
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 61

The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003 and shall come into operation on 24th March 2003.

General interpretation

2.—(1) Schedule 1 contains definitions of expressions used in these Regulations which apply for their interpretation.

(2) Expressions not defined in Schedule 1 but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations or, if the expression is not defined in those Regulations, but is defined in the 2000 Regulations, as in the 2000 Regulations.

(3) Schedule 2 has effect for the purposes of the definition of “appropriate percentage” in Schedule 1.

(4) Where these Regulations refer to anything done, required or arising under any provision of the Pension Regulations, those references shall include anything done, required or arising under the corresponding provision of the 2000 Regulations, the 1992 Regulations or the 1981 Regulations.

(5) Where these Regulations refer to a Scheme member or a person who would be or would have been a Scheme member, those references shall include a pensionable employee and a person who would be or would have been a pensionable employee.

General and special application of Regulations

3.—(1) These Regulations apply in relation to, or as the case may be, in consequence of the death of, a person –

(a) whose employment is terminated –

(i) by reason of redundancy;

(ii) in the interests of the efficient exercise of the Scheme employer’s functions; or

(iii) in the case of a joint appointment, because the other holder of the appointment has left it; and

(b) who, on his final day of employment, is eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for a relevant disqualification, and in the following provisions of these Regulations “person” shall be construed accordingly.

(2) Where an additional requirement is specified in any provision of Parts II to IX in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.

PART II

INCREASE OF STATUTORY REDUNDANCY PAYMENTS

Power to increase statutory redundancy payments

4.—(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Order on the termination of his employment.

(2) The amount which may be paid must not be more than the difference between –

- (a) the redundancy payment to which he is entitled under Part XII of the 1996 Order; and
- (b) the payment to which he would have been entitled if there had been no limit on the amount of a week’s pay used in the calculation of his redundancy payment⁽¹⁾.

(3) The power to pay compensation is exercisable by the body by which he is employed immediately before the termination date.

PART III

DISCRETIONARY COMPENSATION FOR REDUNDANCY: GENERAL

Discretionary compensation for redundancy: general

5.—(1) This Part applies where a person –

- (a) ceases to hold his employment with a Scheme employer;
- (b) in respect of that cessation –
 - (i) has not lost his right to a redundancy payment under Part XI of the 1996 Order by agreement under Article 240(2) of that Order (agreements to exclude rights to redundancy payments on expiry of fixed term contracts);
 - (ii) may not count an additional period of membership under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50); and
 - (iii) either is not entitled to have his case considered for compensation under Part IV or is so entitled but has not been awarded a credited period;
- (c) is over 18 and under 65 on the termination date;
- (d) if under 50 on the termination date, is entitled to count a qualifying employment of at least two years; and
- (e) has a total membership not exceeding 40 years.

(2) Where this Part applies, the Scheme employer may, not later than six months after the termination date, decide to pay compensation under this Part; and in that event shall, as soon as

(1) See Article 23(1)(c) of the Employment Rights (Northern Ireland) Order 1996

reasonably practicable after the decision, notify the person in whose favour it has been made, giving details of the calculation of the compensation.

(3) The amount of compensation must not exceed one week's pay for each complete week between the termination date and the person's 65th birthday and, subject to that, must not exceed 66 weeks' pay or, if less, whichever of sub-paragraphs (a) to (d) applies to him –

- (a) if the employee is at least 18 but under 20 on the termination date, half a week's pay for each complete year of qualifying employment after he became 18;
- (b) if the employee is at least 20 but under 23 on the termination date –
 - (i) half a week's pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional half a week's pay for each complete year of qualifying employment after he became 20;
- (c) if the employee is at least 23 but under 41 on the termination date, two weeks' pay for each complete year of qualifying employment after he became 18; or
- (d) if the employee is at least 41 on the termination date –
 - (i) two weeks' pay for each complete year of qualifying employment after he became 18; and
 - (ii) an additional three weeks' pay for each complete year of qualifying employment after he became 41.

(4) Chapter IV of Part I of the 1996 Order (calculation of a week's pay) shall apply for the purpose of calculations under paragraph (3) as it applies for the purpose of calculating redundancy payments but –

- (a) with the substitution for references to the calculation date of references to the termination date; and
- (b) without the limit in a week's pay imposed by Article 231 of that Order.

