

1973 No. 503 (S.38)

PENSIONS

The Local Government Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1973

<i>Made - - - -</i>	<i>16th March 1973</i>
<i>Laid before Parliament</i>	<i>28th March 1973</i>
<i>Coming into Operation</i>	<i>19th April 1973</i>

In exercise of the powers conferred on me by sections 7, 8, and 12 of the Superannuation Act 1972(a), as read with paragraph 5(1) of Schedule 7 to that Act, and of all other powers enabling me in that behalf, after consultation with such associations of local authorities as appeared to me to be concerned, the local Act authorities concerned and such representatives of other persons likely to be affected by the regulations as appeared to me to be appropriate, I hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Local Government Superannuation (Miscellaneous Provisions) (Scotland) Regulations 1973 and shall come into operation on 19th April 1973.

Interpretation

2.—(1) In these regulations—

“the Act of 1937” means the Local Government Superannuation (Scotland) Act 1937(b);

“the Act of 1953” means the Local Government Superannuation Act 1953(c);

“the benefits regulations” means the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(d) as amended (e);

“the Edinburgh Order” means the Edinburgh Corporation Order Confirmation Act 1967(f);

“the Glasgow Scheme” means the Glasgow Corporation Superannuation Scheme 1955(g);

(a) 1972 c. 11.

(b) 1937 c. 69.

(c) 1953 c. 25.

(d) S.I. 1954/1059 (1954 II, p. 1632).

(e) S.I. 1955/1226 (1955 II, p. 1831).

(f) 1967 c.v.

(g) 1955/1411.

and words and expressions to which meanings are assigned by the Act of 1937 and the Act of 1953 shall bear the same respective meanings in these regulations.

(2) In these regulations, unless the context otherwise requires—

- (a) references to any enactment or instrument shall be construed as references thereto as amended, modified, extended, applied or re-enacted by or under any other enactment or instrument (including these regulations); and
- (b) references to the Act of 1937, to the Act of 1953 and to the benefits regulations shall, additionally, be construed as references thereto as having effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972.

(3) The Interpretation Act 1889(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if these regulations and the regulations revoked by regulation 25 were Acts of Parliament.

Purport and retrospective operation of these regulations

3. The Act of 1937, the Act of 1953, the Edinburgh and Glasgow local Act schemes, and the benefits regulations shall be amended in accordance with the provisions of these regulations and certain of these amendments shall have effect from a date earlier than the making of these regulations, as provided in regulations 24 and 25 below.

Contributory employees

4.—(1) In section 3(2) of the Act of 1937 (which lists classes of contributory employee)—

- (a) at the end of paragraph (a) there shall be inserted the following paragraph—
 - “(aa) in the circumstances mentioned in Schedule 4 to this Act, a whole-time servant of such a local authority as aforesaid;”;
- (b) in paragraph (b), for the words “every servant or part-time officer” there shall be substituted the words “every part-time officer or servant”.

(2) At the end of section 3 of the Act of 1937 there shall be inserted the following subsection—

“(5) An employing authority may resolve that a person who falls within subsection (2)(a) of this section shall not become a contributory employee unless he has undergone a medical examination to their satisfaction; and a resolution under this subsection may apply to any specified person or to any specified class or description of persons.”.

Employers' contributions

5.—(1) In section 6(2) of the Act of 1937 (which requires employing authorities to pay certain sums into the appropriate superannuation fund), after the words “contributory employees” there shall be inserted the words “together with a further amount equal to 30 per cent. of such contributions”.

(2) Paragraph (1) of this regulation shall apply to the Glasgow Scheme as if the words “together with a further amount equal to 30 per cent. of such contributions” were inserted after the word “contributors” in Article 4(2) of that scheme.

(3) Paragraph (1) of this regulation shall apply to the Edinburgh Order as if the words “together with a further amount equal to 30 per cent. of such contributions” were inserted at the end of section 550 of that Order.

