

1978 No. 1738
PENSIONS
**The Local Government Superannuation
(Social Security—Requirements for Contracting-out)
Regulations 1978**

Made - - - - 29th November 1978

Laid before Parliament 8th December 1978

Coming into Operation 30th December 1978

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

Citation and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Social Security—Requirements for Contracting-out) Regulations 1978.

(2) The Local Government Superannuation Regulations 1974 to 1978(b) and these regulations may be cited together as the Local Government Superannuation Regulations 1974 to 1978.

(3) These regulations shall come into operation on 30th December 1978 and shall have effect as from 6th April 1978, with the exception of regulations 7, 8 and 13 which shall have effect from 30th December 1978.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the 1974 regulations” means the Local Government Superannuation Regulations 1974(c);

“the City of London regulations” means the Local Government Superannuation (City of London) Regulations 1977(d);

“appropriate administering authority” has the same meaning as in the 1974 regulations;

(a) 1972 c. 11.

(b) S.I. 1974/520, 1977/1121, 1845, 1978/266, 822, 1739

(c) S.I. 1974/520.

(d) S.I. 1977/1341.

“contracted-out employment” shall be construed in accordance with section 30 of the Pensions Act;

“employment” has the same meaning as in the 1974 regulations;

“guaranteed minimum pension” has the meaning assigned to it by section 26 of the Pensions Act;

“the Health Service regulations” means the National Health Service (Superannuation) Regulations 1961(a) as amended by any regulations made under section 10 of the Superannuation Act 1972 before 1st April 1974 but not any regulations made under that Act on or after that date;

“pensionable employee” has the same meaning as in the 1974 regulations, and for the purposes of these regulations includes additionally a person deemed to be a pensionable employee;

“pensionable remuneration” has the meaning assigned to it by regulation E1 of the 1974 regulations;

“the Pensions Act” means the Social Security Pensions Act 1975(b);

“retirement pension” means a retirement pension under regulation E2 of the 1974 regulations (entitlement to retirement pension and retiring allowance), other than a retirement pension under paragraph (1A) of that regulation, or a benefit under regulation J17(3)(e) of those regulations (persons transferred to scheduled bodies under section 18(4)(a) of the National Health Service Reorganisation Act 1973(c) or regulation 19 of the City of London regulations (persons transferred to the Common Council under the said section 18(4)(a)) corresponding to a pension under regulation 8 of the Health Service regulations (officer’s pension and retiring allowance);

“the scheme” means the Local Government Superannuation Regulations 1974 to 1978, and includes any regulations which may be made under section 7 of the Superannuation Act 1972 amending, modifying or extending the said regulations of 1974 to 1978;

“widow’s pension” means a pension under regulation E5 of the 1974 regulations (entitlement to widow’s short-term pension and widow’s long-term pension) or a benefit under regulation J17(3)(e) of the 1974 regulations or regulation 19 of the City of London regulations corresponding to a widow’s pension under regulation 14 of the Health Service regulations (widow’s pension).

(2) In these regulations, unless the context otherwise requires, any reference to any enactment or instrument shall be construed as a reference thereto as amended, modified, extended or applied by or under any other enactment or instrument (including these regulations).

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

Guaranteed minimum pension for certain pensionable employees and their widows

3.—(1) This regulation shall apply if the service of a pensionable employee in any employment in which he is a pensionable employee becomes contracted-out employment by reference to the scheme and it shall then override any other provisions of the scheme which are inconsistent with it, except regulation 9 below and the following provisions of the 1974 regulations, namely, regulation E11A (power to compound certain small pensions) and regulation E15 (reduc-

(a) S.I. 1961/1441.

(c) 1973 c. 32.

(b) 1975 c. 60.

(d) 1889 c. 63.

tion of retirement pension, etc., in the case of certain re-employed local government pensioners).

(2) If a pensionable employee has a guaranteed minimum under section 35 of the Pensions Act in relation to the retirement pension to which he is entitled—

(a) he shall, as from the date on which he attains the age of 65 years in the case of a man or 60 years in the case of a woman, be entitled to receive, in relation to that pension, not less than his guaranteed minimum pension, the weekly rate of which shall be not less than his guaranteed minimum under that section; and

(b) if he dies at any time and leaves a widow, the weekly rate of the widow's pension shall, during any such period as is mentioned in section 36(6) of the Pensions Act, be not less than half that guaranteed minimum.

