
STATUTORY INSTRUMENTS

1995 No. 1497

PENSIONS

**The Local Government Superannuation
(Gratuities) Regulations 1995**

<i>Made</i>	- - - -	<i>8th June 1995</i>
<i>Laid before Parliament</i>		<i>15th June 1995</i>
<i>Coming into force</i>	- -	<i>6th July 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 7 and 12 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consultation with such associations of local authorities as appeared to him to be concerned, the local authorities with whom consultation appeared to him to be desirable and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Superannuation (Gratuities) Regulations 1995 and shall come into force on 6th July 1995, but regulations 2 and 3 shall have effect as from 6th April 1991 and regulation 4 shall have effect as from 2nd May 1995.

(2) In these Regulations “the principal regulations” means the Local Government Superannuation Regulations 1986(2) .

Separate powers to make gratuity payments by reason of death in service, retirement and redundancy

2. For regulations K2 to K4 of the principal regulations there shall be substituted—

“Power to grant death in service gratuities

K2.—(1) Where a person who has been employed by a scheduled body (otherwise than as a teacher) for not less than one year dies while in their employment, the scheduled body may make a discretionary grant (“a death benefit gratuity”) to one or more of the person’s spouse and dependants.

(1) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
(2) S.I. 1986/24; relevant amending S.I.s are 1989/371, 1992/172, 1993/1814 and 1993/2531.

- (2) A death benefit gratuity may consist of a lump sum or an annuity or both.
- (3) The amount of a death benefit gratuity (including the capital value of any annuity) or, in a case where the gratuity is paid to more than one person, the aggregate amount of such gratuity must not exceed the prescribed maximum.
- (4) In this regulation “the prescribed maximum” means 5 per cent. of—
- (a) an amount equal to remuneration at the annual rate for a period equal to the total of the length in years and days of the person’s service before 1st April 1987 and 50 per cent. of any war service in respect of which a period might have become reckonable as reckonable service under regulation F6 if the conditions in regulation F3(2) to (10) had been satisfied, plus
 - (b) an amount equal to remuneration at the annual rate (with the necessary adjustments in accordance with paragraph (5)), for a period equal to the length in years and days of that person’s service after 31st March 1987, but in the case of a person—
 - (i) whose contractual hours are fewer than 15 and who had not attained the age of 50 on 16th August 1993, or
 - (ii) whose contractual hours are at least 15 and who had not before 1st April 1987 attained the age of 55,
 disregarding the assumed reckonable service.
- (5) For the purposes of paragraph (4) the necessary adjustments to the annual rate of remuneration are—
- (a) if that rate exceeds the lower earnings limit but not the upper earnings limit, to substitute the lower earnings limit, and
 - (b) if that rate exceeds the upper earnings limit, to substitute the sum of the lower earnings limit and the excess over the upper earnings limit.
- (6) In subsection (4) “the assumed reckonable service” means any service which would have become reckonable as reckonable service if the person—
- (a) in the case of paragraph (b)(i), had made an election under regulation B1A or regulation B1C on 17th August 1993; and
 - (b) in the case of paragraph (b)(ii)—
 - (i) had made any election which he was entitled to make under regulation B1(18) or paragraph 1(1) or 5(2) of Part IV of Schedule 2 on 1st April 1987, and
 - (ii) had not made any election he has made under regulation B1(15B).

Power to grant gratuities on retirement

K3.—(1) Where a person—

- (a) who has been employed by a scheduled body (otherwise than as a teacher) for not less than 5 years, or
- (b) who has been so employed for not less than one year and—
 - (i) has attained the age of 60, or
 - (ii) is incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body,

ceases to be so employed otherwise than as mentioned in regulation K4(1)(b), the scheduled body may make him a discretionary grant (“a retirement gratuity”).

(2) A retirement gratuity may consist of a lump sum or an annuity or both.

(3) The amount of a retirement gratuity (including the capital value of any annuity) must not exceed—

- (a) an amount equal to three eighths of his annual rate of remuneration for each year of service, or
- (b) the prescribed maximum (as defined in regulation K2(4)).

(4) Where—

- (a) the gratuity granted under paragraph (1) to a person (“the original annuitant”) is or includes an annuity, and
- (b) he dies at a time when the capital value of the payments of the annuity he has received falls short of its capital value at the time of its grant,

the scheduled body may grant a further gratuity by way of an annuity to one or more of the original annuitant’s spouse and dependants.

(5) The amount of an annuity granted under paragraph (4) or, in a case where an annuity is paid to more than one person, the aggregate amount of annuity must be the lesser of—

- (a) the amount the capital value of which equals the shortfall mentioned in paragraph (b) of that paragraph; or
- (b) two-thirds of the amount of the annuity payable to the original annuitant immediately before his death.

