

1975 No. 638 (S. 86)

PENSIONS

**The Local Government Superannuation (Scotland)
Amendment Regulations 1975**

<i>Made</i> - - - -	14th April 1975
<i>Laid before Parliament</i>	28th April 1975
<i>Coming into Operation</i>	16th May 1975

In exercise of the powers conferred on me by sections 7 and 12 of the Superannuation Act 1972(a) as read with paragraph 5(1) of Schedule 7 to that Act and of all other powers enabling me in that behalf, after consultation with such associations of local authorities as appeared to me to be concerned and such representatives of other persons likely to be affected by the regulations as appeared to me to be appropriate, I hereby make the following regulations:—

1.—(1) These regulations may be cited as the Local Government Superannuation (Scotland) Amendment Regulations 1975 and shall come into operation on and have effect from 16th May 1975 except those provisions of regulation 10 relating to regulation N13 of the principal regulations as added by the said regulation 10, and regulation 12(a) which shall have effect as from 16th May 1974.

(2) The Local Government Superannuation (Scotland) Regulations 1974(b) (in these regulations referred to as “the principal regulations”) and these regulations may be cited together as the Local Government Superannuation (Scotland) Regulations 1974 and 1975.

(3) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

2. In regulation A3 of the principal regulations (which covers definitions)—

(a) after the definition of “admission agreement” there shall be inserted—

““admitting authority” means the administering authority which has under an admission agreement or an agreement under regulation B4 admitted employees of another employing authority to participate in the benefits of its superannuation fund;”.

(b) for the definition of “river purification board” there shall be substituted the following:—

““river purification board” means a board established under section 135 of the Local Government (Scotland) Act 1973(d).”.

(a) 1972 c. 11.

(c) 1889 c. 63.

(b) S.I. 1974/812 (1974 II, p. 3093).

(d) 1973 c. 65.

3. In column 2 of the table in regulation A6 of the principal regulations (which deals with persons to be treated as employees of a scheduled body) for the words "The county council or the council of a large burgh" there shall be substituted the words "The regional council or the islands council".

4. The following regulation shall be substituted for regulation B1 of the principal regulations:—

"A superannuation fund shall be established and administered for the purposes of these regulations by Orkney Islands Council, Shetland Islands Council and every regional council."

5. The following regulation shall be substituted for regulation B3 of the principal regulations (which relates to the appropriate superannuation fund):—

"(1) The appropriate superannuation fund in relation to a pensionable employee of an employing authority shall where that authority are an administering authority be the fund administered by that authority.

(2) The appropriate superannuation fund in relation to a pensionable employee of an employing authority who are a party to an admission agreement or an agreement under regulation B4 made with an admitting authority shall be the fund administered by the admitting authority.

(3) The appropriate superannuation fund in relation to the pensionable employees of the Western Isles Islands Council shall be the fund maintained by the Highland Regional Council.

(4) The appropriate superannuation fund in relation to the pensionable employees of the Central Scotland Water Development Board shall be the superannuation fund maintained by the Strathclyde Regional Council.

(5) Subject to paragraph (6), in any case not falling within paragraphs (1), (2), (3) or (4), the appropriate superannuation fund in relation to the pensionable employees of an employing authority shall be the superannuation fund maintained by the administering authority for the area within which the employing authority or the greater part of the area of that authority is situate.

(6) In any case falling within paragraph (5) if the Secretary of State, on an application made to him, is satisfied, after consultation with the bodies appearing to him to be concerned, that it is expedient so to do, he may from time to time direct that all or any of the pensionable employees of the employing authority concerned shall be entitled to participate in the benefits of the superannuation fund maintained by some other administering authority and where he gives such a direction he shall give such further directions as he deems necessary for the making of financial adjustments, whether by way of a transfer of an apportioned part of the assets comprised in the fund in the benefits of which, but for that direction, those employees would have been entitled to participate, or the making of a payment out of that fund or both, for the transfer of any liabilities of that fund, and with respect to other consequential and incidental matters."

6. The following regulation shall be substituted for regulation B6 of the principal regulations (which covers use and investment of superannuation fund's moneys):—

"(1) If any moneys forming part of a superannuation fund maintained under this Part are not for the time being required to meet payments to be made out of the fund under these regulations, the administering authority shall invest

the moneys and for that purpose the Trustee Investments Act 1961(a) shall apply subject to Schedule 18, or in lieu of such investment, may subject to paragraph (4) use the moneys for any purpose for which they have a statutory borrowing power, or may lend the moneys to any other employing authority contributing to the fund for use for any purpose for which that authority have a statutory borrowing power, subject to the conditions specified in paragraph (2).

(2) The conditions mentioned in paragraph (1) shall be—

(a) interest shall be paid to the fund on any moneys used as mentioned in that paragraph and for the time being not repaid at such rate per cent. per annum as may be determined by the administering authority to be equal, as nearly as may be, to the rate of interest which would be payable on a loan raised on a mortgage under the statutory borrowing power; and

(b) the statutory borrowing power for the purpose of which the moneys are so used shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power.

