
 STATUTORY INSTRUMENTS

1982 No. 1303 (S. 157)

PENSIONS

**The Local Government Superannuation (Scotland) Amendment
(No. 2) Regulations 1982**

Made - - - - - 8th September 1982
Laid before Parliament 24th September 1982
Coming into Operation 15th October 1982

In exercise of the powers conferred on me by sections 7 and 12 of the Superannuation Act 1972(a), and of all other powers enabling me in that behalf, and 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 in accordance with section 7(5) of that Act, I hereby make the following regulations:—

Title and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1982 and the Local Government Superannuation (Scotland) Regulations 1974 to 1982(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 to 1982.

(2) These regulations shall come into operation on and have effect from 15th October 1982.

Interpretation

2. In these regulations, unless the context otherwise requires, words and expressions to which meanings are assigned by the principal regulations have the same respective meanings.

Definitions

3.—(1) In regulation A3(1) of the principal regulations after the definition of “local Act scheme” there shall be added the following regulation—

““local government employment” has the meaning given by regulation P1;”.

(a) 1972 c. 11.

(b) S.I. 1974/812, 1975/638, 1978/425, 1378, 1794, 1926, 1980/198, 342, 1885, 1981/1892, 1982/385.

(2) In the said regulation A3(1) in the definition of “war service” after the words “any person” there shall be added the words “except in Part R, where it has the meaning given by regulation R2,”.

Pensionable employees

4.—(1) In regulation B2(1)(b)(ii) of the principal regulations for the word “received” there shall be substituted the words “applied for”.

(2) In regulation B2(1)(g) of the principal regulations after the words “a post” there shall be added the words “with that body”.

(3) In the proviso to regulation B2(4)(b) of the principal regulations after the word “person” there shall be added the words “(other than a person who has completed not less than 45 years’ reckonable service)”.

(4) In paragraph (i) of the said proviso to regulation B2(4)(b) after the words “regulation E15” there shall be added the words “or an ill-health lump sum retiring allowance under regulation E21 became payable”.

(5) In regulation B2(4)(d) of the principal regulations after the word “entitled” there shall be added the words “in that employment”.

Power to admit employees of other bodies

5. In regulation B4(1) of the principal regulations after the words “scheduled body” there shall be added the words “in relation to an employee so admitted”.

Payments by employee to avoid reduction of retiring allowance and death gratuity

6.—(1) After regulation C2A(4B)(b) of the principal regulations there shall be added the following—

“or

(c) an election is made under regulation R7,”.

(2) At the end of regulation C2A(4B) of the principal regulations there shall be added the words—

“or, as the case may be, the date of the election under regulation R7”.

Reckonable service

7. In regulation D1(1)(g) of the principal regulations after the words “Part P” there shall be inserted the words “or R”.

Reduction of added years reckonable on payment as reckonable service

8. After regulation D10B of the principal regulations, there shall be added the following—

“Reduction of added years reckonable on payment as reckonable service

D10C. Where—

(a) a consent—

- (i) was given under regulation 12 of the Benefits regulations in respect of a person who became a pensionable employee on the appointed day, or
- (ii) has been given under regulation D10, and
- (b) the person in respect of whom the consent was given is a person in relation to whom regulation R3 applies, and
- (c) the notice of election under regulation R3 was given within the period of 6 months after the date of coming into operation of the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1982 or, in the case of a deceased employee (within the meaning of Part R) who died during that period, within 12 months of the date of his death, and
- (d) apart from this regulation some of the person's reckonable service would, or would if payments under regulation D10 or D11 were to continue up to the age specified in paragraph 1(a) or, as the case may be, paragraph 1(b) of Schedule 6, be left out of account in accordance with regulation D21 or E3(10)(a), the consent shall be deemed always to have related not to the original number of added years but instead to the longest additional period that would not entail any such leaving out of account of reckonable service and payments made and any remaining to be made are to be adjusted accordingly."

Increase of reckonable service at discretion of employing authority in the case of certain late entrants

9. In regulation D14(3) of the principal regulations—

- (i) after the words "these regulations" where they occur for the first time there shall be added the words "or who ceases to hold his employment before that age on the ground that he is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body or who dies while in that employment"; and
- (ii) for the words "before he attains that age" there shall be substituted the words "in any other circumstances".

Previous service of certain re-employed persons

10.—(1) In regulation D16(1) of the principal regulations the words " , on ceasing to hold his employment," shall be deleted.

(2) In regulation D16(2) of the principal regulations after the word "includes" there shall be added the words "a short service grant, as defined in regulation B2(5), an ill-health lump sum retiring allowance under regulation E21,".

Calculation of part-time service

11. In regulation D17 of the principal regulations after the word "regulations" there shall be added the words " , other than regulation E3(4),".

Counting of non-contributing service

12. In regulation D18(3) of the principal regulations—

- (i) at the end of sub-paragraph (a) the word “and” shall be deleted; and
- (ii) at the end of sub-paragraph (b) the full stop shall be deleted and there shall be added the following—
“; and
- (c) reckoning the period of reckonable service a pensionable employee would be entitled to reckon as mentioned in paragraph 4 of Schedule 9.”.

Disregard of certain reckonable service in calculating the amount of any benefit

13. In regulation D21(2) of the principal regulations in the definition of “reckonable service” after the word “under” there shall be added the words “regulation 13 of the Benefits regulations or”.

Counting of certain reckonable service in calculating the amount of any benefit

14. In regulation D22(a) of the principal regulations after the word “shall” there shall be added the words “, subject to regulations D17 and D18,”.

Pensionable remuneration

15.—(1) In regulation E1(1) of the principal regulations for the words “regulation J5” there shall be substituted the words “regulations E1A and J5”.

(2) In regulation E1(3)(e) of the principal regulations—

- (i) for the word “as” where it first occurs there shall be substituted the words “and formed the whole or”; and
- (ii) after the word “payments” where it occurs for the second time there shall be added the words “to be used for determining his remuneration or”.

(3) In regulation E1(6) of the principal regulations after the figures “E11(2)” there shall be added the figures “(a)(ii)”.

Further provision as to pensionable remuneration

16. After regulation E1 of the principal regulations there shall be added the following regulation—

“Further provision as to pensionable remuneration

E1A.—(1) This regulation applies to a person who has at any time after 31st March 1978 ceased to hold an employment in which he was a pensionable employee and who—

- (a) was at a material time a person whose remuneration fell to be

determined by reference to the Scottish Teachers Salaries Memorandum 1978, as from time to time amended, or

(b) was affected by a staging agreement.

(2) A person who has ceased to hold an employment as mentioned in paragraph (1) is affected by a staging agreement if—

(a) there has been an agreement or award—

(i) which, whether before or after he ceased to hold his employment, gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time, and

(ii) which, whether or not it entitled him to any interim increase, entitled him, or would if he had not ceased to hold his employment have entitled him, in that employment to the payment of remuneration from a specified date at an increased rate (“the final rate”) which was either specified in or to be determined by a method or in a manner specified in the agreement or award, and

(iii) under the terms of which either the final rate or any interim increase became payable on or before 1st January 1980,

(b) but for considerations of economy the final rate would have been payable from a date (“the relevant date”) earlier than the date mentioned in sub-paragraph (a)(ii), and

(c) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(3) Subject to paragraph (4), where this regulation applies to a person the amount of any remuneration that is material for the purpose of regulation E1 shall for those purposes—

(a) where paragraph (1)(a) applies, be taken to be what it would have been on the hypotheses set out in regulation 3(2) of the Teachers’ Superannuation (Notional Salaries) (Scotland) Regulations 1982(a), and

(b) where paragraph (1)(b) applies, be taken to be what it would have been if the final rate had become payable from the relevant date.

