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STATUTORY INSTRUMENTS

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**1995 No. 2837**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Government Reorganisation (Compensation  
for Loss of Remuneration) Regulations 1995**

<i>Made</i>	- - - -	<i>3rd November 1995</i>
<i>Laid before Parliament</i>		<i>7th November 1995</i>
<i>Coming into force</i>	- -	<i>28th November 1995</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 Reorganisation (Compensation for Loss of Remuneration) Regulations 1995 and shall come into force on 28th November 1995.

**Interpretation**

2.—(1) In these Regulations—

“eligible person” means a person entitled to compensation under these Regulations;

“prescribed period” means—

- (a) in Wales, the period from 4 May 1995 to 30 September 1997;
- (b) in the Isle of Wight, the period from 1 April 1995 to 30 September 1996; and
- (c) in any other local government area in England to which an order made under section 17 of the 1992 Act applies, a period commencing with the date provided for in that order for an election to a unitary authority or authorities established by that order, and ending on a date eighteen months after that reorganisation date;

“registration officer” means any superintendent registrar and registrar of births and deaths appointed under section 6(1) of the 1953 Act and any deputy superintendent registrar or deputy registrar of births and deaths appointed under section 8(1) of that Act;

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(1) 1972 c. 11; to which there are amendments not relevant to these regulations.

“relevant compensation period” means any period of 36 months beginning on the date on which an eligible person suffers a reduction or further reduction in remuneration to which regulation 3 applies;

“relevant contract” means a contract under which a person works for another whether under a contract of service or apprenticeship or otherwise, but does not include a contract for services;

“relevant employment” means employment under a relevant contract (or an office held by virtue of such employment)—

- (a) in England with a district council or county council which is the subject of a structural change or boundary change under an order made under section 17 of the 1992 Act;
- (b) in Wales—
  - (i) with a district council, county council, or joint board which ceases to exist by virtue of the 1994 Act; or
  - (ii) with the Residuary Body for Wales, a county borough council or a county council established under the 1994 Act,

and “relevant employer” is to be construed accordingly;

“remuneration” means—

- (a) all the salary, wages, fees calculated as in paragraph (b) below and other payments made to an eligible person by an employer for his own use and the money value of any accommodation, vehicle or other allowances in kind arising from his employment so far as they are for that person’s private use, but shall not include—
  - (i) any payment in respect of non contractual overtime, or non contractual bonus,
  - (ii) any payment made in consequence of the undertaking of additional duties attributable, in England, to an order made under section 17 of the 1992 Act, or, in Wales, to any provision made by or under the 1994 Act,
  - (iii) any allowance payable to him to cover the cost of providing office accommodation or clerical or other assistance,
  - (iv) any travelling or subsistence allowance, or other moneys to be spent, or to cover expenses incurred by him for the purposes of his employment,
  - (v) any payment as compensation for loss of holiday entitlement,
  - (vi) any payment in lieu of notice terminating his employment,
  - (vii) any compensation payable to him under these Regulations;
- (b) for the purposes of paragraph (a) above, fees shall be calculated by dividing by five the total earned during the period of five years ending with the date on which the entitlement to compensation under these Regulations arises or, where the relevant employment (or office held by virtue of that employment) subsists for a shorter period, by dividing the total earned by a factor equal to the length in years and parts of a year of that employment (or office);

“reorganisation date” means—

- (a) in England, the date on which a structural change or a boundary change (or both) takes effect, and
- (b) in Wales, 1st April 1996;

“the 1953 Act” means the Registration Service Act 1953(2);

“the 1992 Act” means the Local Government Act 1992(3);

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(2) 1953 c. 37, to which there are amendments not relevant to these Regulations.

(3) 1992 c. 19.

“the 1994 Act” means the Local Government (Wales) Act 1994<sup>(4)</sup>.

(2) For the purposes of these Regulations, any registration officer shall be deemed to be an officer in employment under a relevant contract with the county council or county borough council<sup>(5)</sup> which made the scheme under section 14 of the 1953 Act for the district of sub-district in or for which the registration officer holds office and any reference in these Regulations—

- (a) to “employment”, “employer” or “employed” shall be construed accordingly; and
- (b) to a “contract of employment” or “contract” shall be construed as a reference to the terms and conditions of the registration officer’s appointment.

