
STATUTORY INSTRUMENTS

1992 No. 1991

PENSIONS

**The Local Government Superannuation
(National Rivers Authority) Regulations 1992**

<i>Made</i>	- - - -	<i>18th August 1992</i>
<i>Laid before Parliament</i>		<i>25th August 1992</i>
<i>Coming into force</i>	- -	<i>15th September 1992</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(1), and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Local Government Superannuation (National Rivers Authority) Regulations 1992 and shall come into force on 15th September 1992.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“scheme” means an approved non-local government scheme which was in the period beginning with 1st July 1988 and ending on 31st August 1989 a contractedout scheme for the purposes of the Pensions Act;

“the 1988/89 period” means in respect of a transferred NRA employee that part of the period beginning with 1st July 1988 and ending on 31st August 1989 for which he was subject to a scheme;

“the principal Regulations” means the Local Government Superannuation Regulations 1986(2), and any expression which is also used in the principal Regulations has the same meaning as in those Regulations;

(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(2) S.I.1986/24; relevant amending instruments are S.I. 1987/293, 1988/466, 1989/1462, 1991/1203.

“the shortfall” shall be construed in accordance with regulation 6; and “transferred NRA employee” means a person who—

- (a) in the period beginning with 1st July 1988 and ending on 31st August 1989 became subject to a scheme whilst in the employment of a water authority;
- (b) immediately prior to becoming subject to a scheme was a pensionable employee of a water authority; and
- (c) on 1st September 1989 became a pensionable employee of the National Rivers Authority.

Rights under the principal Regulations

3. Subject to regulations 4 to 9, a transferred NRA employee shall be treated for the purposes of the principal Regulations as if regulation J13(3) of those Regulations(3) did not apply for the 1988/89 period.

Further adjustments under the principal Regulations

4. Where a transferred NRA employee has made contributions to a scheme for the 1988/89 period at the same or a higher rate than that at which they would have been payable under regulation C2 of the principal Regulations(4) for that period if he had not joined a scheme, he shall—

- (a) be treated as having made contributions in accordance with that regulation to the appropriate superannuation fund for that period; and
- (b) be entitled to reckon that period as reckonable service, in accordance with regulation D1 of the principal Regulations(5).

Refund of contributions

5.—(1) Where a transferred NRA employee has made contributions to a scheme for the 1988/89 period at a higher rate than that at which they would have been payable under regulation C2 of the principal Regulations for that period if he had not joined a scheme, the National Rivers Authority shall within 6 months after the date these Regulations come into force pay that person the aggregate of—

- (a) an amount equal to—

$$A-B$$

where—

A is the total amount of contributions paid by him to a scheme for the 1988/89 period; and

B is the total amount of contributions which would have been payable by him under regulation C2 of the principal Regulations for that period if he had not joined a scheme; and

- (b) interest on the amount payable under sub-paragraph (a) calculated at the standard rate on a day to day basis from 1st September 1989 to the date of payment and compounded with 3 monthly rests.

(2) The National Rivers Authority shall deduct from any payment under this regulation any tax to which it may become chargeable under section 598 of the Income and Corporation Taxes Act 1988(6) (which relates to charge to tax on repayment of employee’s contributions).

(3) Regulation J13 is amended by S.I. 1989/1462.

(4) Regulation C2 is amended by S.I. 1987/293.

(5) Regulation D1 is amended by S.I. 1988/466, 1991/1203.

(6) 1988 c. 1; section 598(1) was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraph 10.

- (3) For the purposes of paragraph (1)(b)–
- (a) the standard rate, in relation to a year or part of a year, is the base rate quoted by the reference banks and effective on 15th March (or, if that day is not a business day, the next business day) of the preceding year; or if different base rates are quoted and so effective, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;
 - (b) the reference banks, in relation to any 15th March, are the seven largest institutions–
 - (i) authorised by the Bank of England under the Banking Act 1987(7), and
 - (ii) incorporated in and carrying on a deposit-taking business within the United Kingdom, which quote a base rate in sterling effective as mentioned in subparagraph (a);
 - (c) the size of an institution is to be determined by reference to its total consolidated gross assets denominated in sterling, as shown in its audited endyear accounts last published before the relevant 15th March;
 - (d) a “deposit-taking business” has the meaning given in section 6 of the Banking Act 1987 but subject to any order under section 7 of that Act; and
 - (e) “year” means a period of 12 months beginning with 1st April.

(4) In paragraph (3)(c), the reference to the “consolidated gross assets” of an institution is a reference to the gross assets of that institution together with any subsidiary (within the meaning of section 736 of the Companies Act 1985)(8).

Additional payments

- 6.—(1) This regulation applies to a transferred NRA employee who–
- (a) has made contributions to a scheme for the 1988/89 period at a rate which is less than that at which they would have been payable under regulation C2 of the principal Regulations for that period if he had not joined a scheme; and
 - (b) is a pensionable employee and has been one continuously since 1st September 1989.

(2) A transferred NRA employee to whom this regulation applies may, by notice given in accordance with paragraph (4), elect to make good the shortfall in contributions by payment to the National Rivers Authority in accordance with paragraphs (6) and (7) of an amount equal to–

$B-A$

where

A and B have the same meanings as in regulation 5(1)(a).

(3) Within 6 months after the date of coming into force of these Regulations, the National Rivers Authority shall notify in writing a transferred NRA employee to whom this regulation applies of–

- (a) the right of election under paragraph (2);
 - (b) a statement of the amount of the shortfall which is payable; and
 - (c) the provisions of paragraph (4) as to notice.
- (4) Subject to paragraph (5), a notice of election–
- (a) shall be given by a transferred NRA employee in writing to the National Rivers Authority not later than 6 months after he has received a notification under paragraph (3); and
 - (b) shall be irrevocable.

