or cohabitation.

(7) The employing authority may determine by resolution in any case where the surviving spouse had not, as at 1st April 1998, entered into a subsequent marriage or a period of cohabitation that paragraph (5) or (6), as appropriate, shall not apply.

Amount of surviving spouse's short-term and long-term compensation

22.—(1) Surviving spouse's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased immediately before his death in accordance with these Regulations, ignoring—

- (a) any adjustment in accordance with regulation 14 or 15, or
 - (b) where the adjustment is under regulation 19 and is to take into account an entitlement to lump sum compensation, such an adjustment under regulation 19.
- (2) Surviving spouse's long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment—
- (a) under regulation 13, 14, 15 or 20, and
 - (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 17.
- (3) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by them under regulation 19 to the annual compensation is to be taken into account.
- (4) The amount payable under regulation 21 for a period to a surviving spouse who receives periodic payments is the amount which would have been paid to her for that period, less the total of the periodic payments received for that period.

Short-term compensation for children

- 23.**—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children—
- (a) who are entitled to a short-term pension under regulation 45 (children's short-term pensions) of the Pension Regulations; or
 - (b) who would be so entitled but for—
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.
- (2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to, or to have paid for their benefit, children's short-term compensation for the same period as that for which their short-term pension is payable under regulation 45(2) or (3) of the Pension Regulations.
- (3) An eligible child is not entitled to compensation under paragraph (2) for any period during which he is in the care of a surviving spouse who is entitled to short-term compensation under regulation 21.
- (4) Children's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased in accordance with these Regulations, ignoring any adjustment in accordance with regulation 14 or 15 or under regulation 19.
- (5) If eligible children to whom or for whose benefit periodic payments are made are entitled to children's short-term compensation for a period, the amount payable to or for their benefit for that period is the amount which would have been paid to them (in accordance with paragraph (1) or (2)) for that period, less the total of any periodic payments made for that period.

Long-term compensation for children

- 24.**—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children—
- (a) who are entitled to a long-term pension under regulation 46 (children's long-term pensions) of the Pension Regulations; or
 - (b) who would be so entitled but for—

- (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
- (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to receive, or to have paid for their benefit, children's long-term compensation for the same period as that for which their long-term pension is payable under regulation 46(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period in which the total of periodic payments made to him and any other eligible children or for their benefit for that period is greater than the amount of children's short-term compensation which would otherwise have been paid to them or for their benefit for that period.

(4) Children's long-term compensation is payable at an annual rate equal to the relevant fraction of the deceased's annual compensation.

(5) Paragraphs (2) and (3) of regulation 22 shall apply in relation to children's long-term compensation as they apply in relation to long-term compensation for surviving spouses as if the reference in paragraph (3) to regulation 21 were a reference to this regulation.

Payment of children's compensation

25.—(1) Where children's compensation is payable to, or for the benefit of, the same children to whom, or for whose benefit, children's pensions are payable under regulation 47 (discretions as to payment of children's pensions) of the Pension Regulations, the compensation shall be paid to the same person and, if applicable, in the same proportions as the pension is paid under that regulation.

(2) If the only reason why a children's pension is not paid under regulation 47 of the Pension Regulations is—

- (a) a relevant disqualification with respect to the deceased; or
- (b) the transfer of benefits to another pension scheme,

the employing authority shall decide to whom the children's compensation is paid and, if applicable, how it is to be apportioned amongst the eligible children.

PART IX

INFORMATION ABOUT AND PAYMENT OF COMPENSATION

Policy statements

26.—(1) Each employing authority must formulate, publish and keep under review—

- (a) the policy that they apply in the exercise of their discretionary powers under Parts II to IV and Parts VI to VIII, and
- (b) the policy they apply in the exercise of their duty under regulations 17 and 19 to reduce annual compensation.

(2) If the authority decide to change either policy, they must publish a statement of the amended policy within one month of the date of their decision.

(3) The authority must not give effect to any policy change until one month has passed since the date of publication of the statement under paragraph (2).

(4) In formulating and reviewing their policies the authority must—

- (a) have regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
- (b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

Information relevant to compensation—employing authorities

27.—(1) Within one month after the date of—

- (a) the award of a credited period;
- (b) the death of a person in respect of whom a credited period had been awarded; or
- (c) the making of any adjustment affecting the compensation payable to, or for the benefit of, a person under any of Parts IV to VIII,

the employing authority must, by notice in writing, inform the recipient of the effect of the award or the adjustment, as the case may be, giving details of any relevant calculation.

(2) The employing authority may at any time, by notice in writing, require a person to whom compensation is payable under any of Parts IV to VIII—

- (a) to supply such information; and
- (b) to produce such documents in support of that information,

as they may reasonably require for the discharge of their functions under these Regulations; and may require the information and documents to be supplied and produced within such reasonable period as may be specified in the notice.