Return of employee's contributions

6.—(1) In section 10 of the Act of 1937 (which relates to return of employee's contributions)—

(a) in subsection (6), after the word “thereunder” there shall be inserted the expression “(a)” and at the end there shall be added the words—

“or

(b) to a contributory employee—

(i) who ceases to be employed by an employing authority on or after 1st April 1972 and

(ii) whose remuneration on which contributions were payable by virtue of section 6 of this Act has at any time exceeded the annual rate of £5000”;

(b) at the end of the section there shall be added the following subsection:—

“(8) On making any repayment of contributions (with or without interest) under this section on or after 1st April 1972, the administering authority shall be entitled to deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970(a) (which relates to charge to tax on repayment of employee's contributions).”

(2) Paragraph (1) of this regulation shall apply to the Glasgow Scheme as if the said paragraph (1) read—

“In article 23 of the Glasgow Scheme

(a) in paragraph 7, after the word “thereunder”, there shall be inserted the expression “(a)” and at the end there shall be added the words—

“or

(b) to a contributor—

(i) who ceases to be employed on or after 1st April 1972 and

(ii) whose remuneration on which contributions were payable by virtue of article 4 above has at any time exceeded the annual rate of £5000”;

(b) at the end of the article there shall be added the following paragraph:—

“(9) On making any repayment of contributions (with or without interest) under this article on or after 1st April 1972, the Corporation shall be entitled to deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970 (which relates to charge to tax on repayment of employee’s contributions).” ”

(3) Paragraph (1) of this regulation shall apply to the Edinburgh Order as if the said paragraph (1) read—

“At the end of section 560 of the Edinburgh Order there shall be inserted the following section—

“560A—(1) Notwithstanding anything in the foregoing provisions no payment shall be made thereunder to an officer or servant—

(i) who ceases to be employed on or after 1st April 1972 and

(ii) whose remuneration on which contributions were payable by virtue of section 547 above, has at any time exceeded the annual rate of £5000.

(2) On making any repayment of contributions (with or without interest) under the foregoing provisions on or after 1st April 1972, the Corporation shall be entitled to deduct from the repayment any tax to which they may become chargeable under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970 (which relates to charge to tax on repayment of employee’s contributions).” ”

Reckoning of service

7. At the end of section 12(2) of the Act of 1937 (which provides for the reckoning of service as non-contributing service) there shall be added the words, “if he becomes a contributory employee before 22nd April 1973; but a person who becomes a contributory employee on or after that date may reckon such service as non-contributing service only—

(a) if he is entitled by virtue of section 13 of this Act to reckon as contributing service an earlier period of service in the employment either of his employing authority or some other authority; or

(b) so far as rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(a) may entitle him to reckon any earlier period of employment as non-contributing service; or

(c) if immediately before 22nd April 1973, he is a servant in the course of serving a qualifying period referred to in a statutory resolution of his employing authority specifying a class or description for purposes of section 3(2)(b) of this Act as originally enacted.”.

Whole-time servants

8. After section 23 of the Act of 1937, there shall be added the following section—

(a) 1948 c. 33.

“23A. The provisions of Schedule 4 to this Act shall have effect with respect to whole-time servants”.

Whole-time
servants

Temporary appointments

9. In section 25 of the Act of 1937 (which relates to whole-time officers appointed in a temporary capacity), after the words “whole-time officer”, in each place where those words occur, there shall be inserted the words “or servant”.

Interpretation of Act of 1937

10. In section 34(1) of the Act of 1937 (interpretation)—

- (a) at the end of the definition of “part-time officer” there shall be added the words “and “part-time servant” shall be construed accordingly”;
- (b) for the definition of “whole-time officer” there shall be substituted the following definition—

“ “whole-time officer” means, in relation to any local authority, an officer whose contractual minimum hours of employment regularly or usually amount to 30 hours or more in each week; and “whole-time servant” shall be construed accordingly.”.