(4) Paragraph (3) does not apply to the calculation of a person’s pensionable remuneration for the purposes of regulations E6(1)(b) or (c), E7, E9(1) and E10.

(5) For the purposes of this regulation—

(a) a material time is a time material for the purpose of calculating the person’s pensionable remuneration under regulation E1,

(b) in paragraph (1)(a) the reference to the Scottish Teachers Salaries Memorandum 1978 is a reference to the document published by Her Majesty’s Stationery Office on 14 December 1978 under that title, and,

(c) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

(6) In relation to a person to whom regulation J5 applies, any reference in

(a) S.I. 1982/1302.

this regulation to regulation E1 is to be construed as a reference to regulation E1 as it has effect in relation to him by virtue of regulation J5.”.

Amount of retirement pension and retiring allowance

17.—(1) After regulation E3(6AA) of the principal regulations there shall be added the following regulation—

“(6B) For the purposes of paragraphs (4), (5) and (6) above the length in years of a person’s reckonable service shall include any additional period which the person has become entitled to reckon under regulation D4 or regulation D10, and for the purpose of the said paragraph (4) no account shall be taken of any period which a person is entitled to reckon as reckonable service by virtue of regulation R6(1)(a) or (b) but any additional period reckonable under regulation D10 shall be deemed to be an equivalent period of time ending with the day immediately preceding the day on which the person became for the first time a contributory employee (or, if he had previously become a designated employee or local Act contributor, the day immediately preceding the day on which he became for the first time such an employee or contributor).”.

(2) For regulation E3(11) of the principal regulations there shall be substituted the following—

“(11) For the purposes of paragraph (10)(a), a period which a person is entitled to reckon as reckonable service by virtue of regulation R6(1)(a) or (b) shall be treated as reckonable service before attaining the age of 60 years.”.

Allocation of part of retirement pension

18. In regulation E4(1)(b) of the principal regulations after the words “become entitled” there shall be added the words “under regulation E2(1)(a) or (b)(ii)”.

Entitlement to widow’s short-term pension and widow’s long-term pension

19.—(1) In regulation E5(1)(a) of the principal regulations after the word “pension” there shall be added the words “, or would have been so entitled but for the operation of regulation E15,”.

(2) In regulation E5(1)(c) of the principal regulations after the word “time” there shall be added the words “, other than by reason of the operation of regulation E15,”.

Amount of widow’s short-term pension and widow’s long-term pension

20.—(1) For regulations E6(1) and (2) of the principal regulations there shall be substituted the following—

“(1) Subject as hereafter in this Part provided, a widow’s short-term pension shall be at an annual rate—

(a) in the case of the widow of a person who at the time of his death was not in employment in which he was a pensionable employee and who was entitled at that time to receive payments in respect of a retirement

pension or would have been so entitled but for the operation of regulation E15, equal to the rate of that pension which either was payable to him immediately before his death or which would have been so payable but for the operation of the said regulation E15; or

- (b) in the case of the widow of a person who at the time of his death was in employment in which he was a pensionable employee, not being further employment entered into after becoming entitled to receive payments in respect of a retirement pension, equal to his pensionable remuneration; or
 - (c) in the case of the widow of a person who at the time of his death was in employment in which he was a pensionable employee which was further employment entered into after becoming entitled to receive payments in respect of a retirement pension—
 - (i) where the retirement pension is not reduced or suspended under regulation E15, equal to the aggregate of that pension and his pensionable remuneration in his further employment;
 - (ii) where the retirement pension is reduced under regulation E15, equal to the aggregate of the amount of the pension in payment and his pensionable remuneration in his further employment; and
 - (iii) where the retirement pension is suspended under regulation E15, equal to his pensionable remuneration in his further employment.
- (2) Subject to paragraph (3) and as hereafter in this Part provided, the amount of a widow's long-term pension shall be—
- (a) in the case of the widow of such a person as is mentioned in paragraph (1)(a), one half of the retirement pension to which he was entitled at the time of his death;
 - (b) in the case of the widow of a such a person as is mentioned in paragraph (1)(b), where she became entitled to such a pension by virtue of regulation E5(1)(b)(i), one half of the retirement pension to which he would have been entitled if he had been at the time of his death a person such as is mentioned in regulation E2(1)(b)(i) and, where she became entitled to such a pension by virtue of regulation E5(1)(b)(ii), one half of the retirement pension to which he would have been entitled under regulation E2(1)(d);
 - (c) subject to regulation E18(1), in the case of the widow of such a person as is mentioned in paragraph (1)(c), either the aggregate of one half of the pension in respect of his former employment which he was entitled to receive or would have been entitled to receive but for the operation of regulation E15 and one half of the pension to which he would have been entitled in respect of his further employment if he had been at the time of his death a person such as is mentioned in regulation E2(1)(b)(i), or one half of the pension to which he would have been entitled if he had been at the time of his death a person such as is mentioned in regulation E2(1)(b)(i) and had given notice under regulation E16; and
 - (d) in the case of the widow of a person who was entitled at the time of his death to a retirement pension, but was not entitled at that time to receive payments in respect of that pension, other than by reason of the operation of regulation E15, one half of the retirement pension to which

he would have been entitled if he had been at the time of his death a person such as is mentioned in regulation E2(1)(b)(ii).”.

- (2) In regulation E6(3)(a) of the principal regulations—
- (i) after the figure “(2)(a)” there shall be added the words “or (c)”; and
 - (ii) in sub-paragraph (ii) the words “or E15” shall be deleted.
- (3) In regulation E6(3)(b) of the principal regulations for the letter “(c)” there shall be substituted the letter “(d)”.

Post-retirement marriages

21. For regulation E6A of the principal regulations there shall be substituted the following—

“Post-retirement marriages

E6A. Where proviso (a)(i) to regulation E5(1) applies the widow shall be entitled to a pension calculated under regulation E6 modified as follows—

- (a) the references in the said regulation E6 to “that pension” in paragraphs (1)(a) and (c)(i), to “retirement pension” in paragraph (2)(a) and, where it occurs for the second time, in paragraph (2)(d) and to “the pension” in paragraph (2)(c) shall be taken to be references to that part of the pension attributable to the whole period of service in the employment in respect of which it is payable which was in contracted-out employment; and
- (b) in sub-paragraph (c)(ii) of the said regulation E6(1) after the word “payment” there shall be added the words “but not exceeding that part of that pension which was attributable to the whole period of his service in respect of which it is payable which was in contracted-out employment.”.

Entitlement to children’s short-term pension and children’s long-term pension

22.—(1) In regulation E8(1)(a) of the principal regulations after the word “pension” there shall be added the words “, or would have been so entitled but for the operation of regulation E15”.

(2) In regulation E8(1)(c) of the principal regulations after the word “pension” there shall be added the words “, other than by reason of the operation of regulation E15”.

(3) In proviso (a) to regulation E8(1) of the principal regulations after the word “person” there shall be added the words “under regulation E5”.

Amount of children’s short-term pension and children’s long-term pension

23.—(1) The following regulation shall be substituted for regulation E9(1) of the principal regulations—

“(1) A children’s short-term pension shall be at an annual rate equal to the amount that the widow of the deceased person would have received under

regulation E6(1), but where any short-term pension is payable under regulation E6A, the children's short-term pension shall be reduced by that amount."

(2) In regulation E9(2)(a) of the principal regulations after the word "widow" there shall be added the words "of a pre-retirement marriage".

