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STATUTORY INSTRUMENTS

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**1988 No. 466**

**LOCAL GOVERNMENT,  
ENGLAND AND WALES PENSIONS**

**The Local Government (Superannuation and  
Compensation) (Amendment) Regulations 1988**

<i>Made</i>	- - - -	<i>10th March 1988</i>
<i>Laid before Parliament</i>		<i>16th March 1988</i>
<i>Coming into force</i>	- -	<i>6th April 1988</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 7 of the Superannuation Act 1972<sup>(1)</sup>, after consultation with such associations of local authorities as appear to him to be concerned, the local authorities with whom consultation appears to him to be desirable and such representatives of other persons likely to be affected by these Regulations as appear to him to be appropriate, of the powers conferred on him by section 24 of that Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I  
GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988 and shall come into force on 6th April 1988.

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<sup>(1)</sup> 1972 c. 11.

## PART II

### SUPERANNUATION

#### Interpretation

2. In this Part “the principal Regulations” means the Local Government Super-annuation Regulations 1986(2); and unless the context otherwise requires expressions used in this Part which are also used in the principal Regulations have the same meaning as they have in those Regulations.

#### Leaving and rejoining a superannuation scheme

- 3.—(1) Regulation B1 of the principal Regulations shall be amended—
- (a) in paragraph (1), by inserting at the end the words “and regulations B1A to B1C”;
  - (b) by omitting paragraphs (15A)(b), (15B), (17)(b) and (c) and (18); and
  - (c) in paragraph (16), by inserting after the words “pensionable employee” the words “by virtue of an election under regulation B1A or B1C”.
- (2) After regulation B1 of the principal Regulations there shall be inserted—

#### “Opting into pensionable employment

**B1A.**—(1) Notwithstanding anything in regulation B1 or Part IV of Schedule 2, a person who was not a pensionable employee on 5th April 1988 (before the amendment of these regulations by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988) shall not after that date become a pensionable employee unless he makes an election to become such.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.

(3) Subject to paragraph (4), if a person gives notice of election at least one month before the date on which he commences his employment with the employing authority or such lesser period before that date as the authority allows, the election shall have effect from that date unless the notice specifies otherwise, and in any other case (whether the notice is given before or after the commencement of employment) it shall have effect from the day following the end of the relevant period, or such later date as may be specified in the notice.

(4) In an exempt case, the body to which notice of election is given may give notice to the person electing that he is not to become a pensionable employee; and a case is an exempt case for these purposes if that person—

- (a) has attained or would, on or by the date on which he would otherwise become a pensionable employee pursuant to the election, have attained the age of 50 years; and
- (b) was first employed by that body before he attained that age.

(5) A notice of election shall have effect—

- (a) subject to any subsequent notification under regulation B1B; and
- (b) both in relation to the employment with the body which is to become the person’s employing authority, and in relation to any subsequent employment under which the person may become a pensionable employee.

(6) In paragraph (3), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notice of election is given relates.

### **Opting out of pensionable employment**

**B1B.**—(1) A pensionable employee may at any time notify his employing authority in writing that he does not wish to be such for the purposes of these regulations.

(2) Subject to paragraph (3), a person giving a notification under paragraph (1) shall cease to be a pensionable employee from the day following the end of the relevant period, or such later date as may be specified in the notification.

(3) In a case where the person was a pensionable employee on 5th April 1988 and the notification is given before 6th July 1988, he shall be treated as having ceased to be a pensionable employee on 6th April 1988 or such later date as may be specified in the notification.

(4) A person giving a notification under paragraph (1) shall not again become a pensionable employee in that or another employment unless he makes an election in accordance with regulation B1C.

(5) Any contributions paid with respect to a period during which a person is to be treated by virtue of a notification under paragraph (1) as not having been a pensionable employee shall be returned to him.

(6) In paragraph (2), “the relevant period” means the period of service to which the person’s payment of wages or salary due from the employing authority next after the day on which the notification under paragraph (1) is given relates, or the period of 2 months beginning on that day, whichever ends the sooner.

### **Rejoining pensionable employment**

**B1C.**—(1) A person who would be or become a pensionable employee in accordance with these regulations but for a notification under regulation B1B may, notwithstanding the giving of that notification but subject to paragraphs (3) and (4), subsequently elect so to become a pensionable employee.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.

(3) A person who has made an election under paragraph (1) and who subsequently gives another notification under regulation B1B(1) may, subject to paragraph (4), make no further election under paragraph (1).

(4) Notwithstanding paragraph (3), a person may elect under paragraph (1) whenever he begins a new employment which might fall within regulation B1, provided the notice of election is given to the new employing authority before or within the period of 3 months beginning with the day on which he begins that employment.

(5) Regulation B1A(3) to (6) shall apply to an election under paragraph (1) as it applies to an election under regulation B1A(1).”.

(3) Regulation B3 of the principal Regulations shall be amended by inserting after paragraph (4)

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“(4A) Without prejudice to paragraph (2), regulations B1A to B1C shall, without further provision, be taken to apply to any employee to whom an admission agreement relates, and in particular as if references to a pensionable employee included references to a person

contributing or entitled to contribute to a fund by virtue of the agreement and references to regulation B1 included references to the agreement.”.