Whole-time servants

11. After Schedule 3 to the Act of 1937 there shall be added the following Schedule—

Sections 3 and 23A

“SCHEDULE 4

WHOLE-TIME SERVANTS

1. A whole-time servant shall become a contributory employee—
 - (a) when he has completed 12 months’ continuous whole-time employment with his employing authority or
 - (b) if he entered the employment of that authority, without a disqualifying break of service, after other employment in which he was a contributory employee.
2. An employing authority may resolve that a person who falls within paragraph (1) above shall not become a contributory employee unless he has undergone a medical examination to their satisfaction; and a resolution under this subsection may apply to any specified person or to any specified class or description of persons.
3. A whole-time servant who is not a contributory employee immediately before 1st July 1973 may by notice in writing given to his employing authority before that date elect that he shall not become a contributory employee so long as he continues to be a whole-time servant in the employment of that authority.”.

Gratuities

12. In section 18 of the Act of 1953 (which relates to gratuities)—

(a) in sub-section (1) there shall be inserted—

(i) after the word “employment” where it first occurs the words “or, with the consent of the Secretary of State to a former employee who was employed by them on or after 31st March 1972 or to the widow or any other dependant of such an employee”.

(ii) after item (c) the following words—

“or

(d) with the consent of the Secretary of State, by way of a combination of (a) and (b) above provided the payment does not exceed in the aggregate the amount aforesaid”;

(iii) in the proviso after the words “Provided that” the words “except with the consent of the Secretary of State”;

(b) in sub-section (2) after the words “have granted a gratuity” there shall be inserted the words “which was not being paid out of the superannuation fund”.

Average remuneration

13. In regulation 3(1) of the benefits regulations (which defines average remuneration)—

(a) for the words from the beginning to the words “in relation to that employment” there shall be substituted the following—

“(1) Subject to the provisions of this regulation, the average remuneration of a contributory employee in relation to any employment which he ceases to hold shall be taken to be the remuneration of the employment during the final year, ending with the day on which he ceases to hold that employment or the day on which he completes 45 years’ reckonable service, whichever is the earlier;”;

(b) in sub-paragraph (d) of the proviso, for the words “three years” there shall be substituted the words “one year”;

(c) in each of sub-paragraphs (e) and (f) of the proviso, for the words “during the said period of three years” there shall be substituted the words “during the final year of his employment”;

(d) at the end of the proviso there shall be added the following sub-paragraph—

“(g) where a contributory employee ceases to hold an employment after less than a year therein, but service in some previous employment, falling within the year preceding the day on which he ceased to hold the first-mentioned employment, is reckonable as service, his remuneration in that employment shall be treated as remuneration in the first-mentioned employment.”.

Calculation of service

14. For regulation 4(1) of the benefits regulations (which sets out the method of calculating service) there shall be substituted the following—

“(1) Subject to the provisions of this regulation, a contributory employee’s service shall be calculated for the purposes of these regulations—

(a) by aggregating all periods of contributing service and then

(b) by aggregating all periods of non-contributing service,
and the result in each case shall be expressed in terms of completed years and completed days.

(1A) Where any aggregation required by paragraph (1) above yields a result which is not expressed in terms of completed years alone, each completed day over and above the completed years shall be expressed as 1/365 of a year.

(1B) Where service aggregated under paragraphs (1)(b) and (1A) above would, if halved, include an odd half day, one day of that service shall be disregarded.

(1C) A contributory employee’s entitlement to any benefit under these regulations shall be calculated by reference to the completed years and completed days of his service; and any provision in these regulations requiring a benefit to be calculated, or to be reduced, at a specified rate or at a rate expressed as a fraction or percentage of an average remuneration in respect of any year of service shall be construed accordingly.”.

Retirement pension

15.—(1) In regulation 5(1) of the benefits regulations (which sets out the qualifying conditions for retirement pension)—

(a) in sub-paragraph (a), for the word “ten” there shall be substituted the word “five”;

(b) in sub-paragraph (b), for the word “forty” there shall be substituted the word “twenty-five”; and

(c) in sub-paragraph (c), for the word “ten” there shall be substituted the word “five”.

(2) In regulation 5(2) of the benefits regulations (which sets out scales of retirement pension) for the words “on the following scale” there shall be substituted the words “at the following rate”.

(3) In regulation 5(3) of the benefits regulations (which provides for a minimum pension in cases of retirement on grounds of ill-health) after the word “regulation” there shall be inserted the words “to an employee who has completed ten years service”.

