
STATUTORY INSTRUMENTS

1994 No. 3025

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government (Compensation
for Redundancy) Regulations 1994**

Made - - - - 28th November 1994
Laid before Parliament 5th December 1994
Coming into force - - 28th December 1994

The Secretary of State for the Environment, in exercise of the powers conferred upon him by section 24 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I

Citation and commencement

1. These Regulations may be cited as the Local Government (Compensation for Redundancy) Regulations 1994 and shall come into force on 28th December 1994, but regulations 2, 13 and 14 shall have effect from 1st April 1980.

Interpretation

2.—(1) In these Regulations—

“eligible employee” means—

- (a) a pensionable employee; or
- (b) a person who would be a pensionable employee but for the fact that his contract of employment is for fewer than 35 weeks per annum.

“employing body” means an employing authority within the meaning of the Local Government Superannuation Regulations 1986(2) or a county borough council in Wales or the Residuary Body for Wales established by the Local Government (Wales) Act 1994(3);

(1) 1972 c. 11.

(2) S.I. 1986/24; relevant amending S.I.s are 1986/380, 1987/293, 1988/466, 1989/372, 1462, 1990/503, 1991/2471, 1992/172, 1993/1367, 1814, 3030 and 3043.

(3) 1994 c. 19. See section 1 of that Act for the establishment of county borough councils and section 39 for the establishment of the Residuary Body for Wales.

“the prescribed period” means, in respect of a relevant body in England, a period beginning on the day on which the order under section 17 of the Local Government Act 1992(4) is made and ending on the expiry of a period of 18 months beginning with the day on which the changes in structure and area enacted by that order have effect, and in respect of a relevant body in Wales, the period beginning 1st January 1996 and ending 31st March 1997;

“relevant body” means in England an authority in respect of whom an order is made under section 17 of the Local Government Act 1992 affecting the structure or area of that authority or, as the case may be, in Wales a body referred to in section 43(1)(a) of the Local Government (Wales) Act 1994;

“remuneration” means, in the case of a pensionable employee, his pensionable remuneration and, in the case of an eligible employee who is not a pensionable employee, the remuneration which would have been his pensionable remuneration had he been a pensionable employee during the relevant period;

“the 1982 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations 1982(5); and

“special service” shall include any period of employment which the employing body is satisfied it would have treated as special service within the meaning of the 1982 Regulations but for the fact that the person concerned was in a qualifying part-time employment as defined in Part IV of Schedule 2 to the Superannuation Regulations(6) which at the time of such period of employment did not render a person eligible to elect to become a pensionable employee.

(2) In these Regulations, unless the context otherwise requires, any expression which is also used in the 1982 Regulations has the same meaning as in those Regulations.

PART II

Persons to whom this Part applies

3. This Part applies to an eligible employee who—
- (a) ceases after the coming into force of these Regulations to hold his employment with an employing body by reason of redundancy or in the interests of the efficient exercise of that body’s functions;
 - (b) is not, in respect of the loss of that employment, entitled to have his case considered for the payment of compensation within the meaning of Part I of Schedule 2 to the 1982 Regulations;
 - (c) on the material date—
 - (i) has attained the age of 18 years but has not attained the age of 50 years and is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
 - (ii) has attained the age of 50 years and is entitled to count reckonable service and qualifying service amounting in aggregate to less than 2 years; and
 - (d) is not a person to whom Part III applies.

(4) 1992 c. 19.

(5) S.I. 1982/1009, amended by S.I. 1984/740, 1986/151, 1988/466, 1989/372, 1815, 1990/2380, 1992/2432, 1993/2890, 3108.

(6) Part IV of Schedule 2 to the Local Government Superannuation Regulations 1986 S.I. 1986/24 was inserted by S.I. 1987/293 and amended by S.I. 1988/466, 1992/172 and 1993/1814.

Computation of compensation

4.—(1) An employing body may, within 6 months after the material date, determine to pay compensation under these Regulations to a person to whom this Part applies.

(2) The compensation in respect of such a person under this Part shall not exceed the lesser of—

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

(3) In the case of cessation of employment before the age of 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 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.

(5) From the total sum payable to a person to whom this Part applies there shall be deducted an amount equivalent to any redundancy payment made to that person.