(4) For regulation E22(2) of the principal Regulations there shall be substituted—

“(2) Subject to paragraphs (3), (4) and (5), for the purposes of this regulation the relevant period is the year ending with—

- (a) 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; or
- (b) if on the day mentioned in sub-paragraph (a) the person was not a pensionable employee by virtue of a notification under regulation B1B, the day on which he ceased to be such under that notification.”.

(5) In the definition of the expression “Local government employment” in Schedule 1 to the principal Regulations, for the words “is, or is deemed to be,” there shall be substituted the words “is or has been, or is or has been deemed to be,”; and in the definition of the expression “Pensionable employee” in that Schedule, after the words “regulation B1” there shall be inserted the words “to B1C”.

(6) Part III of Schedule 2 to the principal Regulations shall be amended by inserting after paragraph 2—

“3. A person electing under paragraph 1(b) need not, before becoming a pensionable employee, make a further election under regulation B1A.”.

(7) Part IV of Schedule 2 to the principal Regulations shall be amended—

- (a) in paragraph 1(1), by substituting for the words “(2) to (6)” the words “(2) to (5) and regulations B1A and B1B”, and by substituting for the words “may elect to become” the word “is”;
- (b) in paragraph 1(3), by substituting for the words “sub-paragraph (1)” the words “regulations B1A or B1C or notification under regulation B1B”;
- (c) by omitting paragraphs 1(6), 3 and 5;
- (d) in paragraph 1(7), by substituting for the words from “in all the employments” to the end the words “in all the qualifying part-time employments, of a person in relation to which an election under regulations B1A or B1C (or under paragraph 1(1) before its amendment by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988) has effect fall below 15, the person shall continue to be a pensionable employee unless he gives a notification under regulation B1B; but having given such a notification, a subsequent election to become a pensionable employee under regulation B1C shall not come into effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of pensionable employee in regulation B1).”;
- (e) in paragraph 2, by substituting for the words “elects to cease to be one” the words “gives a notification under regulation B1B; but having given such a notification, a subsequent election to become a pensionable employee under regulation B1C shall not come into effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of pensionable employee in regulation B1)”; and
- (f) in paragraph 4(c), by inserting after the words “paragraph 1(1)” the words “before its amendment by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988”.

(8) Notwithstanding the amendments made by paragraphs (1)(b) and (7), any election made or notification given before 6th April 1988 to become, or to cease to be, a pensionable employee or

admitted employee pursuant to the provisions referred to in those paragraphs shall have effect as if those amendments had not been made; and in particular—

- (a) if a person has elected before 6th April 1988 to become a pensionable employee or admitted employee under one of those provisions, but that election has not before that date come into effect, no further election under regulation B1A of the principal Regulations shall be required, and
- (b) if a person has elected before 6th April 1988 to cease to be a pensionable employee or admitted employee under one of these provisions, and after so ceasing subsequently becomes employed in another employment in which he may become such, regulation B1A(1) of the principal Regulations shall apply as if on 5th April 1988 he was not a pensionable employee or admitted employee (as the case may be) whether or not his election had effect by that date.

#### **Additional contributions**

4.—(1) After regulation C9 of the principal Regulations there shall be inserted—

##### **“Further additional contributions**

**C9A.**—(1) A pensionable employee may at any time elect to pay contributions under this regulation in addition to those provided for by the foregoing provisions of these regulations.

(2) Schedule 6A shall apply in relation to such an election and in relation to contributions payable under this regulation.

##### **Effect of opting out of pensionable employment on certain additional payments**

**C9B.**—(1) This regulation applies where a pensionable employee who—

- (a) has elected under regulations C6 or C8 (including those regulations as applied by regulation C9(1)) to make payments by way of additional contributions,
- (b) is making such payments in pursuance of regulations D10 or D11 of the 1974 regulations by virtue of regulation C9(2) of these regulations, or
- (c) is making payments in pursuance of regulations D6, D7 or D8 of the 1974 regulations by virtue of regulation C9(2) of these regulations,

gives notification in accordance with regulation B1B.

(2) In a case mentioned in paragraph (1)(a) or (b), no further payments by way of additional contributions shall be payable from the day on which the person giving the notification ceases to be a pensionable employee; and the benefits to which he is entitled in relation to those contributions shall be calculated as if the payments had been discontinued under regulation D10(4A) of the 1974 regulations, or regulations C6(5) or C8(11) of these regulations, as the case may be.

(3) In a case mentioned in paragraph (1)(c), paragraphs 5 and 6 of Schedule 6 shall apply as if the pensionable employee had ceased to hold a local government employment on the day on which he ceased to be a pensionable employee; and in particular if on that assumption he would become entitled to preserved benefits he may give notice under paragraph 6.

(4) Paragraph (2) shall not preclude a person who has elected under regulation B1B making a further election under regulation C6 or C8 after again becoming a pensionable employee.”.

(2) Regulation C11(1) of the principal Regulations shall be amended by inserting after sub-paragraph (c)—

“, and

(d) contributions payable under regulation C9A.”.

(3) Regulation P10(4) of the principal Regulations shall be amended by inserting after sub-paragraph (b)—

“(bb) which of the employees referred to in sub-paragraph (a) and amounts referred to in sub-paragraph (b) are employees paying, and amounts representing deductions in respect of, additional contributions under regulation C9A,”.