(3) Where this regulation applies in the case of a pensionable employee who on ceasing to hold the employment in which he is a pensionable employee does not become entitled to a retirement pension or on whose death no widow's pension is payable to his widow, then—

(a) the employee on attaining the age of 65 years in the case of a man or 60 years in the case of a woman shall be entitled to a pension under the scheme, the weekly rate of which is equal to his guaranteed minimum; and

(b) in the case of a male employee, if he dies at any time and leaves a widow, she shall, during any such period as is mentioned in section 36(6) of the Pensions Act, be entitled to a pension under the scheme, the weekly rate of which is equal to half that guaranteed minimum.

(4) Where a pensionable employee on attaining the age of 65 years in the case of a man or 60 years in the case of a woman is in employment in which he is a pensionable employee and continues without any break of service in that employment until the expiration of 5 years from the date on which he attains that age, then, notwithstanding that he does not cease to hold that employment, if he has a guaranteed minimum in relation to the retirement pension to which he would become entitled, if he were to cease to hold that employment, he shall be entitled as from the expiration of the said 5 years to such part of that pension as equals his guaranteed minimum:

Provided that if the employee consents to the non-application to him of this paragraph, this paragraph shall not apply to him so long as the consent continues in force.

(5) In paragraphs (2) and (3) above "weekly rate" means, in relation to a pension which is paid otherwise than at weekly intervals, a rate which is equivalent to the guaranteed minimum of the pensionable employee in question having regard to the period in respect of which the pension is paid.

Rate of retirement pension of certain pensionable employees and restriction on right to elect for early payment thereof

4.—(1) This regulation shall apply to a pensionable employee who on ceasing to hold an employment in which he is a pensionable employee and which in relation to him is contracted-out employment by reference to the scheme becomes entitled to a retirement pension by virtue of regulation E2(1)(c) or (d) of the 1974 regulations.

(2) The provisions of regulation E3(9) of the 1974 regulations (amount of retirement pension and retiring allowance) shall not operate so as to reduce the annual rate of the retirement pension to which a female pensionable em-

ployee to whom this regulation applies becomes entitled on ceasing to hold the employment mentioned in paragraph (1) above below an annual rate determined by multiplying one eightieth of her pensionable remuneration by the length in years of the whole period of her service in contracted-out employment by reference to the scheme.

(3) Notwithstanding anything in regulation E2(4)(a)(iv) or (5)(b) of the 1974 regulations, a pensionable employee to whom this regulation applies may not make an election under the said regulation E2(4)(a)(iv) or (5)(b) if the retirement pension to which he becomes entitled on ceasing to hold the employment mentioned in paragraph (1) above—

- (a) is a pension in relation to which he has a guaranteed minimum under section 35 of the Pensions Act; and
- (b) on reduction under regulation E3(9) of the 1974 regulations, would, but for the provisions of regulation 3(2) above, be less than his guaranteed minimum pension.

Postponement and suspension of guaranteed minimum pension

5. Where the commencement of the guaranteed minimum pension to which a pensionable employee is entitled under the scheme is postponed for any period or the whole or part of that pension is suspended during any period, his guaranteed minimum shall be increased to the extent, if any, specified in section 35(6) of the Pensions Act, as amended from time to time.

Provisions with respect to widow's pensions of certain widows

6.—(1) This regulation shall apply to the widow of a pensionable employee who dies—

- (a) while serving in an employment which in relation to him is contracted-out employment by reference to the scheme; or
- (b) after termination of his service in that employment,

who becomes entitled on her deceased husband's death to a widow's pension.

(2) Where the annual rate of the widow's pension to which a widow to whom this regulation applies is entitled as mentioned in paragraph (1) above would be higher if it were determined in accordance with paragraph (3) below instead of regulation E6 of the 1974 regulations (amount of widow's short-term pension and widow's long-term pension) or, as the case may be, regulation 14 of the Health Service regulations (widow's pension), then that pension shall be payable at the higher rate.