(5) In calculating compensation under this Part the Scheme employer shall exclude any years of qualifying employment which that Scheme employer or any other Scheme employer has taken into account when calculating compensation already paid under these Regulations or other regulations made under Article 19 of the 1972 Order, other than years of concurrent qualifying employment.

(6) If the person in whose favour a decision under paragraph (2) has been made receives a redundancy payment under Part XII of the 1996 Order or compensation under Part II of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under this Part.

(7) Compensation payable under this Part shall be paid by the Scheme employer, as soon as practicable after the decision under paragraph (2), in the form of a lump sum.

PART IV

ALTERNATIVE DISCRETIONARY AWARDS FOR THOSE AGED 50 AND OVER

Persons eligible for discretionary awards

6.—(1) A person is an eligible person for this Part if he satisfies the requirements in paragraph (2).

(2) The requirements are that, on the termination date of his employment by an employing authority –

- (a) he is not entitled to have his case considered for long-term compensation or retirement compensation under section 137 (compensation of officers) of the 1972 Act or under any statutory provision to similar effect;
- (b) that his total membership is not to be increased under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50) because of the terminated employment;
- (c) that he is not to receive compensation for the terminated employment under regulation 5;
- (d) he is at least 50, but under 65;
- (e) the total of –
 - (i) his total membership⁽²⁾,
 - (ii) any periods of superannuable membership⁽³⁾, and
 - (iii) any increase in membership under regulation 11 of the Transitional Regulations, is 5 years or more; and
- (f) his total membership is not more than 40 years; or
- (g) if he is an assumed member, his total membership –
 - (i) amounts in total to at least 5 years; and
 - (ii) does not in total exceed 40 years.

Award of credited period by way of compensation

- 7.—(1) An employing authority may award a credited period to an eligible person.
- (2) A credited period must not exceed whichever is the shortest of –
- (a) the difference between his total membership and 40 years;
 - (b) the period beginning with the day after the termination date and ending on his 65th birthday, less the period of his residual entitlement (if any) (see regulation 8);
 - (c) the total of –
 - (i) his total membership; and
 - (ii) any period which counts as a period of superannuable membership; and
 - (iii) any increase in membership under regulation 11 of the Transitional Regulations, or, if he is an assumed member, any period which would count or any increase which would be awarded apart from a relevant disqualification and on the relevant assumptions; and
 - (d) 10 years.
- (3) An award may not be made later than six months after the termination date.

Period of residual entitlement

8.—(1) A person has a period of residual entitlement under regulation 7(2)(b) if he has been awarded a credited period in respect of an earlier cessation.

- (2) The period of his residual entitlement is that found by applying the formula –

$$(A - B + C) - D$$

where –

(2) See regulation 8(2) of the Pension Regulations
 (3) See regulation 9 of the Pension Regulations

A is his earlier extra service, or if paragraph (3) applies to him, that service as reduced in accordance with paragraph (4);

B is the length of the terminated employment;

C is the total of any other periods during which he was or could have been a Scheme member, being periods between the end of the first employment for which earlier extra service was granted and the beginning of the terminated employment; and

D is the period between the end of the first employment for which earlier extra service was granted and the termination date.

(3) This paragraph applies to a person –

(a) who, after an earlier cessation or, if there has been more than one, the first of them, has ceased to hold another employment (“his subsequent employment”); and

(b) whose earlier extra service has been reduced by the whole or part of the period of his subsequent employment; or

(c) whose retirement payment attributable to that earlier extra service has been reduced on account of the whole or part of the period of his subsequent employment.

(4) The earlier extra service of a person to whom paragraph (3) applies shall be reduced by the period of his subsequent employment or, where the reduction in paragraph (3)(b) or (c) was of, or attributable to, part of that period, by that part.

Lump sum compensation

9.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to compensation in the form of a lump sum if –

(a) on ceasing to hold the terminated employment, he is entitled to a retirement grant under regulation 28 (redundancy, etc.) of the Pension Regulations; or

(b) but for a relevant disqualification, he would be so entitled on the relevant assumptions.

(2) The amount of lump sum compensation payable, unless adjusted in accordance with Part V, is an amount equal to that by which his retirement grant would be increased on the relevant assumptions and in accordance with the Pension Regulations if his total membership were increased by the credited period.

Annual compensation: general provisions

10.—(1) Subject to Part V, an eligible person who has been awarded a credited period is entitled to annual compensation.