### **Persons to whom these Regulations apply**

**3.—**(1) Subject to regulation 4, any person falling within the cases specified in paragraphs (2) to (4) below is entitled to compensation under these Regulations.

(2) This paragraph applies to a person—

- (a) whose relevant employment terminates on a date falling within the prescribed period (the “former employment”);
- (b) who, since the termination of his former employment has not been in alternative employment and who returns within the prescribed period to relevant employment (the “new employment”)—
  - (i) in England, with a relevant employer affected by a structural change or boundary change under the same section 17 order as that by which his former relevant employer was affected, or
  - (ii) in Wales, with any relevant employer established under the 1994 Act;
- (c) whose commencing annual rate of remuneration in his new employment is lower than the annual rate he was paid at the termination of his former employment; and
- (d) who satisfies the qualifying condition mentioned in paragraph (5) below.

(3) This paragraph applies to a person to whom paragraph (2) does not apply, but who—

- (a) was in relevant employment—
  - (i) in England at the beginning of the prescribed period, who continues in that employment and whose annual rate of remuneration is reduced during that period, or
  - (ii) in England and Wales at the beginning of the prescribed period whose relevant contract is transferred by an order made under the 1992 Act, by virtue of any provision made by or under the 1994 Act, or otherwise by operation of law, and whose annual rate of remuneration is reduced by the relevant employer to whom that contract is transferred, and
- (b) who satisfies the qualifying condition mentioned in paragraph (5) below.

(4) This paragraph applies to a person to whom either paragraph (2) or (3) above has applied, who suffers a further reduction in remuneration during the prescribed period whilst in relevant employment and who satisfies the qualifying condition mentioned in paragraph (5) below.

(5) For the purposes of paragraphs (2) to (4) above, a person satisfies the qualifying condition where the reduction in his remuneration is attributable—

- (a) in England to an order made under section 17 of the 1992 Act, and
- (b) in Wales to any provision made by or under the 1994 Act.

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<sup>(4)</sup> 1994 c. 19.

<sup>(5)</sup> by virtue of section 21 of the 1953 Act, as amended by paragraph 12 of Schedule 16 to the 1994 Act, the reference to a non-metropolitan county in section 14 of the 1953 Act includes a reference to a county borough.

4. A person shall not be entitled to compensation under these Regulations if—
- (a) he is a teacher subject to the Teachers Superannuation (Consolidation) Regulations 1988(6);
  - (b) he is aged 65 or over on the date on which the relevant compensation period commences;
  - (c) he is entitled to compensation under the Local Government (Compensation for Premature Retirement) Regulations 1982(7);
  - (d) he is entitled to compensation under Part II or III of the Local Government (Compensation for Redundancy) Regulations 1994(8), or Part VI of the Employment Protection (Consolidation) Act 1978(9);
  - (e) he is entitled to the immediate payment of benefits under the Local Government Pension Scheme Regulations 1995(10), or under the statutory instruments revoked by those Regulations;
  - (f) section 43(4) of the 1994 Act applies to him;
  - (g) he was not in relevant employment on a date falling twelve months before the reorganisation date;
  - (h) he can be required by his employer in accordance with his contract of employment to work variable hours and his reduction in remuneration is solely attributable to his employer requiring him to work fewer hours.

#### **Amount of Compensation in respect of loss or diminution of remuneration**

5.—(1) A relevant employer shall pay an eligible person an amount by way of compensation equal to three times the difference—

- (a) in a case to which regulation 3(2) applies, between the annual rate of remuneration at the termination of his former employment and the commencing annual rate of remuneration of his new employment; or
- (b) in a case to which regulation 3(3) applies, between the annual rate of remuneration before and after the reduction in question; or
- (c) in a case to which regulation 3(4) applies, between the annual rate of remuneration before and after the further reduction in question.

(2) The amount of any compensation payable in accordance with paragraph (1) above shall be recalculated on each occasion during the relevant compensation period when the annual rate of remuneration for the relevant employment is increased and shall cease to be payable at any time during which the annual rate of remuneration for the new employment equals or exceeds that for the former employment or, as the case may be, the rate before the reduction or further reduction in question.