(3) In regulation E9(2) of the principal regulations for the Table there shall be substituted the following—

"TABLE

Number of Eligible Children (1)	Annual amount of children's long-term pension where there is a surviving widow of a pre-retirement marriage of the deceased person (2)	Annual amount of children's long-term pension where there is no surviving widow of a pre-retirement marriage of the deceased person (3)
1 Child	One-half of the pension of the widow of the deceased person under regulation E6(2)	Two-thirds of the pension which the widow of the deceased person would have received under regulation E6(2)
2 or more Children	Equal to the pension of the widow of the deceased person under regulation E6(2)	Four-thirds of the pension which the widow of the deceased person would have received under regulation E6(2) .

(4) At the end of regulation E9(3)(b) the word "and" shall be deleted.

(5) At the end of regulation E9(3)(c) for the full stop there shall be substituted the following—

”; and

(d) where a children's long-term pension is payable under paragraph (2)(b) and a widow's long-term pension is payable under regulation E6A the amount of the children's long-term pension shall not exceed such sum as when aggregated with the amount of the said widow's long-term pension equals the aggregate amount that would have been payable by way of widow's and children's long-term pensions had the post-retirement marriage been a pre-retirement marriage."

(6) In regulations E9(4) of the principal regulations for the words "Schedule 1" there shall be substituted the words "Schedule 2".

Death gratuity

24.—(1) In regulation E11(1)(b) of the principal regulations after the words "that pension" there shall be added the words ", or would have been so entitled but for the operation of regulation E15,".

(2) In regulation E11(1)(c) of the principal regulations after the words “that allowance” there shall be added the words “, other than by reason of the operation of regulation E15”.

(3) Regulation E11(4) of the principal regulations shall be deleted and regulations E11(5), (6), (7) and (8) shall be renumbered E11(4), (5), (6) and (7) respectively.

(4) In the renumbered regulations E11(4) and (5) of the principal regulations after the words “part of that retirement pension” there shall be added the words “or had that pension been reduced or suspended by virtue of regulation E15” and after the word “surrender” there shall be added the words “or reduction”.

(5) In the renumbered regulation E11(6) of the principal regulations for the figure “(8)” there shall be substituted the figure “(7)”.

(6) In the renumbered regulation E11(7) of the principal regulations for the figure “(7)” there shall be substituted the figure “(6)”.

Power to compound certain small pensions

25.—(1) In regulation E11A(1)(b) of the principal regulations for the figure “£39” there shall be substituted the figure “£78”.

(2) In regulations E11A(2) and (3) of the principal regulations for the figure “£52” there shall be substituted the figure “£104”.

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

26.—(1) In regulation E15(3) of the principal regulations for the words “Schedule 1” there shall be substituted the words “Schedule 2”.

(2) In regulation E15(7)(b) of the principal regulations for the words “shall be reduced by deducting therefrom an” there shall be substituted the words “then the amount attributable to fees in his new employment shall be taken to be that”.

Combined benefits in the case of certain re-employed local government pensioners

27. In regulation E16(3) of the principal regulations after the word “under” there shall be inserted the words “regulation 13 of the Benefits regulations or”.

Separate benefits in the case of certain re-employed local government pensioners

28.—(1) In regulation E17(2)(a) of the principal regulations for the words “paragraph 3” there shall be substituted the words “paragraph 4”.

(2) In regulation E17(2)(b) of the principal regulations—

- (i) for the words “paragraph 1 of Schedule 9” there shall be substituted the words “paragraph 2 of Schedule 9”;
 - (ii) for the word “thereof” there shall be substituted the words “column 1”; and
 - (iii) for the words “paragraph 3” there shall be substituted the words “paragraph 4”.
- (3) In regulation E17(2)(c) of the principal regulations after the word “dies” there shall be added the words “in the further pensionable employment”.
- (4) In regulation E17(3) of the principal regulations after the words “former regulations” there shall be added the words “or a short service grant as defined in regulation B2(5)”.

Reduction of Pension

29. After regulation F7(1A) of the principal regulations there shall be added the following regulation—

“(1B) A person in relation to whom regulation R3 applies shall not on that account be treated for the purposes of this regulation as having paid reduced contributions in relation to any service he is entitled to reckon by virtue of regulation R6(1)(a) or (b).”.

Initial determination of questions

30. At the end of regulation H1(b) of the principal regulations the comma shall be deleted and there shall be added the following—

“; or

(c) the rights of any other person under Part R.”.

Appeal by employee, etc.

31. At the end of regulation H2(1)(b) of the principal regulations the comma shall be deleted and there shall be added the following—

“; or

(c) any other person is dissatisfied with any decision made by the body concerned as to his rights under Part R or with the body’s failure to make any such decision,”.

Decisions to be taken by scheduled bodies as to status of employees

32. After regulation L2(3) of the principal regulations there shall be added the following regulation—

“(3A) For the purposes of paragraph (3) fees include other emoluments in the nature of fees.”.

Decisions to be taken by administering authorities as to status of employees

33.—(1) In regulation L3(2)(a)(i) of the principal regulations after the word “reckon” there shall be added the words “as reckonable service”.

(2) For regulation L3(2)(a)(ii) of the principal regulations there shall be substituted the following—

“(ii) what previous service or employment (if any) he is entitled to reckon as qualifying service;”.

(3) In regulation L3(2)(d) of the principal regulations the words “or additional contributory payment” shall be deleted.

Decisions by administering authorities as to war service

34. After regulation L3 of the principal regulations there shall be added the following regulation—

“Decisions by administering authorities as to war service

L3A.—(1) An administering authority shall decide whether the conditions specified in regulations R3(2) to (8) are satisfied in relation to a person who is either a pensionable employee or entitled to a retirement pension under regulation E2, within 6 months of receiving notice of an election under regulation R3 and the information mentioned in regulation R5(2)(a).

(2) If the administering authority decide in accordance with paragraph (1), or the Secretary of State determines under regulation H2(1), that those conditions are satisfied in relation to the person, the authority shall within 12 months of the date of notification of that decision or determination decide what period, if any, he is entitled, or is to be deemed to have been entitled, to reckon as reckonable service by virtue of regulation R6(1)(a) or (b).

(3) If the administering authority decide, or the Secretary of State determines under regulation H2(1), that there is such a period as is mentioned in paragraph (2), the authority shall within 3 months after the date of notification of that decision or determination decide whether regulation D10C applies.”.

Notification of decisions as to status

35.—(1) In regulation L4(1)(b) of the principal regulations after the words “regulation L3” there shall be inserted the words “or L3A”.

(2) In regulation L4(3) of the principal regulations after the word “include” there shall be inserted the words “, in the case of an adverse decision under regulation L3A, the grounds for the decision, and in any case”.

(3) After regulation L4(3) of the principal regulations there shall be added the following—

“(3A) In paragraphs (1) and (3) “employee”, in relation to a question decided in accordance with regulation L3A, is to be taken to mean the person who gave notice of the election under regulation R3.”.

(4) In regulation L4(5) of the principal regulations for the words from “regulation L3(2)” to the end there shall be substituted the words “regulation

L3(2) or L3A and such other particulars relating to that person as are referred to in regulation L3(2) or regulation L3A.”.

Transmission of documents and information between authorities

36. In regulation L6(4) of the principal regulations after the words “regulation L3” there shall be inserted the words “or L3A” and for the words “employing authority” there shall be substituted the words “body, if any, who are the employing authority in relation to that person”.

Decisions to be taken by employing authorities as to benefits and notification thereof

37. In regulation L8(1) of the principal regulations after the word “contributions” there shall be inserted the words “but excluding a benefit specified in regulation R6(5) or (11)”.