(4) After Schedule 6 to the principal Regulations there shall be inserted as Schedule 6A the Schedule set out in the Schedule to these Regulations.

### **Preserved benefits**

5.—(1) Regulations C12(11)(b), E2(1)(b), E2(1)(c)(i), E5(1)(c)(i), E8(1)(c) and E10(1)(a) of the principal Regulations shall be amended by substituting for the words “5 years” the words “2 years”, and regulation C12(3) and (4) of those Regulations shall be amended by substituting for the words “5 years” the words “2 years”.

(2) Regulation C12(5) of the principal Regulations shall be amended by substituting for the words “5 or more than 5 years” the words “2 or more than 2 years”.

(3) Regulation E4(1)(b)(i) of the principal Regulations shall be amended by substituting for the words “one or more but less than 5” the words “at least one but less than 2”.

(4) The amendments made by this regulation shall only apply in cases where the person ceased to hold the employment concerned, or (with respect to regulations E5(1)(c)(i), E8(1)(c) and E10(1)(a)) the death concerned occurred, on or after 6th April 1988.

### **Reckonable and qualifying service**

6.—(1) Regulations D1(1) and D2(1) of the principal Regulations shall be omitted.

(2) In the definition of the expression “Qualifying service” in Schedule 1 to those Regulations, for the words “regulation D2” there shall be substituted the words “Part D”.

(3) In the definition of the expression “Reckonable service” in Schedule 1 to those Regulations, for the words “regulation D1” there shall be substituted the words “Part D”.

### **Ill-health retirement**

7. For regulation E3(12) of the principal Regulations there shall be substituted—

“12) Where—

- (a) regulation E2(1)(b)(i) (permanent ill-health etc.) applies,
- (b) the person has not given a notification under regulation B1B, or, having given such a notification, has again by the date of cessation of employment become a pensionable employee by virtue of regulation B1C, and
- (c) the total of the person’s reckonable service and any qualifying service is not less than 5 years,

he is to be treated for the purposes of this regulation as being entitled to reckon as reckonable service an additional period calculated in accordance with Schedule 9.”.

### **Death grant**

8. Regulation E11 of the principal Regulations shall be amended—

- (a) in paragraph (1), by substituting for sub-paragraph (a)—

- “(a) was a pensionable employee, or”;
- (b) by inserting after sub-paragraph (d) of paragraph (1)—
  - “or
  - (e) was in a local government employment and was entitled to reckon at least 2 years' reckonable service, but was not a pensionable employee by virtue of a notification under regulation B1B,”;
- (c) in paragraph (8), by inserting after the words “paragraph (1)(d)” the words “or (e)”;
- (d) in paragraph (9)(a), by substituting for the words “paragraph (1)(a) or (d)” the words “paragraph (1)(a), (d) or (e)”;
- (e) by inserting after paragraph (13)—
  - “(14) Where a person qualifies for a death grant under more than one sub-paragraph of paragraph (1), he shall be treated as having qualified under the sub-paragraph which would, in accordance with the preceding paragraphs, result in the highest amount of grant being paid.”.

### **Gratuities**

- 9.—(1) Regulation K1(3) of the principal Regulations shall be amended by inserting after sub-paragraph (c)—  
“, or
- (d) during which he is not a pensionable employee by virtue of a notification under regulation B1B or a failure to elect under regulation B1A.”.
- (2) Regulation K1(4) of the principal Regulations shall be amended by inserting at the end of sub-paragraph (b) the words “or which, but for an election by that person on or after 6th April 1988 not to participate in the benefits of such a scheme, might have been so taken into account,”.

### **Injury allowances**

- 10.—(1) Regulation L5(1) of the principal Regulations shall be amended by inserting after the words “relevant body may” the words “(if there is such a shortfall as is mentioned in paragraph (2) (a))”.
- (2) Regulation L8(c) of the principal Regulations shall be amended by omitting the words from “out of any fund” to “transferred”.
- (3) The amendment made by paragraph (2) shall only apply in cases where the person ceased to hold the employment concerned, suffered the reduction in his remuneration or died (as the case may be) on or after 6th April 1988.

## **PART III COMPENSATION**

### **Interpretation**

11. In this Part “the 1982 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations 1982(3).

## Interpretation of the 1982 Regulations

12. After paragraph (3) of regulation 2 of the 1982 Regulations there shall be inserted—

“(4) Where in these regulations references are made to anything done under, required under or arising under any provision of the Superannuation Regulations, those references shall be construed so far as the context permits as references to anything done under, required under or arising under the corresponding provision of the Local Government Superannuation Regulations 1974(4); and where any references are made to a pensionable employee or a person who would be or would have been a pensionable employee within the meaning of the Superannuation Regulations, those references shall be construed so far as the context permits as references to a pensionable employee or, as the case may be, to a person who would be or would have been a pensionable employee, within the meaning of the Local Government Superannuation Regulations 1974.”.