(2) The rate at which annual compensation is payable, unless adjusted in accordance with Part V, VI or VII, is the same as that by which the pension to which –

(a) he is entitled under regulation 28 of the Pension Regulations; or

(b) would be so entitled, but for a relevant disqualification

would be increased, on the relevant assumptions and in accordance with those Regulations, if his total membership were increased by the relevant credited period.

(3) Annual compensation is payable from the day after the termination date.

PART V

EFFECT OF OTHER RECEIPTS ON PART IV COMPENSATION

Effect of occupational pension

11.—(1) Where the conditions in paragraph (2) are met, an eligible person's basic entitlement shall, if necessary, be reduced so that the total of the annual rates for the time being of –

- (a) any occupational pension to which that person is entitled and which is being paid;
- (b) his pension under regulation 28 of the Pension Regulations; and
- (c) his annual compensation,

is not more than the relevant amount.

(2) The conditions are –

- (a) that immediately before the termination date the eligible person was entitled to an occupational pension in respect of any period (whether or not it was being paid); and
- (b) that the total of that period, his total membership and any credited period is more than 40 years.

Effect of redundancy payments

12.—(1) This regulation applies to an eligible person who, in respect of any terminated employment –

- (a) has been awarded a credited period that is longer than $6\frac{2}{3}$ years; and
- (b) has received, or is entitled to receive, a redundancy payment under Part XII of the 1996 Order or compensation under Part II of these Regulations.

(2) If, but for this paragraph, such a person would be entitled –

- (a) to lump sum compensation of an amount which is equal to or less than the calculated amount, he shall not be entitled to any such compensation;
- (b) to lump sum compensation of an amount which is greater than the calculated amount, his lump sum compensation shall be reduced by the calculated amount.

(3) If a person to whom this regulation applies has no entitlement to lump sum compensation –

- (a) because sub-paragraph (a) of paragraph (2) applies, his basic entitlement shall be reduced by the appropriate percentage of the difference (if any) between the amounts referred to in that sub-paragraph;
- (b) for any other reason, his basic entitlement shall be reduced by the appropriate percentage of the calculated amount.

(4) The calculated amount is that found by applying the formula –

$$(A \times B) - C$$

where –

A is an amount equal to 30 per cent of the total amount of the redundancy payment and compensation referred to in paragraph (1)(b);

B is the amount, expressed in years and fractions of a year to the nearest day, by which the credited period exceeds $6\frac{2}{3}$; and

C is the total amount of any reductions made in the redundancy payment and compensation referred to in paragraph (1)(b) in accordance with the 1965 Regulations.

Effect of other termination payments

13.—(1) This regulation applies to an eligible person who –

- (a) has been awarded a credited period; and
- (b) receives a termination payment from his employing authority.

(2) Such a person shall not be entitled to lump sum compensation if, after deduction of the calculated amount (where required by regulation 12), the amount of that compensation would be the same as, or less than, the termination payment.

(3) The amount payable to a person who is entitled to lump sum compensation under paragraph (2) is the amount remaining after the deduction of the termination payment and, where required, the calculated amount.

(4) The basic entitlement of a person to whom this regulation applies shall be adjusted (in addition to any other adjustment required by regulations 12, 16, 18 and 19) –

- (a) if, after the deduction of the calculated amount (where required by regulation 12), his termination payment exceeds his lump sum compensation, by the deduction of the amount of that excess;
- (b) if he is not entitled to lump sum compensation for a reason other than the operation of paragraph (2), by the deduction of the amount of the termination payment;
- (c) if he receives the whole or part of the termination payment after a credited period has been awarded and his compensation has not been adjusted on account of that payment, by the deduction of the amount received.

(5) Where adjustments to a person's basic entitlement are required in accordance with paragraph (4), no instalment of annual compensation is payable to him until the total of the deductions under that paragraph equals the amount of the adjustment.

Effect of periodic payments

14.—(1) An eligible person who receives periodic payments from his employing authority shall not be entitled to annual compensation for any period in which the total of the periodic payments received is greater than his basic entitlement (as adjusted, where required, under regulations 12, 13, 16 and 18) otherwise payable for that period.

(2) The amount payable to an eligible person who –

- (a) receives periodic payments from his employing authority; and
- (b) is entitled to annual compensation for a period,

is the amount of his basic entitlement for that period (as adjusted, where required, under regulations 12, 13, 16 and 18) less the total of the periodic payments received for that period.