Decisions to be taken by administering authorities as to benefits and notification thereof

38.—(1) In regulation L9(1) of the principal regulations after the word “benefit” there shall be added the words “(including a return of contributions)”.

(2) After regulation L9(1) of the principal regulations there shall be added the following regulations—

“(1A) An administering authority shall decide whether the conditions specified in regulation R3(2) to (8) are satisfied in respect of a person who is not either a pensionable employee or entitled to an annual retirement pension under regulation E2, within 6 months of receiving notice of an election under regulation R3 and the information mentioned in regulation R5(2)(a).

(1B) If the administering authority decide in accordance with paragraph (1A), or the Secretary of State determines under regulation H2(1), that those conditions are satisfied in relation to the person, the authority shall within 12 months of the date of notification of that decision or determination decide to which, if any, of the additional benefits specified in regulation R6(5) and (11) he or any other person is entitled.”.

(3) In regulation L9(2) of the principal regulations after the words “was made” there shall be inserted the words “, and an authority by whom a decision has been made under paragraph (1A) or (1B) shall send to the person who gave notice of the election under regulation R3,”.

(4) In regulation L9(3)(a) of the principal regulations after the words “regulation L8” there shall be inserted the words “or paragraph (1B)” and for the words “the person” there shall be substituted the words “any person”.

(5) After the said regulation L9(3)(a) there shall be added the following—

“(aa) in the case of an adverse decision under paragraph (1A) or (1B), the grounds for the decision;”.

(6) In regulation L9(3)(b) of the principal regulations for the words “the person” there shall be substituted the words “any person”.

War service

39. After Part Q of the principal regulations there shall be added the following Part—

“PART R

WAR SERVICE

Interpretation etc.

R1.—(1) In this Part, unless the context otherwise requires—

“deceased employee” means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation R3(2) to (8) were or are deemed to have been satisfied when he died;

“excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces;

“non-effective pay” includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(a) applies);

“occupational pension scheme” means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category: and

references to war service are to be construed in accordance with Regulation R2.

(2) Where by virtue of a determination or determinations given under one or more of the following, that is to say section 12(6) of the Act of 1937, section 7(3) of the Act of 1953 and regulation D4, a period comprising the whole or a part or parts of a person’s indirect service was, or has fallen to be treated as having been, reckonable by him as non-contributing service for the purposes of the former regulations, then—

(a) for the purposes of regulation R2(2)(b), the period shall be deemed to have been so reckonable only to the extent that its length exceeds that of his civilian indirect service, and

(b) if the period is not the whole of the indirect service—

(i) it shall for the purposes of regulation R3(2)(c) be deemed to

(a) 1945 c. 13 (9 & 10 Geo. 6).

have been a continuous period ending on the last day of the indirect service, and

- (ii) none of the indirect service shall for the purposes of regulation R2(2)(d) be taken to be or to have been capable of being taken into account as there mentioned.
- (3) For the purposes of paragraph (2)—
- (a) a person's indirect service is the total of any service, employment and periods in respect of which determinations could have been given under any of the provisions mentioned in that paragraph, and
 - (b) a person's civilian indirect service is any of his indirect service that was not such whole-time service as is described in regulation R2(1).

War service

R2.—(1) For the purposes of this Part, a person's war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years of age or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in Schedule 25.

- (2) Subject to regulation R1(2), a person's war service does not include—
- (a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded,
 - (b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or of a local Act scheme,
 - (c) any period that has at any time been taken into account (whether at its full length or otherwise) for the purposes of calculating any benefit under any other occupational pension scheme, or
 - (d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme.

Election as to war service

R3.—(1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (8) are satisfied, or the personal representatives of a deceased employee, may by notice given in accordance with regulation R5 elect that this regulation shall apply in relation to him.

- (2) He must—
- (a) before 1st July 1950 have become entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act; or
 - (b) before 1st July 1950 have become a participant in a scheme which is a relevant policy scheme within the meaning of regulation P13 or a relevant scheme within the meaning of regulation G14 of the Local

Government Superannuation Regulations 1974(a) and be a person to whom regulation P13 applies; or

- (c) be able to reckon, other than by virtue of interchange rules, a period beginning before 1st July 1950 which is non-contributing or contributing service or a period of contribution for the purposes of the former regulations or of a local Act scheme; or
- (d) if sub-paragraph (c) does not apply, be or have been a person to whom regulation D4 applies, and—
 - (i) his period of previous employment (within the meaning of regulation D4) began before 1st July 1950, and
 - (ii) an application has been made in respect of part of that previous employment under regulation D4; or
- (e) on 30th June 1950 have been undergoing a full-time course of training for, and subsequently obtained the Royal Sanitary Institute's Diploma in Public Health Inspection and not later than 6 months after completing the course of training become entitled to participate or a participant as mentioned in sub-paragraph (a) or (b); or, a period began which was reckonable as mentioned in sub-paragraph (c).

(3) He must on 1st April 1978 have been—

- (a) an employee entitled to participate in the benefits of a superannuation fund maintained under these regulations, or
- (b) a participant in a scheme which is a relevant policy scheme within the meaning of regulation P13, or
- (c) a person entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under these regulations or who would have been so entitled but for the operation of regulation E15, or
- (d) a person entitled to an annual pension under regulation E2(1)(c).

(4) Except where paragraph (2)(e) applies, there must not since the date specified in paragraph (9) have been a continuous period of 12 months or more throughout which none of the following was the case:

- (a) he was entitled to participate or was a participant as mentioned in paragraph (2)(a) or (b), or
- (b) the period mentioned in paragraph (2)(c) or (d)(i) was running, or
- (c) he was undergoing such a course of training as is mentioned in paragraph (2)(e), or
- (d) he was or would have been entitled or was a participant as mentioned in paragraph (3), or
- (e) he was entitled to receive payments in respect of a pension out of a superannuation fund mentioned in paragraph (2)(a) or would have been so entitled but for the operation of section 26 of the Act of 1937 or section 6 of the Act of 1953.

- (5) Where paragraph (2)(e) applies, paragraph (4) shall apply—
- (a) with the substitution for the date specified in paragraph (9) of the date (being a date later than 30th June 1950) on which he became entitled to participate or a participant as mentioned in paragraph (2)(a) or (b), or, as the case may be, a period began which was reckonable as mentioned in paragraph (2)(c), and
 - (b) with the substitution for the reference in paragraph (4)(b) to the period mentioned in paragraph (2)(c) or (d)(i) of a reference to such a period as is mentioned in sub-paragraph (a).
- (6) If he is a person to whom regulation D1(2) applied in respect of any service after the end of his war service, he must have repaid to the appropriate administering authority the sum or amount there mentioned.
- (7) If he is an employee entitled to participate in the benefits of a superannuation fund maintained under these regulations, he must not be entitled to reckon more than 45 years' reckonable service, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.
- (8) If he is entitled, or would be entitled but for the operation of regulation E15, to receive payments in respect of an annual pension out of a superannuation fund maintained under these regulations, less than 45 years' service must have been taken into account in calculating the amount of that pension.
- (9) The date mentioned in paragraph (4) is the date after the end of his war service and before 1st July 1950 when, as the case may be—
- (a) he became entitled to participate or a participant as mentioned in paragraph (2)(a) or (b), or
 - (b) the period mentioned in paragraph (2)(c) or (d)(i) began.

Modified application of regulation R3 in certain cases

R4.—(1) Regulation R3 applies in accordance with paragraphs (3) to (5) of this regulation in the cases specified in those paragraphs.

