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STATUTORY INSTRUMENTS

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**1987 No. 1850**

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

**PART F**

**WAR SERVICE**

**Interpretation etc.**

**F1.**—(1) In this Part, unless the context otherwise requires—

“deceased employee” means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation F3(2) to (10) were or are deemed to have been satisfied when he died;

“excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces;

“non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No.2) Act 1945(1), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

“occupational pension scheme” means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category;

and references to war service are to be construed in accordance with regulation F2.

(2) Where by virtue of a determination or determinations given under one or more of the following, that is to say section 12(6) of the Act of 1937, Section 7(3) of the Act of 1953 and regulation D4 of the 1974 Regulations, a period comprising the whole or a part or parts of a person’s indirect service was, or has fallen to be treated as having been, reckonable by him as non-contributing service for the purposes of the former Regulations, then—

(a) for the purposes of regulation F2(2)(b), the period shall be deemed to have been so reckonable only to the extent that its length exceeds that of his civilian indirect service, and

(b) if the period is not the whole of the indirect service—

(i) it shall for the purposes of regulation F3(2)(c) be deemed to have been a continuous period ending on the last day of the indirect service, and

- (ii) none of the indirect service shall for the purposes of regulation F2(2)(d) be taken to be or to have been capable of being taken into account as there mentioned.
- (3) For the purposes of paragraph (2)—
  - (a) a person's indirect service is the total of any service, employment and periods in respect of which determinations could have been given under any of the provisions mentioned in that paragraph, and
  - (b) a person's civilian indirect service is any of his indirect service that was not such whole-time service as is described in regulation F2(1).

### War service

**F2.**—(1) For the purposes of this Part, a person's war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in Schedule 14.

- (2) Subject to regulation F1(2), a person's war service does not include—
  - (a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded,
  - (b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations, or of a local Act scheme,
  - (c) any period that has at any time been taken into account (whether at its full length or otherwise) for the purpose of calculating any benefit under any other occupational pension scheme, or
  - (d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme; but in the case of a person to whom regulation F3(2)(f) applies "benefit" does not include a benefit under the war service provisions of a public service scheme

### Election as to war service

**F3.**—(1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (10) are satisfied, or the executors of a deceased employee, may by notice given in accordance with regulation F5 elect that this regulation shall apply in relation to him.

- (2) One or at least of the following must be the case:—
  - (a) he became before 1st July 1950 entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act, or
  - (b) he became before 1st July 1950 a participant in a scheme which was a relevant policy scheme within the meaning of regulation P13 of the 1974 Regulations or a relevant scheme within the meaning of regulation G14 of the Local Government Superannuation Regulations 1974(2), and is a person to whom regulation P13 of the 1974 Regulations applied, or
  - (c) a period beginning before 1st July 1950 was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules as non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations or of a local Act scheme, or

- (d) if sub-paragraph (c) is not the case, and he is a person to whom regulation D4 of the 1974 Regulations applied, and—
    - (i) his period of previous employment (within the meaning of that regulation) began before 1st July 1950, and
    - (ii) an application was made by or in respect of him under regulation D4 of the 1974 Regulations, or
  - (e) he was on 30th June 1950 undergoing a full-time course of training for, and subsequently obtained, the Royal Sanitary Institute's Diploma in Public Health Inspection, and not later than 6 months after completing the course of training he became entitled to participate or was a participant as mentioned in sub-paragraph (a) or (b) respectively or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in sub-paragraph (c), or
  - (f) a transfer value was accepted and received in relation to him by an administering authority or a former local authority before 1st April 1978 and a scheme is designated under regulation F5(2)(b).
- (3) He must on 1st April 1978 have been—
- (a) an employee entitled to participate in the benefits of a superannuation fund maintained under the 1974 Regulations, or
  - (b) a participant in a scheme which was a relevant scheme within the meaning of regulation P13 of those Regulations, or
  - (c) entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under those Regulations or would have been so entitled but for the operation of regulation E15 of those Regulations, or
  - (d) entitled to an annual pension under regulation E2(1)(c) of those Regulations.
- (4) Except where paragraph (2)(e) or (f) is the case, there must not since the date specified in paragraph (11) have been a continuous period of 12 months or more throughout which none of the following was the case—
- (a) he was entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or
  - (b) the period mentioned in paragraph (2)(c) or (d)(i) was running, or
  - (c) he was undergoing such a course of training as is mentioned in paragraph (2)(e), or
  - (d) he was entitled to participate or was a participant as mentioned in paragraph (3), or
  - (e) he was entitled to receive payments in respect of a pension out of a superannuation fund mentioned in paragraph (2)(a), or
  - (f) he was a person to whom regulation E15, section 6 of the Act of 1953 or section 26 of the Act of 1937 applied.
- (5) Where paragraph (2)(e) is the case, paragraph (4) applies—
- (a) with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in paragraph (2)(c), and
  - (b) with the substitution for the reference in paragraph (4)(b) to the period mentioned in paragraph (2)(c) or (d)(i) of a reference to such a period as is mentioned in sub-paragraph (a).