## Definitions

13. Regulation 3 of the 1982 Regulations shall be amended—

- (a) in the definition of “former employment”, by omitting the words from “and paragraphs” to the end;
- (b) in the definition of “new employment”, by substituting for the words “and paragraphs (7) to (9)” the words “and paragraph (10)”, and by substituting for the words “as if” to the end of the definition the words “as it applies for the purposes of that regulation”;
- (c) by substituting for the definition of “occupational pension”—
 

““occupational pension” in relation to a person means a pension to which he has become entitled, whether payable immediately or in the future, being—

  - (a) a pension associated with any employment which is payable under an enactment (not being for these purposes an enactment comprised in the Social Security Act 1975(5) or the Superannuation Regulations), contract, scheme or other arrangement, including a pension under a personal pension scheme in relation to which the Secretary of State has paid contributions under section 1 of the Social Security Act 1986(6), or
  - (b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the Superannuation Regulations or arising with respect to such a pension as is mentioned in paragraph (a) above,
 

and not being a pension which is a lump sum;”;
- (d) by omitting the words
 

““pensionable employee”, “pensionable remuneration”, and “, “reckonable service””;
- (e) by inserting after the definition of “occupational pension”—
 

““pensionable employee” means a pensionable employee within the meaning of the Superannuation Regulations or a person who the employing authority are satisfied would be such or be treated as such but for a relevant disqualification; “pensionable remuneration” in relation to a person means the remuneration which is, or if there has been a relevant disqualification, which but for that disqualification and on the relevant assumptions would be, that person’s pensionable remuneration under the Superannuation Regulations;”;

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(4) S.I. 1974/520; relevant amendments were made by S.I. 1978/266 and 822, 1979/1534, 1983/1269 and 1985/1920.

(5) 1975 c. 14.

(6) 1986 c. 50.



(f) by inserting after the definition of “periodic payment”—

““reckonable service” means any period of reckonable service within the meaning of the Superannuation Regulations, together with any period of special service not being special service consisting of periods of unpaid leave or other unpaid absence from duty;”;

(g) by inserting after the definition of “redundancy payment”—

““the relevant assumptions” are the assumptions that—

- (a) during any period of special service a beneficiary was a pensionable employee within the meaning of the Superannuation Regulations,
- (b) a beneficiary’s reckonable service for the purposes of those regulations included any periods of special service which do not consist of periods of unpaid leave or other unpaid absence from duty,
- (c) for the purposes of regulation E3(12) of those regulations, no notification had been given under regulation B1B,
- (d) any notice or determination which, on the assumptions mentioned above, might have been given or made under regulation E22(3)(b) of those regulations with respect to a period of special service had been given or made,
- (e) any notice or determination which, on the assumptions mentioned above, might have been given or made under regulation E22(4) or (5)(c) of those regulations with respect to a period of special service had not been given or made, and
- (f) regulation E22(7) of those regulations did not apply with respect to a period of special service;

“relevant disqualification” in relation to a person means—

- (a) the requirement in regulation B1(3)(a) of or paragraph 1(4)(a) of Part IV of Schedule 2 to the Superannuation Regulations that a manual worker should have completed an appropriate 12 months’ continuous employment before he may become a pensionable employee,
- (b) the failure of a medical examination required under regulation B1(16) of those regulations,
- (c) the making of an election under regulation B1(15B) of those regulations before its omission by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988,
- (d) the making of an election, or the absence of an election with respect to any period (as the case may be), under regulation B1(18) of or Part IV of Schedule 2 to the Superannuation Regulations before the omission or amendment of those provisions by the Local Government (Superannuation and Compensation) (Amendment) Regulations 1988,
- (e) the absence of an election under regulation B1A of the Superannuation Regulations with respect to any period,
- (f) the giving of a notification under regulation B1B of those regulations,
- (g) the absence of an election under paragraph 1(b) of Part III of Schedule 2 to those regulations with respect to any period, or
- (h) the making of an election, or the absence of an election with respect to any period (as the case may be), under regulation 25(3)(b) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1987(7),

in consequence of one or more of which (either individually or cumulatively) that person has not become, has ceased to be or has not been treated as being a pensionable employee within the meaning of the Superannuation Regulations;”;

- (h) by inserting after the definition of “scheduled body”—

““special service” means any period of employment with respect to which the employing authority is satisfied that the person concerned would have been or been treated as being a pensionable employee within the meaning of the Superannuation Regulations but for a relevant disqualification, except that, in relation to any employment ending before he began his former employment, it only includes such periods as are continuous with the former employment; and a period of employment is continuous with the former employment for this purpose if in the interval between its ending and the former employment beginning there have been no breaks in employment with a scheduled body or a body mentioned in column 1 of Part 2 of Schedule 1 for periods of greater than one month and one day;”;

- (i) in the definition of “the Superannuation Regulations”, by substituting for the figure “1974” the figure “1986”.

#### **Persons to whom the 1982 Regulations apply**

14. Regulation 4(1)(a) of the 1982 Regulations shall be amended—

- (a) by substituting for the words “regulation E2(3)(a)” the words “regulation E2(4)(a)”; and  
 (b) by inserting after the words “the Superannuation Regulations” the words— “or they are satisfied that, but for a relevant disqualification and on the relevant assumptions, they would have so certified”.