PART VI

EFFECT ON NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VI

15.—(1) In this Part, “annual compensation” means the annual compensation, after any necessary adjustment in accordance with Part V, which would, apart from regulation 16, be payable to a person under these Regulations.

(2) For the purposes of this Part, an eligible person –

- (a) whose contractual hours in a new employment are altered; or

(b) who is transferred to another post with the same employing authority at an altered rate of pay,
shall be treated as if he had again entered a new employment.

Reduction of annual compensation

16.—(1) Where an eligible person to whom a credited period has been awarded enters a new employment, the employing authority must reduce his annual compensation by such amount (if any) as it considers appropriate.

(2) In deciding what is appropriate, the employing authority must secure that that person is not able to obtain for himself a total annual amount comprising –

- (a) the annual rate of pay from his new employment; and
- (b) financial benefits under these Regulations and the Pension Regulations,

greater than the annual rate of pay to which he would have been entitled had he remained in his terminated employment.

(3) If that position cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall be suspended.

(4) The reduction or suspension referred to in paragraph (3) shall apply for so long as the person concerned holds the new employment.

(5) For the purposes of this regulation, the reference to the “annual rate” of pay of the terminated employment is a reference to the annual rate of such pay at the termination date with official increases.

(6) For the purposes of this regulation, “new employment” shall not include employment with an admission body unless the person is eligible to be a member of the Scheme in that employment.

PART VII

EFFECT OF CESSATION OF NEW EMPLOYMENT ON PART IV COMPENSATION

Interpretation: Part VII

17.—(1) In this Part, “annual compensation” means the compensation payable to an eligible person under regulation 10 after any necessary adjustment in accordance with regulation 12.

(2) For the purposes of this Part, an eligible person –

- (a) whose contractual hours in a new employment are altered; or
- (b) who is transferred to another post with the same employing authority at an altered rate of pay,

shall be treated as if he had again entered a new employment.

Effect of cessation of new employment

18.—(1) Where an eligible person who has been awarded a credited period has ceased to hold a new employment in which he was a Scheme member or an assumed member, and the sum, in years, of –

- (a) his earlier extra service adjusted in accordance with paragraph (4) of regulation 8 if paragraph (3) of that regulation applies to him;

- (b) his credited period, reduced as may be necessary in accordance with paragraph (5); and
- (c) his total membership for the purpose of calculating under the Pension Regulations, on the relevant assumptions, his retirement pension on cessation of his new employment,

exceeds the total membership which would have been used for the purpose of that calculation if he had held his terminated employment until his 65th birthday, his employing authority must reduce his annual compensation by such amount as it considers appropriate.

(2) For the purposes of this regulation, “total membership” includes membership which would be excluded by virtue of paragraph (4) of regulation 8 of the Pension Regulations (periods of membership: “total membership”).

(3) In deciding what is appropriate, the employing authority must seek to secure that the person is not able to obtain for himself or for any dependant of his greater financial benefits under these Regulations and the Pension Regulations than those to which he or they would have been entitled had he remained in his terminated employment until age 65.

(4) But if the position referred to in paragraph (3) cannot be secured by reduction of his annual compensation, his entitlement to that compensation shall cease.

(5) Where there has been a reduction of a person’s annual compensation in accordance with this regulation on account of a period of previous new employment or part of such a period (“the abatement period”) then, for the purposes of paragraph (1)(b), the length of his credited period shall be reduced by the abatement period.

(6) For the purposes of this regulation –

“new employment” shall not include employment with an admission body unless the person was eligible to be a member of the Scheme in that employment; and

“terminated employment” in paragraphs (1) and (3) refers, where there is more than one, to the first of them.

PART VIII

SURRENDERS AND AWARDS TO SURVIVING SPOUSES AND CHILDREN

Surrender of part of annual compensation

19.—(1) A person who, under regulation 36 (surrenders of pension) of the Pension Regulations has been allowed to surrender part of the retirement pension to which he would otherwise have been entitled on ceasing to hold his former employment, may (having been awarded a credited period) notify his employing authority, in accordance with paragraph (2) or (3), that he wishes to surrender part of his annual compensation.

(2) A person who has not entered a new employment must give notice within one month of the date on which he is notified of the award of a credited period or, if later, his 65th birthday⁽⁴⁾.

(3) A person who has entered a new employment must give notice within one month of –

- (a) the date on which that employment ends;
- (b) the date on which he is notified of any adjustment made by reason of the ending of that employment; or
- (c) his 65th birthday,

whichever is the latest.

