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STATUTORY INSTRUMENTS

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**1986 No. 24**

**The Local Government Superannuation Regulations 1986**

**PART F**

**WAR SERVICE**

**Interpretation etc**

**F1.**—(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 F3(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(1), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

“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

“public service scheme” means a water company scheme, the Universities' Superannuation Scheme, and any 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 F2(1), rendered before becoming entitled to participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme;

“war service provisions”, in relation to a public service scheme, means provisions of the kind specified in paragraph (b) of the definition of the latter expression;

and references to war service are to be construed in accordance with regulation F2.

(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 of the 1974 regulations, a period comprising the whole or a part or parts of a person's

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(1) 1945 (9 & 10 Geo. 6) c.13.

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 F2(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 F3(2)(c) be deemed to 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 F2(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 F2(1).

### **War service**

**F2.**—(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 old 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 13.

- (2) Subject to regulation F1(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 purpose 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; but in the case of a person to whom regulation F3(2)(f) applies “benefit” does not include a benefit under the war service provisions of a public service scheme.

### **Election as to war service**

**F3.**—(1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (10) are satisfied, or the personal representatives of a deceased employee, may by notice given in accordance with regulation F5 elect that this regulation shall apply in relation to him.

- (2) One at least of the following must be the case:
  - (a) he became before 1st July 1950 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 by a body specified in Column 1 of Schedule 15 to the 1974 regulations, or
  - (b) he became before 1st July 1950 a participant in a scheme which was a relevant scheme within the meaning of regulation G14 of the 1974 regulations or a relevant policy scheme

- within the meaning of regulation P13 of the Local Government Superannuation (Scotland) Regulations 1974(2), and is a person to whom regulation G14 of the 1974 regulations applied, or
- (c) a period beginning before 1st July 1950 was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules 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
  - (d) sub-paragraph (c) is not the case, but he is a person to whom regulation D4 of the 1974 regulations applied, and—
    - (i) his period of previous employment (within the meaning of that regulation) began before 1st July 1950, and
    - (ii) an application was made by or in respect of him under regulation D4 or D4A of the 1974 regulations, or
  - (e) he successfully completed before 1st July 1950, or was on 30th June 1950 undergoing and later successfully completed—
    - (i) a course of training for the Royal Sanitary Institute's Certificate in Public Health Inspection, or
    - (ii) a course of training for a diploma or other qualification in the social sciences at or before the commencement of which he obtained a conditional offer of appointment as a probation officer and within 6 months after completing which he was so appointed, or
    - (iii) a course of training leading to the issue by the Institute of Municipal Engineers of a testamur of general proficiency, or
    - (iv) a course of training sponsored by the former Kent County Council at their Lamorbey Park Adult Education Centre, leading to the award of a diploma for youth employment officers, or
    - (v) a course of training leading to the award of a diploma qualifying the holder for appointment to the staff of occupational centres for, and of education departments of institutions for, mental defectives,and not later than 6 months after completing the course of training he became entitled or a participant as mentioned in sub-paragraph (a) or (b) or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in sub-paragraph (c), or
  - (f) none of the foregoing is the case, but a transfer value was accepted and received in relation to him by an administering authority or a former local authority before 1st April 1978 and a scheme is designated under regulation F5(2)(b).
- (3) He must on 1st April 1978 have been—
- (a) an employee entitled to participate in the benefits of a superannuation fund maintained under the 1974 regulations, or
  - (b) a participant in a scheme which was a relevant scheme within the meaning of regulation G14 of those regulations, or
  - (c) entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under those regulations, or
  - (d) entitled to an annual pension under regulation E2(1)(c) of those regulations, or
  - (e) a person to whom regulation E1S of those regulations applied.

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

- (a) he was entitled or 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 entitled or 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
- (f) he was a person to whom regulation EIS, section 6 of the Act of 1953 or section 31 of the Act of 1937 applied.

(5) Where paragraph (2)(e) is the case, paragraph (4) applies—

- (a) with the substitution for the date specified in paragraph (12) of the date (being a date later than 30th June 1950) on which he became entitled or a participant as mentioned in paragraph (2)(a) or (b), or, as the case may be, a period began which was reckonable, or falls to be treated as having been 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 subparagraph (a).

(6) Where paragraph (2)(f) is the case, paragraph (4) applies with the substitution for the date specified in paragraph (12) of the date (being a date later than 30th June 1950) on which he last became entitled or a participant as mentioned in paragraph (2)(a) or (b).

