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STATUTORY INSTRUMENTS

1993 No. 2890

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government (Compensation for Premature Retirement) (Amendment) Regulations 1993

<i>Made</i>	- - - -	<i>24th November 1993</i>
<i>Laid before Parliament</i>		<i>2nd December 1993</i>
<i>Coming into force</i>	- -	<i>23rd December 1993</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 24 of the Superannuation Act 1972(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Local Government (Compensation for Premature Retirement) (Amendment) Regulations 1993 and shall come into force on 23rd December 1993, but—

- (a) regulations 2(c) and (d) and 3 to 6 shall have effect as from 6th April 1988,
- (b) regulation 2(a) and (b) shall have effect as from 19th December 1989, and
- (c) regulation 2(e) shall have effect as from 1st April 1990.

(2) In these Regulations “the 1982 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations 1982(2).

Definitions

2. Regulation 3 of the 1982 Regulations(3) is amended—

- (a) by deleting the definitions of “qualifying service” and “remuneration”;
- (b) by inserting after the definition of “the Act of 1972” the following definitions:

(1) 1972 c. 11.

(2) S.I. 1982/1009, amended by S.I. 1984/740, 1986/151, 1988/466, 1989/372, 1815, 1990/2380, 1992/2432.

(3) Regulation 3 was amended by S.I. 1984/740, 1988/466, 1990/2380.

““additional duty”, “qualifying service”, “remuneration”, “separate variable–time employment” and “whole–time employment” have the same respective meanings as in the Superannuation Regulations;”;

- (c) in paragraph (c) of the definition of “eligible child”, by inserting after the words “adopted child of the” the words “husband or”, and by substituting for the words from “mainly dependent” to the end the words “mainly dependent on the beneficiary both on the material date and at the time of the beneficiary’s death;”;
- (d) in the definition of “periodic payment”, by inserting after the word “him” in paragraph (a) and after the word “his” in each place where it occurs the words “or her”, and by inserting after the word “widow” in paragraph (b) the word “, widower”;
- (e) by deleting paragraph (a) in the definition of “relevant disqualification”.

Widow’s and widower’s compensation

3. The 1982 Regulations are amended by substituting for regulation 8 the following:

“Entitlement to widow’s or widower’s short–term and long–term compensation

8.—(1) Subject to paragraphs (2) to (4) and as hereafter in these Regulations provided, if a beneficiary dies and is survived by a widow, widows or widower who is or, as the case may be, who are jointly or who would, but for—

- (a) a relevant disqualification with respect to the beneficiary (and on the relevant assumptions); or
- (b) the transfer of benefits to another pension scheme;

be entitled to receive a pension under regulation E5(1) to (8) of the Superannuation Regulations in relation to the beneficiary’s former employment, the widow or widower shall be entitled or, as the case may be, shall be jointly entitled, to receive—

- (i) widow’s or widower’s short–term compensation for a period of 3 months after the day of the beneficiary’s death; or
- (ii) if the beneficiary’s death occurs after 5th April 1988 and the widow or widower has one or more eligible children in her or his care, widow’s or widower’s short–term compensation for the period of 6 months after the day of his or her death;

and, in either case, then to widow’s or widower’s long–term compensation.

(2) A widow or widower shall not be entitled—

- (a) to receive widow’s or widower’s short–term or long–term compensation—
 - (i) if the marriage took place after the material date; or
 - (ii) if at the material date or at the date of death the beneficiary and his or her spouse were judicially separated; or
- (b) to receive payment in respect of widow’s or widower’s long–term compensation until the day following the expiration of the period of 3 or 6 months, as the case may be, after the day of the beneficiary’s death.

(3) Except where paragraph (4) applies, where a widower or widow is entitled to short–term or long–term compensation by virtue of this regulation—

- (a) he or she is not entitled to that compensation during any subsequent marriage or any period of cohabitation outside marriage; and

(b) he or she is entitled to widower's or widow's long-term compensation from the end of any such marriage or period only if the employing authority in their discretion so decide.

(4) Where a widower and a widow who are each entitled to short-term or long-term compensation under this regulation marry each other or cohabit with each other outside marriage, only such one of them as the widower and widow may determine shall be entitled to his or her compensation and the other shall cease to be entitled to his or her compensation until the dissolution of the marriage, the ending of the cohabitation, or the death of the widower or widow.”.

Amount of widow's or widower's short-term and long-term compensation

4. Regulation 9 of the 1982 Regulations(4) is amended—

(a) in paragraphs (1) and (2)—

(i) by inserting after the word “widow”the words “or widower”;

(ii) by inserting after the word “his”in each place where it occurs the words “or her”;

(b) in paragraphs (2) and (4), by inserting after the word “he”in each place where it occurs the words “or she”;

(c) in paragraph (3)—

(i) by inserting before the words “widow's short-term”the words “widower's or”;

(ii) by inserting in sub-paragraphs (a) and (b) after the words “periodic payments which”the words “he or”.