(4) See regulation 26(2) of the Pension Regulations

(4) A person to whom paragraph (1) applies may surrender the same percentage of his annual compensation as that surrendered under the Pension Regulations so that, if he is survived by his spouse or a dependant of his (“the beneficiary”), the equivalent value of that part is paid instead to the beneficiary.

(5) On the death of the person who has surrendered part of his annual compensation the beneficiary becomes entitled to annual compensation at a rate equivalent to the value of the surrender in the beneficiary’s favour at the time when the surrender was made.

(6) The equivalent rate is such rate as is indicated in guidance issued by the Government Actuary.

(7) If the surrender is allowed, it has effect from the date the person who has made the surrender retires from his employment.

(8) But it does not take effect if the beneficiary or that person dies before that date, and it ceases to have effect if the beneficiary dies before that person.

(9) A person to whom regulation 36 of the Pension Regulations does not apply, because of a relevant disqualification, may notify his employing authority as mentioned in paragraph (1) and paragraph (4) shall apply in his case as if –

- (a) for “paragraph (1)” there were substituted “paragraph (9)”; and
- (b) for “the same percentage of his annual compensation as that surrendered under the Pension Regulations” there were substituted “such part of his annual compensation, not exceeding one third, as he may specify in his notice under paragraph (2) or (3)”.

(10) In this regulation “annual compensation” means the compensation payable to a person under regulation 10, subject to any necessary adjustment –

- (a) in accordance with regulation 12;
- (b) if he is a person to whom an allowance for life has been granted (see regulation 14(2)), in accordance with that regulation;
- (c) under regulation 18.

Awards to surviving spouses

20.—(1) This regulation applies where, on the death of a person who has been awarded a credited period, there is a surviving spouse –

- (a) who is entitled to receive a pension under regulations 42 to 45 (surviving spouses’ pensions) of the Pension Regulations in respect of the deceased’s terminated employment; or
- (b) who would be so entitled apart from –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) This regulation also applies where the deceased is survived by more than one spouse if both, or all, of them are, or but for the matters mentioned in paragraph (1)(b) would be, jointly entitled to receive such a pension as is mentioned in paragraph (1)(a); and in such a case references in the following paragraphs (in whatever terms) to an entitlement of the surviving spouse are references to the joint entitlement of the surviving spouses.

(3) Where this regulation applies, the surviving spouse is entitled to receive –

- (a) surviving spouse’s short-term compensation –
 - (i) for six months after the date of the death if the surviving spouse cares for one or more eligible children of the deceased;

(ii) otherwise, for three months after that date; and

(b) after that period, surviving spouse's long-term compensation,

but if the marriage took place after the termination date, the surviving spouse is only entitled to receive compensation under this regulation if the surviving spouse is (or would be apart from the matters mentioned in paragraph (1)(b)), entitled to a surviving spouse's pension under the Pension Regulations.

(4) Where there is a joint entitlement under this regulation the employing authority may decide how it shall be apportioned.

(5) Subject to paragraphs (6) and (7), the surviving spouse of an eligible person who ceased employment before 1st February 2003 is not entitled to any compensation under this regulation during any subsequent marriage or period of cohabitation outside marriage, and is entitled to long-term compensation from the end of such marriage or period only if the employing authority so decides.

(6) Where a widower and a widow marry each other or cohabit with each other outside marriage and both –

(a) are entitled to short-term or long-term compensation under this regulation; and

(b) are the surviving spouses of eligible persons who ceased employment before 1st February 2003,

only such one of them as they may choose shall be so entitled; and the other shall cease to be so entitled until the end of the marriage or cohabitation.

(7) The employing authority may determine by resolution in any case where the surviving spouse had not, as at 1st February 2003 entered into a subsequent marriage or a period of cohabitation that paragraph (5) or (6), as appropriate, shall not apply.

Amount of surviving spouse's short-term and long-term compensation

21.—(1) Surviving spouse's short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased immediately before his death in accordance with these Regulations, ignoring –

(a) any adjustment in accordance with regulation 13 or 14; or

(b) where the adjustment is under regulation 18 and is to take into account an entitlement to lump sum compensation, such an adjustment under that regulation.