(3) For the purposes of paragraph (2) above the annual rate of the widow's pension of a widow to whom this regulation applies shall be determined by multiplying one one hundred and sixtieth of the pensionable remuneration of her deceased husband by the length in years of the whole period of his service in contracted-out employment by reference to the scheme.

Further restriction on return of contributions

7. Notwithstanding anything in regulation C8 of the 1974 regulations (return of employee's contributions in certain cases), regulation J17(3)(e) of the 1974 regulations or regulation 19 of the City of London regulations—

- (a) a pensionable employee who ceases to be employed in the circumstances mentioned in regulation E2(1)(c) of the 1974 regulations or who satisfies the requirements of regulation E2(1)(d) of those regulations shall not be entitled by virtue of the said regulation C8; and

- (b) a pensionable employee who ceases to be employed in the circumstances mentioned in regulation 8(1)(a)(iv) of the Health Service regulations shall not be entitled by virtue of the said regulation J17(3)(e) or the said regulation 19,

to receive any sum by way of return of contributions in respect of any period of his service in contracted-out employment by reference to the scheme.

Further restriction on allocation of part of retirement pension

8. Notwithstanding anything in regulation E4 of and Schedule 11 to the 1974 regulations (allocation of part of retirement pension), regulation J17(3)(e) of those regulations or regulation 19 of the City of London regulations, a pensionable employee whose service in an employment in which he is a pensionable employee is or was contracted-out employment by reference to the scheme shall not surrender under the said regulation E4 and the said Schedule 11, or in accordance with regulation 12 of the Health Service regulations, as the case may be, any such part of the retirement pension to which he would, if he ceased to hold that employment, or has, on ceasing to hold that employment, become entitled as would result in that pension—

- (a) becoming payable at an annual rate less than an annual rate determined by multiplying one eightieth of his pensionable remuneration by the length in years of the whole period of his service in contracted-out employment by reference to the scheme; and
- (b) if he has a guaranteed minimum under section 35 of the Pensions Act in relation to that pension, being, but for the provisions of regulation 3(2) above, less than his guaranteed minimum pension.

Further restriction on forfeiture of rights

9. Notwithstanding anything in regulation L13 of the 1974 regulations (forfeiture of rights), no direction shall be given under that regulation which would deprive a pensionable employee of his guaranteed minimum pension and, in the event of his dying leaving a widow, his widow of her widow's guaranteed minimum pension, unless the offence in consequence of which he has been dismissed or resigned or otherwise ceased to hold his employment is—

- (a) an offence of treason; or
- (b) one or more offences under the Official Secrets Acts 1911 to 1939(a) for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

Amendment of the 1974 regulations

10.—(1) In regulation C8(7) of the 1974 regulations after the word “applies)” there shall be inserted the words “or who satisfies the requirements of regulation E2(1)(d) (other than a person who elects under regulation E2(5)(b))”.

(2) In regulation D3 of the 1974 regulations (exclusion from reckonable service and qualifying service)—

- (a) for paragraph (1) there shall be substituted the following paragraph—
“(1) Subject to regulation E16, a pensionable employee shall not be entitled to reckon as reckonable service—

(a) 1911 c. 28; 1920 c. 75; 1939 c. 121.

- (a) where—
- (i) he has entered the employment of a scheduled body or former local authority—
 - (A) after becoming entitled to receive payment of or payments in respect of any superannuation benefit under Part E or otherwise, other than a superannuation benefit under the Insurance Act; or
 - (B) after becoming entitled to a benefit under paragraph (1)(c) of regulation E2, if he gives notice under paragraph (4)(e) of that regulation; or
 - (ii) by virtue of regulation K1—
 - (A) he becomes entitled to receive a payment of or payments in respect of any benefit under these regulations; or
 - (B) he becomes entitled to a benefit under paragraph (1)(c) of regulation E2 and gives notice under paragraph (4)(e) of that regulation,