(7) If he is a person to whom regulation D1(2) of the 1974 regulations 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.

(8) 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.

(9) If he has become entitled to receive payment in respect of an annual pension out of a superannuation fund maintained under these regulations (including a pension which is for the time being subject to reduction or suspension under regulation E15), no more than 45 years' service must have been taken into account in calculating the amount of that pension.

(10) In the case of a deceased employee, paragraph (2)(d)(ii) shall for the purposes of paragraph (1) be deemed to be satisfied even though the application was made after his death.

(11) Where paragraph (2)(f) applies and the scheme designated under regulation F5(2)(b) is not a scheme specified in Schedule 14, or a water company scheme, war service is for the purposes of paragraph (1) to be assumed.

(12) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—

- (a) he became entitled 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 F3 in certain cases**

**F4.—**(1) Regulation F3 applies in accordance with paragraphs (3) to (6) of this regulation in the cases specified in those paragraphs.

(2) In this regulation, unless the context otherwise requires, “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 Rules 1969(3) applied otherwise than by virtue of rule 3(3) (c) of those Rules, or to whom rule 5 of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1958(4), rule 3 of the Superannuation (Local Government, Commonwealth and Foreign Service) Interchange Rules 1952(5), or rule 3 of the Superannuation (Local Government and Colonial Service) Interchange Rules 1949(6) applied—

- (a) service reckonable by virtue of the provisions of any of those Rules shall for the purposes of regulation F3(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 be deemed not to be such a period as is mentioned in regulation F3(4).

(4) In the case of a person to whom regulation 4 of the Electricity (Pension Rights) Regulations 1948(7) applied, or to whom regulation 4 of the Gas (Pension Rights) Regulations 1950(8) applied as mentioned in paragraph (4) of that regulation, and in relation to whom the condition in paragraph (5) is satisfied—

- (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 J, 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 F3(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 F3(4).

(5) The condition mentioned in paragraph (4) is that the person re-entered local government employment—

- (a) not more than 12 months after ceasing to hold the employment by virtue of which the relevant regulation applied to him, or
- (b) if within 12 months after ceasing to hold that employment he entered an employment in which he was subject to another public service scheme, after ceasing to hold the latter employment.

(6) In the case of a person—

- (a) who after the date specified in regulation F3(12) left local government employment and became entitled to participate in the benefits of another occupational pension scheme, and
- (b) who re-entered local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (a) and became entitled in that employment to reckon—

- (i) as reckonable service or qualifying service, or

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(3) S.I. 1969/975.  
(4) S.I. 1958/1416.  
(5) S.I. 1952/133.  
(6) S.I. 1949/1463.  
(7) S.I. 1948/2172.  
(8) S.I. 1950/1206.

(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 H6(5),

a period at least equal in length to the whole of his service from the date specified in regulation F3 (12),

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 F3(4).

### Notice of election

**F5.**—(1) Notice of an election under regulation F3 is to be given in writing—

(a) in the case of a person who has, or a deceased employee who had before he died—

(i) become entitled to receive payments in respect of any annual pension out of a superannuation fund maintained under these regulations (including a pension subject for the time being to reduction or suspension under regulation E15), or

(ii) become entitled to any 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 or, where there is more than one pension, the first of them, or

(b) in the case of a person in respect of whom a transfer value has been paid after 31st March 1978, under Part J or under or in anticipation of Part N of the 1974 regulations, to the administering authority maintaining the superannuation fund out of which it was paid, or

(c) in any other case, to the appropriate administering authority.

(2) The person giving notice of an election under regulation F3—

(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) is to designate in the notice the scheme, if any, which he believes complies with regulation F6(4), and

(c) 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 F3(2) to (10) 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 F6 shall apply with the substitution, in paragraph (1)(a) or (b) or (13) as the case may be, for “47 per cent” (or for any reduced percentage substituted under paragraph (14)) of any specified lesser percentage, and

(d) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation F3.