Information relevant to compensation—individuals

28.—(1) Within one month after the date of his entry into, or departure from, a new employment, a person to whom a credited period has been awarded must, by notice in writing, inform his employing authority of that fact.

(2) A person who has received a notice under regulation 27(2) must supply the information and produce the documents required (in so far as they are in his possession or under his control); and, if a period for their supply and production has been specified in the notice, must supply and produce them before the end of that period.

Payments and repayments

29.—(1) Any compensation payable under these Regulations—

- (a) is payable to or in trust for the person entitled to receive it;
- (b) is not assignable or chargeable with his debts or other liabilities; and
- (c) on his bankruptcy, shall not vest in his trustee in bankruptcy as part of his estate.

(2) Compensation (other than compensation payable in a lump sum) payable to, or in respect of, a person shall be payable where the entitlement arises under Parts IV or VIII, at the same intervals as those at which his pension is payable under the Pension Regulations (or, but for a relevant disqualification and on the relevant assumptions or, as the case may be, the transfer of benefits to another pension scheme, would have been so payable).

(3) Where any compensation is paid in error to any person (including any overpayment)—

- (a) the paying authority must, as soon as possible after the discovery of the error—
 - (i) inform the person concerned, by notice in writing, giving details of the relevant calculation;

- (ii) where there has been an underpayment, make a further payment;
 - (iii) where there has been an overpayment, specify a reasonable period for repayment;
 - (b) a person who has received a notice under sub-paragraph (a) must repay any overpayment within the specified period; and
 - (c) the paying authority may take such steps as they consider appropriate to recover from the person to whom it was paid any overpayment which has not been repaid within the specified period.
- (3) The paying authority shall take into account the person's circumstances (so far as known or reasonably ascertainable), before taking steps under paragraph (3)(c).

Interest on late payments

30.—(1) Where all or part of any compensation due under either of Parts IV or VIII is not paid within the relevant period after the due date, the paying authority must pay interest on the unpaid amount to the person to whom it is payable.

(2) The rate of interest is one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

Authority by whom compensation is payable

31.—(1) Unless other provisions of these Regulations have a different effect, compensation payable under either of Parts IV or VIII shall be paid by the employing authority.

(2) The appropriate authority in relation to any person who is entitled to any compensation under these Regulations may agree with the employing authority to pay on their behalf any compensation arising in respect of that person and to recover the amount from the employing authority within such period (subject to paragraph (4)) and on such terms as the appropriate authority may determine.

(3) Lump sum compensation may not be paid from the pension fund maintained by the appropriate authority under the Pension Regulations.

(4) The amount of any other compensation paid from the pension fund by an appropriate authority on behalf of the employing authority must be recovered from the employing authority within two months from the payment.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Finance

32. The cost of any payment to be made under these Regulations must not be met out of any pension fund.

Transitional provisions and savings

33. Schedule 4 shall have effect for the purpose of making transitional provisions and savings.

Consequential amendments

34. Schedule 5 shall have effect for the purpose of making amendments which are consequential on the making of these Regulations.

Revocation of Regulations

35. The following provisions and instruments are revoked—

The Local Government (Compensation for Redundancy) Regulations 1994⁽⁸⁾;

The Local Government (Compensation for Redundancy) (Amendment) Regulations 1996⁽⁹⁾;

Parts II to IV of, and Schedules 1 and 4 to, the 1996 Regulations⁽¹⁰⁾;

so much of the Local Government (Discretionary Payments) (Amendment) Regulations 1998⁽¹¹⁾ as relates to Parts II to IV of the 1996 Regulations;

regulations 4 to 6 of the Local Government (Discretionary Payments) (Amendment) Regulations 1999⁽¹²⁾;

regulations 2 and 3 of the Local Government (Discretionary Payments) (Amendment No. 2) Regulations 1999⁽¹³⁾.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

24th May 2000

⁽⁸⁾ S.I. 1994/3025.
⁽⁹⁾ S.I. 1996/456.
⁽¹⁰⁾ S.I. 1996/1680.
⁽¹¹⁾ S.I. 1998/559.
⁽¹²⁾ S.I. 1999/502.
⁽¹³⁾ S.I. 1999/2311.

