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STATUTORY INSTRUMENTS

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**1995 No. 840 (S.73)**

**LOCAL GOVERNMENT, SCOTLAND  
EDUCATION, SCOTLAND**

The Local Government (Education Administration)  
(Compensation for Redundancy or Premature Retirement  
on Reorganisation) (Scotland) Regulations 1995

|                               |         |                        |
|-------------------------------|---------|------------------------|
| <i>Made</i>                   | - - - - | <i>20th March 1995</i> |
| <i>Laid before Parliament</i> |         | <i>22nd March 1995</i> |
| <i>Coming into force</i>      | - -     | <i>6th April 1995</i>  |

The Secretary of State, 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, and with the consent of the Treasury(2), hereby makes the following Regulations:

PART I  
GENERAL

**Citation and commencement**

1. These Regulations may be cited as the Local Government (Education Administration) (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995 and shall come into force on 6th April 1995.

**Interpretation**

2.—(1) In these Regulations—

“eligible employee” means an adviser, within the meaning of the Superannuation Regulations, other than a person who is—

- (a) employed by an employing authority to work at one or more than one school maintained by that authority in a teaching or supervisory capacity, or

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(1) 1972 c. 11.

(2) This function was transferred to the Treasury by S.I. 1981/1670.

(b) an eligible employee within the meaning of the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994(3);

“former employment” means the employment that ceased as described in regulation 3(a);

“pensionable employment” has the same meaning as in the Superannuation Regulations;

“prescribed period” means the period beginning on 6th April 1995 and ending on 31st March 1997;

“reckonable service” means any period of pensionable employment and any period of special service not being special service consisting of periods of unpaid leave or other unpaid absence from duty;

“relevant assumptions” means the assumptions that—

(a) during any period of special service a person was in pensionable employment; and

(b) the person’s pensionable employment for the purpose of the Superannuation Regulations included any periods of special service which did not consist of periods of unpaid leave or other unpaid absence from duty;

“relevant body” means—

(a) a local authority constituted under section 2 of the Local Government (Scotland) Act 1973(4); or

(b) an authority constituted under section 2 of the Local Government etc. (Scotland) Act 1994(5);

“relevant disqualification” in relation to a person means—

(a) where he is a part-time teacher, his not having made an election in terms of regulation B2(3) of the Superannuation Regulations with respect to any period;

(b) his having made an election under regulation B6(1) of those Regulations; and

(c) the fact that his service is not part-time service, within the meaning of the Superannuation Regulations, because his contract of employment does not subsist for a period of at least 6 consecutive weeks;

in consequence of one or more of which that person was not in pensionable employment;

“relevant year” means the period of one year, ending with the material date or, where it would yield a higher amount of remuneration, either of the two years immediately preceding the start of that year;

“remuneration” in the case of an eligible employee in pensionable employment, means contributable salary within the meaning of the Superannuation Regulations and, in the case of an eligible employee who is, by virtue of a relevant disqualification, not in pensionable employment, means the remuneration which, but for a relevant disqualification and on the relevant assumptions, would be his contributable salary, in both cases during the relevant year;

“special service” means any period of employment with respect to which the employing authority is satisfied that the person would have been, or been treated as being, in pensionable employment were it not for the existence in relation to the employee concerned and that employment of a relevant disqualification;

“the Superannuation Regulations” means the Teachers' Superannuation (Scotland) Regulations 1992(6);

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994;

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(3) S.I. 1994/3068; amended by S.I. 1995/340.

(4) 1973 c. 65; to which no relevant amendments have been made.

(5) 1994 c. 39.

(6) S.I. 1992/280, amended by S.I. 1992/1025 and 1597, 1993/490 and 2513 and 1994/1715 and 2699.

“the 1980 Regulations” means the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980(7).

(2) In these Regulations, subject to paragraph (1) of this regulation and unless the context otherwise requires, any expression which is also used in the 1980 Regulations has the same meaning as in those Regulations.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is to be construed as a reference to the regulation that bears that number in these Regulations.

## PART II

### COMPENSATION

#### **Persons to whom this Part applies**

3. 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;
  - (b) meets the prescribed conditions specified in regulation 4; and
  - (c) is not a person to whom the provisions of section 13(4) of the 1994 Act apply.

#### **Prescribed conditions**

4.—(1) The provisions of the following paragraphs of this regulation are the prescribed conditions for the purposes of regulation 3.

(2) The first condition is that the person is not entitled to have his case considered for the payment of compensation, in respect of loss of employment specified in regulation 3(a), under any instrument within the meaning of Part I of Schedule 1 to the 1980 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 reckonable service amounting to not less than 2 years; or
  - (b) attained the age of 50 years.

