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STATUTORY INSTRUMENTS

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**1998 No. 559**

**PENSIONS**

**The Local Government (Discretionary Payments) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>4th March 1998</i>
<i>Laid before Parliament</i>		<i>10th March 1998</i>
<i>Coming into force</i>	- -	<i>31st March 1998</i>

The Secretary of State, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972<sup>(1)</sup> 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:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Government (Discretionary Payments) (Amendment) Regulations 1998 and shall come into force on 31st March 1998 but paragraphs (a), (b), (d), (e), (g) and (h) of regulation 2 shall have effect from 25th July 1996.

(2) In these Regulations “the principal Regulations” means the Local Government (Discretionary Payments) Regulations 1996<sup>(2)</sup>.

**Amendments to the principal Regulations**

2. The principal Regulations shall be amended as follows—

- (a) in regulation 8(1), by inserting after the words “not exceeding” the words “the shortest of”;
- (b) in regulation 11—
  - (i) in paragraph (1)(c)(ii), by substituting for the reference “regulation D6(2)” the reference “regulation D6(1)”, and
  - (ii) in paragraph (2)(b), by substituting for the figure “66” the figure “66 $\frac{2}{3}$ ”;
- (c) in regulation 20—

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(1) 1972 c. 11; section 24 was amended by the Police Pensions Act 1976 (c. 35) s.13(1), Schedule 2, paragraph 10.  
(2) S.I. 1996/1680.

- (i) in paragraph (3), by substituting for the words from “calculated as if the amount” to the end of the paragraph the words—  
 “if he is entitled to a surviving spouse’s pension under the LGPS Regulations (or would be so entitled apart from the matters mentioned in paragraph (1)(b)).”;
- (ii) in paragraph (4), by inserting after the words “a surviving spouse who is entitled to short-term or long-term compensation by virtue of this regulation” the words “and who is the surviving spouse of an eligible person who ceased employment before 1st April 1998”;
- (iii) in paragraph (5), by inserting after the words “short-term or long-term compensation under this regulation” the words “and is the surviving spouse of an eligible person who ceased employment before 1st April 1998”, and
- (iv) by adding as paragraph (6) the following—  
 “(6) The employing authority may determine by resolution in any case that paragraph (4) or (5), as appropriate, shall not apply.”;
- (d) in regulation 31, by substituting for paragraph (2) the following—  
 “(2) Subject to paragraph (2A), the appropriate authority in relation to any person who is entitled to any compensation under this Part may agree with the employing authority to pay any compensation arising in respect of that person on their behalf and to recover the amount from them within such period (subject to paragraph (2B)) and on such terms as the appropriate authority may determine.  
 (2A) Compensation payable in the form of a lump sum may not be paid from the pension fund maintained by the appropriate authority under the LGPS Regulations.  
 (2B) The amount of any other compensation paid by an appropriate authority on behalf of the employing authority from the pension fund must be recovered from the employing authority within a period of two months from the payment.”;
- (e) in regulation 44, by substituting “, Part III” for “and Part III” and adding the following at the end—  
 “and Part IV of that Schedule as to coroners.”;
- (f) by substituting for the table in Schedule 1 the following—

“TABLE

<i>Age last birthday</i>	<i>Appropriate percentage</i>	
	<i>Male</i>	<i>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

<i>Age last birthday</i>	<i>Appropriate percentage</i>	
	Male	Female
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”;

- (g) in paragraph 4 of Schedule 2, by substituting for the reference “regulation 4(3)” the reference “regulation 4(1)”; and
- (h) by adding the following as Part IV of Schedule 2—

#### “Part IV

#### Coroners

**10.** In relation to coroners, regulations 6(1)(d), 8(1)(b) and 17(1)(b) shall have effect as if for the number 65 there were substituted the number “70”.”.

#### Retrospective effect

**3.** Nothing in these Regulations shall place any individual who is qualified to participate in the benefits for which the principal Regulations provide in a worse position than he would have been in if regulation 2 had been framed so as to have effect only from the date of its making.

Signed by authority of the Secretary of State

*Nick Raynsford*  
Parliamentary Under-Secretary of State,  
Department of the Environment, Transport and  
the Regions

4th March 1998

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## EXPLANATORY NOTE

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

These Regulations amend the Local Government (Discretionary Payments) Regulations 1996 (“the 1996 Regulations”). With the exception of the amendments in regulation 2(c) and (f), the Regulations have effect from 25th July 1996, the date that the 1996 Regulations came into force. (Section 24(3) (c) of the Superannuation Act 1972 provides that they may have retrospective effect.)

Regulation 2(a), (b) and (g) make minor correcting or clarifying amendments.

Regulation 2(c)(i) amends regulation 20(3) of the 1996 Regulations in connection with entitlement to compensation for a surviving spouse of a marriage which took place after the termination of the deceased’s local government employment. The provision that such a surviving spouse is only entitled to compensation if entitled to a surviving spouse’s pension under the Local Government Pension Scheme (or only where he would be so entitled if the deceased had been a member) is retained but provisions affecting the calculation of the surviving spouse’s compensation are removed.

Regulation 2(c)(ii) and (iii) amends regulation 20(4) and (5) of the 1996 Regulations to restrict the limits on entitlement to surviving spouses of persons who ceased employment before 1st April 1998.

Regulation 2(c)(iv) amends regulation 20 of the 1996 Regulations to allow an employing authority to determine that the cessation of entitlement to surviving spouse’s compensation on remarriage or cohabitation shall not apply in any particular case.

Regulation 2(d) amends regulation 31(2) of the 1996 Regulations which provides that the authority which administers the Local Government Pension Scheme fund which is the appropriate fund in respect of the person receiving compensation may pay the compensation on behalf of the employing authority and recover the moneys from that employing authority. The amendment limits the restrictions that—

- (i) such an arrangement cannot be made in connection with compensation paid as a lump sum; and
- (ii) the amount must be repaid by the employing authority within two months

to payments made from the Local Government Pension Scheme fund.

Paragraphs (e) and (h) of regulation 2 amend the 1996 Regulations to provide that the latest age before which employment must terminate to be eligible for compensation under Part III is, in the case of coroners, 70 not 65.

Regulation 2(f) substitutes a new table in Schedule 1 to the 1996 Regulations for the purposes of calculating the appropriate percentage which, under regulation 12 of the 1996 Regulations, is applied to an amount to calculate a reduction in annual compensation in certain cases where a person also receives a redundancy payment. The changes have been made to take into account changes in actuarial assumptions for factors such as increased life expectancy. The adjustments have the effect of

- reducing the appropriate percentage for men, the change varying from between .22% to .88%, which has the effect of reducing the reduction in the amount of annual compensation, and
- increasing the appropriate percentage for women, the change varying from between .03% to .18%, which has the effect of increasing the reduction in the amount of annual compensation.

Regulation 3 provides the retrospective effect of the amendments cannot operate to anyone’s detriment.

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