SCHEDULE 1

Regulation 2

INTERPRETATION

1. In these Regulations—

“the 1971 Act” means the Pensions (Increase) Act 1971**(14)**;

“the 1996 Act” means the Employment Rights Act 1996**(15)**;

“the 1965 Regulations” means the Redundancy Payments Pensions Regulations 1965**(16)**;

“the 1974 Regulations” means the Local Government Superannuation Regulations 1974**(17)**;

“the 1986 Regulations” means the Local Government Superannuation Regulations 1986**(18)**;

“the 1995 Regulations” means the Local Government Pension Scheme Regulations 1995**(19)**;

“the 1996 Regulations” means the Local Government (Discretionary Payments) Regulations 1996**(20)**;

“annual compensation”, except in Parts VI to VIII, means compensation under regulation 10 ignoring the effect of any provision of Part V or Part VI;

“annual rate”—

(a) of annual compensation and of any other official pension, includes increases under the 1971 Act;

(b) of an occupational pension which is not an official pension, includes increases under any enactment, contract, scheme or other arrangement;

“appropriate authority”, in relation to any person, means the authority who are the administering authority in relation to him for the purposes of the Pension Regulations or who would be that authority but for a relevant disqualification and on the relevant assumptions;

“appropriate percentage” means the percentage specified in the Table in Schedule 2 in relation to a person of the eligible person’s age and sex;

“assumed member” means a person in respect of whom his employing authority are satisfied that, but for a relevant disqualification, he would be, or be treated as, a Scheme member;

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

“basic entitlement” means the amount to which a person is entitled under regulation 11, ignoring the effect of any provision of Part V;

“calculated amount” means the amount calculated in accordance with regulation 13(4);

“commencement date” means the date on which these Regulations come into force;

“concurrent employment” means employment with a Scheme employer or a relevant Scottish employer held concurrently with a terminated employment and during the period of 12 months ending immediately before the termination date;

(14) 1971 c. 56; see section 17(1).

(15) 1996 c. 18.

(16) S.I. 1965/1932.

(17) S.I. 1974/520; amended by other instruments listed in Part III of Schedule 20 to the [Local Government Superannuation Regulations 1986 \(1986/24\)](#).

(18) S.I. 1986/24; amended by other instruments listed in Schedule M5 to the Local Government Pension Scheme Regulations 1995 (S.I. 1995/1019).

(19) S.I. 1995/1019. Relevant definitions are in Schedule A1 to the 1995 Regulations. Amendments to Schedule A1 are not relevant to these Regulations.

(20) S.I. 1996/1680; amended by S.I. 1997/1613, 1998/559, 1999/502, 2311.

“earlier cessation” means the cessation of an employment which began before the employment which ended on the termination date;

“earlier extra service” means—

- (a) a period by which a person’s total membership has been increased; or
- (b) a period of service with which he has been credited,

before the termination date, for the purpose of calculating a retirement payment or, if more than one period has been granted, the total of them;

“eligible child”, in relation to another person, means—

- (a) his legitimate child if—
 - (i) a child of a marriage which took place on or before the termination date; and
 - (ii) born not later than 12 months after that date;
- (b) his adopted child if the adoption took place on or before the termination date;
- (c) a child who was wholly or mainly dependent on him both on the termination date and at the time of his death, being—
 - (i) his step-child or illegitimate child;
 - (ii) an adopted child of someone else who married the person before the termination date; or
 - (iii) a child accepted by him as a member of the family;

“employing authority”, in relation to a person, means—

- (a) a body listed in Schedule 2 (Scheme employers) to the Pension Regulations by whom he is employed immediately before the termination date; or
- (b) a body specified in regulation 4(6) (resolution bodies)(**21**) of those Regulations—
 - (i) by whom he is employed immediately before the termination date; and
 - (ii) which has passed a relevant resolution, within the meaning of regulation 4(5) of those Regulations, which covers him;

“excepted payment”, in relation to a person’s terminated employment, means—

- (a) a redundancy payment to which he is entitled under Part VI of the 1978 Act or Part IX of the 1996 Act or compensation under Part II of these Regulations in respect of that employment (including, in each case, any amount by which that payment is reduced in accordance with the 1965 Regulations); or
- (b) a payment in respect of that employment under regulations, or under provisions having effect as provisions of regulations, under section 7 of the 1972 Act; or
- (c) a payment in lieu of annual or other leave to which he is entitled in respect of that employment; or
- (d) so much of any payment in lieu of notice of termination of that employment as is equal to or less than the pay that he would have received if he had remained in that employment for three months after the termination date;

“excluded employment” means a period of employment—

- (a) in an independent school (within the meaning of section 463 of the Education Act 1996)(**22**); or

(21) Regulation 4(6) was amended by S.I. 1998/1238, S.I. 1999/1212, S.I. 2000/1164.

(22) 1996 c. 56.

