
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for payment of compensation to certain staff of local authorities and other bodies affected by local government reorganisation in Scotland who either secure employment at a lower annual rate of remuneration with a new body established under the Local Government etc. (Scotland) Act 1994 (“the 1994 Act”) or a joint board, the constituent authorities of which are all local authorities established under section 2 of that Act or having secured employment with such a body subsequently suffer a reduction or further reduction of remuneration. Regulations 2 to 8 have retrospective effect from 6th April 1995, as authorised by section 24(3)(c) of the Superannuation Act 1972.

To qualify for payment of compensation an eligible employee must be in employment with an old authority on 6th April 1995 and must be aged less than 65 at the date the reduction of remuneration occurs. Regulation 4(4) identifies how the date on which the reduction occurs is to be determined. His new employer must determine that he suffered a reduction of remuneration as a consequence of provisions of, or made under, the 1994 Act. Payment of compensation is mandatory and a formal decision to pay compensation must be made within 3 months of the reduction of remuneration taking effect (regulation 5(2)). The amount of compensation payable is fixed (regulation 5(3) and (4)). Compensation is payable in equal instalments over three years (regulation 5(6)) and is subject to readjustment if the individual’s remuneration subsequently varies in that period (regulation 6(1) to (5)). Compensation will continue to be payable if an eligible employee moves during this 3 year period from employment with one new authority to a second new authority (regulation 7(1)). Regulation 8 specifies the circumstances in which payment of compensation will stop.

Regulations 9 and 10 deal with notification and payment of compensation. Regulation 11 provides a right of appeal to an industrial tribunal for any person dissatisfied with the determination of a new authority, its recalculation of compensation payable or its failure to make a determination within the specified period. Appeal proceedings may be taken only after the person concerned has exhausted the authority’s own grievance procedures.

Regulations 12 and 13 amend the Local Government Superannuation (Scotland) Regulations 1987 and the Teachers’ Superannuation (Scotland) Regulations 1992 to make it clear that superannuation contributions are not payable on the compensation payments made under these Regulations and that therefore such payments are not taken into account for the purposes of calculating superannuation benefits.