any service, employment or period of which account has been taken for the purpose of determining whether he was entitled to that benefit or has been, or is to be, taken for the purpose of calculating the amount of that benefit; or
- (b) where he has entered the employment in which he is a pensionable employee—
- (i) within one month after ceasing on or after 6th April 1975 and before 30th March 1978 to hold an employment in which he was a pensionable employee and in respect of his so ceasing a return of contributions has been made under these regulations and he has become a pensionable employee in his employment under that body within the said period of one month; or
 - (ii) after becoming entitled to a benefit under regulation E2(1)(c) on ceasing to hold an employment in which he was a pensionable employee and in respect of his so ceasing a return of the whole of the aggregate amount of his contributions to the appropriate superannuation fund within the meaning of regulation C8 has been made under that regulation; or
 - (iii) after becoming entitled to a benefit under regulation E2(1)(c) on ceasing to hold an employment in which he was a pensionable employee and in respect of his so ceasing a return of a part of the aggregate amount of his contributions to the appropriate superannuation fund within the meaning of regulation C8 has been made under that regulation and he has not entered the employment in which he is a pensionable employee in the circumstances mentioned in sub-paragraph (a)(i)(A) or given such a notice as is mentioned in sub-paragraph (a)(i)(B),
- any service, employment or period in respect of which the return of contributions was made.”;
- and
- (b) in the proviso to paragraph (2)(a), for the words from “entered” to the end there shall be substituted the following—
- “(i) entered the employment in which he is a pensionable employee in

the circumstances mentioned in paragraph (1)(b)(i) and became a pensionable employee in that employment within the period mentioned therein; or

- (ii) entered the employment in which he is a pensionable employee in the circumstances mentioned in paragraph (1)(b)(ii); or
- (iii) entered the employment in which he is a pensionable employee in the circumstances mentioned in paragraph (1)(b)(iii) and has not given such a notice as is referred to therein; or”.

(3) In regulation D16(1) of the 1974 regulations (previous service of certain re-employed pensioners)—

(a) in sub-paragraph (a)(iii), for the word “and”, in the third place where it occurs, there shall be substituted the word “or”; and

(b) after sub-paragraph (a)(iii) there shall be inserted the following—

“(iv) after becoming entitled to a retirement pension by virtue of regulation E2(1)(c) on ceasing to hold an employment in which he was a pensionable employee, has entered further employment under a scheduled body and in respect of his so ceasing a return of the whole or a part of the aggregate amount of his contributions to the appropriate superannuation fund within the meaning of regulation C8 has been made; and”.

(4) In regulation E2 of the 1974 regulations—

(a) in paragraph (1)—

(i) for the words “paragraph (4)” there shall be substituted the words “paragraphs (4) and (5)”; and

(ii) at the end there shall be added the words—

“or

(d) he is not entitled to a benefit under sub-paragraph (a), (b) or (c) and has attained the age of 65 years in the case of a man or 60 years in the case of a woman or ceases to hold that employment during the 12 months beginning 6th April in which the 65th anniversary in the case of a man, or the 60th anniversary in the case of a woman, of his birthday will occur.”;

(b) in paragraph (4), for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) if the whole of the aggregate amount of the pensionable employee’s contributions to the appropriate superannuation fund within the meaning of regulation C8 has been returned to him, whether with or without interest, under that regulation,”;

and

(c) at the end there shall be added the following paragraph—

“(5) A pensionable employee who satisfies the requirements of regulation E2(1)(d) shall not on that account be entitled to receive payment of or payments in respect of a benefit under these regulations—

(a) unless on ceasing to hold his employment he has attained the age of 65 years or until he attains that age; or

- (b) in the case of a male pensionable employee who has not attained that age, unless, not later than 3 months after ceasing to hold his employment by notice in writing to the employing authority, he elects to be entitled to receive benefits under this regulation from the date on which he so ceases; or
- (c) in the case of a female pensionable employee, until she retires and attains or has attained the age of 60 years.”.