(b) in relation to which a pension or other benefits (other than a refund of contributions) is being or has been paid under an occupational pension scheme;

“lump sum compensation” means compensation under regulation 10;

“NRD” has the same meaning as in regulation 25 of the Pension Regulations;

“new employment” means employment with an employing authority or a relevant Scottish employer which a person enters after his termination date;

“occupational pension”, in relation to a person, means a pension, other than a lump sum, to which he has become entitled (whether or not it is being paid) which is—

(a) an employment-linked pension which is payable under an enactment (other than the Social Security Contributions and Benefits Act 1992⁽²³⁾, the 1995 Regulations, or the Pension Regulations), contract, scheme or other arrangement, including a personal pension scheme in relation to which the Secretary of State has paid contributions under section 1 of the Social Security Act 1986⁽²⁴⁾ or section 43 of the Pension Schemes Act 1993⁽²⁵⁾; or

(b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the 1995 Regulations or the Pension Regulations, or arising with respect to a pension of a kind mentioned in paragraph (a);

“official increases”, in relation to a pension or pay, means the increases (if any) by which an annual pension of an amount equal to the annual rate of that pension or pay would have been increased under the 1971 Act during the period ending immediately before the day preceding that on which the person in question entered the new employment, on the assumptions—

(a) that the pension was specified in Part II of Schedule 2 to the 1971 Act and began for the purposes of that Act on the day the pension actually began or, as the case may be, the day after that on which he ceased to hold the employment; and

(b) that he was 55 on that day;

“official pension” has the same meaning as in the 1971 Act;

“paying authority” means—

(a) if regulation 4(3) applies, the authority designated in accordance with Schedule 3;

(b) if regulation 31(2) applies, the appropriate authority;

(c) in any other case, the employing authority;

“Pension Regulations” means the Local Government Pension Scheme Regulations 1997⁽²⁶⁾;

“periodic payment”—

(a) in relation to a surviving spouse or a child (see regulations 22, 23 and 24), means an instalment of an allowance for life or other period granted to or in respect of the spouse or the child by the deceased’s employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of the deceased’s terminated employment;

(b) in relation to any other person, means an instalment of an allowance granted to him by his employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of a terminated employment,

but in neither case includes annual compensation or a payment which is an excepted payment in relation to that employment;

⁽²³⁾ 1992 c. 4.

⁽²⁴⁾ S.I. 1986 c. 50. Section 1 was repealed by the Pension Schemes Act 1993 (c. 48), section 188 and Schedule 5.

⁽²⁵⁾ 1993 c. 48. Section 43 was amended by the Pension Schemes Act 1995 (c. 26), Schedule 5, paragraph 42.

⁽²⁶⁾ S.I. 1997/1612; amended by S.I. 1998/1238, 1999/1212 and 3438, 2000/1005, 1164.

“qualifying employment” in relation to an employee, means a period of employment (other than excluded employment) in relation to which the Scheme employer is satisfied that the employee was in local government employment within the meaning of the Pension Regulations or pensionable employment within the meaning of the Teachers Superannuation (Consolidation) Regulations 1988(27) or of the National Health Service Pension Scheme Regulations 1995(28) or was in employment which would have been such employment but for a relevant disqualification;

“reference banks” means the seven largest institutions for the time being which—

- (a) are authorised by the Bank of England under the Banking Act 1987(29);
- (b) are incorporated in and carrying on within the United Kingdom a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
- (c) quote a base rate in sterling,

and for this definition the size of an institution at any time is to be determined by reference to the gross assets denominated in sterling of that institution, together with any subsidiary (as defined in section 736 of the Companies Act 1985(30)), as shown in the audited end-of-year accounts last published before that time;

“relevant amount”—

- (a) if a retirement grant under Part II of the Pension Regulations is payable, means 50 per cent. of the sum of—
 - (i) the amount of his pensionable pay; and
 - (ii) the amount of the official increases by which an official pension at the annual rate of that pensionable pay would have been increased, if it had begun and first qualified for such increases on the day after the termination date;
- (b) if no such grant is payable, means 66⅔ per cent. of that sum;

“relevant assumptions” means that it is to be assumed that—

- (a) during any period of special service a person was a Scheme member;
- (b) a person’s total period of membership included any periods of special service other than unpaid periods of absence from duty;
- (c) with respect to a period of special service (applying the preceding assumptions), an election or determination under paragraph 2 of Schedule D1 to the 1995 Regulations (optional alternative relevant periods for calculating pensionable remuneration(31)—
 - (i) had been made in a case within paragraph 3 of that Schedule (other than a case within paragraph 4 or 5(32); and
 - (ii) had not been made in a case within paragraph 4 or 5 of that Schedule or regulation 22 (other final pay periods) or 23 (permanent reductions in pay; certificates of pension benefits) of the Pension Regulations; and
- (d) paragraph 6(b) (periods of absence) of Schedule D1 to the 1995 Regulations did not apply with respect to any period of special service;

“relevant credited period” means the period awarded in accordance with regulation 8(2);

“relevant disqualification”—

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

(28) S.I. 1995/300.