(3) Such costs, charges and expenses incurred by an administering authority in exercising the powers conferred upon them by paragraph (1) as may be determined by the authority may be paid out of the superannuation fund maintained by them under this Part.

(4) An administering authority shall not under paragraph (1) use—

(a) any further moneys forming part of the superannuation fund maintained by them for any purpose for which they have a statutory borrowing power other than for the purpose of defraying expenses (including those payable by them to meet the expenses of other local authorities) pending the receipt of revenues receivable by them in respect of the financial year in which those expenses are chargeable, so long as the aggregate amount for the time being not repaid of any moneys, which formed part of the superannuation fund a body, from whom a superannuation fund is by regulation N4 transferred to that authority, was maintaining immediately before 16th May 1975 and which were used by that body, for any purpose for which the authority have on or after 16th May 1975 a statutory borrowing power, equals or exceeds 25% of the value at cost for the time being of the fund maintained by that authority under this Part;

(b) any moneys for any such purpose, so as to bring the aggregate amount of all moneys so used by them to an amount which exceeds 25% of that value.”.

7. After regulation B6 of the principal regulations there shall be added the following regulations:—

“Periodical valuation of superannuation fund

B7.—(1) Every administering authority shall obtain from an actuary, within the period specified in paragraph (2), an actuarial valuation—

(a) as at 16th May 1975, and

(b) as at the last day of the financial year 1979/80, and

(c) as at the last day of the financial year in each fifth year thereafter, of the assets and liabilities of the superannuation fund maintained by them under this Part and a report thereon.

(2) The period referred to in paragraph (1) shall be the period of 21 months after the date as at which the superannuation fund maintained by an administering authority is, in accordance with the provisions of that paragraph, to be valued by an actuary or such extended period as the Secretary of State may allow.

(3) The administering authority shall, within 9 months after the date referred to in paragraph (2) or within such extended period as the Secretary of State may allow, furnish the actuary who is to consider the condition of the fund with such information as he may require.

(4) Forthwith upon receipt of any valuation or report under this regulation, an administering authority shall—

- (a) send a copy thereof to the Secretary of State and copies thereof to all employing authorities interested in the superannuation fund maintained by the administering authority; and
- (b) furnish to the Secretary of State a copy of the consolidated revenue account of the fund furnished to the actuary for the purposes of that valuation and report; and
- (c) unless that report contains a summary of the assets of the fund as at the date when that valuation was made, send to the Secretary of State such a summary.

Actuary's certificates

B8.—(1) Every administering authority shall—

- (a) as soon as is reasonably practicable after 16th May 1975 obtain from an actuary; and
- (b) as soon as is reasonably practicable after they obtain under regulation B7 an actuarial valuation of, and a report on, the assets and liabilities of the superannuation fund maintained by them under this Part, obtain from the actuary who made that valuation,

a certificate specifying—

- (i) in respect of all the bodies interested in the superannuation fund maintained by that authority under this Part, the rate per cent. which in his opinion, taking into consideration where the certificate is required to be obtained under sub-paragraph (a) the matters mentioned in paragraph (2), the amount of the employer's contribution payable in each financial year of the period specified in paragraph (3) should bear to the total contributions payable during that year to that fund under regulations C1 and C2 by such a body's pensionable employees, so that such rate shall at all times be as nearly constant as may be and so that the fund shall be solvent, having regard to the then existing and prospective liabilities of the fund arising from circumstances common to all the bodies interested in the fund; and
- (ii) in respect of any such body interested in the fund as may be named in the certificate, the amount (expressed as a rate per cent.

or in money terms) by which in his opinion, taking into consideration, where the certificate is required to be obtained under subparagraph (a) the matters mentioned in paragraph (2), the amount of the employer's contribution, which may for this purpose include a nil contribution, should in any such financial year of the period mentioned in subparagraph (i) as is specified in the certificate be increased to take account of the then existing or prospective liabilities of the fund arising from circumstances peculiar to that body or be reduced to take account of the then existing or prospective benefits accruing to that fund arising from such circumstances.

(2) The matters referred to in paragraph (1)(i) and (ii) are the following matters—

- (a) the last valuation under the Act of 1937 of any superannuation fund transferred by regulation N4 to that authority;
- (b) the financial progression of each such fund as is mentioned in subparagraph (a) during the period beginning with the day following the date as at which that fund was last valued as therein mentioned and ending with 15th May 1975;
- (c) the termination under regulation N5 of the liability to pay equal annual charges; and
- (d) the differences between the nature and scale of the benefits provided under these regulations and the nature and scale of the benefits provided under the former regulations.