(5) In regulation E3 of the 1974 regulations—

(a) in paragraph (1), after the figure “(2)” there shall be inserted the figure “(7A),”;

(b) after paragraph (7) there shall be inserted the following paragraph—

“(7A) Where a pensionable employee becomes entitled to benefits under these regulations by virtue of regulation E2(1)(c) and a part of the aggregate amount of his contributions to the appropriate superannuation fund within the meaning of regulation C8 has been returned to him under that regulation, for the purpose of calculating the amount of a benefit under this regulation no account shall be taken of reckonable service in respect of which the return of contributions has been made.”;

and

(c) for paragraph (9) there shall be substituted the following paragraph—

“(9) Where a pensionable employee becomes entitled to benefits under these regulations by virtue of regulation E2(1)(c) or (d) and—

(a) in the case of a male pensionable employee, elects as mentioned in regulation E2(4)(a)(iv) or, as the case may be, regulation E2(5)(b) to be entitled to receive benefits from the date on which he ceased to hold his employment; or

(b) in the case of a female pensionable employee to whom regulation E2(4)(b)(ii) or, as the case may be, regulation E2(5)(c) applies,

the amount of any benefit calculated under the preceding provisions of this regulation shall be reduced by the percentage shown in the appropriate column of the Table set out in Schedule 10 opposite to the number of years the person would have had to remain a pensionable employee without any break in service in order to become entitled to benefits by virtue of regulation E2(1)(a) or (b)(ii) on ceasing to be employed:

Provided that a retirement pension payable in respect of any period of reckonable service shall not be reduced under this paragraph to less than the minimum rate of equivalent pension benefits applicable in respect of that period under the Insurance Acts.”.

(6) In regulation E4(5) of the 1974 regulations, after the words “regulation E2(1)(c)” there shall be inserted the words “or who satisfies the requirements of regulation E2(1)(d)”.

(7) In regulation E5(1) of the 1974 regulations, in sub-paragraph (b), for the words from “the reckonable” to the end of the sub-paragraph there shall be

substituted the words—

- “(i) the reckonable service and qualifying service he was entitled to reckon amounted in aggregate to not less than 5 years; or
- (ii) if he had ceased to be employed otherwise than by reason of his death, would have become entitled on so ceasing to benefits under these regulations by virtue of regulation E2(1)(d); or”.

(8) In regulation E6(2) of the 1974 regulations—

- (a) in sub-paragraph (b), after the words “paragraph (1)(b)” there shall be inserted the words “whose reckonable service and qualifying service amounted in aggregate to not less than 5 years”; and
- (b) in sub-paragraph (c), after the word “of”, in the second place where it occurs, there shall be inserted the words “either such a person as is mentioned in paragraph (1)(b) whose reckonable service and qualifying service amounted in aggregate to less than 5 years or”.

(9) In regulation E7 of the 1974 regulations (widow’s special short-term pension), after the word “years” there shall be inserted the words “and, if he had ceased to be employed at that time otherwise than by reason of his death, would not have become entitled to benefits under these regulations by virtue of regulation E2(1)(d)”.

(10) In regulation E10 of the 1974 regulations, after the words “widow’s special short-term pension”, in each place where those words occur, there shall be inserted the words “or entitled by virtue of regulation E5(1)(b)(ii) to a widow’s short-term pension and to a widow’s long-term pension”.

(11) At the end of regulation E11(3) of the 1974 regulations (death gratuity) there shall be added the words “, other than reckonable service in respect of which a return of contributions has been made”.

(12) At the end of regulation J17 of the 1974 regulations there shall be added the following paragraph—

“(4) Notwithstanding anything in paragraph (3)(e)—

- (a) regulation E15 shall have effect in relation to a pensionable employee to whom that paragraph applies as if—
 - (i) in paragraph (5)(a) and (b) and in paragraph (6), the words from “(i) in” to “other case,” were omitted;
 - (ii) in paragraph (7), the words “in his case” were omitted; and
 - (iii) in paragraph (12), after the word “includes” there were inserted the words “a pension payable to a pensionable employee under regulation J17(3)(e)”,and shall so apply in lieu of regulation 39 of the Health Service regulations;
- (b) regulation L13 shall have effect in relation to a pensionable employee to whom paragraph (3)(e) applies and shall so apply in lieu of regulation 55 of the Health Service regulations.”.