(29) 1987 c. 22.

(30) 1985 c. 6, section 736 was substituted by the Companies Act 1989 (c. 40), section 144.

(31) Schedule D1 continues to have effect as mentioned in S.I. 1997/1613.

(32) Paragraph 4 of Schedule D1 was amended by S.I. 1996/1428.

- (a) in relation to an occupational pension scheme which applies to qualifying employment, means any of (i) to (v) below, as the result of which (either alone or taken together) a person has not become, or has ceased to be, a member of the scheme, or has been treated as ineligible for membership of it—
- (i) the failure of a medical examination required for such membership;
 - (ii) the making of any election to opt out of, or the absence of an election to opt into, such membership with respect to any period of employment;
 - (iii) a restriction excluding some part-time employment from being employment to which the Scheme applies;
 - (iv) in the case of the Scheme, ineligibility under regulation B2(2) of the 1995 Regulations;
 - (v) in the case of the Scheme and a manual worker, failure to complete a period of continuous employment required for membership of the Scheme;
- (b) in any other context, means any of (i) to (vii) below, as the result of which (either alone or taken together) a person has not become, has ceased to be, or has not been treated as, a Scheme member—
- (i) the failure of a medical examination required under regulation B1(16) of the 1986 Regulations⁽³³⁾;
 - (ii) the making, before 6th April 1988, of an election under regulation B1(15B) of those Regulations⁽³⁴⁾;
 - (iii) the making before, or the absence on, 6th April 1988 of an election under regulation B1(18) of, or Part IV of Schedule 2 to, those Regulations⁽³⁵⁾;
 - (iv) the absence of an election under regulation B1A of, or paragraph 1(b) of Part III of Schedule 2 to, those Regulations;
 - (v) the absence of an application under regulation B10 of the 1995 Regulations or regulation 7 of the Pension Regulations for membership;
 - (vi) the giving of a notification under regulation B1B of the 1986 Regulations, regulation B12 of the 1995 Regulations or regulation 8 of the Pension Regulations;
 - (vii) the making or absence of an election under regulation 25(3)(b) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987⁽³⁶⁾;
- “relevant fraction”—
- (a) in regulation 22, means—
- (i) if the deceased was entitled to lump sum compensation, one half;
 - (ii) if not, three eighths;
- (b) in regulation 24, means—
- (i) where there is a surviving spouse to whom surviving spouse’s short-term or long-term compensation is payable (or would be payable but for regulation 21(5)) and one eligible child, one quarter;
 - (ii) where there is such a surviving spouse and two or more eligible children, one half;
 - (iii) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and one eligible child, one third;

⁽³³⁾ See Schedule M4 to the Local Government Pension Scheme Regulations 1995 (S.I. 1995/1019).

⁽³⁴⁾ Regulation B1(15B) was omitted by S.I. 1988/466 with effect from 6th April 1988.

⁽³⁵⁾ Regulation B1(18) was omitted and Part IV of Schedule 2 amended by S.I. 1988/466.

⁽³⁶⁾ S.I. 1987/293; revoked by the 1995 Regulations.

- (iv) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and two or more eligible children, two thirds;

“relevant period”—

- (a) in relation to lump sum compensation, means one month;
 (b) in relation to other compensation, means one year;

“relevant Scottish employer” means a scheduled body within the meaning of the Local Government Superannuation (Scotland) Regulations 1987⁽³⁷⁾ and Scottish Homes;

“retirement payment” means one of the following—

- (a) retirement compensation under an Act, under regulations under section 259 of the 1972 Act, or a similar instrument, on account of loss of employment;
 (b) benefit under regulations under section 260 (provision for early retirement in lieu of compensation for loss of office) of the 1972 Act or a similar instrument;
 (c) compensation under any scheme under section 1 of the Superannuation Act 1972⁽³⁸⁾, or a similar instrument, on account of his retirement in the public interest;
 (d) compensation under an Act or under these Regulations or any other regulations under section 24 of the Superannuation Act 1972⁽³⁹⁾, or a similar instrument, on account of his ceasing to hold an employment with an authority for any of the reasons referred to in (a), (b) or (c),

and in this definition “similar instrument” means any instrument to similar effect made under any provision contained in any other enactment;

“retirement pension” means a pension under regulation 25, 26, 27 or 31 of the Pension Regulations, a single pension under regulation 29 of those Regulations or an occupational pension;

“Scheme employer” means an employing authority and, in relation to any person who is an admission agreement employee (as defined in the Pension Regulations)⁽⁴⁰⁾, his admission body (as so defined);

“Scheme member” means a person who is a member of the Scheme;

“special service” means—

- (a) any period of employment with respect to which the employing authority are satisfied that—
 (i) but for a relevant disqualification, the person concerned would have been, or would have been treated as, a member of the Scheme; or
 (ii) paragraph (i) would have applied but for the fact that the employment was qualifying part-time employment within the meaning of Part IV of Schedule 2 to the Local Government Superannuation Regulations 1986⁽⁴¹⁾; and
 (b) any period of former employment ending before the person concerned began the terminated employment, but only if any interval between the end of that former employment and the beginning of the terminated employment during which he was not employed by an employing authority or a relevant Scottish employer was shorter than one month and two days;

⁽³⁷⁾ S.I. 1987/1850. “Scheduled body” is defined in Schedule 1.