(6) Where paragraph (2)(f) is the case, paragraph (4) applies with the substitution for the date specified in paragraph (11) of the date (being a date later than 30th June 1950) on which he last became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b).

(7) If he is a person to whom regulation D1(2) of the 1974 Regulations applied in respect of any service after the end of his war service, he must have repaid to the appropriate administering authority the sum or amount there mentioned.

(8) If he is an employee entitled to participate in the benefits of a superannuation fund maintained under these Regulations, he must not be entitled to reckon more than 45 years' reckonable service, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

(9) If he has become entitled to receive payment in respect of an annual pension out of a superannuation fund maintained under these Regulations (including a pension which is for the time being subject to reduction or suspension under regulation E15), no more than 45 years' service must have been taken into account in calculating the amount of that pension.

(10) Where paragraph (2)(f) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 15, war service is for the purposes of paragraph (1) to be assumed.

(11) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—

- (a) he became entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or
- (b) the period mentioned in paragraph (2)(c) or (d)(i) began.

#### **Modified application of regulation F3 in certain cases**

**F4.**—(1) Regulation F3 applies in accordance with paragraphs (3) to (5) of this regulation in the cases specified in those paragraphs.

(2) In this regulation, unless the context otherwise requires, “service” means service or employment with any employer.

(3) In the case of a person to whom rule 11 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1969(3) applied otherwise than by virtue of rule 3(3)(c) of those Rules, or to whom rule 6 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1958(4), rule 3 of the Superannuation (Local Government, Commonwealth and Foreign Service) Interchange (Scotland) Rules 1952(5), or rule 3 of the superannuation (Local Government and Colonial Service) (Scotland) Interchange Rules 1949(6) applied—

- (a) service reckonable by virtue of the provisions of any of those Rules shall for the purposes of regulation F3(2)(c) be deemed to have been reckonable by him otherwise than by virtue of interchange rules, and
- (b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

(4) In the case of a person to whom regulation 4 of the Electricity Pension Rights) Regulations 1948(7) applied, or to whom regulation 4 of the Gas (Pension Rights) Regulations 1950(8) applied as mentioned in paragraph (4) of that regulation, and who has re-entered local government employment

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(3) S.I. 1969/1642  
(4) S.I. 1958/1402  
(5) S.I. 1952/433  
(6) S.I. 1949/1988  
(7) S.I. 1948/2172  
(8) S.I. 1950/1206

not more than 12 months after ceasing to hold the employment by virtue of which the relevant regulation applied to him—

- (a) any period of service beginning before 1st July 1950—
  - (i) in respect of which a transfer value has been accepted under interchange rules, or has been accepted or fallen to be treated as if it had been accepted under Part J, or
  - (ii) which he became entitled to reckon as reckonable service, or as non-contributing or contributing service or a period of contribution for the purposes of the former Regulations or of a local Act scheme,shall be deemed to be such a period as is mentioned in regulation F3(2)(c), and
- (b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

(5) In the case of a person—

- (a) who after the date specified in regulation F3(11) left local government employment and became entitled to participate in the benefits of another occupational pension scheme, and
- (b) who re-entered local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (a) and became entitled in that employment to reckon a period at least equal in length to the whole of his service from the date specified in regulation F3(11)—
  - (i) as reckonable service or qualifying service, or
  - (ii) s non-contributing or contributing service, or a period of contribution, for the purposes of the former Regulations or of a local Act scheme, or
  - (iii) a service material for the purposes of regulation H5(8),

the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation F3(4).

### **Notice of election**

**F5.**—(1) Notice of an election under regulation F3 is to be given in writing—

- (a) in the case of a person who has, or a deceased employee who before he died had—
  - (i) become entitled to receive payments in respect of any annual pension out of a superannuation fund maintained under these Regulations (including a pension subject for the time being to reduction or suspension under regulation E15), or
  - (ii) become entitled to any annual pension under regulation E2(1)(c), to the administering authority maintaining the superannuation fund which is or was liable in respect of the pension of, where there is more than one pension, the first of them, or
- (b) in the case of a person in respect of whom a transfer value has been paid after 31st March 1978, under Part J or under Part P of the 1974 Regulations, to the administering authority maintaining the superannuation fund out of which it was paid, or
- (c) in any other case, to the appropriate administering authority.