(13) For Schedule 10 to the 1974 regulations (reduction of benefits under regulation E3(9)) there shall be substituted the schedule set out in the Schedule to these regulations.

Application and modification of regulations E5 and E6 of the 1974 regulations in relation to certain widows

11.—(1) This regulation shall apply to the widow of a pensionable employee who dies after termination of his service in an employment which in relation to him was contracted-out employment by reference to the scheme and the marriage took place after the termination of her deceased husband's service in that employment.

(2) In relation to a widow to whom this regulation applies who, but for proviso (a)(i) to paragraph (1) of regulation E5 of the 1974 regulations, would have become entitled on her deceased husband's death to a widow's pension under that regulation—

- (a) regulation E5 shall have effect as if that proviso were omitted; and
- (b) regulation E6 shall have effect as if—
 - (i) in paragraph (1)(a), after the words “equal to” there were inserted the words “one half of” and for the words “that pension” there were substituted the words “that part of that pension which was attributable to the whole period of his service in contracted-out employment within the meaning of the Social Security Pensions Act 1975 by reference to the scheme”;
 - (ii) in paragraph (2)—
 - (A) in sub-paragraph (a), after the words “half of” there were inserted the words “that part of” and at the end of that sub-paragraph there were added the words “which was attributable to the whole period of his service in contracted-out employment within the meaning of the Social Security Pensions Act 1975 by reference to the scheme”; and
 - (B) in sub-paragraph (c), after the words “half of” there were inserted the words “that part of” and at the end of that sub-paragraph there were inserted the words “and which would have been attributable to the whole period of his service in contracted-out employment within the meaning as aforesaid by reference to the scheme”; and
 - (iii) at the end of the regulation there were added the following paragraph—
 - “(4) In this regulation “scheme” means the Local Government Superannuation Regulations 1974 to 1978, and includes any regulations which may be made under section 7 of the Act of 1972 amending, modifying or extending the said regulations of 1974 to 1978.”.

(3) In relation to a widow to whom this regulation applies whose deceased husband was immediately before the termination of the employment mentioned in paragraph (1) above a person to whom regulation J17(3)(e) or regulation 19 of the City of London regulations applied, notwithstanding anything in the said regulation J17(3)(e) or, as the case may be, the said regulation 19, regulations E5 and E6 of the 1974 regulations shall have effect in relation to her as provided below—

- (a) regulation E5 shall have effect as if proviso (a)(i) to paragraph (1) of that regulation were omitted;
- (b) regulations E5 and E6 shall have effect as if any reference therein to a “retirement pension” included a reference to any benefit under the said regulation J17(3)(e) or, as the case may be, the said regulation 19,

corresponding to a pension under regulation 8(1) of the Health Service regulations, to which her deceased husband became entitled on the termination of that employment; and

- (c) regulation E6 shall have effect subject to the same modifications as apply to that regulation by virtue of paragraph (2) above.

Amendment of the City of London regulations

12. In regulation 19 of the City of London regulations, after paragraph (3) there shall be inserted the following paragraph—

“(3A) Notwithstanding anything in paragraph (3) above—

- (a) regulation E15 of the principal regulations shall have effect in relation to a pensionable employee to whom that paragraph applies as if—

(i) in paragraph (5)(a) and (b) and in paragraph (6), the words from “(i) in” to “other case,” were omitted;

(ii) in paragraph (7), the words “in his case” were omitted; and

(iii) in paragraph (12), after the word “includes” there were inserted the words “a pension payable to a pensionable employee under regulation 19(3) of the Local Government Superannuation (City of London) Regulations 1977,”

and shall so apply in lieu of regulation 39 of the Health Service regulations;

- (b) regulation L13 of the principal regulations shall have effect in relation to a pensionable employee to whom that paragraph applies and shall so apply in lieu of regulation 55 of the Health Service regulations.”.

Right to opt out

13. No provision of these regulations shall apply to any person to whom at any time before 30th December 1978 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or became or may become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and

(b) that provision relates to a benefit paid or payable in respect of a person who—

(i) ceased before 30th December 1978 to hold an employment in respect of which he was a pensionable employee, or

(ii) died before that date while still in such an employment; and

- (c) the first-mentioned person, by notice in writing given to the appropriate administering authority within 3 months after 30th December 1978, elects that that provision shall not apply to him.