(3) The period referred to in paragraph (1)(i) is—

- (a) where the certificate is required to be obtained under paragraph (1)(a), the period of 2 financial years beginning with 16th May 1975;
- (b) where the certificate is required to be obtained under paragraph (1)(b), the period of 5 financial years beginning—
 - (i) where the actuarial valuation there mentioned was made as at 16th May 1975, with the first day of the financial year 1977/78;
 - (ii) where the actuarial valuation was made at a date subsequent to 16th May 1975, with the first day of the financial year third following the date as at which that valuation was made.

(4) Forthwith upon receipt of any certificate under this regulation an administering authority shall send a copy thereof to the Secretary of State and copies thereof to all employing authorities interested in the superannuation fund maintained by the administering authority.

Accounts and audit

B9. As soon as may be after any audit of the superannuation fund maintained by them, every administering authority shall furnish to all employing authorities interested therein copies of the revenue account and balance sheet of the fund and of any report of the auditor on his audit of the fund.”.

8. The following regulation shall be substituted for regulation C5 of the principal regulations (which relates to employer's contributions):—

“**C5.**—(1) An employing authority shall contribute to the appropriate superannuation fund—

- (a) in each financial year of the period specified in paragraph (3)(a) of regulation B8, a sum obtained by the application of the rate per

cent. specified in the certificate obtained under paragraph (1)(a) of that regulation by the appropriate administering authority to the total amount of the contributions payable during that year to that fund under regulations C1 and C2 by the employing authority's pensionable employees, increased or, as the case may be, reduced by any such amount as is, in respect of the employing authority, specified in that certificate as the amount by which the employer's contribution should in that year be increased or, as the case may be, reduced;

(b) in each financial year of any period of 5 financial years mentioned in paragraph (3)(b) of regulation B8, a sum obtained by the application of the rate per cent. specified in the certificate obtained under paragraph (1)(b) of that regulation by the appropriate administering authority, to the total amount of the contributions payable during that year to that fund under regulations C1 and C2 by the employing authority's pensionable employees increased or, as the case may be, reduced by any such amount as is, in respect of the employing authority, specified in that certificate as the amount by which the employer's contribution should in that year be increased or, as the case may be, reduced.

(2) An employing authority shall, during the period beginning with 16th May 1975, and ending with the day immediately before the day on which such a certificate as is mentioned in paragraph (1)(a) is received by the appropriate administering authority, pay to the appropriate superannuation fund, at such intervals, not longer than 12 months, as the appropriate administering authority may determine, on account of the contributions payable by that employing authority under paragraph (1)(a), an amount equal to 130% of the sum which during that period has been contributed to the fund under regulations C1 and C2 by the employing authority's pensionable employees."

9. The following regulation shall be substituted for regulation G3 of the principal regulations (which relates to certain persons formerly subject to the Edinburgh local Act scheme):—

"G3. For the purposes of these regulations—

(a) the City of Edinburgh District Council shall be deemed to include the said City of Edinburgh District Council as governors and administrators of Trinity Hospital; and

(b) the Lothian Regional Council shall be deemed to include—

(i) subject to the provisions of the Heriot-Watt College Order 1965(a) the governors of Heriot-Watt College and the Heriot-Watt University;

(ii) the Forth Road Bridge Joint Board; and

(iii) the board of governors of Edinburgh College of Art,

and subject as aforesaid the officers and manual workers of such bodies shall be deemed to be officers and manual workers of the said City of Edinburgh District Council and the said Lothian Regional Council respectively."

(a) 1965 c. xlvii.

10. After Part M of the principal regulations there shall be added the following Part N:—

“PART N

TRANSITIONAL PROVISIONS FOR LOCAL GOVERNMENT REORGANISATION

Definitions

N1. In this part and in Schedule 19 unless the context otherwise requires—

“Health Service regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1961(a) to 1974(b)

“transferred employee” means—

- (a) any person transferred on or after 16th May 1975 by or under an order or regulations made under the Local Government (Scotland) Act 1973(c) which in accordance with the provisions of section 216 of that Act, contains a provision as to the transfer of that person;
- (b) any person appointed by a local authority or a river purification board to hold any office or employment before, or as from 16th May 1975, who, but for the appointment, would be transferred on that day under the said section 216; or
- (c) any person who at 16th May 1975 remains in the employment of the same body as immediately before that date but who in consequence of the Local Government (Scotland) Act 1973, or anything done thereunder or of these regulations, becomes entitled to participate in the benefits of a superannuation fund maintained under Part B by a body different from the body which maintained the superannuation fund in the benefits of which he was immediately before 16th May 1975 entitled to participate;

“new employment” means employment to which a person is so transferred or appointed;

“new employing body” means the body which becomes the employing authority in relation to a person so transferred or appointed;

“transferor body” means the body from which a superannuation fund is transferred by regulation N4;

“transferee body” means the body to which that superannuation fund is so transferred;

and in relation to a person appointed as aforesaid his taking up the office or employment to which he is appointed shall for the purposes of this Part be deemed to be a transfer.