Retirement grant

16.—(1) In regulation 6(1) of the benefits regulations (which sets out the qualifying conditions for retirement grant)—

(a) in sub-paragraph (a), for the word “ten” there shall be substituted the word “five”; and

(b) in sub-paragraph (b), for the word “forty” there shall be substituted the word “twenty-five”.

(2) In regulation 6(2) of the benefits regulations (which sets out scales of retirement grant), for the words “on the following scale” there shall be substituted the words “at the following rate”.

(3) In regulation 6(3) of the benefits regulations (which relates to reduction of retirement grant for married male employees) there shall be added after the word “shall” the words “in respect of service before 1st April 1972”.

(4) In regulation 6(4) of the benefits regulations (which relates to reduction of retirement grant in certain cases)—

(a) for the words “by two eightieths” there shall be substituted the words “at the rate of two eightieths” and for the words “by two one hundred and sixtieths” there shall be substituted the words “at the rate of two one hundred and sixtieths”;

(b) at the end there shall be added the words “or before 1st April 1972, whichever is the earlier”.

Widow's pension

17. In regulation 8 of the benefits regulations (which relates to widow's pension)—

(a) in paragraph (1)(b), for the word “ten” there shall be substituted the word “five”; and

(b) in paragraph (4), for the words “one third” there shall be substituted the words “one half”.

Death grant

18. In regulation 10(6) of the benefits regulations (which relates to death grant), for the words “sub-paragraphs (a) and (b)” there shall be substituted the words “sub-paragraph (a)”.

Joint appointments

19. In regulation 11 of the benefits regulations (which relates to joint appointments) for the word “ten” there shall be substituted the word “five”.

Added years

20. In regulation 12(6) of the benefits regulations (which provides for added years, and for contributions in respect of them), for sub-paragraph (a) there shall be substituted the following—

“(a) contributions equal to the amount of the contributions payable by the employee by way of additional contributions under paragraph (3) of this regulation; and”.

Optants for previous benefits

21. At the end of regulation 17 of the benefits regulations (which provided an option for certain employees to retain earlier rights to benefits) there shall be added the following paragraph—

“(4) Notwithstanding anything in the foregoing provisions of this regulation, in relation to a person who has exercised any such option and who ceases to be employed on or after 31st March 1972—

- (a) regulation 3 of these regulations shall apply for the calculation of his average remuneration;
- (b) regulation 4 shall apply for the calculation of his service; and
- (c) regulation 5(1) shall apply for determining his entitlement to receive a superannuation allowance as if that allowance were a retirement pension.”.

Modification

22. In sub-paragraph (b) of paragraph 2 of Schedule 1 to the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1970(a), after the words “completed years” there shall be inserted the words “and completed days” and at the end of the sub-paragraph there shall be added the words “as computed for purposes of regulation 4 of the Benefits Regulations”.

Right to opt out

23.—(1) Any existing employee who would otherwise become a contributory employee or local Act contributor in consequence of the revocations effected by regulation 25(3) below may by notice in writing given to his employing authority, or his local Act authority as the case may be, before 1st October 1973 elect not to become a contributory employee or local Act contributor so long as he remains in the employment of that authority.

(2) Any person to whom the provisions of regulation 6 above would otherwise apply, and who ceased his employment on or after 31st March 1972 and before the commencement of these regulations, may by notice in writing given to his employing authority, or his local Act authority as the case may be, before 1st October 1973 elect that those provisions shall not so apply.

Date from which amendments take effect

24.—(1) Any provision of these regulations mentioned in column (1) below

(a) S.I. 1970/1307 (1970 III, p. 4337).

shall have effect as from the date specified in column (2) in respect of that provision:—

(1)	(2)
Regulations 6 and 13 to 22.	1st April 1972 in relation to any person who was a contributory employee or local Act contributor on or after 31st March 1972.
Regulation 5(1)	16th May 1973
Regulation 5(2)	1st June 1973
Regulation 5(3)	29th May 1973
Regulations 4(1) and 8 to 11.	1st July 1973
Regulation 7	22nd April 1973

(2) The revocations specified in regulation 25 below shall have effect from the dates specified therein.