PART III

Persons to whom this Part applies

5. This Part applies to a person who—

- (a) ceases during the prescribed period to hold his employment with a relevant body by reason of redundancy or in the interests of the efficient exercise of that body's functions; and
- (b) meets the prescribed conditions.

Prescribed conditions

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

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

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

- (a) attained the age of 18 years but has not attained the age of 50 years, and is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
- (b) has attained the age of 50 years.

(4) The third condition, which applies only to the case of a person who ceases to be employed by a relevant body in Wales in circumstances under which he is otherwise entitled to payment under these Regulations, is that—

- (a) where the relevant body is an old authority as defined in section 64(1) of the Local Government (Wales) Act 1994, the body which is the successor, as defined in section 51(2) of that Act, in relation to that relevant body certifies to the relevant body that—
 - (i) the person would otherwise be entitled to payment under these Regulations; and
 - (ii) the loss of employment is attributable to any provision made by or under the Local Government (Wales) Act 1994; or
- (b) where the relevant body is a county council or county borough council established under section 1 of the Local Government (Wales) Act 1994 or the Residuary Body for Wales established under section 39 of that Act, it certifies that the loss of employment is attributable to any provision made by or under that Act.

Computation of compensation

- 7. Within 6 months after the material date a relevant body—
 - (a) shall determine to pay the compensation prescribed in regulation 8 to a person who meets the requirements of regulation 8(1);
 - (b) may determine to pay the compensation prescribed in regulation 9 to a person who meets the requirements of regulation 9(1);
 - (c) may determine to pay the compensation prescribed in regulation 10 to a person who meets the requirements of regulation 10(1); and
 - (d) may determine to pay the compensation prescribed in regulation 11 to a person to whom regulation 9 or 10 applies.

General mandatory compensation

- 8.—(1) This regulation applies to a person to whom this Part applies and who, on the material date,
 - (a) has attained the age of 18 years but has not attained the age of 50 years and who is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
 - (b) has attained the age of 50 years and who is entitled to count reckonable service and qualifying service amounting in aggregate to less than 2 years.
- (2) The compensation payable under regulation 7(a) shall not exceed the lesser of—
 - (a) a sum equivalent to 66 weeks' remuneration; or
 - (b) the relevant aggregate sum referred to in paragraphs (3) or (4) of regulation 4.

Discretionary compensation for certain persons

- 9.—(1) This regulation applies to a person to whom this Part applies and who—
 - (a) ceases employment on or after the attainment of age 50; and
 - (b) is entitled to count reckonable service and qualifying service amounting in aggregate to 2 or more but less than 5 years.
- (2) The compensation which may be payable under regulation 7(b) shall, at the discretion of the relevant body, be—
 - (a) a sum calculated in accordance with paragraphs (3) and (4); or
 - (b) the relevant compensation referred to in paragraph (5).
- (3) The compensation shall not exceed the lesser of—

- (a) a sum equivalent to 45 weeks' remuneration; or
 - (b) the relevant aggregate sum referred to in paragraph (4).
- (4) The relevant aggregate sum shall be—
- (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.
- (5) For the purposes of paragraph (2)(b) the relevant compensation is such sum which when aggregated to the compensation payable under paragraph (2)(a) shall not exceed the relevant maximum.
- (6) For the purposes of paragraph (5), the relevant maximum means the lesser of—
- (a) a sum equivalent to 66 weeks' remuneration; or
 - (b) the aggregate of—
 - (i) a sum equivalent to 2 weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18; and
 - (ii) a sum equivalent to 3 weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41.
- (7) No payment shall be made to a person under this regulation unless—
- (a) the person gives written consent to such payment after receipt of the written notification referred to in regulation 15; and
 - (b) the person waives in writing his right to the immediate payment of benefits under regulation E2(1)(b)(iii) and (4) of the Superannuation Regulations.

Discretionary compensation for certain persons

- 10.**—(1) This regulation applies to a person to whom this Part applies and who—
- (a) ceases employment on or after the attainment of age 50; and
 - (b) is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 5 years.
- (2) The compensation which may be payable under regulation 7(c) to a person shall, at the discretion of the relevant body, be—
- (a) a sum calculated in accordance with regulation 9(3) and (4); or
 - (b) the relevant compensation referred to in paragraph (3).
- (3) For the purposes of paragraph (2)(b) the relevant compensation is—
- (a) such sum which when aggregated to the compensation payable under paragraph (2)(a) shall not exceed the relevant maximum; or
 - (b) the credit allowable under regulation 5(1) of the 1982 Regulations, as abated under regulation 13 of those Regulations.
- (4) For the purposes of paragraph (3)(a) “relevant maximum” has the meaning given to it in regulation 9(6).