Valuations under former regulations

N2.—(1) An authority administering a superannuation fund before 16th May 1975 shall not be required to obtain any actuarial valuation of, or report on, the assets and liabilities of the superannuation fund maintained by them immediately before that date which was due at the end of the financial year 1974/1975 under Part I of the Act of 1937.

(2) A transferee body shall arrange for the completion of any outstanding actuarial valuation of, or report on, the assets and liabilities of any superannuation fund transferred by regulation N4 which was due prior to the beginning of the financial year 1972/1973.

(a) 1961/1398 (1961 II, p. 2697).
(c) 1973 c. 65.

(b) 1974/1357 (1974 II, p. 5204).

Apportionment of superannuation funds

N3.—(1) Where in consequence of the provisions of the Local Government (Scotland) Act 1973 transferred employees who immediately before 16th May 1975 were entitled to participate in the benefits of a superannuation fund maintained by a transferor body become on that date entitled to participate in the benefits of a superannuation fund maintained under Part B (other than the superannuation fund maintained by the transferee body), an apportioned part of the fund of the transferor body in respect of those transferred employees shall be transferred by the transferee body to the body maintaining the fund in the benefits of which those transferred employees become on 16th May 1975 entitled to participate and shall be carried by it to that fund.

(2) The body maintaining a superannuation fund under Part B comprising a superannuation fund falling to be apportioned shall obtain from an actuary as soon as is reasonably practicable after 16th May 1975 a report on the apportionment of the last-mentioned superannuation fund.

(3) The provisions set out in Schedule 19 shall have effect for the purposes of the apportionment required by paragraph (1).

(4) Where at any time after 16th May 1975 and before the date of transfer as defined in paragraph 9 of Schedule 19 there is paid to any body receiving an apportioned part of a superannuation fund under paragraph (1) any sum by way of transfer value which became payable, or a repayment of contributions returned under the former regulations, in respect of any period of service of a transferred employee in respect of whom the apportionment is required to be made, the sum shall be paid to the body making the apportionment and shall be deemed to have formed part of the apportioned superannuation fund immediately before 16th May 1975.

Transfer of superannuation funds

N4.—(1) The superannuation fund maintained immediately before 16th May 1975 by the council of a county or large burgh or by a joint committee established by an amalgamation scheme shall by virtue of these regulations be transferred to and vest in the council of the region or islands area within which the area, or the greater part of the area, of the said county, large burgh or joint committee is situate and any such fund shall, subject to the provisions of regulation N3, be carried by the transferee body to the fund which they are required to maintain under Part B.

(2) All liabilities attaching to a transferor body in respect of their superannuation fund shall subject to the provisions of this Part, attach to the transferee body in respect of their superannuation fund.

(3) Any liability of any body or person to make payments into the superannuation fund of a transferor body shall, subject to regulation N5, become a liability to make payments into the superannuation fund of the transferee body.

(4) All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given by or to any transferor body or any other body on their behalf for the purposes of their superannuation fund shall be of full force and effect in favour of, or against, the transferee body.

(5) Any action or proceeding or cause of action or proceeding pending or existing at 16th May 1975 by or against a transferor body in respect of their superannuation fund shall be of full force and effect in favour of, or against, the transferee body.

(6) Where a transferor body would have become liable, or would have been empowered, on the happening of any event, to make a payment out of their superannuation fund or take any other action in respect of any person who has ceased to participate in the benefits of the fund before 16th May 1975, then on the happening of that event such payment or action shall, or as the case may be, may, be made out of the superannuation fund of the transferee body or taken by that body.

(7) Where a person has ceased to contribute to the superannuation fund of a transferor body before 16th May 1975 and has not become a pensionable employee in any other superannuation fund, the superannuation fund of the transferee body shall on and after that date be deemed to be the fund to which he was last a contributor.

(8) The accounts of any body or of their committees or officers relating to any superannuation fund transferred by this regulation shall be made up to 15th May 1975 and shall be audited in the like manner and subject to the like incidents and consequences as if these regulations had not been made:

Provided that any sum certified by the appointed auditor at any such audit as due from any person shall be paid to the transferee body.

(9) All legal proceedings pending on 16th May 1975 may be amended in such manner as may be necessary or proper in consequence of these regulations.

Cessation of liability for equal annual charges

N5. Any liability of any body to make payments into a superannuation fund of any sums payable into that fund by that body, or of the share properly attributable to them of any sums payable into that fund, in pursuance of an actuary's certificate given, or a scheme made, under section 18 of the Act of 1937 shall cease.

Certain liabilities of former local authorities

N6.—(1) Where at any time before 16th May 1975 a gratuity or allowance, by way of periodical payments or an annuity—

(a) has been granted to any person by any local authority on his ceasing to be employed by them; or

(b) has been granted to the widow or any dependant of a person who died while in or after leaving the employment of such an authority or during the currency of a gratuity or allowance granted to him as mentioned in sub-paragraph (a),

and, if payment in respect of the gratuity or allowance had continued in accordance with the terms of the grant and of any subsequent increase, one or more payments would have been made on or after 16th May 1975 (whether under legal obligation or otherwise), those payments shall be made by the body which would have become the person's new employing body had he still been in employment at that date.