- (2) In this regulation, unless the context otherwise requires—
- “public health service employment” has the meaning given by regulation 2(1) of the National Health Service (Superannuation) (War Service, etc.) (Scotland) Regulations 1977(a),
- “public service scheme” means an occupational pension scheme—
- (a) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department, and
 - (b) which includes provisions for any such whole-time service as is described in regulation R2(1), rendered before becoming entitled to

(a) S.I. 1977/2138.

participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme, and

“service” means service or employment with any employer.

(3) In the case of a person to whom rule 11 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1969(a) applied otherwise than by virtue of rule 3(3)(c) of those Rules, or to whom rule 6 of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1958(b), rule 3 of the Superannuation (Local Government, Commonwealth and Foreign Service) Interchange (Scotland) Rules 1952(c), or rule 3 of the Superannuation (Local Government and Colonial Service) (Scotland) Interchange Rules 1949(d) applied—

- (a) service reckonable by virtue of the provisions of any of those Rules shall for the purposes of regulation R3(2)(c) be deemed to have been reckonable by him otherwise than by virtue of interchange rules, and
- (b) the period between his leaving and re-entering local government employment shall not be deemed such a period as is mentioned in regulation R3(4).

(4) In the case of a person to whom regulation 4 of the Electricity (Pension Rights) Regulations 1948(e) applied, or to whom regulation 4 of the Gas (Pension Rights) Regulations 1950(f) applied as mentioned in paragraph (4) of that regulation, and who has re-entered local government employment not more than 12 months after ceasing to hold the employment by virtue of which the relevant regulation applied to him—

- (a) any period of service beginning before 1st July 1950—
 - (i) in respect of which a transfer value has been accepted under interchange rules, or has been accepted or fallen to be treated as if it had been accepted under Part P, or
 - (ii) which he became entitled to reckon as reckonable service, or as non-contributing or contributing service or a period of contribution for the purposes of the former regulations or of a local Act scheme,shall be deemed to be such a period as is mentioned in regulation R3(2)(c), and
- (b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation R3(4).

(5) In the case of a person—

- (a) who was not a person to whom the National Health Service (Superannuation) (War Service, etc.) (Scotland) Regulations 1977

(a) S.I. 1969/1642.
(b) S.I. 1958/1402.
(c) S.I. 1952/433.
(d) S.I. 1949/1988.
(e) S.I. 1948/2172.
(f) S.I. 1950/1206.

applied by virtue of his being before 1st July 1950 in public health service employment,

- (b) who after the date specified in regulation R3(9) left local government employment and became entitled to participate in the benefits of another public service scheme, and
- (c) who on re-entering local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (b) became entitled in that employment to reckon—
 - (i) as reckonable service, or qualifying service, or
 - (ii) as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or of a local Act scheme, or
 - (iii) as service material for the purposes of regulation N12(3)(e),
 a period representing the whole of his service from the date specified in regulation R3(9),
 the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation R3(4).

Notice of election

R5.—(1) Notice of an election under regulation R3 is to be given in writing—

- (a) to the appropriate administering authority, or
 - (b) in the case of a person who is, or a deceased employee who was immediately before he died—
 - (i) entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under these regulations or who would have been so entitled but for the operation of regulation E15; or
 - (ii) entitled to an annual pension under regulation E2(1)(c),
 to the administering authority maintaining the superannuation fund which is or was liable in respect of the pension.
- (2) The person giving notice of an election under regulation R3—
- (a) is to give the authority, in writing—
 - (i) all information in his possession, and
 - (ii) if the authority notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain,
 concerning the war service of the person to whom the notice relates, and
 - (b) may—
 - (i) in that notice, or
 - (ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation R3(2)

to (8) are satisfied in relation to the person to whom that notice relates, by a further notice in writing to the same authority,

elect that regulation R6 shall apply with the substitution, in paragraph (1)(a) or (b) or (6) as the case may be, for "47 per cent." (or for any reduced percentage substituted under paragraph (8)) of any specified lesser percentage, and

- (c) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation R3.

Reckonable service and benefits

R6.—(1) Subject to regulation R5(2)(b) and paragraphs (2), (4), (7), (8) and (9), a person in relation to whom regulation R3 applies is entitled, or, as the case may be, shall be deemed to have been entitled—

- (a) in the case of a person entitled on the relevant date—
- (i) to participate in the benefits of a superannuation fund maintained under these regulations, or
 - (ii) to a retirement pension,
- other than a person to whom regulation P13 applies, to reckon as reckonable service a period equal to 47 per cent. of his war service; or
- (b) in the case of a person to whom on the relevant date regulation P13 applied, to have a period equal to 47 per cent. of his war service treated for the purposes of regulation P13(4) as a period during which the whole of his policies of insurance under the relevant policy scheme were fully maintained; or
- (c) in the case of a person who, having become entitled to receive an annual pension under the former regulations or a local Act scheme, was on the relevant date entitled to receive payments in respect of that pension out of a superannuation fund maintained under these regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (5).

(2) Where the person was entitled on the relevant date to a retirement pension—

- (a) his entitlement under paragraph (1)(a) or (b), and to any resulting increase in the rate of his retirement pension, shall be taken to have arisen on—
- (i) 1st April 1978, or
 - (ii) the date on which he ceased to hold his employment, whichever is the later, and
- (b) if regulation E3(9) applied to him before the date of coming into operation of the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1982—
- (i) any increase by virtue of paragraph (1)(a) or (b) in the amount of any benefit is not subject to reduction under regulation E3(9), and

- (ii) the period that he is entitled by paragraph (1)(a) or (b) to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation E3(9); and for the purposes of this subparagraph any reference to regulation E3(9) shall be taken to include a reference to regulation 4 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1961(a) and regulation 36 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1970(b).

(3) The relevant date for the purposes of paragraphs (1) and (2) is the date of the election under regulation R3, except in the case of a deceased employee where it is the date of his death.

(4) Any period which a person is, or is deemed to have been, entitled to reckon as reckonable service by virtue of paragraph (1)(a) or (b) shall for the purposes of regulation E3(5), (6) and (6A) and of regulation E11(2)(aa) and (3) be deemed to be reckonable service before, as the case may be—

(a) 1st April 1972, or

(b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(5) The additional benefits mentioned in paragraph (1)(c) are—

(a) an additional pension, payable from—

(i) 1st April 1978, or

(ii) the date on which the person became entitled to receive payments in respect of a pension as mentioned in paragraph (1)(c), whichever is the later, and

(b) if the person has received or is entitled to receive payment of any lump sum of the same nature as a retiring allowance, an additional lump sum,

calculated in accordance with paragraph (6).

(6) Subject to regulation R5(2)(b) and paragraphs (7) and (8)—

(a) the annual rate of an additional pension, and

(b) the amount of an additional lump sum,

specified in paragraph (5) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original lump sum would have been increased if a period equal to 47 per cent. of the person's war service had been service, or a period, of a kind which (however described) counted in full in the calculation of the original pension or lump sum.

(7) The total of an additional benefit and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

(a) S.I. 1961/206.

(b) S.I. 1970/1307.

- (a) The period equal to 47 per cent. of the person's war service had been a period of service before he attained the age of 60 years, and
- (b) no more than—
 - (i) 40 years' service before attaining that age, and
 - (ii) 45 years' service in all,
 had been capable of counting in the calculation of the original benefit.