Discretionary compensation

11.—(1) The compensation which may be payable under regulation 7(d) is such sum which when aggregated to the compensation payable under regulation 9 or 10, as the case may be, shall not exceed the relevant maximum.

(2) In paragraph (1) “relevant maximum” has the meaning given to it in regulation 9(6).

Offset of redundancy payment

12. From the total sum payable, other than that part payable under regulation 10(3)(b), to a person to whom this Part applies there shall be deducted an amount equivalent to any redundancy payment made to that person.

PART IV

Persons to whom this Part applies

13. This Part applies to an eligible employee who—

- (a) ceased on or after 1st April 1980 but before 1st October 1992 to hold his employment with an employing body by reason of redundancy or in the interests of the efficient exercise of that body’s functions;
- (b) is not, in respect of the loss of that employment, entitled to have his case considered for the payment of compensation within the meaning of Part I of Schedule 2 to the 1982 Regulations; and
- (c) on the material date—
 - (i) has attained the age of 18 years but has not attained the age of 65 years; and
 - (ii) is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years.

Lump sum compensation

14.—(1) An employing body may, within 6 months after the date upon which these Regulations come into force, determine to pay compensation under these Regulations to a person to whom this Part applies.

(2) Any compensation under this Part shall not exceed a sum calculated by reference to the following formula—

$$\left(A \times \frac{66}{52} \right) - B$$

where—

A is a person’s remuneration, and

B is the amount of any redundancy payment paid to the person in respect of the cessation of his former employment.

PART V

Notification of compensation

15. An employing body or, as the case may be, a relevant body after making a determination in accordance with regulation 4, 7 or 14, 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 payable, and the calculation thereof.

Payment of compensation

16. Subject to any statutory provision in that behalf, any compensation payable under these Regulations shall be paid by the employing body, or as the case may be, the relevant body as soon as practicable after making a determination in accordance with regulation 4, 7 or 14 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 or chargeable with his debts or other liabilities.

Amendment of 1982 Regulations

17. Regulation 14(8)(c) of the 1982 Regulations shall be amended by the addition at the end of the following words—

“or

(iii) any compensation payable in relation to that employment under the Local Government (Compensation for Redundancy) Regulations 1994”.

Signed by authority of the Secretary of State

28th November 1994

David Curry
Minister of State,
Department of the Environment

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

EXPLANATORY NOTE

(This note is not part of these Regulations)

The purpose of these Regulations is to allow a lump sum payment to be made to certain employees who cease to hold local government employment by reason of redundancy or in the interests of the efficiency of their employer. The Regulations are divided into five Parts. Part I sets out various definitions.

Part II covers the case of employees who leave employment after these Regulations came into force, but not during the period covered by Part III, and provides that the maximum payment will be on a sliding scale according to age and complete years of service subject to an overall limit equivalent to 66 weeks' remuneration. Regulation 3 sets out to which employees Part II applies. The payment of compensation is at the discretion of the employing body.

Part III deals with loss of employment during a specified period linked to local government reorganisation in England and Wales. In the case of certain employees covered by regulation 8, the compensation is mandatory and is calculated on the same basis as for employees falling within Part II. For other employees over age 50 with specified periods of service, the compensation is discretionary and may be up to the maximum of the Part II payments.

All payments under Part II and Part III 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 the earnings waiver in the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1984 (S.I.1984/740).

Part IV applies to employees ceasing employment during a specified period before the commencement of these Regulations in respect of whom the employing body may determine to pay compensation. The maximum payment is calculated by a fixed formula. This Part of the Regulations is, by virtue of section 24(3)(c) of the Superannuation Act 1972, made retrospective to 1st April 1980.

Part V deals with notification and payment of compensation and makes a consequential amendment to the Local Government (Compensation for Premature Retirement) Regulations 1982 (S.I. 1982/1009).