⁽³⁸⁾ 1972 c. 11. Section 1 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 8, and the Pension Schemes Act 1993 (c. 38), Schedule 8, paragraph 6.

⁽³⁹⁾ Section 24 was amended by the Police Pensions Act 1976 (c. 35), Schedule 2, paragraph 10.

⁽⁴⁰⁾ The definition of “admission agreement employee” was amended by S.I. 2000/1005.

⁽⁴¹⁾ S.I. 1986/24; revoked by S.I. 1995/1019 with the exception of Parts K and L. Part K was amended by S.I. 1995/1019, Schedule M6, paragraphs 2 and 3 and by S.I. 1995/1497.

“terminated employment” means employment which is terminated in one of the circumstances set out in regulation 4(1)(42);

“termination date” means the date on which a person leaves his terminated employment;

“termination payment” means the total amount of any lump sums, other than lump sum compensation or any payment which is an excepted payment in relation to a terminated employment, paid under an enactment, contract, scheme or arrangement to a person in consequence of, or as compensation for, the loss of a terminated employment; and

“total membership” includes any period of special service (other than special service consisting of periods of unpaid leave or other unpaid absence from duty).

“Transitional Regulations” means the Local Government Pension Scheme (Transitional Provisions) Regulations 1997(43)

SCHEDULE 2

Regulation 2(3) and Schedule 1

TABLE FOR DETERMINATION OF “APPROPRIATE PERCENTAGE”

<i>Age last birthday</i>	<i>Appropriate percentage Male</i>	<i>Appropriate percentage Female</i>
50	6.04	5.61
51	6.12	5.66
52	6.21	5.72
53	6.31	5.80
54	6.45	5.90
55	6.59	6.02
56	6.75	6.13
57	6.92	6.26
58	7.10	6.40
59	7.30	6.55
60	7.51	6.70
61	7.73	6.87
62	7.97	7.05
63	8.23	7.24
64	8.51	7.45

(42) S.I. 1987/293; revoked by the 1995 Regulations.

(43) S.I. 1997/1613; amended by S.I. 1998/2118, 1999/1212.

SCHEDULE 3

Regulation 4(3)

MODIFIED APPLICATION OF REGULATIONS

PART I

Former Harbour Authority Employees

1. Part IV of these Regulations applies in relation to a person whose employment immediately before the termination date was wholly or mainly connected with the employing authority's functions as a harbour authority (as defined in section 57(1) of the Harbours Act 1964⁽⁴⁴⁾) as if, in the definition (in Schedule 1) of "excepted payment", there were included "or a payment under an agreement made before 1st July 1984 in connection with the closure of a harbour effected in the exercise of powers conferred by an Act of Parliament passed before that date".

PART II

Persons Employed in Educational Establishments

2. In this Part of this Schedule "educational employment" means employment—
- (a) at a single school or institution maintained by a local education authority which for the time being has a delegated budget within the meaning of Chapter IV of Part II of the School Standards and Framework Act 1998⁽⁴⁵⁾ or section 85 of the Further and Higher Education Act 1992⁽⁴⁶⁾;
 - (b) at a school or institution without a delegated budget and which is maintained by a local education authority;
 - (c) by a local authority otherwise than at a school or institution;
 - (d) at a maintained school or institution with a delegated budget where that employment was concurrent with employment—
 - (i) at another such school or institution; or
 - (ii) within paragraph (b);
 - (e) at an institution conducted by a further education corporation or a higher education corporation;
 - (f) at a designated institution.
3. Part IV of these Regulations applies with the modifications in paragraphs 4 to 6.
4. Where employment of the kind specified in paragraph 2(a) is terminated, and the employing authority is the local education authority, they must certify that the termination is for a reason mentioned in regulation 4(1)(a)(i), (ii) or (iii) if the governing body of the school or institution concerned request them to do so.
5. Where the terminated employment was educational employment—
- (a) regulations 7 and 8 apply as if, for references to the employing authority, there were substituted references—

⁽⁴⁴⁾ 1964 c. 40.

⁽⁴⁵⁾ 1998 c. 31.