(2) Without prejudice to paragraph (1), where, if these regulations had not been made, any authority would for the purposes of any enactment relating to pensions have been the employing authority or former employing authority in relation to a person who died before 16th May 1975 in the employment of that authority or otherwise ceased to be employed by them, or the widow or any dependant of such a person, the body which would have become the person's new employing body had he still been in employment at that date shall be treated as being at that time the employing authority or former employing authority for those purposes in relation to that person, his widow or dependant.

Policy schemes

N7. Any agreement or trust deed made for the purposes of any scheme of superannuation by a body employing a transferred employee and having effect immediately prior to his transfer shall, so far as it relates to that employee, have effect thereafter as if it had been made with the new employing body; and any policies of insurance which are held for the purposes mentioned in this regulation for the benefit of any transferred employee shall be held for the like purposes by the new employing body.

Continuity of employment and preservation of status

N8.—(1) Subject to paragraph (2)—

- (a) any provision of these regulations shall have effect in relation to a transferred employee to whom it applies, as if his new employment and his former employment were one continuous employment; and
- (b) notwithstanding anything in these regulations, where such a transferred employee is—
 - (i) transferred on 16th May 1975 and was immediately before that day a pensionable employee and does not otherwise on that day become a pensionable employee, he shall become a pensionable employee in his new employment;
 - (ii) transferred after 16th May 1975 and is immediately before the date on which he is transferred a pensionable employee and does not otherwise on that date become or continue to be a pensionable employee, he shall become or continue to be a pensionable employee in his new employment.

(2) Paragraph (1) shall not affect the operation of regulations N3 and N9 in relation to any transferred employee.

Discretionary powers

N9. Where immediately before a transferred employee is transferred it is the prevailing practice of the body employing him, in relation to employees of that description, to exercise beneficially (that is to say, to secure the payment of gratuities, allowances, or pensions, or of increased pensions or lump sum benefits) any discretionary power exercisable by them by virtue of any enactment relating to pensions, it shall be the duty of the new employing body in relation to that transferred employee, if he has continued in their employment, to exercise any corresponding power under these regulations or any other enactment relating to pensions for the time being in force in a way

which is not less beneficial than the general character of that practice; and Part H shall apply to any question arising under this regulation:

Provided that in exercising any such power as respects any widow or child of a transferred employee, the new employing authority shall have regard to any pension to which the widow is entitled under regulation E5 or which is payable to or for the benefit of the child under regulation E8.

Contributions of transferred manual workers

N10. Any transferred employee who was paying superannuation contributions immediately before his transfer at a rate appropriate to a manual worker shall continue to contribute at the like rate so long as he continues to be employed by the new employing body on duties reasonably comparable to those on which he was engaged immediately before his transfer.

Admission agreements

N11. Any admission agreement or agreement under regulation B4 whereby the employees of any body specified in regulation B4(4) are, or can be, admitted to participate in the benefits of a superannuation fund maintained by a transferor body and which is in force immediately before 16th May 1975 shall have effect as an agreement between the first-mentioned body or, if that body ceases to exist on 16th May 1975, the body succeeding to its functions, and the transferee body to which the fund of the transferor body is transferred under regulation N4.

Persons transferred to scheduled bodies under an order under section 215 of the Local Government (Scotland) Act 1973 or in consequence of section 1 of the Education (Mentally Handicapped Children) (Scotland) Act 1974(a)

N12.—(1) This regulation shall apply to a person who—

- (a) (i) is by or under an order made under section 215 of the Local Government (Scotland) Act 1973, or
- (ii) is in consequence of section 1 of the Education (Mentally Handicapped Children) (Scotland) Act 1974,

transferred to the employment of a scheduled body, and

- (b) immediately before he was so transferred was in an employment in which he was an officer within the meaning of the Health Service regulations.

(2) Where immediately before he was transferred as mentioned in paragraph (1) a person to whom this regulation applies was a person in respect of whom the Secretary of State paid contributions under regulation 46 of the Health Service regulations (persons subject to non-statutory superannuation schemes and arrangements) or carried out any such scheme or arrangements as are referred to in that regulation, that person shall not be subject to any provisions of these regulations except those contained in this regulation, and the body to which that person is transferred shall—

- (a) where immediately before the appointed day the Secretary of State was under the said regulation 46 paying in respect of that person the contributions authorised or required by the relevant scheme to be paid by the employer, pay those contributions; and

(b) deduct from the person's remuneration the amount of any contributions required by the scheme or under the arrangements to be paid by the employee.