Revocations, etc.

25.—(1) The following provisions of the benefits regulations are hereby revoked in relation to any person who was a contributory employee on or after 31st March 1972—

- (a) regulation 8(2);
- (b) regulation 9;
- (c) in regulation 10—
 - (i) in paragraph (1), the words from “after completing five years’ service” where they first occur to the words “having ceased to hold the employment” and the proviso;
 - (ii) paragraph (2);
 - (iii) in paragraph (3)(c), the words in the parenthesis;
- (d) regulation 16(b);
- (e) in regulation 20(1), the words “or a short service grant”;
- (f) in regulation 23, the words “and thirty years for forty years”;
- (g) in Schedule 2, paragraph 4(b)(iv).

(2)(a) The following provisions of regulation 11 of the benefits regulations are hereby revoked in relation to any person who is a contributory employee on or after 22nd April 1973, that is to say, the words “either” and “or has completed twenty years’ service”.

(b) The provisions of sub-paragraph (a) of this paragraph shall apply to the provisions of the Glasgow Scheme and the Edinburgh Order corresponding to regulation 11 of the benefits regulations as if the words “or has completed twenty years’ service” read “or has completed twenty years’ contributing service”.

(3)(a) The provisions of sections 3(4)(c) and 16(1)(b) of the Act of 1937 shall cease to have effect from the commencement of these regulations.

(b) The provisions of section 9(3) of the Act of 1953 shall cease to have effect from the commencement of these regulations.

(c) Sub-paragraphs (a) and (b) of this paragraph shall apply to the provisions of the Edinburgh and Glasgow local Act schemes corresponding to sections 3(4)

(c) and 16(1)(b) of the Act of 1937 and section 9(3) of the Act of 1953.

(d) The provisions of section 11 of the Act of 1953 shall cease to have effect from the commencement of these regulations.

Gordon Campbell,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.

16th March 1973.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations improve the benefits payable under the local government superannuation scheme, provide for the admission of certain manual workers to that scheme and make miscellaneous amendments to that scheme.

The Regulations proceed by way of amendments to the enactments constituting that scheme. Although repealed by the Superannuation Act 1972, these enactments have effect by virtue of paragraph 5(1) of Schedule 7 to that Act as regulations made under enabling powers conferred by that Act.

The main changes with respect to benefits are—

- (1) Certain qualifying periods are reduced (regulations 15 to 19)
- (2) Benefits are to be calculated by reference to—
 - (a) years and days of service (instead of completed years) (regulation 14) and
 - (b) remuneration in the final year of service (instead of the average of the last three years) (regulation 13)
- (3) Widow's pension is to be half the husband's pension (instead of a third) (regulation 17)
- (4) Employer's contributions are to be 130 per cent. of employee's contributions (instead of 100 per cent.) (regulation 5)

The power to pay gratuities is extended to enable certain payments to be made out of an authority's superannuation fund with the consent of the Secretary of State (regulation 12).

The admission of manual workers is secured by bringing within the scope of compulsory superannuation any whole-time servants who satisfy certain conditions. The main condition (regulation 11) involves completion of 12 months' continuous service with the relevant employing authority.

Provision is made for opting out in certain cases.

The Regulations also make three amendments of substance to the present enactments. They restrict the right of new entrants to reckon non-contributing service (regulation 7); they define whole-time employees specifically by reference to the number of hours usually worked (instead of relying on a test of substantiality) (regulation 10); and an employing authority may now resolve that a whole-time officer shall not become superannuable unless he has undergone a medical examination to their satisfaction (regulation 4).

The Regulations also apply certain of their provisions to the local Act schemes of Edinburgh and Glasgow. The provisions of the regulations which improve benefits are brought into force retrospectively as from 31st March 1972, under powers conferred by section 12(1) of the Superannuation Act 1972. The increase in employers' contributions takes effect from 16th May 1973 (29th May 1973 in the case of Edinburgh and 1st June 1973 in the case of Glasgow). The provisions relating to admission of manual workers take effect from 1st July 1973.

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