(8) If a period of part-time service or employment falling to be treated under section 12(5) of the Act of 1937 or under regulation D17 or P13(4)(b) as though it were whole-time service or employment for a proportionately reduced period—

- (a) began before and ended on or after 1st July 1950, and
- (b) was not preceded, without any break, by a period of whole-time service or employment,

paragraph (1)(a) or, as the case may be, paragraph (1)(b) or paragraphs (6) and (7) apply with the substitution for "47 per cent." of the percentage obtained by reducing 47 per cent. in the same proportion.

(9) Where—

- (a) before the date of notification of a decision or determination that he is entitled to reckon a period as reckonable service by virtue of paragraph (1)(a) or (b), a person in relation to whom regulation R3 applies has been credited with an additional period of service under regulations E3(7), E11(4) or any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation ("the enhancement provisions"), and

(b) $A + B + C$ exceeds 40 years, where—

A is the period which would but for this paragraph be reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b),

B is the remainder of his reckonable service, and

C is the additional period of service with which he has been credited under the enhancement provisions,

the period which is reckonable by him as reckonable service by virtue of paragraph (1)(a) or (b) is the total of $40 - (B + C)$ and the amount, if any, by which $(A + B + C) - 40$ exceeds C:

Provided that where the instrument referred to in sub-paragraph (a) above is the Local Government Reorganisation (Retirement of Chief Officers) (Scotland) Regulations 1974(a) for the figure "40" wherever it occurs in this sub-paragraph there shall be substituted the figure "45".

(10) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

(a) S.I. 1974/1754.

- (a) multiplying the number of complete years of war service, if any, by 365, and
- (b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

and any fraction of a day resulting from the calculation is to be excluded from the period.

(11) Where a person dies who was entitled or deemed to be entitled to any additional benefit specified in paragraph (5) (“the first additional benefit”) and there is payable in respect of him out of a superannuation fund maintained under these regulations any benefit similar to a widow’s pension, children’s pension or death gratuity payable under Part E (“the death benefit”), the person entitled to receive that benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at a rate or, as the case may be, of an amount which bears the same proportion to the death benefit as the first additional benefit bears to the corresponding original benefit.

Revision of certain elections

R7.—(1) Subject to paragraph (2), where—

- (a) notice of an election under regulation C2A(2), (3) or (4) or notice under regulation C2B(1) has been given by or in respect of a person in relation to whom regulation R3 applies, and
- (b) the service specified in that notice was the whole of his reckonable service before, as the case may be—
 - (i) 1st April 1972, or
 - (ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,

he or his personal representatives may elect that the period which he is, or is deemed to be, entitled to reckon as reckonable service by virtue of regulation R6(1)(a) or (b) is to be treated as having been included in the service specified in that notice.

(2) An election under paragraph (1)—

- (a) may not be made unless the notice of election under regulation R3 was given within the period of 6 months from the date of coming into operation of the Local Government Superannuation (Scotland) Amendment (No. 2) Regulations 1982 or, in the case of a deceased employee who died during that period, within the period of 12 months beginning on the date of his death, and
- (b) must unless they allow a longer period be made by giving notice in writing to the administering authority concerned within 3 months after the date of notification of a decision by that authority or, as the case may be, a determination by the Secretary of State under regulation H2(1) that the person is, or is deemed to be, entitled to reckon such a period as is mentioned in paragraph (1).”.

Limitation on payment by way of additional contributions or by instalments

40. In Schedule 4 to the principal regulations—

- (a) in the second sub-paragraph (a) of paragraph 1 after the words “regulation D13” there shall be added the words “or, in the case of a male pensionable employee, an election under regulation C2A(4)”;
- (b) paragraphs (2) and (3) shall be renumbered paragraphs 2 and 3 respectively;
- (c) in the re-numbered paragraph 2 in the definition of R after the word “regulation” there shall be added the words “C2A(4) or”;
- (d) in the renumbered paragraph 2 for the definition of F there shall be substituted the following—

“F is the figure specified, opposite to the age of the employee on his birthday next following the date on which he made that election in the relevant column of, in the case of an election under regulation C2A(4), Table I and, in the case of an election under regulation D13, Table II or Table III, below appropriate to his pensionable age as defined in paragraph 3.”;
- (e) in the renumbered paragraph 2 Tables I and II shall be renumbered II and III and the following Table shall be inserted as Table I—

"TABLE I

Age on birthday next following election	Figure to be used by reference to the under-mentioned pensionable age					
	60	61	62	63	64	65
25	2.76					
26	2.61					
27	2.51					
28	2.44					
29	2.39					
30	2.35					
31	2.31					
32	2.28					
33	2.25					
34	2.23					
35	2.21					
36	2.20					
37	2.19	2.11				
38	2.19	2.11	2.06			
39	2.19	2.11	2.06	2.01		
40	2.20	2.12	2.06	2.01	1.97	
41	2.20	2.12	2.07	2.02	1.97	1.95
42	2.21	2.12	2.07	2.02	1.98	1.95
43	2.22	2.13	2.08	2.03	1.98	1.96
44	2.23	2.14	2.09	2.04	1.99	1.96
45	2.24	2.15	2.10	2.05	2.00	1.97
46	2.25	2.16	2.11	2.06	2.01	1.98
47	2.27	2.17	2.12	2.07	2.02	1.99
48	2.29	2.19	2.13	2.08	2.03	2.00
49	2.31	2.21	2.15	2.09	2.04	2.01
50	2.33	2.23	2.17	2.10	2.05	2.02
51	2.35	2.25	2.19	2.12	2.06	2.03
52	2.37	2.27	2.21	2.14	2.07	2.04
53	2.39	2.29	2.23	2.16	2.09	2.06
54	2.41	2.31	2.25	2.18	2.11	2.08
55	2.44	2.33	2.27	2.20	2.13	2.10
56	2.47	2.35	2.29	2.22	2.15	2.12
57	2.50	2.38	2.31	2.24	2.17	2.14
58	2.53	2.41	2.34	2.26	2.19	2.16
59	2.56	2.44	2.37	2.29	2.21	2.18
60		2.48	2.40	2.32	2.24	2.21
61			2.43	2.35	2.27	2.24
62				2.38	2.30	2.27
63					2.33	2.30
64						2.34

”;

- (f) in the renumbered paragraph 3 for the figure “3” there shall be substituted the figure “2”;
- (g) at the end of the renumbered paragraph 3 there shall be added the following—
- “or, if at the birthday next following an election under regulation C2A(4) he satisfies the first of those requirements, the age at which he has indicated he intends to retire”.

Maximum length of additional periods purchased by employee or granted at discretion of employing authority

41. At the end of paragraph 2(2) of Schedule 7 to the principal regulations there shall be added the following—

“who in deciding the extent of the reduction shall calculate the value of the earlier benefits in accordance with the Inland Revenue advice for the time being in force”.

Increase of reckonable service on account of ill-health or death in service

42.—(1) In the heading of column (1) of the table in paragraph 2 of Schedule 9 to the principal regulations after the word “of” there shall be added the word “relevant”.

(2) In paragraph 4(1)(b) of the said Schedule 9 after the words “10 years” there shall be added the word “relevant”.

Reduction of benefits under regulation E3(9)

43. In Schedule 10 to the principal regulations for the Table there shall be substituted the following Table—

“TABLE

Number of Years	Percentage Reduction		
	Retirement Pension		Retiring Allowance
	<i>Male</i>	<i>Female</i>	<i>Both Sexes</i>
0	0	0	0
1	8	7	2
2	15	13	5
3	22	18	7
4	28	23	9
5	33	27	11

Allocation of part of retirement pension

44. In paragraph 3 of Schedule 11 to the principal regulations after the word “person’s” there shall be added the word “first”.