(3) The relevant employer shall calculate the amount of any compensation payable in accordance with paragraph (1) and any change in the compensation payable in accordance with paragraph (2).

(4) Any change in the amount of any compensation payable in accordance with paragraph (2) above shall not affect the entitlement to any instalment payable before that date.

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(6) S.I.1988/1652, to which there are amendments not relevant to these Regulations.

(7) S.I. 1982/1009, to which there are amendments not relevant to these Regulations.

(8) S.I. 1994/3025.

(9) 1978 c. 44.

(10) S.I. 1995/1019.

### **Payment of Compensation**

6.—(1) Subject to regulations 5(2) to (4) and regulation 8 the amount of compensation payable to an eligible person shall be paid in 36 monthly instalments of which the first shall be paid as soon as practicable after the initial calculation under regulation 5(3).

(2) A relevant employer may during a relevant compensation period at such intervals as it thinks fit make interim payments, or payments on account of any instalment of compensation to which an eligible person has become entitled under these Regulations before a calculation is made under regulation 5(3).

(3) If the total of any instalments paid to an eligible person under paragraph (1) above exceeds or falls short of the total amount of compensation to which a person is entitled at the end of the relevant compensation period, the excess or shortfall is to be repaid by the eligible person, or as the case may be, paid by the relevant employer at the end of that period.

(4) If at any time during the relevant compensation period an eligible person ceases to be employed by one relevant employer and becomes employed by another, that person shall inform his new employer in writing of his entitlement to compensation under these Regulations and the new employer shall, subject to regulations 5(2) to (4) and regulation 8, be liable to pay any remaining instalments of compensation required to be paid in accordance with regulation 5 and paragraphs (1) to (3) above.

### **Notification of Compensation**

7.—(1) A relevant employer shall, after making the necessary calculation in accordance with regulation 5(3), give an eligible person written notice of the amount of compensation payable in accordance with these Regulations.

(2) Written notice shall be given in accordance with paragraph (1) above not later than the expiry of three months from—

- (a) the date on which the relevant compensation period commences,
- (b) the date on which these Regulations come into force, whichever of those dates is the later.

### **Cessation of Relevant Employment**

8.—(1) If an eligible person—

- (a) ceases to be employed in relevant employment in the circumstances mentioned in paragraph (2) below,
- (b) reaches the age of 65 during the relevant compensation period, or
- (c) dies,

he shall cease to be entitled to any instalments of compensation payable after that event.

(2) The circumstances mentioned in paragraph (1) are that before the expiry of the compensation period an eligible person—

- (a) becomes entitled to compensation under the Local Government (Compensation for Premature Retirement) Regulations 1982;
- (b) becomes entitled to compensation under Part II or III of the Local Government (Compensation for Redundancy) Regulations 1994 or Part VI of the Employment Protection (Consolidation) Act 1978;
- (c) becomes entitled to the immediate payment of benefits under the Local Government Pension Scheme Regulations 1995; or
- (d) voluntarily resigns from his employment or is dismissed by his employer.

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

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3rd November 1995

*Paul Beresford*  
Parliamentary Under Secretary of State,  
Department of the Environment

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the payment of compensation to persons who suffer a loss or reduction of remuneration as a consequence of any provision of an order made under section 17 of the Local Government Act 1992 (implementation of local government changes for England) (“the 1992 Act”) or by or under any provision of the Local Government (Wales) Act 1994 (“the 1994 Act”).

Regulations 3 and 4 describe the persons to whom the Regulations apply to be local government employees whose remuneration in relevant employment is reduced as a result of any boundary or structural change made by or under the 1992 Act or the 1994 Act.

Regulation 4 provides amongst other things that a person who is entitled to local government redundancy compensation or the immediate payment of benefits under the Local Government Pension Scheme is not entitled to compensation under these Regulations.

Regulation 5 provides for the calculation by a relevant employer of the amount of compensation payable to an eligible person and Regulations 6 and 7 contain administrative provisions relating to the notification by a relevant employer of decisions about the amount of compensation payable to an eligible person, and the payment of compensation by way of instalments during the relevant compensation period. Regulation 8 sets out the circumstances in which compensation ceases to be payable.