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STATUTORY INSTRUMENTS

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**1987 No. 1850**

**The Local Government Superannuation  
(Scotland) Regulations 1987**

**PART E**

**BENEFITS**

**Pensionable remuneration**

**E22.**—(1) Subject to paragraphs (4) and (6) to (13) and regulations E23 (further provision as to pensionable remuneration) and G1 (certain former contributory employees), a person's pensionable remuneration in relation to a local government employment is his remuneration for so much of the relevant period as he is entitled to reckon as reckonable service in relation to that employment.

(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with the day on which the person ceases to hold the employment or, if earlier, the day on which he becomes entitled to reckon 45 years as reckonable service in relation to the employment, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

(3) Subject to paragraphs (4) and (5), where—

(a) the person is not entitled to reckon the whole of the period specified in paragraph (2) as reckonable service because he has been absent from duty otherwise than by reason of illness or injury, and

(b) this paragraph applies to him by virtue of a notice or determination,

the relevant period comprises the last 365 days which he is entitled to reckon as reckonable service.

(4) Where a person's remuneration has been reduced and the employing authority have certified under regulation E24 that the reduction in his remuneration was in consequence of a material change in his circumstances, then the relevant period is—

(a) if the reduction occurred during the 13 years ending with the day mentioned in paragraph (2), either—

(i) such one of the last 5 of those 13 years, or

(ii) such consecutive 3 of those 13 years,

as is specified in the notice or determination, or

(b) if the reduction occurred during the last 5 of those 13 years, such one of those 5 years as is specified in the notice or determination;

and where by virtue of this paragraph the relevant period is a period of 3 consecutive years, the person's pensionable remuneration is the aggregate of his remuneration during that period divided by 3.

(5) Where—

(a) the relevant period would otherwise be the period specified in paragraph (2), and

(b) either one or each of the 2 immediately preceding years would yield a higher amount of pensionable remuneration, and

(c) this paragraph applies to the person by virtue of a notice or determination,

the relevant period is the year which yields the highest amount.

(6) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or suspended during absence from duty by reason of illness or injury, he is for the purposes of this regulation to be treated as having received the remuneration which he would have received but for the reduction or suspension.

(7) If during the 13 years ending with the day mentioned in paragraph (2) the person's remuneration was reduced or discontinued during absence from duty otherwise than by reason of illness or injury and he—

(a) made contributions under regulation C3 (leave of absence) or a payment under regulation C4 (absence due to trade dispute), or

(b) contributed under section 6(5) of the Act of 1937 (leave of absence etc.),

he is for the purposes of this regulation to be treated as having received for any period in respect of which he made such contributions or payment the remuneration which he would have received but for the reduction or discontinuance.

(8) The remuneration of any period of part-time local government service shall be treated as being the remuneration the person would have received in respect of a single comparable whole-time employment except for—

(a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,

(b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or

(c) ascertaining the value of "A" for the purposes of regulation E11(4).

(9) Where immediately before ceasing to be a pensionable employee a person was in the employment in respect of which he was an employee and was required to serve for fewer than 45 weeks in every period of 12 months, his remuneration shall be deemed to be the remuneration which would have been paid for a single comparable whole-time employment in which remuneration was payable for 52 weeks in every period of 12 months except for—

(a) the purposes of calculating any benefit attributable to any added years or additional period reckonable under regulation D10 of the 1974 Regulations, or regulations D4 or D5,

(b) the purposes of regulation E6(1)(b) and (c), E7 and E10, or

(c) ascertaining the value of "A" for the purposes of regulation E11(4).

(10) Where—

(a) the person was at any time employed in a single local government employment ("the first employment"), and

(b) he becomes entitled to a benefit in relation to one of two or more concurrent local government employments ("the second employment"), and

(c) his remuneration in the first employment becomes material for the purposes of calculating that benefit,

that remuneration is for that purpose to be multiplied by

$$\frac{A}{B}$$

, where A is the annual rate of remuneration of the second employment at the date of cessation and B is the total of the annual rates of remuneration of all the concurrent employments at that date.

(11) Where the whole or a part of the person's remuneration consisted of fees, his pensionable remuneration in respect of them is the annual average of the fees earned by him—

- (a) during the period of 3 years ending with the last day of the relevant period, or
- (b) during such more favourable period, of more than 3 but not more than 5 years, as his last employing authority may allow, or
- (c) if he was entitled to receive fees during part only of the period mentioned in subparagraph (a), during that part of the period.

(12) Where the person is entitled to reckon as reckonable service, in relation to the employment which he ceases to hold, only part of the period specified in paragraph (2), his pensionable remuneration is his remuneration during that part multiplied by

$$\frac{365}{A}$$

, where A is the number of days comprised in that part.

(13) Where—

- (a) any part of the person's remuneration during the relevant period was determined in accordance with an agreement under regulation G3 (standard remuneration agreements), and
- (b) his average weekly earnings from his local government employment in that period (other than payments for overtime and payments by way of bonus) exceed one and a half times the lower earnings limit, but do not exceed the upper earnings limit, in force under section 4(1) of the Social Security Act 1975(1) at the end of the period, and
- (c) his pensionable remuneration would be greater if determined by reference to those earnings,

his pensionable remuneration is to be determined by reference to those earnings.

(14) References in this regulation to a notice are references to a notice in writing given by the person to the appropriate administering authority not later than one month after he is notified under regulation N7 of his entitlement to a benefit.

(15) References in this regulation to a determination are references to a determination given by the appropriate administering authority in respect of a person who has died while still in local government employment or without having given a notice.