⁽⁴⁶⁾ 1992 c. 13.

- (i) where the employment is within (a) or (f) of paragraph 2, to the governing body of the school or institution;
 - (ii) where the employment is within (b), (c) or (d) of paragraph 2, to the local education authority;
 - (iii) where the employment is within (e) of paragraph 2, to the corporation; and
- (b) references in regulations 20(1), 21(4), (5) and (7), 25(2), 27, 28 and 31 to the employing authority shall be read as references to the paying authority.

6.—(1) Unless either sub-paragraph (2) or (3) makes different provision, the paying authority in relation to an eligible person whose terminated employment was educational employment is—

- (a) the local education authority, for employments within paragraph 2(a) to (d);
- (b) the corporation, for employments within paragraph 2(e);
- (c) the governing body of the institution, for employments within paragraph 2(f).

(2) Where—

- (a) the terminated employment was of a kind specified in paragraph 2(e) or (f), and
- (b) as the result 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 is the paying authority.

(3) Where—

- (a) the terminated employment was of a kind specified in paragraph 2(e) or (f), and
- (b) the institution closes and there is no successor establishment,

the Secretary of State is the paying authority.

7. Regulation 31 shall have effect as if the following were added at the end—

“(5) Where the terminated employment was of a kind specified in paragraph 2(d) or (e) of Schedule 2, the Secretary of State may—

- (a) require the governing body of the school to repay him any amounts paid by him by way of compensation;
- (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 sum by not more than five annual instalments.”.

SCHEDULE 4

Regulation 34

TRANSITIONAL PROVISIONS AND SAVINGS

1. For the purposes of these Regulations, employment at a time before 25th July 1996 shall be regarded as employment with a Scheme employer, if the employer was at that time a body mentioned in column 1 of Part 2 of Schedule 1 (educational bodies) to the Local Government (Compensation for Premature Retirement) Regulations 1982(47).

2. As respects any female employee who—

(47) S.I. 1986/24, revoked by S.I. 1998/1680.

- (a) duly elected under regulation E12(1)(b) or (2)(b) (election by wife of dependent and permanently incapacitated husband) of the 1986 Regulations⁽⁴⁸⁾;
- (b) duly elected under regulation 12(2) of the Local Government (Compensation for Premature Retirement) Regulations 1982 (similar elections and elections by unmarried women with potentially eligible children); or
- (c) immediately before 25th July 1996 was a person to whom regulation 12(3) of those Regulations applied,

these Regulations have effect as if references in them to provisions in the Pension Regulations were references to those provisions as modified by the provisions of regulation 9 (women with membership before 6th April 1988) of the Transitional Regulations, by virtue of which her membership is treated as membership after 5th April 1988.

3. Regulations 21, 23, 24 and 25 of these Regulations shall have effect as if references in them to provisions of the Pension Regulations included, in relation to any case in which comparable provisions of the 1995 Regulations apply (by virtue of the Transitional Regulations), references to those comparable provisions.

SCHEDULE 5

Regulation 35

CONSEQUENTIAL AMENDMENTS

1. In regulation 2(c) of the Education (Polytechnics and Colleges Funding Council) (Prescribed Expenditure) Regulations 1991⁽⁴⁹⁾, for “Parts II and III of the Local Government (Discretionary Payments) Regulations 1996”, substitute “Parts II to V of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”.

2. In the 1995 Regulations—

- (a) in regulations B18(8) and B19(1)(a)⁽⁵⁰⁾, for “regulation 8 of the Local Government (Discretionary Payments) Regulations 1996”, substitute “regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”; and
- (b) in regulation B19(2)(a), for “Part III of the Local Government (Discretionary Payments) Regulations 1996”, substitute “Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”.

3. In the Local Government Reorganisation (Compensation for Loss of Remuneration) Regulations 1995⁽⁵¹⁾—

(a) in regulation 4—

- (i) at the end of paragraph (c), for “or Part III of the Local Government (Discretionary Payments) Regulations 1996”, substitute “or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”; and
- (ii) in paragraph (d), for “Part IV of the Local Government (Discretionary Payments) Regulations 1996”, substitute “Part III of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”; and

⁽⁴⁸⁾ S.I. 1982/1009, revoked by S.I. 1996/1680.

⁽⁴⁹⁾ S.I. 1991/2307, amended by S.I. 1996/1680.

⁽⁵⁰⁾ Regulations B18 and B19 were inserted by S.I. 1995/2953 and amended by S.I. 1996/1680.

⁽⁵¹⁾ S.I. 1995/2837, amended by S.I. 1996/1680.