Children's compensation

5. The 1982 Regulations are amended by substituting for regulation 10 the following:

“Entitlement to children's short-term and long-term compensation

10.—(1) Subject as hereafter in these Regulations provided, if a beneficiary dies and is survived by an eligible child who is or eligible children who are or who would, but for—

(a) a relevant disqualification with respect to the beneficiary (and on the relevant assumptions); or

(b) the transfer or benefits to another pension scheme;

be entitled to receive a children's short-term pension under E8 of the Superannuation Regulations in relation to the beneficiary's former employment, children's short-term compensation shall be payable to or for the benefit of such eligible child or eligible children—

(i) if a children's short-term pension under regulation E8 of the Superannuation Regulations is payable for the period of 3 months after the death of the beneficiary, for that period; or

(ii) in any other case, for the period of 6 months after the death.

(2) Children's short-term compensation shall not be payable in respect of a period for which widow's or widower's short-term compensation is payable to the widow or widower of the beneficiary.

(4) Regulation 9 was amended by [S.I. 1988/466](#).

(3) Subject as hereafter in these Regulations provided, if a beneficiary dies and is survived by an eligible child who is or eligible children who are or who would, but for—

- (a) a relevant disqualification with respect to the beneficiary (and on the relevant assumptions); or
- (b) the transfer of benefits to another pension scheme;

be entitled to receive a children's long-term pension under regulation E8 of the Superannuation Regulations in relation to the beneficiary's former employment, children's long-term compensation shall be payable to or for the period of such eligible child or eligible children—

- (i) if a children's long-term pension under regulation E8 of the Superannuation Regulations is payable following the expiration of the period of 3 months after the death of the beneficiary, from the day following the expiration of that period; or
- (ii) in any other case, from the day following the expiration of the period of 6 months after the death.”.

Amount of children's short-term and long-term compensation

6. Regulation 11 of the 1982 Regulations is amended—

- (a) by inserting after the word “his” in each place where it occurs the words “or her”;
- (b) in paragraph (2) by inserting after the words “widow” and “widow's” in each place where they occur the words “or widower” and “or widower's” respectively;
- (c) in paragraph (3) by inserting after the word “he” in each place where it occurs the words “or she”.

Compensation of widowers, etc.

7. Regulation 12 of the 1982 Regulations⁽⁵⁾ is amended by inserting at the end the following:

“(4) No notification may be given under paragraph (2) or may be treated as having been given under paragraph (3) on or after [date of coming into force of these Regulations].”.

Revocation of Regulations

8. Sub-paragraph (a) of regulation 1(2) of the Local Government (Compensation for Premature Retirement) (Amendment) Regulations 1992⁽⁶⁾ is revoked.

Retrospective effect

9. Nothing in these Regulations shall place any individual who is qualified to participate in the benefits for which the 1982 Regulations provide in a worse position than he would have been in if regulations 2 to 6 had been framed so as to have effect only from the date of their making.

(5) Regulation 12 was amended by S.I. 1988/466.

(6) S.I. 1992/2432.

Signed by authority of the Secretary of State

24th November 1993

David Curry
Minister of State,
Department of the Environment

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government (Compensation for Premature Retirement) Regulations 1982 (“the 1982 Regulations”), which allow employers to compensate in certain cases persons who are pensionable under the Local Government Superannuation Regulations 1986 (“the 1986 Regulations”) and who have ceased their employment through redundancy or in the interests of the efficiency of their employing authorities, by the award of additional years of service.

Regulations 3 and 4 provide widowers with similar benefits to those available to widows under the 1982 Regulations. Regulations 5 and 6 provide that children of female beneficiaries have the same entitlement to children’s compensation under those Regulations as the children of male beneficiaries. Regulation 7 makes an amendment which is consequential on the changes made by regulations 3 and 4.

Regulations 2(a) and (b) and 8 clarify the definition of certain terms used in the 1982 Regulations by virtue of an earlier amendment, and regulation 2(e) amends the definition of “relevant disqualification” so as to reflect an earlier change to the 1986 Regulations.

Regulations 2 to 6 are made retrospective in effect by virtue of section 24(3) of the Superannuation Act 1972. Regulations 2(c) and (d) and 3 to 6 have effect from 6th April 1988 and paragraphs (a) and (b) of regulation 2 have effect from 19th December 1989 and paragraph (e) of regulation 2 from 1st April 1990. Regulation 9 provides that no individual who is qualified to receive benefits under the 1982 Regulations will be placed in a worse position than he would have been if these Regulations had had effect only from the date of their making.