

2015 No. 68

LOCAL GOVERNMENT

The Local Government Reorganisation (Compensation for Loss of Employment) Regulations (Northern Ireland) 2015

Made - - - - *17th February 2015*

Coming into operation - *1st April 2015*

The Department of the Environment makes the following Regulations, in exercise of the powers conferred by Article 19 of, and paragraph 13 of Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b):

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Reorganisation (Compensation for Loss of Employment) Regulations (Northern Ireland) 2014.

(2) These Regulations shall come into operation on 1st April 2015.

Interpretation

2.—(1) In these Regulations—

“the 1996 Order” means the Employment Rights (Northern Ireland) 1996(c);

“the 2014 Act” means the Local Government Act (Northern Ireland) 2014(d);

“CSCS” means a Civil Service Compensation Scheme made and maintained by the Department of Finance and Personnel under Article 3 of the Superannuation (Northern Ireland) Order 1972;

“employment” does not include the office of councillor;

“enhanced redundancy payment” means statutory redundancy payment and compensation paid under these regulations;

“local government body” means a council or joint committee of a council which has been constituted as a body corporate;

“loss” means the loss of employment or office in the circumstances specified in regulation 3 and 4;

“material date” means the date of the final day of a person’s employment which is lost;

“the prescribed period” is the period which commences on 1st April 2015 and ends on 31st December 2019;

(a) S.I.1972/1073 (N.I. 10).

(b) S.R. & O (N.I.) 1973 No. 504 Article 7 (1); S.I. 1976/424 (N.I. 6) Article 4.

(c) S.I. 1996/1919 (N.I. 16).

(d) 2014 c. 8 (N.I.).

“the Pension Regulations” mean the Local Government Pension Scheme Regulations (Northern Ireland) 2014^(a) and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014^(b);

“recognised pension scheme” means either the Local Government Pension Scheme or the Principal Civil Service Pension Scheme Northern Ireland, as the case may be.

(2) Expressions not defined in paragraph (1) but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations.

Application of these Regulations

3. These Regulations apply to a person, determined by a local government body as entitled to an enhanced redundancy payment who—

- (a) suffers loss during the prescribed period—
 - (i) by reason of redundancy; or
 - (ii) in the interests of the efficient exercise of the local government body’s functions; and
- (b) satisfies the prescribed conditions in regulation 4.

Prescribed conditions

4.—(1) The provisions of the following paragraphs of this regulation are the prescribed conditions for the purposes of regulation 3.

(2) The first condition is that, on the material date, the person, is employed by a local government body for a continuous period of 2 years or whose employment record satisfies the requirements of Redundancy Payments (Continuity of Employments in Local Government, etc.) (Modification) Order (Northern Ireland) 1999^(c).

(3) The second condition is that the local government body determines that the loss of employment is attributable to the provisions of—

- (a) the 2014 Act;
- (b) the Local Government (Boundaries) Act (Northern Ireland) 2008; or
- (c) the Planning Act (Northern Ireland) 2011.

Calculation of compensation payment

5.—(1) A person’s compensation payment is calculated by subtracting his statutory redundancy payment, and specified compensation from his enhanced redundancy payment.

(2) A person’s enhanced redundancy payment is calculated by multiplying his statutory redundancy payment by 3.46.

(3) Subject to regulation 6(1)(b), the enhanced redundancy payment must not exceed the value of 104 weeks’ pay (as calculated for the purposes of the 1996 Order in accordance with Chapter 1V of Part 1 of that Order).

(4) For the purposes of paragraph (1), “specified compensation” is compensation paid or payable to that person:-

- (a) under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2007; and
- (b) regulations made under Article 19 of the Superannuation (Northern Ireland) Order 1972 prior to the date of making of these regulations.

(a) S.R. 2014 No. 188.
(b) S.R. 2014 No. 189.
(c) S.R. 1999 No. 409.

Limit on compensation

6.—(1) Compensation payable in respect of a person by a local government body under these regulations shall not exceed either of the following amounts—

- (a) the amount by which the enhanced redundancy payment exceeds 104 week' pay (as calculated for the purposes of the 1996 Order in accordance with Chapter 1V of Part 1 of that Order).
- (b) the amount the enhanced redundancy package costs exceeds the eligible person's annual salary cost multiplied by 3.25.

(2) For the purpose of this regulation enhanced redundancy package costs are:

- (a) the enhanced redundancy payment;
- (b) where the person is a member of a recognised pension scheme, the cost of bringing the pension into payment early without an actuarial reduction if applicable; and
- (c) the cost of any additional pension, where awarded by the local government body.

(3) For the purpose of this regulation a person's annual salary costs to the local government body, on the material date, are:

- (a) the person's gross annual salary;
- (b) the annual national insurance contribution payable by the local government body in respect of the person; and
- (c) where the person is a member of a recognised pension scheme, the annual pension contribution payable by the local government body.

Meaning of "gross annual salary"

7.—(1) For the purposes of regulation 6, a person's gross annual salary is the total of—

- (a) all the salary, wages, fluctuating emoluments and other payments paid to the person for the person's own use in respect of the person's employment; and
- (b) any other payment or benefit specified in the person's contract of employment as being a pensionable emolument.

(2) For the purposes of regulation 7, a person's gross annual salary does not include—

- (a) payments for non-contractual overtime;
- (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
- (c) any payment in consideration of loss of holidays;
- (d) any payment in lieu of notice to terminate the person's contract of employment;
- (e) any payment as an inducement not to terminate the person's contract of employment;
- (f) any payment to buy out an existing term or condition of employment;
- (g) any amount treated as the money value to the person of the provision of a motor vehicle or any amount paid in lieu of such a provision; or
- (h) any award of compensation (excluding any sum representing arrears of pay) for the purposes of achieving equal pay in relation to other employees.

Notification of compensation

8. A local government body after making a determination in accordance with regulations 3 and 4 must as soon as reasonable practicable give the person in respect of whom the determination is made written notice of the compensation payable, and the calculation thereof.

Payment

9. A local government body shall pay compensation (payable under these regulations) as soon as reasonably practicable to or in trust for the person entitled to receive it.

Sealed with the Official Seal of the Department of the Environment on 17 February 2015.



Linda MacHugh
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide for compensation for certain persons affected by the local government reorganisation.

Regulation 3 states to whom the regulations apply.

Regulation 4 prescribes the conditions which a person must satisfy, in order for the regulations to apply to that person.

Regulation 5 provides for calculation of a compensation payment.

Regulation 6 specifies the limit on the amount of compensation payable under these regulations.

Regulation 7 defines gross annual salary for the purposes of Regulation 6.

Regulation 8 requires the local government body to notify the person, in writing, of the compensation payment and how it has been calculated.

Regulation 9 requires local government bodies to make payments under these Regulations as soon as is reasonably practicable.

A full regulatory impact assessment has not been produced for this Statutory Rule as it has no impact on the cost of businesses, charities or voluntary bodies and does not have a significant financial impact on any public bodies.

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