(7) 1987 c. 22.

(8) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (c. 40).

(5) The National Rivers Authority may extend the time limit in paragraph (4)(a).

(6) Subject to paragraph (7), a transferred NRA employee shall be entitled to pay the amount payable under paragraph (2) either—

- (a) by instalments of equal amounts at such intervals as the National Rivers Authority may agree, or
- (b) by a single payment of the full amount.

(7) Amounts paid under paragraph (2) shall not in any year exceed such amount as, when added to all other payments made by a transferred NRA employee in that year under Part C of the principal Regulations, is equal to the limit specified in paragraph 21 of Schedule 6 to the Finance Act 1989(9).

(8) When the shortfall has been paid in full, a transferred NRA employee shall—

- (a) be treated as having made contributions in accordance with regulation C2 of the principal Regulations to the appropriate superannuation fund for the 1988/89 period; and
- (b) be entitled to reckon that period as reckonable service, in accordance with regulation D1 of the principal Regulations.

(9) Paragraphs (10) and (11) apply where a transferred NRA employee has begun to make payments under paragraph (6)(a) but ceases to be a pensionable employee before he has completed payment of the sum payable by him under paragraph (2).

(10) A transferred NRA employee who dies, or ceases to hold his pensionable employment by reason of permanent ill-health or infirmity of mind or body, shall be treated as having paid the shortfall in full and paragraph (8) shall apply accordingly.

(11) A transferred NRA employee who ceases to be a pensionable employee for any other reason shall be entitled to reckon as reckonable service, in accordance with regulation D1 of the principal Regulations, a proportion of the 1988/89 period calculated as—

$$\frac{A+C}{B} \times D$$

where—

- A and B have the same meanings as in regulation 5(1)(a);
- C is the total amount paid by way of instalments under paragraph (6)(a); and
- D is the 1988/89 period.

(12) A transferred NRA employee who has not elected to make good the shortfall shall be entitled to reckon as reckonable service, in accordance with regulation D1 of the principal Regulations, a proportion of the 1988/89 period calculated as—

$$\frac{A}{B} \times D$$

where—

- A and B have the same meanings as in regulation 5(1)(a); and D is the 1988/89 period.

Transitional provisions

7.—(1) This regulation applies to a transferred NRA employee who—

- (a) has made contributions to a scheme for the 1988/89 period at a rate which is less than that at which they would have been payable under regulation C2 of the principal Regulations for that period if he had not joined a scheme; and
- (b) ceased to be a pensionable employee before he received a notification under regulation 6(3).

(2) A transferred NRA employee to whom this regulation applies shall be deemed to have given a notice of election under regulation 6(4) and paid the shortfall in full, and regulation 6(8) shall apply accordingly.

Periodical payments to increase reckonable service

8. Where a transferred NRA employee—
- (a) has elected to make additional contributions to the appropriate superannuation fund under regulation C6 of the principal Regulations prior to the 1988/89 period, and
 - (b) has made additional contributions to a scheme for the 1988/89 period at the same rate as that at which they would have been payable under that regulation for that period if he had not joined a scheme, he shall be treated as having made additional contributions in accordance with that regulation to that fund for that period.

Payments to avoid reduction of retiring allowance and death grant

9. Where a transferred NRA employee—
- (a) has elected to make payment to the appropriate superannuation fund under regulation C8 of the principal Regulations(10) prior to the 1988/89 period, and
 - (b) has made payments to a scheme for the 1988/89 period at the same rate as that at which they would have been payable under that regulation for that period if he had not joined a scheme, he shall be treated as having made payments in accordance with that regulation to that fund for that period.

Right of appeal

10. The provisions of Part N of the principal Regulations (determination of questions and appeals) shall apply in relation to rights and liabilities arising under these Regulations as they apply in relation to rights and liabilities under the principal Regulations.

Signed by authority of the Secretary of State

18th August 1992

David Maclean
Minister of State,
Department of the Environment

(10) Regulation C8 is amended by S.I. [1992/172](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the pension rights of certain pensionable employees of the National Rivers Authority under the Local Government Superannuation Regulations 1986 (“the principal Regulations”) who became subject to an approved non-local government superannuation scheme (“scheme”) in their previous water authority employments.

Regulation 3 retrospectively disapplies part of J13 of the principal Regulations, subject to regulations 4 to 9.

Under J13, such employees ceased to qualify for benefits under the principal Regulations.

Regulation 4 provides that those employees who made contributions to a scheme at the same or a higher rate than that which would have been payable under the principal Regulations if they had not joined a scheme will be treated as having made all the appropriate contributions under the principal Regulations and be entitled to count the period in a scheme as reckonable service for superannuation purposes.

Regulation 5 requires the National Rivers Authority to refund the difference in contributions, with interest, to employees who made contributions to a scheme at a higher rate than that which would have been payable under the principal Regulations.

Regulation 6 enables employees who made contributions to a scheme at a lower rate than that which would have been payable under the principal Regulations to elect to make good the shortfall in contributions and thereby to make good the loss in reckonable service which would occur otherwise.

The position of employees who ceased to be pensionable employees before they had an opportunity to give notice of election is provided for in regulation 7.

Regulations 8 and 9 make special provision for employees who, prior to becoming subject to a scheme, elected to make additional payments under regulations C6 or C8 of the principal Regulations and who then made payments to such a scheme at the same rate as that which would have been payable under those Regulations if they had not joined a scheme.

The appeal provisions of the principal Regulations are applied by regulation 10.