Power to grant gratuities on redundancy

K4.—(1) Where a person—

- (a) has been employed by a scheduled body (otherwise than as a teacher)—
 - (i) for not less than 5 years, or
 - (ii) in the case of a person who has attained the age of 60, for not less than one year,
- (b) ceases to be so employed—
 - (i) by reason of redundancy, or
 - (ii) in the interests of the efficient exercise of the scheduled body’s functions, and
- (c) the scheduled body—
 - (i) have certified in relation to him in accordance with regulation E2(4)(a) of these Regulations, or
 - (ii) are satisfied that if he were a pensionable employee they would have so certified;

the scheduled body may make him a discretionary grant (“a redundancy gratuity”).

(2) A redundancy gratuity may consist of a lump sum or an annuity or both.

(3) Where—

- (a) the gratuity granted to a person under paragraph (1) is or includes an annuity, and
- (b) he dies before receiving payments of the annuity of an aggregate amount equal to its capital value at the time of its grant,

the scheduled body may grant a further gratuity by way of an annuity to one or more of the person’s spouse and dependants.

(4) Where—

- (a) the gratuity granted to a person under paragraph (1) is or includes an annuity, and
- (b) he dies at a time when the capital value of the payments of the annuity he has received falls short of its capital value at the time of its grant,

the scheduled body may grant a further gratuity by way of an annuity to one or more of the person's spouse and dependants.

(5) The amount of a redundancy gratuity in respect of any person (including the capital value of any annuity) must not exceed the prescribed maximum (as defined in regulation K2(4)).

(6) The capital value of an annuity granted under paragraph (4) or, in a case where an annuity is paid to more than one person, the aggregate amount of such annuities must not exceed the shortfall mentioned in paragraph (b) of that paragraph.

(7) Where the person to whom a further gratuity is granted under paragraph (4) ("the second annuitant") dies at a time when the capital value of the payments of the annuity he has received falls short of its capital value at the time of its grant, the scheduled body may grant a further gratuity by way of an annuity to any other person to whom they might have granted a further annuity under paragraph (4) at the time of the original annuitant's death, but its capital value must not exceed that shortfall.

Schemes in connection with the exercise of powers

K4A. A scheduled body may make a scheme with respect to the exercise of their powers under regulation K2, K3 or K4."

Consequential amendments

3.—(1) In regulation K1(4) of the principal regulations for the words "regulation K2(a) or (b)" and "regulation K2(c)" there shall be substituted respectively the words "regulation K3(1) or K4(1)" and "regulation K2(1)".

(2) In regulation K6(2), (3) and (5) of the principal regulations for the words "regulation K3" there shall be substituted the words "regulation K2, K3 or K4".

Amendments of new regulations consequential on commencement of the Local Government Pension Scheme Regulations 1995

4.—(1) Regulations K2 to K4 of the principal regulations (as substituted by regulation 2 of these regulations) shall have effect with the following amendments.

(2) In regulation K2(4) for the words "assumed reckonable service" there shall be substituted the words "assumed membership".

(3) For subsection (6) of regulation K2 there shall be substituted—

"(6) In subsection (4) "the assumed membership" means any service which would have become reckonable as reckonable service under these regulations or would have counted as part of his total period of membership for the purposes of the Local Government Pension Scheme Regulations 1995, if the person—

- (a) in the case of paragraph (b)(i), had made an election under regulation B1A or regulation B1C of these regulations on 17th August 1993; and
- (b) in the case of paragraph (b)(ii)—

- (i) had made any election which he was entitled to make under regulation B1(18) or paragraph 1(1) or 5(2) of Part IV of Schedule 2 to these regulations on 1st April 1987, and
- (ii) had not made any election he has made under regulation B1(15B) of these regulations or given any notice he is entitled to give under regulation B12 of the Local Government Pension Scheme Regulations 1995.”.

(4) In regulation K4(1)(c) after the words “regulation E2(4)(a) of these Regulations” there shall be inserted the words “or regulation D6(2)(a) of the Local Government Pension Scheme Regulations 1995”.

Amendment of accrual rate for calculating gratuity

5. In regulation K2(4) of the principal regulations (as amended by regulation 2 of these regulations) for the words “5 per cent.” there shall be substituted the words “3.75 per cent.”.

Signed by authority of the Secretary of State

Department of the Environment
8th June 1995

David Curry
Minister of State,

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 does not form part of these Regulations)

These regulations amend Part K of the Local Government Superannuation Regulations 1986 (S.I.1986/24) (“the principal regulations”). Regulations 2 and 3 are made retrospective in effect to 6th April 1991, and regulation 4 to 2nd May 1995 (the day on which the Local Government Pension Scheme Regulations 1995 came into force), by virtue of section 12 of the Superannuation Act 1972.

Regulation 2 substitutes new regulations K2 to K4A in the principal regulations, separating out the powers to pay gratuities, so that gratuities can be paid under the different powers contained in these regulations in three specific circumstances: death, redundancy or retirement.

Regulation 3 contains consequential amendments.

Regulation 4 contains amendments of the substituted regulations K2 to K4 which are consequential on the commencement of the Local Government Pension Scheme Regulations 1995.

Regulation 5 reduces the accrual rate for all the different sorts of gratuity payments from 5 per cent to 3.75 per cent.