#### **Lump sum compensation and annual compensation**

15. Regulation 6 of the 1982 Regulations shall be amended—

- (a) in paragraph (2), by inserting after the words “beneficiary is entitled” the words “(or, as mentioned in paragraph (4), would be entitled)”, and by inserting after the words “be increased” in sub-paragraph (a) the words “on the relevant assumptions”;
- (b) in paragraph (3)(a), by inserting after the words “be increased” the words “on the relevant assumptions”;
- (c) in paragraph (3B), by inserting after sub-paragraph (c)—
- “(d) “reckonable service” has the same meaning as in the Superannuation Regulations, and
- (e) as respects an occupational pension which is a pension under a personal pension scheme in relation to which the Secretary of State has paid contributions under section 1 of the Social Security Act 1986 or is a pension derived from the payment of a transfer value calculated by reference to rights arising with respect to such a pension, the reference to “any period in respect of which he is entitled to the occupational pension” shall be construed as a reference to the period of employment by reference to which the Secretary of State has paid the contributions and (without prejudice to the generality of that expression in other cases) any period of employment in relation to which a transfer value has been paid into the personal pension scheme.”;
- (d) in paragraph (3C), by omitting the words “within the meaning of regulation E1 of the Superannuation Regulations”; and

- (e) in paragraph (4), by substituting for the words from “paragraphs” to “those regulations” the words “paragraphs (1)(b)(iii) and (4)(a) of regulation E2 of those regulations, or (except in relation to paragraph (3A)(c) above) to which but for a relevant disqualification he would be so entitled on the relevant assumptions and on the further assumption that, if the employing authority might have certified under regulation E2(4)(a) of those regulations, it had done so”.

### **Allocation of part of annual compensation**

**16.** Regulation 7 of the 1982 Regulations shall be amended—

- (a) in paragraph (1), by substituting for the words “regulation E4” the words “regulation E20”;
- (b) in paragraph (2), by substituting for the words “and (3)(a)” the words “and (4)(a)”; and
- (c) by inserting after paragraph (4)—

“(5) Where regulation E20 of the Superannuation Regulations does not apply to a beneficiary in consequence of a relevant disqualification, paragraph (1) shall have effect as if he had been allowed as mentioned in that paragraph, and in such a case the annual compensation which he is entitled to surrender in accordance with paragraph (2) shall be such part as he may specify in the notice required under paragraph (1).”.

### **Widows' compensation**

**17.**—(1) Regulation 8(1) of the 1982 Regulations shall be amended—

- (a) by substituting for the words from “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”;
- (b) by substituting for the words “regulation E5(1)” the words “regulation E5(1) to (5)”.

(2) Regulation 9(2)(b) of the 1982 Regulations shall be amended by inserting after the words “to reckon” the words “on the relevant assumptions”.

### **Children's compensation**

**18.**—(1) Regulation 10 of the 1982 Regulations shall be amended—

- (a) by substituting for the words from “(but for” to “pension scheme)” where they occur in paragraphs (1) and (2) the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”;
- (b) by substituting for the words “regulation E8(1)” where they occur in paragraphs (1) and (2) the words “regulation E8(1) to (3)”.

(2) Regulation 11 of the 1982 Regulations shall be amended—

- (a) in paragraph (3)(b), by inserting after the words “to reckon” the words “on the relevant assumptions”;
- (b) in paragraph (4)(a), by substituting for the words “regulation E9(4)” the words “regulation E9(5)”; and
- (c) in paragraph (5), by substituting for the words from “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”, and by substituting for the words “regulation E9(5)” the words “regulation E9(7)”.

### **Widowers' compensation**

**19.** Regulation 12 of the 1982 Regulations shall be amended—

- (a) in paragraph (1), by substituting for the words “regulation E12” in sub-paragraph (a) the words “regulation E12(3)”, and by substituting for the words “regulation E5(1) or E8(1)” the words “regulation E5(1) to (5) or E8(1) to (3)”; and
- (b) by inserting after paragraph (2)—

“(3) Where a female beneficiary is not a pensionable employee under the Superannuation Regulations by virtue of a relevant disqualification, and the circumstances have arisen such that she would have been able to give a notice under regulation E12(3) of those regulations if she were such an employee, she shall be treated for the purposes of this regulation as having given that notice.”.

### **New employment**

**20.—**(1) Regulation 16 of the 1982 Regulations shall be amended—

- (a) in paragraph (2), by inserting after the words “becomes entitled” the words “(or but for a relevant disqualification and on the relevant assumptions would become entitled)”, and by inserting after the words “cessation of his new employment” the words “and on the relevant assumptions”, and
- (b) in paragraph (3), by substituting for the words “regulation D3(2)(b)” the words “regulation D3(7)”.

(2) Paragraph 3 of Schedule 4 to the 1982 Regulations shall be amended—

- (a) by substituting for paragraph (a)—
  - “(a) “retirement pension” means—
    - (i) a pension under regulation E2(1)(a) or (b) of the Superannuation Regulations, including an annual pension within the meaning of regulation E15(14) of the Superannuation Regulations; or
    - (ii) an occupational pension”; and

(b) by inserting after paragraph (b)—

“; and

- (c) in calculating the annual rate of remuneration of a former, concurrent or new employment, regulation E15(6) to (9) of the Superannuation Regulations shall apply on the relevant assumptions as if a former or concurrent employment was a former employment, and a new employment was a new employment, within the meaning of that regulation, and with respect to the Table to regulation E15(6) as if the source of entitlement were the Superannuation Regulations; but in relation to a period of special service regulation E15(7) shall have effect as if the words “either” and “or he made contributions or payments under section 6(5) of the Act of 1937 or regulation C3 or C4” were omitted.”.