(3) A person to whom this regulation applies (other than a person mentioned in paragraph (2))—

(a) who does not otherwise on the date on which he is transferred as mentioned in paragraph (1) become a pensionable employee, shall become a pensionable employee in the employment to which he is so transferred;

(b) subject to sub-paragraph (e), shall be entitled to reckon—

(i) as reckonable service any service which for the purposes of the Health Service regulations he was entitled to reckon in relation to the employment mentioned in paragraph (1)(b) as, or as a period of, contributing service; and

(ii) as qualifying service any service which for the purposes of those regulations he was entitled to reckon in relation to that employment for the purpose of determining whether he was entitled to a benefit under those regulations, but for no other purpose:

Provided that for the purposes of this sub-paragraph any period of part-time service shall be treated as though it was whole-time service for a proportionately reduced period and, except for the purposes referred to in regulation D18(3), any service which was reckonable under the Health Service regulations for all purposes (other than for the purpose of determining whether any benefit was payable) as a period of contributing service at half its length shall, subject to sub-paragraph (c), be counted at half its length;

(c) where immediately before he is so transferred he was in the process of making payments which were or were deemed to be payments under Schedule 2 to the Health Service regulations he shall, subject to sub-paragraph (e), be entitled to make the outstanding payments as if they were instalments of an amount payable under regulation D6 and, if he completes the payments in the manner provided in Schedule 3, to have the service in respect of which they were made counted for all the purposes of these regulations at its full length;

(d) where immediately before he is so transferred he was in the process of making payments in respect of added years under Schedule 8 to the Health Service regulations he shall, subject to sub-paragraph (e), be entitled to make the outstanding payments as if they were payments of an amount payable under regulation D10 and in respect of the added years in respect of which those payments are made shall enjoy rights and be subject to liabilities as if those years were added years reckonable under that regulation in the employment to which he is so transferred;

(e) may, within 6 months after the date on which he is so transferred, give notice in writing to the employing authority that he does not wish to avail himself of the benefits provided under these regulations and in that event these regulations shall have effect in relation to him as if they conferred on him rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Health Service regulations in force at the time of his transfer, and these regulations shall continue so to apply so long as he is employed without

a disqualifying break of service by a scheduled body on duties reasonably comparable to those on which he was engaged immediately before he was so transferred.

Modification of the regulations in their application to persons taking up employment before 16th May 1975 with a local authority established under the Local Government (Scotland) Act 1973

N13.—(1) In the application of these regulations to any person taking up employment with a new authority before 16th May 1975, these regulations shall have effect, in respect of the period before 16th May 1975, as if—

- (a) such authority were a body specified in Part I of Schedule 1;
- (b) the appropriate superannuation fund for the purposes of regulation B3 were—
 - (i) in relation to a person who continued to be partly employed by an old authority or who took up employment with a new authority contained either wholly or mainly within the same regional or islands area boundary within which the old authority or the greater part of the area of that old authority, which previously employed him lies, the fund to which he was contributing under these regulations immediately before taking up employment with the new authority; and
 - (ii) in relation to any other person such fund existing before 16th May 1975 within the region or islands area as the regional or islands council within whose area the person is employed may, with the agreement of the authority administering the fund, designate, except that in the case of the Western Isles Islands Council the fund to be designated may be outwith the area of that council; and
- (c) the dual employment of a person by a new authority and by an old authority were a single whole-time employment and his pensionable remuneration were the total amount on which he paid contributions to the appropriate superannuation fund in respect of his dual appointments.

(2) In this regulation—

“new authority” means a regional, islands or district council or river purification board established under the Local Government (Scotland) Act 1973;

“old authority” means a body described in Part I of Schedule 1.”.

11. In Schedule 1 to the principal regulations the following Part shall be substituted for Part I—

“PART I

BODIES WHOSE WHOLE-TIME EMPLOYEES ARE TO BE COMPULSORILY
SUPERANNUABLE

A regional council, an islands council or a district council.

A joint board or joint committee appointed under any enactment, order or scheme, all the constituent authorities of which are such councils as aforesaid.

A water development board.

A river purification board.”.

12. In Schedule 15 of the principal regulations (which modifies the regulations in their application to employees of the Scottish Special Housing Association)—

- (a) in paragraph 1 there shall be deleted the words from “and as if” in line 4 to the end; and
 (b) there shall be added the following paragraph:—

“7. The financial year of the fund administered by the Association will commence on 1st April each year and any reference in these regulations to a financial year related to 16th May shall be construed in relation to the S.S.H.A. as a reference to a financial year related to 1st April.”

13.(a) In Part I of Schedule 17 of the principal regulations (which covers revocations and repeals) in the first entry therein the words “1(3) and (4)” and “18” shall be deleted.

(b) In Part III of the said Schedule 17 there shall be added at the end thereof:—

“S.I. 1954/1260 (1954 II, p. 1554) The Local Government Superannuation (Actuarial Valuations) (Scotland) Regulations 1954.”