Right of appeal

14. The provisions of Part H of the 1974 regulations (determination of questions and appeals) shall apply in relation to rights and liabilities under these regulations as they apply in relation to rights and liabilities under the 1974 regulations.

Regulation 10(13)

SCHEDULE

SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 10 TO THE 1974 REGULATIONS

Regulation E3(9)

SCHEDULE 10

REDUCTION OF BENEFITS UNDER REGULATION E3(9)

TABLE

(1) Number of years	Percentage reduction to be made under regulation E3(9)		
	Retirement pension		Retiring allowance
	(2) Male	(3) Female	(4) Both sexes
0	0	0	0
1	9	7	3
2	16	14	6
3	23	19	8
4	29	24	10
5	35	29	13

NOTE: The necessary interpolations are to be made in the Table above where the period during which the person would have had to remain a pensionable employee without any break in service in order to become entitled to benefits by virtue of regulation E2(1)(a) or (b)(ii), on ceasing to be employed, is not an exact number of years."

Peter Shore,

Secretary of State for the Environment.

29th November 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The Social Security Pensions Act 1975 ("the Pensions Act") introduced a new state scheme for earnings-related old age pensions. It provides pensions consisting of two components: a basic component which replaces and is equivalent to the flat-rate National Insurance pension and an additional component which is related to earnings between specified lower and upper limits. Occupational pension schemes which are capable of meeting certain requirements of the Pensions Act may be contracted-out of the additional component. The local government superannuation scheme embodied in the Local Government Superannuation Regulations 1974 to 1978 ("the principal regulations") and applied to the City of London by the Local Government Superannuation (City of London) Regulations 1977 ("the City of London regulations") is such a scheme, and these regulations alter that scheme so as to meet those requirements. In particular:—

- (1) Regulation 3, to comply with sections 33(1)(b) and 36(3) of the Pensions Act, introduces an overriding provision (subject to certain exceptions) ensuring that where an employee has a guaranteed minimum under section 35 of the Pensions Act the weekly rate of his local government scheme pension will not be less than his guaranteed minimum; and that if he leaves a widow who satisfies the state scheme conditions of entitlement she will receive a pension of not less than half that guaranteed minimum.
- (2) Regulation 4 ensures that any actuarially reduced pension awarded on early retirement complies with section 33(1)(a) (with section 34) of the Pensions Act (annual rate of earner's pension).
- (3) Regulation 5 complies with section 35(6) of the Pensions Act (increase of guaranteed minimum where payment of an employee's guaranteed minimum pension is postponed).
- (4) Regulation 6 ensures payment to widows of not less than the requisite minimum under section 36 of the Pensions Act.
- (5) Regulation 7 prevents the return of contributions where this would be incompatible with the provision of requisite benefits in accordance with the Pensions Act (sections 33 and 36).
- (6) Regulation 8 prevents the allocation of part of a retirement pension so as to leave an entitlement to less than the requisite benefits.
- (7) Regulation 9 prevents the forfeiture of an employee's or widow's guaranteed minimum pension except in the restricted circumstances prescribed (under section 39(4)(b) of the Pensions Act) in the Occupational Pension Schemes (Contracting-out) Regulations 1975 (S.I. 1975/2101).
- (8) Regulations 10 and 12 make minor and consequential amendments to the principal regulations and the City of London regulations to take account of the effects of regulations 3 to 9.
- (9) Regulation 11 introduces pensions for widows of marriages entered into after employees have become entitled to benefits (section 36(1) of the Pensions Act).
- (10) Regulation 14 applies the right of appeal under the principal regulations to these regulations.

Under the powers conferred by section 12 of the Superannuation Act 1972 these regulations (except regulations 7, 8 and 13) are framed so as to have effect from 6th April 1978, the date appointed for the coming into operation of the relevant provisions of the Pensions Act, and so as to apply in relation to employees who retired or died in employment before these regulations come into operation, provision being made for opting out if a person is thereby placed in a worse position (regulation 13).

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