(2) Surviving spouse's long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment –

(a) under regulation 12, 13, 14 or 19; and

(b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

(3) Where at the time of his death the deceased was in a new employment in which he was a Scheme member, the employing authority must decide the extent to which any reduction made by it under regulation 18 to the annual compensation is to be taken into account.

(4) The amount payable under regulation 20 for a period to a surviving spouse who receives periodic payments is the amount which would have been paid to that surviving spouse for that period, less the total of the periodic payments received for that period.

Short-term compensation for children

22.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a short-term pension under regulation 47 (children’s short-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to, or to have paid for their benefit, children’s short-term compensation for the same period as that for which their short-term pension is payable under regulation 47(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period during which he is in the care of a surviving spouse who is entitled to short-term compensation under regulation 20.

(4) Children’s short-term compensation is payable at an annual rate equal to that at which annual compensation would have been payable to the deceased in accordance with these Regulations, ignoring any adjustment in accordance with regulation 13 or 14 or under regulation 18.

(5) If eligible children to whom or for whose benefit periodic payments are made are entitled to children’s short-term compensation for a period, the amount payable to or for their benefit for that period is the amount which would have been paid to them (in accordance with paragraph (1) or (2)) for that period, less the total of any periodic payments made for that period.

Long-term compensation for children

23.—(1) This regulation applies where a person who has been awarded a credited period dies, leaving one or more eligible children –

- (a) who are entitled to a long-term pension under regulation 48 (children’s long-term pensions) of the Pension Regulations; or
- (b) who would be so entitled but for –
 - (i) a relevant disqualification with respect to the deceased (and on the relevant assumptions); or
 - (ii) the transfer of benefits to another pension scheme.

(2) Where this regulation applies, but subject to paragraph (3), the eligible children are entitled to receive, or to have paid for their benefit, children’s long-term compensation for the same period as that for which their long-term pension is payable under regulation 48(2) or (3) of the Pension Regulations.

(3) An eligible child is not entitled to compensation under paragraph (2) for any period in which the total of periodic payments made to him and any other eligible children or for their benefit for that period is greater than the amount of children’s short-term compensation which would otherwise have been paid to them or for their benefit for that period.

(4) Children’s long-term compensation is the relevant fraction of the annual compensation which would have been payable to the deceased immediately before his death in accordance with these Regulations ignoring any adjustment –

- (a) under regulation 12, 13, 14 or 19; and
- (b) if at the time of his death the deceased was in a new employment in which he was not a Scheme member, under regulation 16.

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

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

Payment of children's compensation

24.—(1) Where children's compensation is payable to, or for the benefit of, the same children to whom, or for whose benefit, children's pensions are payable under regulation 49 (discretions as to payment of children's pensions) of the Pension Regulations, the compensation shall be paid to the same person and, if applicable, in the same proportions as the pension is paid under that regulation.

(2) If the only reason why a children's pension is not paid under regulation 49 of the Pension Regulations is –

- (a) a relevant disqualification with respect to the deceased; or
- (b) the transfer of benefits to another pension scheme,

the employing authority shall decide to whom the children's compensation is to be paid and, if applicable, how it is to be apportioned amongst the eligible children.

PART IX

INFORMATION ABOUT AND PAYMENT OF COMPENSATION

Policy statements

25.—(1) Each Scheme employer must formulate, publish within four months of the commencement date, and keep under review –

- (a) the policy that it applies in the exercise of its discretionary powers under Parts II to IV and Parts VI to VIII; and
- (b) the policy it applies in the exercise of its duty under regulations 16 and 18 to reduce annual compensation.

(2) If the Scheme employer decides to change either policy, it must publish a statement of the amended policy within one month of the date of its decision.

(3) The Scheme employer must not give effect to any policy change until one month has passed since the date of publication of the statement under paragraph (2).

(4) In formulating and reviewing its policies the Scheme employer must –

- (a) have regard to the extent to which the exercise of its discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
- (b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

Information relevant to compensation – employing authorities

26.—(1) Within one month after the date of –

- (a) the award of a credited period;
- (b) the death of a person in respect of whom a credited period had been awarded; or

- (c) the making of any adjustment affecting the compensation payable to, or for the benefit of, a person under any of Parts IV to VIII,

the employing authority must, by notice in writing, inform the recipient of the effect of the award or the adjustment, as the case may be, giving details of any relevant calculation.

