

**2002 No. 769**

**PENSIONS, ENGLAND AND WALES**

**The Local Government (Early Termination of Employment)  
(Discretionary Compensation) (England and Wales)  
(Miscellaneous) Regulations 2002**

*Made - - - - - 21st March 2002*

*Laid before Parliament 27th March 2002*

*Coming into force 17th April 2002*

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred upon him by section 24 of the Superannuation Act 1972<sup>(a)</sup> hereby makes the following Regulations, which relate only to persons in relation to whom regulations may be made under section 7 of that Act<sup>(b)</sup>:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) (Miscellaneous) Regulations 2002 and shall come into force on 17th April 2002, but regulations 2 to 10 shall have effect from 21st June 2000.

(2) In regulation 11, expressions which are also used in the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000<sup>(c)</sup> (“the principal Regulations”) have the same meaning as they have in those Regulations.

**Amendment of Regulations**

2. The principal Regulations shall be amended in accordance with regulations 3 to 10 of these Regulations.

**Discretionary compensation for redundancy: general**

3. In regulation 6—

- (a) in paragraph (3), for “normal retirement date (“NRD”) or, if he is not a Scheme member, the date that would be his NRD if he were” substitute “65th birthday”;
- (b) in paragraph (4), for “but with the substitution for references to the calculation date of references to the termination date” substitute—

“but—

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<sup>(a)</sup> 1972 c.11. Section 24 was amended by the Police Pensions Act 1976 (c.35), Schedule 2, paragraph 10.

<sup>(b)</sup> See section 24(2).

<sup>(c)</sup> S.I. 2000/1410.

- (a) with the substitution for references to the calculation date of references to the termination date; and
- (b) without the limit on a week's pay imposed by section 227 of that Act<sup>(a)</sup>; and
- (c) in paragraph (6), after "redundancy payment" insert "under Part XI of the 1996 Act<sup>(b)</sup> or compensation under Part II of these Regulations".

#### **Person eligible for discretionary awards**

- 4. In regulation 7(2), for sub-paragraph (g) substitute—
  - "(g) if he is an assumed member, his total membership—
    - (i) amounts in total to at least 5 years; and
    - (ii) does not in total exceed 40 years".

#### **Reduction of annual compensation**

- 5. In regulation 17—
  - (a) in paragraph (5), after "annual rate of such pay" insert "at the termination date", and
  - (b) after paragraph (5) add—
    - "(6) For the purposes of this regulation, "new employment" shall not include employment with an admission body unless the person is an active member of the Scheme in that employment."

#### **Effect of cessation of new employment**

- 6. In regulation 19—
  - (a) in paragraph (1), after sub-paragraph (a), delete "and" and insert the sub-paragraph—
    - "(aa) his credited period, reduced as may be necessary in accordance with paragraph (5); and"; and
  - (b) after paragraph (4), add—
    - "(5) Where there has been a reduction of a person's annual compensation in accordance with this regulation on account of a period of previous new employment or part of such a period ("the abatement period") then, for the purposes of paragraph (1)(aa), the length of his credited period shall be reduced by the abatement period.
    - (6) For the purposes of this regulation—
      - "new employment" shall not include employment with an admission body unless the person was an active member of the Scheme in that employment; and
      - "terminated employment" in paragraphs (1) and (3) refers, where there is more than one, to the first of them.
    - (7) Where a person has been awarded a credited period before 21st June 2000 this Part shall not apply and the provisions set out in regulations 17 and 18 of the 1996 Regulations<sup>(c)</sup> as in force at 20th June 2000 shall apply."

#### **Awards to surviving spouses**

- 7. In regulation 21(3)(a)(i), delete "of hers or of another surviving spouse".

#### **Long-term compensation for children**

- 8. In regulation 24, for paragraphs (4) and (5) substitute—
  - "(4) Children's long-term compensation is the relevant fraction of the annual

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(a) The Act is the Employment Rights Act 1996 (c.18).

(b) 1996 c.18.

(c) S.I. 1996/1680, to which there are amendments not relevant to these Regulations.

compensation which would have been payable to the deceased immediately before his death in accordance with these regulations ignoring any adjustment—

- (a) under regulation 13, 14, 15 or 20, and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 17.

(5) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by them under regulation 19 to the annual compensation is to be taken into account.