(3) Sub-paragraph (1) of paragraph 6 of Schedule 4 to the 1982 Regulations shall be amended by inserting after the words “becomes entitled” the words “(or but for a relevant disqualification and on the relevant assumptions would become entitled)”.

### **Payment of compensation**

**21.** Regulation 19(1) of the 1982 Regulations shall be amended by substituting for the words from “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to

the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”.

### **Paying authority**

**22.** For regulation 20(4) of the 1982 Regulations there shall be substituted—

“**4)** The authority which under the Superannuation Regulations is maintaining a superannuation fund with respect to whose benefits a beneficiary is participating (or but for a relevant disqualification and on the relevant assumptions would be participating) may agree with the employing authority to pay any compensation arising in respect of that beneficiary on their behalf and to recover the amount thereof from them immediately or at such intervals as may be agreed.”.

### **Local government reorganisation**

**23.** The Local Government Reorganisation (Compensation) Regulations 1986(**8**) are amended—

(a) in regulation 1(2)—

(i) in the definition of “the Superannuation regulations”, by substituting for the figure “1974” the figure “1986”; and

(ii) by inserting after the definition of “redundancy payment”—

““the relevant assumptions” and “relevant disqualification” have the same meaning as in the 1982 regulations;”;

(b) by substituting for regulation 3(1)—

“(1) This regulation applies to a person—

(a) who becomes entitled to a retirement pension under regulation E2(1)(b)(iii) of the Superannuation regulations by virtue of the competent authority’s certifying under regulation E2(4)(a) of those regulations that he has ceased to hold his employment by reason of redundancy, or

(b) who the competent authority are satisfied would be so entitled (but for a relevant disqualification) on the relevant assumptions, unless he elects, by notice given in writing to the authority within 13 weeks of him being notified by the authority that they are so satisfied, that this regulation should not apply to him.”;

(c) in regulation 3(4), by inserting after the words “which is” the words “, or (as the case may be) would be,”; and

(d) in regulation 4(2)(b), by inserting after the words “does not apply” the words “(whether by virtue of an election under regulation 3(1)(b) or otherwise)”.

### **Transitional provision**

**24.** The amendments made by this Part shall only apply to cases where the employment by reference to whose cessation additional periods of service might fall to be credited under the 1982 Regulations ceases to be held on or after 6th April 1988.

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10th March 1988

*Nicholas Ridley*  
Secretary of State for the Environment

## SCHEDULE

### SCHEDULE TO BE INSERTED IN THE LOCAL GOVERNMENT SUPERANNUATION REGULATIONS 1986

#### “SCHEDULE 6A

#### FURTHER ADDITIONAL CONTRIBUTIONS

1.—(1) An election to pay contributions under regulation C9A shall be made by notice given in writing to the pensionable employee’s employing authority, and shall specify—

- (a) the amount of the additional contributions which are to be paid, expressed either as a percentage of his remuneration or as a sum payable at the times mentioned in subparagraph (2); and
- (b) the proportion (if any) of the contributions which he wishes to be used to provide benefits payable in the event of death.

(2) The additional contributions shall be payable on the pensionable employee’s usual pay day, and for that purpose shall be deductible by the employing authority, or be otherwise recoverable by the appropriate administering authority, under regulation C11.

2. With respect to any election under paragraph 1—

- (a) the appropriate administering authority may require, before any contributions are first made pursuant to the notice given under paragraph 1(1), that (until discontinued) the amount of the additional contributions payable in any tax year shall be not less than the amount specified in regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations 1987<sup>(9)</sup>;
- (b) the amount of the additional contributions payable in any tax year shall, when aggregated with the amount of any other contributions payable under these regulations, not exceed the amount allowed to be deducted under section 21(4) of the Finance Act 1970<sup>(10)</sup> as specified in or under subsection (4A) of that section;
- (c) subject to paragraphs (a) and (b), the pensionable employee may at any time elect by notice given in writing to his employing authority to vary his additional contributions (both as to the amount and as to the proportion of those he is to continue to pay which are to be used to provide benefits payable on death) or to discontinue those contributions; and
- (d) no additional contributions shall be payable with respect to periods during which the person contributing is not a pensionable employee under these regulations, or (subject to paragraph 6) with respect to any period after he ceases to be employed by the employing authority to which notice was given under paragraph 1(1).

3.—(1) Where a notice under paragraph 1(1) or 2(c) specifies that all or part of the additional contributions are to be used to provide benefits payable in the event of death, the appropriate administering authority shall make arrangements for the provision of those benefits under a pension policy with respect to which the authority are to make payments to the insurance company with which the policy is entered into of the same amounts as the contributions to be so used within one month of the day on which they are payable by the pensionable employee under paragraph 1(2).

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<sup>(9)</sup> S.I. 1987/1108.