(2) The employing authority may at any time, by notice in writing, require a person to whom compensation is payable under any of Parts IV to VIII –

- (a) to supply such information; and
- (b) to produce such documents in support of that information,

as it may reasonably require for the discharge of its functions under these Regulations; and may require the information and documents to be supplied and produced within such reasonable period as may be specified in the notice.

Information relevant to compensation – individuals

27.—(1) Within one month after the date of his entry into, or departure from, a new employment, a person to whom a credited period has been awarded must, by notice in writing, inform his employing authority of that fact.

(2) A person who has received a notice under regulation 26(2) must supply the information and produce the documents required (in so far as they are in his possession or under his control); and, if a period for their supply and production has been specified in the notice, must supply and produce them before the end of that period.

Payments and repayments

28.—(1) Any compensation payable under these Regulations –

- (a) is payable to or in trust for the person entitled to receive it;
- (b) is not assignable or chargeable with his debts or other liabilities; and
- (c) on his bankruptcy, shall not vest in his trustee in bankruptcy as part of his estate.

(2) Compensation (other than compensation payable in a lump sum) payable to, or in respect of, a person shall be payable where the entitlement arises under Part IV or VIII, at the same intervals as those at which his pension is payable under the Pension Regulations (or, but for a relevant disqualification and on the relevant assumptions or, as the case may be, the transfer of benefits to another pension scheme, would have been so payable).

(3) Where any compensation is paid in error to any person (including any overpayment) –

- (a) the paying authority must, as soon as possible after the discovery of the error –
 - (i) inform the person concerned, by notice in writing, giving details of the relevant calculation;
 - (ii) where there has been an underpayment, make a further payment;
 - (iii) where there has been an overpayment, specify a reasonable period for repayment;
- (b) a person who has received a notice under sub-paragraph (a) must repay any overpayment within the specified period; and
- (c) the paying authority may take such steps as it considers appropriate to recover from the person to whom it was paid any overpayment which has not been repaid within the specified period.

(4) The paying authority shall take into account the person's circumstances (so far as known or reasonably ascertainable), before taking steps under paragraph (3)(c).

Interest on late payments

29.—(1) Where all or part of any compensation due under either of Part IV or VIII is not paid by the paying authority within the relevant period after the due date, that authority must pay interest on the unpaid amount to the person to whom it is payable.

(2) Interest under paragraph (1) must be calculated at one per cent. above base rate on a day to day basis from the due date to the date of payment, and compounded with three-monthly rests.

Authority by whom compensation is payable

30.—(1) Unless other provisions of these Regulations have a different effect, compensation payable under either of Part IV or VIII shall be paid by the employing authority.

(2) The Committee in relation to any person who is entitled to any compensation under Part IV or VIII may agree with the employing authority to pay on its behalf such compensation arising in respect of that person and to recover the amount from the employing authority within such period (subject to paragraph (4)) and on such terms as the Committee may determine.

(3) Lump sum compensation may not be paid from the fund maintained by the Committee under the Pension Regulations.

(4) The amount of any compensation paid under Part IV or VIII from the fund by the Committee on behalf of the employing authority must be recovered from the employing authority within two months from the payment.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Finance

31. The cost of any payment to be made under these Regulations must not be met out of the fund.

Transitional provisions and savings

32. Regulations 20, 22, 23 and 24 shall have effect as if references in them to provisions of the Pension Regulations included, in relation to any case in which comparable provisions of the 2000 Regulations apply (by virtue of the Transitional Regulations), references to those comparable provisions.

Consequential amendments

33. In the Pension Regulations –

- (a) in paragraph (9) of regulation 54 (power of employing authority to increase total membership of members leaving employment at or after 50), immediately before the words “in respect of a cessation”, there shall be inserted “or regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003”;
- (b) in paragraph (2)(a) of regulation 130 (conversion of periods credited under Discretionary Payments Regulations etc. into membership), immediately before the words “with a period”, there shall be inserted “or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003”.

Revocations and savings

34.—(1) Subject to paragraph (2), the following provisions of the 2001 Regulations are hereby revoked –

- (a) Parts II to IV;
- (b) Part I of Schedule 1; and
- (c) Schedule 2.

(2) Where a person has been awarded a credited period under regulation 7 of the 2001 Regulations, regulations 16 and 17 of those Regulations shall continue to apply as if these Regulations had not been made.

Sealed with the Official Seal of the Department of the Environment on 10th February 2003.

L.S.

J. Ritchie
A senior officer of the
Department of the Environment