Modifications to part E in its application to persons with no entitlement under the former regulations to a retiring allowance and widow’s pension or to a widow’s pension

45.—(1) In paragraph 3(b) of Part I of Schedule 12 to the principal regulations for the figure “(5)” there shall be substituted the figure “(4)”.

(2) In paragraph 3(c) of the said Part I for the figure “(6)” there shall be substituted the figure “(5)”.

(3) In paragraph 2(a) of Part II of the said Schedule 12 for the figure “(5)” there shall be substituted the figure “(4)”.

(4) In paragraph 2(b) of the said Part II for the figure “(6)” there shall be substituted the figure “(5)”.

(5) In paragraph 2 of Part III of the said Schedule 12 at the end of subparagraph (b) for the full stop there shall be substituted the following—

“; and

(c) in the case of a person to whom regulation E2(1)(b)(i) applied or who dies in employment in which he was a pensionable employee, the amount ascertained by multiplying one one hundred and sixtieth of his pensionable remuneration by the length in years of the additional period of reckonable service determined in accordance with Schedule 9 or, in the case of a person who dies in employment as aforesaid, an additional period of reckonable service determined as if at the date of his death he were a person to whom regulation E2(1)(b)(i) applied.”.

(6) In paragraph 4(c) of the said Part III for the figure “(8)” there shall be substituted the figure “(7)”.

(7) In paragraph 4(d) of the said Part III for the figures “(7)” and “(8)” respectively there shall be substituted the figures “(6)” and “(7)”.

Payments by employee to avoid reduction of retiring allowance

46. In Schedule 22 to the principal regulations—

(a) in paragraph 2 of Part I for the definition of F there shall be substituted—

“F is—

(a) in the case of a male pensionable employee, the figure specified in the Table below opposite to his age on his birthday next following the date on which he made, or is deemed to have made, that election, and

(b) in the case of a female pensionable employee, such figure as the Government Actuary may determine”;

(b) in the said paragraph 2 for the Table there shall be substituted the following Table—

"TABLE

Age on birthday next following election	Figure to be used
25	2.76
26	2.61
27	2.51
28	2.44
29	2.39
30	2.35
31	2.31
32	2.28
33	2.25
34	2.23
35	2.21
36	2.20
37	2.18
38	2.17
39	2.16
40	2.15
41	2.14
42	2.13
43	2.12
44	2.11
45	2.10
46	2.09
47	2.08
48	2.08
49	2.09
50	2.10
51	2.12
52	2.14
53	2.16
54	2.18
55	2.20
56	2.22
57	2.24
58	2.26
59	2.28
60	2.30
61	2.31
62	2.32
63	2.33
64	2.34";

(c) in paragraph 3 of Part III for the definition of F there shall be substituted—

"F is—

- (a) in the case of a male pensionable employee the figure specified, opposite to the age of the employee on his birthday next following the date on which he made, or is deemed to have made, that election in the relevant column in the Table below appropriate to his specified age, and
- (b) in the case of a female pensionable employee such figure as the Government Actuary may determine.”;
- and
- (d) in the said paragraph 3 for the Tables I and II there shall be substituted the following Table—

"TABLE

Age on birthday next following election	Figure to be used by reference to the undermentioned specified age					
	60	61	62	63	64	65
25	.07					
26	.07					
27	.07					
28	.07					
29	.08					
30	.08					
31	.08					
32	.08					
33	.09					
34	.09					
35	.09					
36	.10					
37	.10	.10				
38	.11	.10	.10			
39	.12	.11	.10	.09		
40	.12	.11	.11	.10	.09	
41	.13	.12	.11	.10	.10	.09
42	.14	.13	.12	.11	.10	.10
43	.14	.13	.12	.12	.11	.10
44	.15	.14	.13	.12	.11	.11
45	.16	.15	.14	.13	.12	.11
46	.17	.16	.15	.14	.13	.12
47	.19	.17	.16	.15	.14	.13
48	.21	.19	.17	.16	.15	.14
49	.23	.21	.18	.17	.16	.15
50	.25	.23	.20	.18	.17	.16
51	.28	.25	.22	.20	.18	.17
52	.32	.28	.25	.22	.20	.18
53	.37	.32	.28	.24	.22	.20
54	.43	.36	.31	.27	.24	.22
55	.52	.42	.36	.31	.27	.24
56	.65	.51	.42	.35	.30	.27
57	.87	.63	.50	.41	.34	.30
58	1.30	.84	.62	.49	.40	.35
59	2.62	1.26	.83	.61	.48	.41
60		2.53	1.24	.82	.60	.48
61			2.48	1.22	.80	.60
62				2.40	1.20	.80
63					2.37	1.21
64						2.39"

Women's services

47. After Schedule 24 to the principal regulations there shall be added the following Schedule—

"SCHEDULE 25

Regulation R2(1)

WOMEN'S SERVICES

1. Member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof.
2. Member of the Women's Royal Naval Service.
3. Woman medical or dental practitioner serving in the Royal Navy or any Naval reserve.
4. Member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof or of Queen Alexandra's Royal Army Nursing Corps or any reserve thereof.
5. Member of the Territorial Army Nursing Service or any reserve thereof.
6. Member of the Auxiliary Territorial Service.
7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.
8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.
9. Member of the Women's Auxiliary Air Force.
10. Woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.
11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council."

Transitional

48.—(1) The provisions of regulation 46 of these regulations shall not apply to any election under regulation C2A(2), (3) or C2A(4) of the principal regulations made before the date of coming into operation of these regulations.

(2) Subject to paragraph (3) below, where before the date of coming into operation of these regulations a decision has been made in accordance with regulation L9 of the principal regulations (Decisions to be taken by administering authorities as to benefits and notification thereof) in respect of a person to whom regulation E1A of the principal regulations applies, the decision, whether notified or not, shall cease to have effect and regulation L9 shall apply as if it had been neither made nor notified.

(3) Paragraph (2) above does not apply to a decision as to entitlement to a widow's short-term pension or the amount thereof in terms of regulation E5(1)(b), E6(1)(b) or (c) or E7 or as to the entitlement to a corresponding children's short-term pension or the amount thereof in terms of regulation E8(1)(b), E9(1) or E10 of the principal regulations.

Right to opt out

49.—(1) No provision of these regulations shall apply to any person to whom at any time before the date of coming into operation of these regulations 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 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 the said date of coming into operation 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 the said date of coming into operation, elects that that provision shall not apply to him.
- (2) The provision of Part H of the principal 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 principal regulations.

George Younger,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
Edinburgh.
8th September 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Local Government Superannuation (Scotland) Regulations 1974 to 1982 by—

First

- (1) Amending the principal regulations to allow, in certain cases where entry to local government employment was prior to 30th June 1950, pre-entry war service to be counted as reckonable service (Regulations 7 and 39);
- (2) Providing that elections may be made for the adjustment of elections already made to secure an unreduced lump sum to take account of pre-entry war service which has become reckonable (Regulation 6 and Regulation R7 introduced by Regulation 39);
- (3) Permitting the adjustment of contracts to purchase shared-cost added years where pre-entry war service has become reckonable (Regulation 8);
- (4) Ensuring that where a person is made redundant before being credited with war service that service will be reduced to ensure that his total reckonable service including any enhancement awarded on redundancy will not exceed the maximum he might have achieved if war service had been credited before redundancy (Regulation R6(g) introduced by Regulation 39);
- (5) Making amendments consequential upon (1) and (3) above (Regulations 3(2) and (3), 17(2), 29 to 31, 34 to 37, 38(2) to (6) and 47).