(2) The person giving notice of an election under regulation F3—

- (a) is to give the authority, in writing—
  - (i) all information in his possession, and
  - (ii) if the authority notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain,concerning the war service of the person to whom the notice relates and his past membership of any scheme designated under sub-paragraph (b), and

- (b) is to designate in the notice the scheme, if any, which he believes complies with regulation F6(3), and—
- (c) may—
  - (i) in that notice, or
  - (ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation F3(2) to (11) are satisfied in relation to the person to whom that notice relates by a further notice in writing to the same authority, elect that regulation F6 shall apply with the substitution, in paragraph (1)(a) or (b) or (12) as the case may be, for “47 per cent” (or for any reduced percentage substituted under paragraph (13)) of any specified lesser percentage, and
- (d) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation F3.

### **Reckonable service and benefits**

**F6.**—(1) Subject to regulation F5(2)(c) and paragraphs (2) to (16), a person in relation to whom regulation F3 applies is entitled, or as the case may be shall be deemed to have been entitled—

- (a) in the case of a person entitled on the relevant date—
  - (i) to participate in the benefits of a superannuation fund maintained under these Regulations, or
  - (ii) to a retirement pension,
 other than a person to whom regulation P13 of the 1974 Regulations applied, to reckon as reckonable service a period equal to 47 per cent of his war service; or
- (b) in the case of a person to whom on the relevant date regulation P13 of the 1974 Regulations applied, to have a period equal to 47 per cent of his war service treated as having been for the purposes of paragraph (4) of that regulation a period during which the whole of his relevant policies were fully maintained; or
- (c) in the case of a person who, having become entitled to receive an annual pension under the former Regulations or a local Act scheme, was on the relevant date entitled to receive payments in respect of that pension out of a superannuation fund maintained under these Regulations or the 1974 Regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (11).

(2) Where regulation F3(2)(f) applies and the scheme designated under regulation F5(2)(b) (“the designated scheme”) is a scheme specified in Schedule 15, paragraph (1) applies only if that scheme complies with paragraph (3).

- (3) A scheme complies with this paragraph if—
  - (a) it is the first public service scheme the war service provisions of which could have become applicable to the person if he had remained a member of it, and
  - (b) he is, or in the case of a deceased employee was, immediately before he died—
    - (i) entitled to reckon the employment in which he was subject to the scheme as reckonable service, or
    - (ii) entitled to a retirement pension in the calculation of which that employment was taken into account as reckonable service.

(4) Where the designated scheme is a scheme specified in Part I of Schedule 15 and complies paragraph (3), this regulation applies with the substitution throughout for references to 47 per cent of references to 63 and two thirds per cent.

(5) Where the designated scheme is a scheme specified in Part II of Schedule 15 and complies with paragraph (3), this regulation applies with the substitution throughout for references to 47 per cent of references to 46 and one half per cent.

(6) Where the designated scheme is not a scheme specified in Schedule 15, paragraph (1) applies only if a transfer value, calculated in accordance with Part V of Schedule 16, is received in respect of the period that could have become reckonable under the war service provisions of that scheme.

(7) Where paragraph (1) applies by virtue of the acceptance of such a transfer value, this regulation applies with the substitution throughout for references to a period equal to 47 per cent of the person's war service of references to the period that could have become reckonable under the war service provisions of the designated scheme.

(8) Where the person was entitled on the relevant date to a retirement pension—

(a) his entitlement under paragraph (1)(a) or (b), and to any resulting increase in the rate of his retirement pension, shall be taken to have arisen on—

(i) 1st April 1978, or

(ii) the date on which he ceased to hold his employment,

whichever is the later, and

(b) if regulation E3(9) of the 1974 Regulations applied to him before 15th October 1982—

(i) any increase by virtue of paragraph (1)(a) or (b) in the amount of any benefit is not subject to reduction under regulation E3(14), and

(ii) the period that he is entitled by paragraph (1)(a) or (b) to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation E3(14),

and for the purpose of this sub-paragraph any reference to regulation E3(14) shall be taken to include a reference to regulation 4 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1961(9) and regulation 36 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1970(10).

(9) The relevant date for the purposes of paragraphs (1) and (8) is the date of the election under regulation F3, except in the case of a deceased employee where it is the date of his death.