### Reckonable service and benefits

**F6.**—(1) Subject to regulation F5(2)(c) and paragraphs (2) to (17), a person in relation to whom regulation F3 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 G14 of the 1974 regulations applied, 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 G14 of the 1974 regulations applied, to have a period equal to 47 per cent of his war service treated as having been for the purposes of paragraph (4) of that regulation a period during which the whole of his relevant policies 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 or the 1974 regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (12).
- (2) Where regulation F3(2)(f) applies and the scheme designated under regulation F5(2)(b) ('the designated scheme') is a scheme specified in Schedule 14, paragraph (1) applies only if that scheme complies with paragraph (4).
- (3) Where regulation F3(2)(f) applies and the designated scheme is a water company scheme, paragraph (1) applies only if—
- (a) that scheme complies with paragraph (4), and
  - (b) the administering authority to whom notice was required to be given under regulation FS was the National Water Council or the Severn Trent Water Authority.
- (4) A scheme complies with this paragraph if—
- (a) it is the first public service scheme the war service provisions of which could have become applicable to the person if he had remained a member of it, and
  - (b) he is, or in the case of a deceased employee was immediately before he died—
    - (i) entitled to reckon the employment in which he was subject to the scheme as reckonable service, or
    - (ii) entitled to a retirement pension in the calculation of which that employment was taken into account as reckonable service.
- (5) Where the designated scheme is a scheme specified in Part I of Schedule 14 and complies with paragraph (4), this regulation applies with the substitution throughout for references to 47 per cent of references to 63) per cent.
- (6) Where the designated scheme is a scheme specified in Part II of Schedule 14 and complies with paragraph (4), this regulation applies with the substitution throughout for references to 47 per cent of references to 46½ per cent.
- (7) Where the designated scheme is not a scheme specified in Schedule 14, or a water company scheme, paragraph (1) applies only if a transfer value, calculated in accordance with Part VI of Schedule 16, is received in respect of the period that could have become reckonable under the war service provisions of that scheme.
- (8) Where paragraph (1) applies by virtue of the acceptance of such a transfer value, this regulation applies with the substitution throughout for references to a period equal to 47 per cent of the person's war service of references to the period that could have become reckonable under the war service provisions of the designated scheme.
- (9) 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 date, and
  - (b) if regulation E3(9) of the 1974 regulations applied to him before 1st December 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(14), 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(14).
- (10) The relevant date for the purposes of paragraphs (1) and (9) is the date of the election under regulation F3, except in the case of a deceased employee where it is the date of his death.
- (11) 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(7) to (10) and of regulation E11(5) and (9) 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.
- (12) 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 date, 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 (13).
- (13) Subject to regulation F5(2)(c) and paragraphs (14) and (17)—
- (a) the annual rate of an additional pension, and
  - (b) the amount of an additional lump sum,
- specified in paragraph (12) 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.
- (14) 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 E25 or under regulation G14(4)(c) of the 1974 regulations 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 (13) and (17) apply with the substitution for “47 per cent” of the percentage obtained by reducing 47 per cent in the same proportion.

(15) 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 F3 applies has been credited with an additional period of service under—

(i) 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, or

(ii) regulation E3(12),

(“the enhancement provision”), 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 provision,

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; except that where the enhancement provision is comprised in regulations made under section 260 of the Local Government Act “45” is to be substituted for “40” wherever the latter figure occurs in this paragraph.

(16) Where a person dies who was entitled or deemed to be entitled to any additional benefit specified in paragraph (12) 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 grant payable under Part E (“the death benefit”), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate or, as the case may be, of any amount by which the death benefit would have been increased if a period equal to 47 per cent of the deceased person's war service had been service, or a period, which (however described) counted in full in ascertaining entitlement to the death benefit and its rate or amount.

(17) The total of an additional benefit under paragraph (12) or (16) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

(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.

(18) 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) 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,

rounding up any fraction of a day resulting from the calculation to the nearest whole day.

### Revision of certain elections

**F7.**—(1) Subject to paragraph (2), where—

- (a) notice of one or more elections under regulation C8(2) or notice under regulation 16(2) (a) of the Local Government Superannuation (Amendment) Regulations 1979(9) has been given by or in respect of a person in relation to whom regulation F3 applies, and
- (b) the service thereby specified amounts to 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 F6(1)(a) or (b) is to be treated as having been included in the service specified in the latest notice.

(2) An election under paragraph (1)—

- (a) may not be made unless notice of election under regulation R3 of the 1974 regulations was given within the period of 6 months beginning on the relevant date, 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 N8, that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1).

(3) For the purposes of paragraph (2)(a) the relevant date—

- (a) where regulation F3(2)(f) applies, is 25th April 1985, and
- (b) in any other case, is 1st December 1982.