14. After Schedule 17 of the principal regulations there shall be inserted the following schedules:—

“SCHEDULE 18

Regulation B6

MODIFICATIONS TO THE TRUSTEE INVESTMENTS ACT 1961 IN ITS APPLICATION TO INVESTMENT OF SUPERANNUATION FUND'S MONEYS

1. In this schedule—

“the Act of 1961” means the Trustee Investments Act 1961; and

“narrower-range part” and “wider-range part” have the same meanings as they have for the purposes of the Act of 1961.

2. In its application to investment by an administering authority under regulation B6(1), the Act of 1961 shall have effect as if—

(a) in section 2—

(i) in subsection (1), for the words “equal in value at the time of division” there were substituted the words “so that the wider-range part at the time of the division bears to the then value of the narrower-range part the proportion of 3 to 1 (in this Act referred to as “the prescribed proportion)””;

(ii) after subsection (1) there were inserted the following subsection—

“(1A) For the purpose of making a division of a fund in pursuance of subsection (1) of this section the value of the fund may be determined by reference to all such relevant evidence of that value as is available at the time the division is made.”;

(iii) in subsection (3)(b), for the words from “each” to the end there were substituted the words “the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased.”;

- (b) in section 4(3), for the words “so as either” to “each other” there were substituted the words “so as to bear to each other either the prescribed proportion or”;
- (c) section 13 were omitted;
- (d) in Part II of Schedule 1—
- (i) for paragraphs 3 and 4 there were substituted the following—
- “3. In fixed-interest securities issued by any public, municipal or local authority, or any publicly controlled or nationalised industry or undertaking, whether established within or outside the United Kingdom.
4. In fixed-interest securities issued by the government of any territory outside the United Kingdom.”;
- (ii) for paragraph 6 there were substituted the following—
- “6. In debentures issued by a company incorporated in the United Kingdom or established under the law of any territory outside the United Kingdom.”;
- (iii) in paragraph 9—
- (i) the words “in the United Kingdom”, where first occurring, were omitted;
- (ii) at the end of the paragraph there were added the following sub-paragraph—
- “(g) any public, municipal or local authority established outside the United Kingdom.”;
- (iv) at the end of the part there were added the following paragraph—
- “15. In the advance of money upon the security of—
- (a) immovable property of any tenure or kind in the United Kingdom, Isle of Man or the Channel Islands; or
- (b) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph 5 of Part III of this Schedule;
- and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the administering authority, or by a mortgage or security made jointly to that authority and any other person.”;
- (e) in Part III of Schedule 1—
- (i) in paragraph 3, the words from “in the case” to the end were omitted;
- (ii) at the end of the part there were added the following paragraphs—
- “4. In any securities issued by a company established under the law of any territory outside the United Kingdom and not being securities falling within Part II of this Schedule.
5. In the acquisition, development or management of land situated in the United Kingdom, or in any territory outside the United Kingdom, or any interest in such land, including any interest in such land comprised in a building agreement providing for the grant of a lease of such land contingent on the erection or completion of the building specified in such agreement and whether alone or in association with any other person:

For the purposes of this paragraph an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom, or in any territory outside the United Kingdom, having the effect of enabling persons to participate in the profits and income arising from the acquisition, development or management of land, whether alone or in association with any other person, shall be deemed to be an investment in such land.”;

(f) in Part IV of Schedule 1, paragraphs 1 to 3 were omitted;

(g) in paragraph 3(b) of Schedule 2, for the words from “each” to the end there were substituted the words “the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased.”.

3. No further moneys forming part of a superannuation fund shall be invested in the manner specified in paragraphs 4 and 5 of Part III of Schedule 1 to the Act of 1961 as modified by these regulations, so long as the value of the investments for the time being made under those paragraphs equals or exceeds 33 $\frac{1}{3}$ % of the value of the wider-range part of the superannuation fund.

4. No moneys forming the narrower-range part, or the wider-range part, of a superannuation fund shall be invested in securities of companies the price of which is not quoted on a recognised stock exchange within the meaning of the Prevention of Fraud (Investments) Act 1958(a), if such investment would result in more than 10% of the value of the investments for the time being belonging to that part being invested in such securities.

5. For the purposes of paragraphs 3 and 4 the value of any investment shall be deemed to be the value of the investment at the time it was made.

SCHEDULE 19

Regulation N3

LOCAL GOVERNMENT REORGANISATION

APPORTIONMENT OF SUPERANNUATION FUNDS

1. In this Schedule—

the body maintaining a superannuation fund comprising a superannuation fund falling to be apportioned is referred to as “the paying body”;

the body receiving an apportioned part of the fund falling to be apportioned is referred to as “the receiving body”; and

references to “transferred employees” shall be construed as references to transferred employees in respect of whom an apportionment falls to be made.

2. The paying body shall obtain from the actuary making the report on the apportionment of the superannuation fund falling to be apportioned (in this Schedule referred to as “the fund”) required by regulation N3(2), a certificate specifying the share of the fund (in this Schedule referred to as “the apportioned share”) referable to the receiving body.