Under powers conferred by Section 12 of the Superannuation Act 1972 these regulations apply to persons who retired between 1st April 1978 and the operative date and to persons who were local government pensioners at that date (Regulation R3(3) introduced by Regulation 39).

Second

Providing for benefits to be based on notional remuneration in cases where pensionable employees have ceased employment during the currency of a staged pay award under the terms of which either the final rate or any interim increase became payable on or before 1st January 1980 (Regulations 15(1), 16, 48(2) and (3)).

Under powers conferred by Section 12 of the Superannuation Act 1972 these regulations apply to persons who retired between 1st April 1978 and the operative date (Regulation E1A(1) introduced by Regulation 16).

Third

- (1) Introducing a Table to Schedule 4 to provide for lump sum payments where an election by a male employee to pay additional contributions under regulation C2A(4) for the purpose of avoiding reduction of lump sum retiring allowance or death gratuity attributable to service before 1st April 1972, means that the Inland Revenue limit of 15% of remuneration would be exceeded: elections, which are rare, by female employees, having a similar effect are to continue to be dealt with by application to the Government Actuary's Department (Regulation 40);
- (2) Revising the Table in Schedule 10 which provides the appropriate percentage reduction of benefits under regulation E3(g) where an employee retires before reaching age 65 without having completed 25 years' service (Regulation 43);

- (3) Amending Parts I and III of Schedule 22 which provide respectively for lump sum payments where an employee makes an election under regulation C2A(2) or for additional contributions where an employee makes an election under regulation C2A(4) for the purpose of avoiding reduction of lump sum retiring allowance or death gratuity for service before 1st April 1972, by substituting for male employees revised tables of contribution factors and by providing that in the case of elections, which are rare, by female employees, factors will be provided by the Government Actuary's Department (Regulation 46). Provision is made for these amendments not to apply to any elections made prior to the operative date of these regulations (Regulation 48(1)).

Fourth

Introducing a number of minor corrective amendments as follows—

- (1) Altering one of the criteria for entry by manual workers to the scheme, so that application for refund of contributions in respect of past service, not receipt of a refund, debars immediate re-entry to the scheme (Regulation 4(1));
- (2) Clarifying that the post referred to in regulation B2(1)(g), and by virtue of which a person was a contributory employee immediately before the appointed day, must have been with the scheduled body in whose employment that person was at the appointed day (Regulation 4(2));
- (3) Disapplying the proviso to regulation B2(4)(b) so that persons who have attained 65 years of age and completed 45 years' service cannot again become pensionable employees (Regulation 4(3));
- (4) Extending the provisions of regulation B2(4)(b) to include the ill-health lump sum retiring allowance provided under regulation E21 (Regulation 4(4));
- (5) Clarifying that the disqualification to participation in the scheme in regulation B2(4)(d) only arises for persons otherwise superannuated in respect of their current local government employment (Regulation 4(5));
- (6) Clarifying that in terms of regulation B4(1) an admitted body is only to be deemed to be a scheduled body in respect of any employee admitted to the scheme (Regulation 5);
- (7) Specifying that the whole of the increase in reckonable service in terms of regulation D14 should apply where an employee retires on ill-health grounds or dies in service (Regulation 9);
- (8) Removing unnecessary words in regulation D16(1) so that service of certain re-employed persons can be determined on re-entry or whenever otherwise necessary (Regulation 10(1));
- (9) Extending the definition of retirement pension in regulation D16(2) to include a short-service grant under the former regulations and an ill-health lump sum retiring allowance under regulation E21 (Regulation 10(2));
- (10) Debarring the use of the calculation method set out in regulation D17 for the purpose of regulation E3(4) (Increase in retiring allowance of certain employees who have been subject to the former regulations); the increase allowed by regulation E3(4) is calculated on actual retiring allowance which is already reduced (Regulation 11);
- (11) Debarring the application of regulation D18 to paragraph 4 of Schedule 9 to ensure for the purposes of that paragraph that non-contributing service reckons at full rate (Regulation 12);
- (12) Extending the definition of reckonable service in regulation D21(2) to cover additional benefits granted under regulation 13 of the Benefits regulations (Regulation 13);

- (13) Clarifying that regulation D22 is to be construed with regard to regulations D17 and D18 (Regulation 14);
- (14) Amending the regulations to deal with the situation where fees comprise the whole of remuneration (Regulation 15(2));
- (15) Ensuring that regulation E11(2) is only to be restricted by the operation of regulation E1(3)(b) as regards regulation E11(2)(a)(ii) (Regulation 15(3));
- (16) Clarifying that added years under regulations D4 and D10 count for percentage addition and as service given before 1st April 1972. The amendment also clarifies for the purposes of paragraph (4) of regulation E3 the period to be assigned to any additional period reckonable under regulation D10 (Regulation 17(1));
- (17) Clarifying that regulation E4(1)(b) applies to normal retirement on full pension and not retirement at age 60 or over, conjoined with an election under regulation E2(4)(a)(iv) (Regulation 18);
- (18) Clarifying the position of a widow where the husband died in re-employment and with a pension affected by the operation of regulation E15 (Regulation 19);
- (19) Re-casting the format of regulation E6 to take account of situations where an employee dies in further employment, either pensionable or non-pensionable (Regulation 20);
- (20) Making consequential amendments to regulation E6A in light of the amendments made by Regulation 20 (Regulation 21);
- (21) Amending regulation E8 to take account of situations where the parent died while in re-employment (Regulation 22);
- (22) Amending the provisions of regulation E9 (children's short-term pension and long-term pension) to take account of situations where a parent died in re-employment. The amendment also covers situations where there is a pension in respect of a post-retirement marriage in terms of regulation E6A and corrects a factual inaccuracy in regulation E9(4) (Regulation 23);
- (23) Amending regulation E11 to take account of situations where the deceased had been in re-employment and also deleting an unnecessary regulation (regulation E11(4)) with consequential amendments (Regulation 24);
- (24) Raising the level for commutation of small pensions from £52 to £104 per annum in line with statutory instrument 1981/129 (Regulation 25);
- (25) Correcting minor errors in regulation E15 (Regulation 26);
- (26) Ensuring that reckonable service in terms of regulation E16(3) shall include any service in respect of which an additional benefit has been granted under regulation 13 of the Benefits regulations (Regulation 27);
- (27) Correcting textual errors in regulations E17(2)(a) and (b), clarifying that death is to be related to any further pensionable employment and ensuring that any short service grant is taken into account (Regulation 28);
- (28) Clarifying that for the purposes of regulation L2(3) fees are to include emoluments in the nature of fees (Regulation 32);
- (29) Correcting minor textual and factual inaccuracies in regulation L3 (Regulation 33);
- (30) Clarifying that regulation L9(1) extends to decisions on returns of contributions (Regulation 38(1));
- (31) Ensuring that a fund's actuary in reducing years for the purpose of paragraph 1 of Schedule 7 shall take the advice of the Inland Revenue into account (Regulation 41);
- (32) Correcting minor textual errors in Schedule 9 (Regulation 42);
- (33) Clarifying that the notice intimating entitlement to allocate is to be

- issued to a person on his first becoming entitled to notify his wish to surrender part of his pension (Regulation 44);
- (34) Making minor consequential amendments to Schedule 12 and providing for the situation where an employee retires on ill-health grounds or dies in service, thus allowing enhancement to be taken into account (Regulation 45).

Provision is made for opting out if a person is placed in a worse position as a result of the retrospective effect of any of the Regulations (Regulation 49(1)).

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