<sup>(10)</sup> 1970 c. 24; section 21(4) was amended and section 21(4A) was inserted by the Finance (No. 2) Act 1987, Schedule 3, paragraph 4(1).

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(2) The policy shall make provision for the matters mentioned in paragraph 2, and for the arrangements mentioned in paragraph 6 in the event of a change of employment by the pensionable employee.

4.—(1) The administering authority shall invest any additional contributions which are not to be used to provide benefits payable in the event of death with a relevant body.

(2) Subject to sub-paragraph (3) and paragraph 6, upon the pensionable employee ceasing to be employed by the employing authority to which notice was given under paragraph 1(1), the appropriate administering authority shall as soon as reasonably practicable apply the accumulated amount of the contributions invested as mentioned in sub-paragraph (1) to the provision of additional pension benefits under a pension policy.

(3) If the pensionable employee dies before such a policy is entered into, the accumulated amount shall be payable to his personal representatives.

5.—(1) As soon as an employing authority receive a notice under paragraph 1(1) or (2)(c) they shall forward it to the appropriate administering authority.

(2) The appropriate administering authority shall give effect to a notice under paragraph 1(1) or 2(c) as soon as reasonably practicable, and in any event—

(a) in the case of a notice under paragraph 1(1), so that the pensionable employee may begin to pay his additional contributions under paragraph 1(2) within 6 months of him giving that notice, and

(b) in the case of a notice under paragraph 2(c), so that the pensionable employee may pay his contributions at the varied amount or proportions, or cease to pay his contributions (as the case may be), within 3 months of him giving that notice.

(3) The benefits under a pension policy entered into under paragraph 3(1) or 4(2) shall be money purchase benefits the value of which is reasonable having regard to the amount of the contributions paid and which (subject to that) are of a similar class as the benefits which are payable under Part E and payable in similar circumstances to those in which such benefits are payable, save that there need be no requirement in the policy that the pensionable employee should be able to reckon any particular length of reckonable or qualifying service in order for the benefits to be payable.

(4) Before entering into such a policy, the administering authority shall consult the pensionable employee and shall give effect, so far as is practicable and subject to sub-paragraph (3), to his wishes with respect to the benefits to be provided under it.

6.—(1) If, after ceasing to be employed by the employing authority to which notice was given under paragraph 1(1), the pensionable employee within one month and one day of the cessation enters a new employment in which he is also a pensionable employee and was making payments of additional contributions up to the date of cessation, he may elect by notice given in writing to his new employing authority before or within one month of beginning the new employment that his election to pay contributions under regulation C9A should continue to have effect.

(2) In the event of an election under sub-paragraph (1)—

(a) as soon as the new employing authority receive the notice of election they shall forward it to the appropriate administering authority in relation to the new employment;

(b) no payment of additional contributions shall be made with respect to the period (if any) between the two employments, but subject to that the pensionable employee shall, with effect from the pay day next after the day notice was given under sub-paragraph (1), make payments of additional contributions in his new employment under his notice under paragraph 1(1) as from time to time varied (or subsequently discontinued) under paragraph 2(c);



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- (c) if the pensionable employee's appropriate administering authority in both the former and new employments are the same, that authority shall continue to invest all additional contributions paid by him not specified to be used to provide benefits payable in the event of death in the manner mentioned in paragraph 4(1) and apply any continuing additional contributions which are so specified towards the pension policy mentioned in paragraph 3(1);
- (d) if the pensionable employee's appropriate administering authority in each of the two employments are different—
  - (i) the former appropriate administering authority shall transfer to the new appropriate administering authority a sum equal to the accumulated amount of his invested additional contributions mentioned in paragraph 4(1) and assign to the new appropriate administering authority any of their rights under such a pension policy as is mentioned in paragraph 3(1), and
  - (ii) the new appropriate administering authority shall apply or invest the sum received, and payments of additional contributions, in the manner mentioned in paragraph (c);
- (e) paragraphs 4(2) and 6 shall have effect in relation to a cessation of the new employment as if the new employment were the one in relation to which notice was given under paragraph 1(1).

7. Paragraph 2(d) shall not preclude a pensionable employee who has again become employed by a scheduled body (and has not elected under paragraph 6(1)) making a fresh election by notice under paragraph 1(2) in relation to his new employment.

8.—(1) If the benefits payable to a person in consequence of the payment of contributions under regulation C9A, when aggregated with the other benefits payable to him under these regulations, exceed the maximum benefits payable if the occupational pension scheme or schemes represented by these regulations were to expect to continue to qualify as exempt approved schemes for the purposes of Chapter II of Part II of the Finance Act 1970(11), the benefits payable under Part E shall be reduced so far as is necessary to secure that those maximum benefits are not exceeded.

(2) Before reducing any benefits under sub-paragraph (1), the appropriate administering authority shall consult the Commissioners of Inland Revenue.

9.—(1) Regulations C12 to C15 (return of contributions), P2 (management of superannuation fund) and P10(3) do not apply to contributions payable under (or interest on late payments which relate to contributions under) regulation C9A.