(6) The amounts payable under this regulation for a period to a child who receives periodic payments is the amount which would have been paid to him for that period, less the total of the periodic payments received for that period.”.

### **Interpretation**

9. In Schedule 1—

- (a) for the definition of “new employment” substitute—

““new employment” means employment with a Scheme employer or a relevant Scottish employer which a person enters after his termination date and, for the purposes of this definition, the words “by whom he is employed immediately before the termination date” shall be omitted from the definition of “employing authority””; and
- (b) in the definition of “relevant Scottish employer” for “the Local Government Superannuation (Scotland) Regulations 1987” substitute “the Local Government Pension Scheme (Scotland) Regulations 1998(a)”.

### **Schedules 4 and 5**

10. In the heading to Schedule 4, for the reference to regulation 34 substitute a reference to regulation 33 and in the heading to Schedule 5, for the reference to regulation 35 substitute a reference to regulation 34.

### **Lump sum compensation**

11.—(1) This regulation applies where a Scheme employer—

- (a) has, on or after 21st June 2000 but before the date on which these Regulations come into force, paid, or determined to be paid, compensation under regulation 6 of the principal Regulations;
- (b) has, in calculating the amount of that compensation, applied a maximum on the amount of a week’s pay as provided for in section 227 of the Employment Rights Act 1996;
- (c) wishes to recalculate and increase the amount of that compensation taking into account the maximum compensation payable under regulation 6 of the principal Regulations as amended by regulation 3 of these Regulations.

(2) The recalculation referred to in paragraph (1)(c) must be made not later than 6 months after the date upon which these Regulations come into force.

(3) After recalculating the amount of a person’s compensation in accordance with paragraph (2), the Scheme employer shall, as soon as is reasonably practicable—

- (a) pay the additional amount of compensation—
  - (i) to that person, or,
  - (ii) where that person has died, to his personal representatives; and
- (b) notify the recipient in writing of the additional compensation payable, giving details of the calculation of its amount.

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(a) S.I. 1998/366.

**Retrospective effect**

**12.** 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 all the provisions of these Regulations had been framed so as to have effect only from the date of their making.

Signed by authority of the Secretary of State for Transport,  
Local Government and the Regions

*Alan Whitehead*  
Parliamentary Under Secretary of State,  
Department for Transport,  
Local Government and the Regions

21st March 2002

## EXPLANATORY NOTE

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

Regulations 3 to 10 of these Regulations make various amendments to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (“the principal Regulations”) which are made under section 24 of the Superannuation Act 1972. The principal Regulations replaced Parts II to IV of the Local Government (Discretionary Payments) Regulations 1996 (“the revoked Regulations”).

Regulation 3 amends regulation 6 (discretionary compensation for redundancy: general). The first amendment provides that the period by reference to which the lump sum is calculated ends with the person’s 65th birthday. The second amendment modifies the application of the interpretation provisions of Chapter II of Part XIV of the Employment Rights Act 1996 by removing the cap on a week’s pay. This is to make the regulation accord with a provision that existed in the revoked Regulations. Regulation 3 also makes a clarifying amendment.

Regulations 4 to 10 make further amendments to clarify the principal Regulations and to ensure that they make the same provision as in the corresponding provision of the revoked Regulations. The regulations amend the following regulations in the principal Regulations—

- regulation 4 amends regulation 7 (persons eligible for discretionary awards),
- regulation 5 amends regulation 17 (reduction of annual compensation),
- regulation 6 amends regulation 19 (effect of cessation of new employment),
- regulation 7 amends regulation 21 (awards to surviving spouse),
- regulation 8 amends regulation 24 (long-term compensation for children),
- regulation 9 amends Schedule 1 (interpretation), and
- regulation 10 makes corrections to the cross-references in the headings of Schedules 4 and 5.

Regulations 3 to 10 take effect from 21st June 2000, the date when the principal Regulations came into force. Section 24 of the Superannuation Act 1972 provides that regulations made under that section may have retrospective effect. Regulation 12 of these Regulations provides that nothing in these Regulations shall place any individual in a worse position than he would have been if these Regulations had not had retrospective effect.

Regulation 11 allows a Scheme employer to pay additional compensation to a person to whom compensation under regulation 6 of the principal Regulations was paid or resolved to be paid and whose compensation was calculated by reference to a week’s pay capped in accordance with provisions in the Employment Rights Act 1996.





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