
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make a number of amendments to the Local Government Superannuation (Scotland) Regulations 1987 (“the principal Regulations”). Certain provisions have retrospective effect, as authorised by section 12 of the Superannuation Act 1972: regulations 3 and 32, in part, from 31st December 1992; regulations 13, 14, 23, 24, 30 and 37 from 6th April 1997; and regulations 15 and 20 from 6th April 1995.

The main changes are as follows.

Regulation 3 inserts a reference to new Schedule 1A which makes further provision as to the meaning of “remuneration”.

Regulation 5 amends regulation B2 to introduce the concept of “eligible employee” (that is, an employee who is qualified to join the Local Government Superannuation Scheme, whether or not he does so) and to provide new definitions of “variable-time”, “whole-time” and part-time employees. The terms “contractual hours” and “contractual weeks” are also defined. In addition, provision is inserted into regulation B2 to safeguard the position of those who, prior to 1st April 1998, were pensionable employees, or had the right to elect to become such, so that they are not prevented from being eligible employees simply because of the changes being made to this regulation. Regulation 33 makes related amendments to Schedule 3.

Regulation 6 deletes regulation B3. As a result, all part-time employees are eligible to join the scheme, regardless of the number of weeks they work per year.

Regulation 7 inserts the new regulation B4, which provides that an eligible employee may apply in writing to his employer to become a pensionable employee. However, scheme membership is effectively automatic for all new employees (except casual employees) in that they are deemed to have made such application unless they opt not to join the scheme. New regulation B4ZA is also inserted, providing for the effective date of a person becoming a pensionable employee in terms of new regulation B4. New regulation B4 does not affect the position of existing pensionable employees (see the definition of “pensionable employee” in regulation B1, as inserted by regulation 4, which covers both existing pensionable employees and persons who become pensionable employees by virtue of new regulation B4).

Regulation 8 amends regulation B4A to deal with the situation where a person has given a notification under that provision (opting out of pensionable employment) but, before the notification takes effect, he is called out under the Local Government Superannuation (Reserve Forces) (Scotland) Regulations 1992 (S.I.1992/1220). In such cases the notification will be treated as if it had not been given, unless the person elects otherwise.

Regulation 11 inserts new regulation C6B, which provides for part-time employees to purchase part-time, instead of whole-time, added years. Part-timers currently buying whole-time added years, however, may continue to do so unless they opt to charge their original election.

Regulation 12 expands the definition of “reckonable service” in regulation D1(2) to include a period of absence due to illness or injury, whether or not contributions have been paid for the period.

Regulations 13 and 14 amend regulation E1 and replace regulation E1A respectively in relation to guaranteed minimum pensions to ensure that the principal Regulations comply with the new contracting-out regime which came into force on 6th April 1997.

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Regulation 15 inserts new regulation E2A to allow those who transferred, as a result of local government reorganisation or following dissolution of the new town development corporations or the establishment of the new water and sewerage authorities and the Scottish Children's Reporter Administration, to a new employment on a reduced remuneration the option of electing to preserve their accrued benefits instead of accepting an "E24" certificate.

Regulation 16 amends regulation E9 to provide that, where no spouse's long term pension is payable, children's long term pensions are the same irrespective of who is caring for them.

Regulation 17 amends regulation E11 to provide that a death gratuity is the greater of twice the deceased's pensionable remuneration or 3/80ths of his pensionable remuneration multiplied by the length of his period of reckonable service.

Regulation 18 provides that an administering authority may, at their discretion, pay all, or a part of, a death gratuity to a nominated beneficiary of the deceased.

Regulation 20 amends regulation E24 to the effect that where during the period from 6th April 1995 to 1st April 1997 a person ceases to be employed by a new town development corporation in consequence of the corporation's dissolution and obtains employment, at a reduced remuneration, with a new local authority, a water and sewerage authority, the Scottish Children's Reporter Administration or a joint board, such a reduction is a "reduction in remuneration" for the purposes of that regulation. He is therefore entitled to be issued with a certificate to that effect which is relevant to determination of his pensionable remuneration in terms of regulation E22.

Regulation 21 substitutes regulation E35, making comprehensive provision for interest to be paid on late payment of certain benefits or returns of contributions.

Regulation 22 amends regulation G3 with regard to standard remuneration agreements, providing in particular for employees affected by such an agreement to be given notice of where further information about the agreement may be obtained.

Regulations 23, 24, 30 and 37 make various amendments consequential upon the Pensions Act 1995 and The Occupational Pensions Scheme (Transfer Values) Regulations 1996 (S.I. 1996/1847). Regulation 38 makes related transitional provision.

Regulation 25 amends regulation M1 to require an employing authority to take reasonable steps to recover the financial loss suffered as a result of a pensionable employee's offence before they may direct that the employee's rights under the principal Regulations be forfeited.

Regulation 26 amends regulation N1 to require an employing authority to refer certain questions in connection with ill-health retirement to an qualified medical referee.

Regulation 27 amends regulation N2 to require an employing authority to decide whether a person's employment is of a casual nature.

Regulation 28 provides, in an amendment to regulation P8, that where an admission agreement ceases to have effect the relevant administering authority are to obtain an actuarial valuation, as at the appropriate date, of the liabilities of the employing body.

Regulation 29 amends regulation P16 to provide that, where a combined benefit is payable under regulation E16 in respect of separate local government employments, the administering authority in the person's earlier employment may discharge its liability in respect of that benefit by making a single payment to the administering authority in his later employment.

Regulation 31 makes various amendments to Schedule 1 to the principal Regulations, most of which are consequential on regulations 3, 4 and 5. In addition, the definition of "remuneration" is amended to the effect that the term includes payments and benefits, other than salary or wages etc, only if they are specified in the person's contract as being pensionable emoluments.

Regulation 32 introduces new Schedule 1A which makes further provision on the meaning of "remuneration".

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Regulation 34 amends Schedule 10 to allow for additional service in the case of part-timers' ill health enhancement to be calculated as a proportion of the full-time equivalent service.

Regulation 39 provides for a right to opt out of the amendments if a person is placed in a worse position than he would be in if the amendments had not been made and the benefits in question are paid or payable in respect of a person who had left employment before the date these Regulations came into force or died before that date.

Other provisions not specifically mentioned above make amendments of a minor or drafting nature.