

1999 No. 502

PENSIONS

**The Local Government (Discretionary Payments)
(Amendment) Regulations 1999**

Made - - - - *2nd March 1999*
Laid before Parliament *10th March 1999*
Coming into force *1st April 1999*

The Secretary of State, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972(a) 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 and commencement

1. These Regulations may be cited as the Local Government (Discretionary Payments) (Amendment) Regulations 1999 and shall come into force on 1st April 1999.

Amendment of Regulations

2. The Local Government (Discretionary Payments) Regulations 1996(b) shall be amended in accordance with the following provisions of these Regulations.

General interpretation

3. In regulation 2(1), in the definition of “LGPS employer” for “means a LGPS employer” substitute “means a Scheme employer” and for “employing body” substitute “admission body”.

Power to award credited period for compensation purposes

4. In regulation 8(1), for the words from “in respect of the cessation of which” to the end of the paragraph substitute the following—

“in respect of the cessation of which either—

- (i) an additional period of membership may be counted under regulation 52 of the LGPS Regulations; or
- (ii) a determination to pay compensation is made under regulation 32(3).”.

Compensation for redundancy

5. In regulation 32—

- (a) in paragraph (1), for sub-paragraphs (b) and (c) substitute the following—

(a) 1972 c. 11; section 24 was amended by the Police Pensions Act 1976 (c. 35) s.13(1), Schedule 2, paragraph 10.
(b) S.I. 1996/1680, amended by S.I. 1997/1613 and 1998/559.

- “(b) in respect of that loss of employment is not disentitled to a redundancy payment under Part XI of the Employment Rights Act 1996^(a) by virtue of section 197(3) of that Act (agreements to exclude rights to redundancy payments on expiry of short fixed term contracts) and either—
- (i) is not eligible to benefit under Part III; or
 - (ii) is eligible but has not been granted a credited period under regulation 8 by his LGPS employer;
- (c) has attained the age of 18 on the material date and, unless he has attained the age of 50 on that date, is entitled to count a qualifying employment of at least 2 years;”;
- (b) in paragraph (1), after sub-paragraph (d), add—
- “;
- (e) on the material date has a total period of membership of 40 years or less; and
 - (f) has not attained the age of 65 on that date.”;
- (c) in paragraph (3), at the end, after sub-paragraph (d), add—
- “;
- but no person may be paid compensation under this regulation in respect of the cessation of an employment in respect of which an additional period of membership may be counted under regulation 52 of the LGPS Regulations”; and
- (d) after paragraph (3), add as a new paragraph—
- “(3A) In any case, the maximum amount shall not exceed one week’s pay for each week (fractions of a week being disregarded) between the material date and the employee’s normal retirement date (or the date which would be his normal retirement date if he were a member of the Scheme).”.

Policy statement

6. After regulation 46, add the following as a new regulation—

“Information and records

46A.—(1) Each employing authority must formulate and keep under review the policy they intend to apply in the exercise of their discretionary powers in the discharge of their functions under Parts II, III and IV.

(2) Before the end of three months beginning with 1st April 1999 each employing authority shall publish a written statement of the policy which is to be applied by that employer in the exercise of such discretionary powers from the date of publication.

(3) Where, as a result of a review under paragraph (1), an employing authority determine to amend their policy, they must publish a written statement of the amended policy before the expiry of one month beginning with the date on which they so determine.

(4) No change in policy shall come into effect until the expiry of one month from the date that the written statement of the amended policy is published.

(5) In formulating or reviewing their policy under paragraph (1), an employing authority shall—

- (a) have regard to the extent to which the exercise of their discretionary powers, unless properly limited, could lead to a serious loss of confidence in the public service; and
- (b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.”.

Signed by authority of the Secretary of State

Hilary Armstrong
Minister of State,

2nd March 1999

Department of the Environment, Transport and the Regions

(a) 1996 c. 18.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government (Discretionary Payments) Regulations 1996 (“the 1996 Regulations”).

Regulation 3 makes a drafting amendment.

The amendments contained in regulation 5 extend to all persons over 18 (who, in the case of those under 50, have more than 2 years’ employment) the provision permitting the payment of lump sum compensation for redundancy. The amendment made by regulation 4 is consequential upon this.

Regulation 6 introduces a requirement for each employing authority to formulate and publish their policy in connection with the exercise of their discretion to pay compensation under Parts II, III and IV of the 1996 Regulations.

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