(2) The making of contributions under regulation C9A, and any rights or liabilities arising under a pension policy entered into under paragraphs 3(1) or 4(2), shall be left out of account in calculating the amount of a transfer value payable under Parts J or Q; and Parts M (forfeiture etc.) and N (decisions and appeals) do not apply in relation to benefits under such a policy.

10. In this Schedule—

“insurance company” means—

- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982(12) to carry on long term business and acting through a branch or agency in the United Kingdom, or
- (b) a society registered as a friendly society under the Friendly Societies Act 1974(13) or the Friendly Societies Act (Northern Ireland) 1970(14);

(11) See the definition of “exempt approved scheme” in section 21(1) of the Finance Act 1970.

(12) 1982 c. 50.

(13) 1974 c. 46.

(14) 1970 c. 31 (N.I.).

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- “money purchase benefits” has the same meaning as in the Social Security Act 1986<sup>(15)</sup>;
- “pension policy” means a contract entered into on behalf of the pensionable employee by the appropriate administering authority with an insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Part E; and
- “relevant body” means—
- (a) a person for the time being operating a scheme which is an approved scheme for the purposes of Chapter II of Part II of the Finance Act 1970, and which provides benefits in relation to people who have paid contributions to it which are in addition to those provided in relation to those people under an occupational pension scheme, or
  - (b) a building society within the meaning of the Building Societies Act 1986<sup>(16)</sup>.”

## EXPLANATORY NOTE

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

Part II of these Regulations amends the Local Government Superannuation Regulations 1986 (“the principal Regulations”). Part III is concerned primarily with related amendments to the Local Government (Compensation for Premature Retirement) Regulations 1982 (“the 1982 Regulations”).

Regulation 3 inserts three new regulations into Part B of the principal Regulations, providing that those who were not pensionable employees under those Regulations on 5th April 1988 should not subsequently become such unless they so elect (new regulation B1A); and giving those who at any time are pensionable employees the opportunity to opt out of, and those who have opted out the opportunity to opt back into, the local government superannuation scheme established under the principal Regulations (new regulations B1B and B1C). The regulation also makes consequential and transitional provision made necessary by the new right to opt out (which replaces in particular certain existing rights of election available to part-time employees), as do regulations 4 (in relation to payments of additional contributions), 7 (in relation to the granting of additional years reckonable service with respect to those who have retired through ill-health), 8 (in relation to death grant), 9 (in relation to gratuities to local government employees) and 10 (in relation to injury allowances).

Regulation 4, by inserting a new regulation C9A and Schedule 6A into the principal Regulations, also permits a pensionable employee to elect to make voluntary contributions under the local government superannuation scheme up to certain limits which are in addition to those provided for by other provisions of the principal Regulations. The additional contributions are to be used by the employee’s administering authority to provide money purchase benefits under pension policies entered into by the authority (paragraphs 1 to 5 of the new Schedule).

The new Schedule makes provision, amongst other matters, for changes of employment by the pensionable employee (paragraph 6), for the making of fresh elections (paragraph 7), and for the limitation of benefits under Part E of the principal Regulations in certain cases (paragraph 8).

<sup>(15)</sup> 1986 c. 50.

<sup>(16)</sup> 1986 c. 53.

Regulation 5 provides that a pensionable employee should be entitled to preserved benefits under the principal Regulations (rather than to receive a return of contributions) where he has accumulated 2 years' reckonable or qualifying service, instead of 5 years' as at present.

Regulation 6 makes minor drafting amendments to the principal Regulations with respect to reckonable and qualifying service. The amendments do not as such change any entitlements under those Regulations, but they allow the provisions of the 1982 Regulations amended by Part III of these Regulations (relating to the crediting of additional service) to mesh more easily with the principal Regulations.

Regulations 11 to 22, in Part III, amend the 1982 Regulations. The 1982 Regulations allow employers of those who are pensionable under the principal Regulations, and who have ceased their employment through redundancy or in the interests of the efficiency of their employing authorities, to compensate them in certain cases (in the form of additions to superannuation benefits) by the award of additional years of service. Without amendment of the 1982 Regulations, those who have opted out of (or not opted into) the local government superannuation scheme as mentioned above would no longer be eligible for compensation. The amendments made by Part III place such people in a position similar to that in which they would have been were they not to have opted out, or failed to opt in.

At the same time the opportunity has been taken to deal with another excluded case, namely those who have not been admitted to the local government superannuation scheme for medical reasons; and to allow service to count in the establishment of eligibility under the 1982 Regulations which might otherwise have been excluded because the employee concerned was a manual worker or was a part-time employee who had not elected to join the scheme. Amendments to the provisions dealing with the calculation of compensation are also made in consequence of the introduction of personal pension arrangements under Part I of the Social Security Act 1986.

The Local Government Reorganisation (Compensation) Regulations 1986 provide for compensation for those suffering loss of employment or loss or diminution of emoluments attributable to the reorganisation of local government under the Local Government Act 1985. They do this in part by reference to the 1982 Regulations. Regulation 23 amends the 1986 Regulations by allowing those who are not pensionable employees for the reasons mentioned above to receive compensation under those Regulations as nearly as may be as if they were pensionable employees, unless they elect otherwise.

Regulation 24 makes transitional provision. It provides that the amendments made by Part III should only apply to those who left their employment on or after the day these Regulations come into force.