(4) The third condition is that the relevant body determines that the loss of employment is attributable to any provision of, or made under, the 1994 Act.

#### **Computation of compensation**

5. Not later than the material date a relevant body—
- (a) shall determine to pay the compensation prescribed in regulation 6 to a person who meets the requirements of regulation 6(1);
  - (b) may determine to pay the compensation prescribed in regulation 7 to a person who meets the requirements of regulation 7(1);
  - (c) may, subject to regulation 8(3), determine to pay the compensation prescribed in regulation 8 to a person who meets the requirements of regulation 8(1); and
  - (d) may, subject to regulation 8(3), determine to pay the compensation prescribed in regulation 9 to a person to whom regulation 7 or 8 applies.

### **General mandatory compensation**

6.—(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 reckonable service amounting to not less than 2 years; or
- (b) has attained the age of 50 years and who is entitled to count reckonable service amounting to less than 2 years.

(2) The compensation which a relevant body shall determine to pay under regulation 5(a) shall be the lesser of—

- (a) a sum equivalent to 66 weeks' remuneration; or
- (b) the relevant aggregate sum referred to in paragraph (3) or (4) below.

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

- (a) a sum equivalent to one half week's remuneration for each complete year of reckonable service on or 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 remuneration for each complete year of reckonable service on or after the attainment of age 20.

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

- (a) a sum equivalent to two weeks' remuneration for each complete year of reckonable service on or 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' remuneration for each complete year of reckonable service on or after the attainment of age 41.

### **Discretionary compensation for certain persons with 2 or more but less than 5 years' service**

7.—(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 reckonable service amounting to 2 or more but less than 5 years.

(2) The compensation which a relevant body may determine to pay under regulation 5(b) shall be the aggregate of—

- (a) a sum equivalent to one and one half weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18;
- (b) a sum equivalent to two and one half weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41; and
- (c) a sum equivalent to one half week's remuneration.

(3) No compensation prescribed in this regulation, or in regulation 9 in respect of a person to whom this regulation applies, shall be paid unless—

- (a) the person gives written consent to such payment after receipt of the written notification referred to in regulation 11; and
- (b) the person waives in writing his right to the immediate payment of benefit under regulation E5(1)(f) of the Superannuation Regulations.

### **Discretionary compensation for certain persons with 5 or more years' service**

- 8.**—(1) This regulation applies to a person to whom this Part applies and who—
- (a) ceases employment on or after the attainment of age 50; and
  - (b) is entitled to count reckonable service amounting to not less than 5 years.
- (2) The compensation which a relevant body may determine to pay under regulation 5(c) shall be the lesser of—
- (a) a sum equivalent to 45 weeks' remuneration; or
  - (b) a sum calculated in accordance with the formula specified in regulation 7(2).
- (3) No compensation prescribed in this regulation, or in regulation 9 in respect of a person to whom this regulation applies, shall be paid if that person is, as a result of the loss of employment specified in regulation 3(a), credited with an additional period of service in accordance with the provisions of regulation 5 of the 1980 Regulations.

### **Additional discretionary compensation**

- 9.**—(1) Subject to the provisions of regulations 7(3) and 8(3), the compensation which a relevant body may determine to pay under regulation 5(d) is a sum which, when aggregated with the compensation which the relevant body has determined to pay under regulation 5(b) or 5(c), as the case may be, shall not exceed the relevant maximum.
- (2) In paragraph (1) of this regulation “relevant maximum” means the lesser of—
- (a) a sum equivalent to 66 weeks' remuneration, or
  - (b) the aggregate of—
    - (i) a sum equivalent to two weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18; and
    - (ii) a sum equivalent to three weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41.

### **Offset of redundancy payment**

- 10.** From the total compensation that a relevant body determines to pay to an eligible employee under these Regulations there shall be deducted an amount equivalent to the aggregate of any redundancy payment made to that person in respect of the loss of employment specified in regulation 3(a).

## **PART III**

### **NOTIFICATION AND PAYMENT**

#### **Notification of compensation**

- 11.**—(1) A relevant body, after making a determination in accordance with regulation 5, shall, as soon as reasonably practicable, give the person in respect of whom that determination is made, or such other person or persons to whom compensation is payable in accordance with these Regulations, written notification of the compensation that the relevant body has determined to pay, less any deduction that requires to be made under regulation 10, and the calculation thereof.
- (2) Where a relevant body determines to pay compensation under regulation 5(b), or under regulation 5(d) to a person to whom the provisions of regulation 7 apply, the notification given in

terms of paragraph (1) of this regulation shall refer to the conditions that the eligible employee must satisfy in terms of regulation 7(3) before such compensation can be paid.