(a) 1958 c. 45.

3. The apportioned share shall be an amount which is the same proportion of the amount of the basic apportionable assets of the fund as the part of the accrued actuarial liabilities of the fund determined by the actuary to relate to the transferred employees is of the accrued actuarial liabilities of the fund less an amount equal to such proportion of the amount determined by the actuary under paragraph 5(b) as is determined by the actuary to be referable to the receiving body.

4. The amount of the basic apportionable assets of the fund shall be the amount by which the aggregate amount of the apportionable assets of the fund at 15th May 1975 exceeds the aggregate of the liabilities of the fund specified in paragraph 6.

5. The apportionable assets of the fund at 15th May 1975 shall be—

- (a) any cash, securities, loans or other assets held in the fund at 15th May 1975;
- (b) an amount determined by the actuary as representing the capital value at that date of any future payments to the fund in pursuance of an actuary's certificate given, or a scheme made, under section 18 of the Act of 1937;
- (c) any sums due to the fund from sundry debtors at 15th May 1975, less any sums due from the fund to sundry creditors at that date.

6. The liabilities of the fund referred to in paragraph 4 shall be an amount determined by the actuary as representing as at 15th May 1975 the part of the apportionable assets of the fund at 15th May 1975 referable to the then existing and prospective liabilities of the fund in respect of persons who on that date were, or on 16th May 1975 became, entitled to benefits and the prospective liabilities of the fund in respect of any widow or any dependant of any such person.

7. The accrued actuarial liabilities of the fund referred to in paragraph 3 are the liabilities of the fund in respect of any service, employment or period before 16th May 1975 which would have been taken into account under the former regulations, or under a local Act scheme, for the purpose of calculating the amount of any benefit which may have become payable thereunder if the Miscellaneous Provisions regulations and these regulations had not been made and the former regulations and the local Act schemes had not been revoked by these regulations to or in respect of persons who immediately before 16th May 1975 were pensionable employees (other than such persons as are referred to in paragraph 6).

8.—(1) The paying body shall furnish the actuary with such information as is necessary to enable him to calculate the apportioned share and shall keep such accounts as will enable the assets of the fund to be distinguished.

(2) A copy of the report required by regulation N3(2) and of the certificate referred to in paragraph 2 shall be sent to the receiving body.

9. The paying body shall transfer to the receiving body—

- (a) where the actuary considers it appropriate and the paying and the receiving bodies agree, the amount in cash of the apportioned share of the fund, together with interest thereon calculated at such rate as the paying and receiving bodies may agree, or

(b) in any other case, the apportionment fraction of the apportionable assets of the fund on the date on which the transfer is effected (in this Schedule referred to as "the date of transfer") and in such case the transfer shall be effected by way of a transfer of assets of the fund, unless the paying and receiving bodies agree that it shall be effected by way of a transfer of an equivalent amount in cash.

10. The apportionment fraction referred to in paragraph 9(b) shall be a fraction of which—

- (a) the numerator is the amount of the apportioned share of the fund; and
- (b) the denominator is the amount of the apportionable assets of the fund at 15th May 1975 (other than the amount mentioned in paragraph 5(b)) less the amount of any share of the fund which has before the date of transfer to the receiving body been transferred under paragraph 9(a) to any other body.

11. The apportionable assets of the fund at the date of transfer shall be—

- (a) any cash, securities, loans or other assets held in the fund at that date; and
- (b) any sums due to the fund from sundry debtors at that date, less any sums which were due from the fund to sundry creditors at that date.

12.—(1) The apportionable assets of the fund at 15th May 1975 which consist of Stock Exchange securities shall be valued by reference to their market value at that date, and the remainder of the apportionable assets of the fund at that date shall be valued by the actuary as at that date.

(2) The apportionable assets of the fund at the date of transfer which consists of Stock Exchange securities shall be valued by reference to their market value at that date, and the remainder of the apportionable assets of the fund at that date shall be valued by the actuary as at that date."

William Ross,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.

14th April 1975.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Local Government Superannuation (Scotland) Regulations 1974 to take account of the re-organisation of local government in Scotland.

Provision is made for the setting up of new regional and islands funds and for the transfer to those funds of the assets of the former superannuation funds, with apportionment where necessary.

In view of the greater size generally of the new superannuation funds, the Regulations extend the powers of investment of administering authorities. The Regulations provide for the periodical valuation of the new superannuation funds and provide for establishing and varying the rate of the employers' contributions.

Provision is also made for the preservation of the rights of persons transferred both within local government employment and to local government from the National Health Service and for the transfer of certain liabilities from old to new authorities.

Under powers conferred by section 12(1) of the Superannuation Act 1972 the provisions of Regulation N13 of the principal regulations (persons taking up appointment before 16th May 1975) as added by Regulation 10 of these regulations, and Regulation 12(a) of these regulations (dealing with employees of the Scottish Special Housing Association) are brought into force with effect from 16th May 1974.

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