(10) Any period which a person is or is deemed to have been entitled to reckon as reckonable service by virtue of paragraph (1)(a) or (b) shall for the purposes of regulation E3(7) to (10) and of regulation E11(5) and (9) be deemed to be reckonable service before, as the case may be—

(a) 1st April 1972, or

(b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(11) The additional benefits mentioned in paragraph (1)(c) are—

(a) an additional pension, payable from—

(i) 1st April 1978, or

(ii) the date on which the person became entitled to receive payments in respect of a pension as mentioned in paragraph (1)(c),

whichever is the later date, and

(b) if the person has received or is entitled to receive payment of any lump sum of the same nature as a retiring allowance, an additional lump sum,

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(9) [S.I. 1961/206](#)

(10) [S.I. 1970/1307](#)

calculated in accordance with, paragraph (12).

(12) Subject to regulation F5(2)(c) and paragraphs (13) and (16)—

- (a) the annual rate of an additional pension, and
- (b) the amount of an additional lump sum,

specified in paragraph (11) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original lump sum would have been increased if a period equal to 47 per cent of the person's war service had been service, or a period, of a kind which (however described) counted in full in the calculation of the original pension or lump sum.

(13) If a period of part-time service or employment falling to be treated under section 12(5) of the Act of 1937 or under regulation E25 or under regulation P13(4)(b) of the 1974 Regulations as though it were whole-time service or employment for a proportionately reduced period—

- (a) began before and ended on or after 1st July 1950, and
- (b) was not preceded, without any break, by a period of whole-time service or employment,

paragraph (1)(a) or, as the case may be, paragraph (1)(b) or paragraphs (12) and (16) apply with the substitution for "47 per cent" of the percentage obtained by reducing 47 per cent in the same proportion.

(14) Where—

(a) before the date of notification of a decision or determination that he is entitled to reckon a period as reckonable service by virtue of paragraph (1)(a) or (b), a person in relation to whom regulation F3 applies has been credited with an additional period of service under—

- (i) any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation, or
- (ii) regulation E3(12),

("the enhancement provision"), and

(b)  $A + B + C$  exceeds 40 years, where—

A is the period which would but for this paragraph be reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b),

B is the remainder of his reckonable service, and

C is the additional period of service with which he has been credited under the enhancement provision,

the period which is reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b) is the total of  $40 - (B + C)$  and the amount, if any, by which  $(A + B + C) - 40$  exceeds C; except that where the instrument referred to in sub-paragraph (a) above is the Local Government Re-organisation (Retirement of Chief Officers) (Scotland) Regulations 1974(11) for the figure "40" wherever it occurs in this sub-paragraph there shall be substituted the figure "45".

(15) Where a person who was entitled or deemed to be entitled to any additional benefit specified in paragraph (11) dies and there is payable in respect of him out of a superannuation fund maintained under these Regulations any benefit similar to a widow's pension, children's pension or death gratuity payable under Part E ("the death benefit"), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate or, as the case may be, of any amount which bears the same proportion to the death benefit as the first additional benefit bears to the corresponding original benefit.



(16) The total of an additional benefit under paragraph (11) or (15) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

- (a) the period equal to 47 per cent of the person's war service had been a period of service before he attained the age of 60 years, and
- (b) no more than—
  - (i) 40 years' service before attaining that age, and
  - (ii) 45 years' service in all,

had been capable of counting in the calculation of the original benefit.

(17) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

- (a) multiplying the number of complete years of war service, if any, by 365, and
- (b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

and any fraction of a day resulting from the calculation is to be excluded from the period.

### **Revision of certain elections**

**F7.**—(1) Subject to paragraph (2), where—

- (a) notice of one or more elections under regulation C8(2) or notice under regulation C2B(1) of the 1974 Regulations has been given by or in respect of a person in relation to whom regulation F3 applies, and
- (b) the service thereby specified amounts to the whole of his reckonable service before, as the case may be—
  - (i) 1st April 1972, or
  - (ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,

he or his executors may elect that the period which he is or is deemed to be entitled to reckon as reckonable service by virtue of regulation F6(1)(a) or (b) is to be treated as having been included in the service specified in the latest notice.

(2) An election under paragraph (1)

- (a) may not be made unless notice of election under regulation R3 of the 1974 Regulations was given within the period of 6 months beginning on the relevant date, or in the case of a deceased employee who died during that period within the period of 12 months beginning on the date of his death, and
- (b) must, unless they allow a longer period, be made by giving notice in writing to the administering authority concerned within 3 months after the date of notification of a decision by that authority, or as the case may be a determination by the Secretary of State under regulation N8, that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1).

(3) For the purposes of paragraph (2)(a) the relevant date—

- (a) where regulation F3(2)(b) applies, is 5th September 1984 and
- (b) in any other case, is 15th October 1982.