(b) in regulation 8(2)—

- (i) in paragraph (a), for “or Part III of the Local Government (Discretionary Payments) Regulations 1996”, substitute “or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”; and
- (ii) in paragraph (b), for “Part IV of the Local Government (Discretionary Payments) Regulations 1996”, substitute “Part III of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”.

4. In regulation 3 of the Local Government Pension Scheme (Augmentation) Regulations 1995(52), for the words in paragraph (3) after “the 1982 Regulations,” substitute—

“which could have been taken under those Regulations if paragraph (2) had had effect at that time, then, for the purposes of regulations B18 and B19 of the principal Regulations, regulation 52 of the Local Government Pension Scheme Regulations 1997 and Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, that action shall be deemed to have been taken under the corresponding provision of the 1982 Regulations or, as the case may be, that Part IV”.

5. In paragraph (3)(b) of regulation 12 (claims etc. in connection with contracts of employment) of the Local Government Changes for England (Miscellaneous Provision) Regulations 1996(53), for “Part IV of the Local Government (Discretionary Payments) Regulations 1996”, substitute “Part III of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”.

6. In the Pension Regulations—

- (a) in paragraph (9) of regulation 52 (power of employing authority to increase total membership of members leaving employment at or after 50), by the insertion, immediately before “in respect of a cessation”, of “or regulation 8 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”;
- (b) in paragraph (2)(a) of regulation 143 (conversion of periods credited under Discretionary Payments Regulations etc. into membership), by the insertion, immediately before “with a period”, of “or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with drafting and other, minor, amendments, Parts II to IV of the Local Government (Discretionary Payments) Regulations 1996 (“the 1996 Regulations”) and such provisions of Parts I and VII of those Regulations as are necessary for the purposes of Parts II to IV. They make provision for discretionary payments to persons whose local government employment is

(52) S.I. 1995/2953, amended by S.I. 1996/1680.

(53) S.I. 1996/330, amended by S.I. 1996/1680.

terminated by reason of redundancy or in the interests of the service (but not on ill-health grounds), or where a joint appointment comes to an end because one of the holders leaves. As a result of these Regulations, the 1996 Regulations now relate to injury allowances and gratuities as respects non-pensionable service.

Part I (regulations 1 to 4) includes provisions relating to the interpretation and application of the Regulations. Many of the expressions used in the Regulations are defined in Schedule 1. Schedule 2 is relevant to the definition (in Schedule 1) of “appropriate percentage”. Some expressions, which are also used in the Local Government Pension Scheme Regulations 1997 (referred to in these Regulations as “the Pension Regulations”), have the meanings given by Schedule 1 to those Regulations.

Regulation 4(1) and (2) provides for the application of the Regulations to persons if they are eligible to be members of the Local Government Pension Scheme (whether or not they are, in fact, members). The Regulations apply to former harbour authority employees and to those employed in certain educational establishments (but not teachers) with the modifications specified in Schedule 3 (regulation 4(3)).

Part II (regulation 5) allows for the payment of compensation to persons who are entitled to a redundancy payment under the Employment Rights Act 1996.

Part III (regulation 6) allows for a lump sum compensation payment, whether or not the person is eligible for compensation under Part II.

Part IV (regulations 7 to 11) provides an alternative form of compensation to that in Part III for persons aged 50 or more. It provides for the award of credited periods and the payment of lump sum and annual compensation. To be eligible under this Part, a person must be employed by a body listed in regulation 4(6) of, or Schedule 2 to, the Pension Regulations.

Parts V to VII (regulations 12 to 19) provide for the adjustment of compensation where the person entitled to it receives other payments or enters or leaves a new employment. A change from the 1996 Regulations is that no specific method of abatement is provided by the regulations and it is for the employing authority to decide how to make the necessary adjustment.

Part VIII (regulations 20 to 25) relates to surrenders of annual compensation and payments to surviving spouses and children on the death of a person entitled to compensation under Part IV.

Part IX makes provision for—

- (a) the preparation of policy statements relevant to the exercise of discretionary powers and abatement under the Regulations, for the review of the policy and the publication of amendments to the policy (regulation 26);
- (b) the supply of other information relevant to payments and adjustments under the Regulations (regulations 27 and 28);
- (c) the making of payments, the repayment of overpayments, and the payment of interest on late payments (regulations 29 and 30); and
- (d) for identifying the authority which is to make the payments (regulation 31).

Part X contains miscellaneous and supplementary provisions. Regulation 33 prevents the cost of payments under the Regulations being charged to a pension fund. Regulation 33 introduces the transitional provisions and savings in Schedule 4. Regulation 34 introduces the consequential amendments specified in Schedule 5. Regulation 35 revokes provisions of the 1996 Regulations which are superseded by these Regulations and provisions which have amended the 1996 Regulations. The Local Government (Compensation for Redundancy) Regulations 1994 are also revoked.