### **Payment of compensation**

**12.** Subject to any statutory provision in that behalf, and subject to satisfaction of any conditions which require to be met before payment can be made, any sum payable under these Regulations, less any deduction under regulation 10, shall be paid by the relevant body, as soon as practicable after making a determination in accordance with regulation 5, in the form of a lump sum payment to or in trust for the person entitled to receive the compensation and shall not be assignable.

## **PART IV**

### **SUPPLEMENTARY PROVISIONS**

#### **Amendment of 1980 Regulations**

**13.** Regulation 5 of the 1980 Regulations shall be amended—

- (a) by inserting at the beginning the figure “(1)”; and
- (b) by adding at the end the following new paragraph:—

“(2) An employing authority shall not credit an eligible teacher with an additional period of service in terms of paragraph (1) where a determination is made to pay compensation to that teacher in terms of regulation 5(c) or (d) of the Local Government (Education Administration) (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995.”.

St Andrew’s House,  
Edinburgh  
15th March 1995

*Fraser of Carmyllie*  
Minister of State, Scottish Office

We consent,

20th March 1995

*T J R Wood*  
*Derek Conway*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The purpose of these Regulations is to allow a lump sum payment to be made to certain local authority employees who cease to hold employment with a relevant body by reason of redundancy or in the interests of the efficiency of their employer during a specified period in consequence of local government reorganisation in Scotland. The employees concerned are engaged in education central administration and services and are eligible for membership of the Scottish Teachers' Superannuation Scheme.

Part II of the Regulations lays down the conditions which require to be met if a person is to be eligible for compensation and how the compensation is calculated. Regulation 6 applies to employees aged 18 or over but less than 50 with 2 or more years' reckonable service or aged 50 or over with less than 2 years' reckonable service. Such employees are not eligible for immediate payment of pension benefits in terms of the Teachers' Superannuation (Scotland) Regulations 1992 (S.I. 1992/280) ("the 1992 Regulations") nor can they be credited with an additional period of service in terms of regulation 5 of the Teachers' (Compensation for Premature Retirement) (Scotland) Regulations 1980 (S.I. 1980/1254) ("the 1980 Regulations"). This regulation provides that the compensation payable to an individual is mandatory and will be on a sliding scale, determined by his age and complete years of service, subject to an overall limit equivalent to 66 weeks' remuneration.

The payment of compensation calculated in accordance with regulations 7, 8 and 9 is at the discretion of the employing body. Regulation 7 applies to employees aged 50 or over with 2 or more but less than 5 years' reckonable service. Such employees are eligible for immediate payment of pension benefits under the 1992 Regulations but are not eligible to be credited with an additional period of service under regulation 5 of the 1980 Regulations. Regulation 8 applies to employees aged 50 or over with 5 or more years' reckonable service. Such employees are eligible for immediate payment of pension benefits under the 1992 Regulations and may be credited with an additional period of service under regulation 5 of the 1980 Regulations. Should the employing body decide, in the exercise of its discretion, to pay compensation in accordance with regulations 7 or 8 the amount of that compensation is determined in accordance with regulations 7 or 8, subject, in the case of regulation 8, to an overall limit equivalent to 45 weeks' remuneration. Under regulation 9 however, employing bodies may decide to pay further compensation, in addition to that calculated in accordance with regulations 7 or 8, provided that the total compensation payment under regulations 7 and 9 or 8 and 9 shall not exceed the relevant maximum specified in regulation 9(2).

Regulation 10 provides that all payments made under these Regulations are reduced by the aggregate of the amount of any redundancy payment under the Employment Protection (Consolidation) Act 1978 (c. 44) and any compensation paid under Part II of the Teachers' (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 (S.I. 1984/845).

A person will only receive compensation calculated in accordance with regulation 7 of these Regulations if he waives his right to immediate payment of pension benefits under regulation E5(1) (f) of the 1992 Regulations. A person will not receive compensation calculated in accordance with regulation 8 of these Regulations if he has been credited with an additional period of service in accordance with the provisions of regulation 5 of the 1980 Regulations.

Part III of the Regulations deals with notification and payment of compensation. Part IV of the Regulations amends the 1980 Regulations by providing that an individual who receives compensation under these Regulations shall not be credited with an additional period of service under the 1980 Regulations.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*