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STATUTORY INSTRUMENTS

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**1995 No. 340 (S.13)**

**LOCAL GOVERNMENT, SCOTLAND**

**The Local Government (Compensation for  
Redundancy or Premature Retirement on  
Reorganisation) (Scotland) Regulations 1995**

<i>Made</i>	- - - -	<i>15th February 1995</i>
<i>Laid before Parliament</i>		<i>15th February 1995</i>
<i>Coming into force</i>	- -	<i>6th April 1995</i>

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

**PART I**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Local Government (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995 and shall come into force on 6th April 1995.

**Interpretation**

2.—(1) In these Regulations—

“prescribed period” means the period beginning on 6th April 1995 and ending on 31st March 1997;

“reckonable service” has the same meaning as in the 1994 Regulations;

“relevant body” means—

- (a) Central Scotland Water Development Board established under section 3 of the Water (Scotland) Act 1967(2);
- (b) a Passenger Transport Executive established under section 9(1) of the Transport Act 1968(3);
- (c) a local authority constituted under section 2 of the Local Government (Scotland) Act 1973(4);
- (d) any of the following established under the Local Government etc. (Scotland) Act 1994(5):—
  - (i) an authority established under section 2;
  - (ii) Strathclyde Passenger Transport Authority established under section 40;
  - (iii) a body established under section 62(1) (water and sewerage authorities);
  - (iv) the Scottish Children’s Reporter Administration established under section 128; or
- (e) a joint board appointed under any Act or any statutory order or statutory scheme, if all the constituent authorities are local authorities described in sub-paragraphs (c) or (d)(i) above;

“remuneration” has the same meaning as in the 1994 Regulations;

“the Superannuation Regulations” means the Local Government Superannuation (Scotland) Regulations 1987(6);

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994;

“the 1979 Regulations” means the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979(7);

“the 1994 Regulations” means the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994(8).

(2) In these Regulations, subject to paragraph (1) of this regulation and unless the context otherwise requires, any expression which is also used in either the 1979 Regulations or the 1994 Regulations has the same meaning as in those Regulations.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is to be construed as a reference to the regulation that bears that number in these Regulations.

## PART II

### COMPENSATION

#### Persons to whom this Part applies

3. This Part applies to an eligible employee who—

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- (2) 1967 c. 78; section 3 was repealed by the Water (Scotland) Act 1980 (c. 45), Schedule 11, but the Board continues to exercise its functions by virtue of section 80 of that Act.
  - (3) 1968 c. 73; section 9(1) was substituted by the Transport Act 1985 (c. 67), section 57(1).
  - (4) 1973 c. 65; to which no relevant amendments have been made.
  - (5) 1994 c. 39.
  - (6) S.I. 1987/1850, amended by S.I. 1988/625, 1989/422, 802 and 967, 1990/422 and 1284, 1991/78, 1992/1220, 1597 and 3025, 1993/1593, 2013 and 3044 and 1994/531.
  - (7) S.I. 1979/785, amended by S.I. 1982/917, 1984/846, 1986/409, 1990/125, 1992/1025 and 1597, 1993/490 and 1994/1715 and 3068.
  - (8) S.I. 1994/3068.

- (a) ceases during the prescribed period to hold his employment with a relevant body by reason of redundancy or in the interests of the efficient exercise of that body's functions;
- (b) meets the prescribed conditions specified in regulation 4; and
- (c) is not a person to whom the provisions of section 13(4) of the 1994 Act apply.

### **Prescribed conditions**

4.—(1) The provisions of the following paragraphs of this regulation are the prescribed conditions for the purposes of regulation 3.

(2) The first condition is that the person is not entitled to have his case considered for the payment of compensation, in respect of loss of employment specified in regulation 3(a), under any instrument within the meaning of Part I of Schedule 2 to the 1979 Regulations.

(3) The second condition is that the person has on the material date—

- (a) attained the age of 18 years but has not attained the age of 50 years and is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
- (b) attained the age of 50.

(4) The third condition is that the relevant body determines that the loss of employment is attributable to any provision of, or made under the 1994 Act.

### **Computation of compensation**

5. Not later than the material date a relevant body—

- (a) shall determine to pay the compensation prescribed in regulation 6 to a person who meets the requirements of regulation 6(1);
- (b) may determine to pay the compensation prescribed in regulation 7 to a person who meets the requirements of regulation 7(1);
- (c) may, subject to regulation 8(3), determine to pay the compensation prescribed in regulation 8 to a person who meets the requirements of regulation 8(1); and
- (d) may, subject to regulation 8(3), determine to pay the compensation prescribed in regulation 9 to a person to whom regulation 7 or 8 applies.

### **General mandatory compensation**

6.—(1) This regulation applies to a person to whom this Part applies and who on the material date—

- (a) has attained the age of 18 years but has not attained the age of 50 years and who is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 2 years; or
- (b) has attained the age of 50 years and who is entitled to count reckonable service and qualifying service amounting in aggregate to less than 2 years.

(2) The compensation which a relevant body shall determine to pay under regulation 5(a) shall be the lesser of—

- (a) a sum equivalent to 66 weeks' remuneration; or
- (b) the relevant aggregate sum referred to in paragraph (3) or (4) below.

(3) In the case of cessation of employment before the attainment of age 23, the relevant aggregate sum shall be—

- (a) a sum equivalent to one half week's remuneration for each complete year of reckonable service on or after attainment of age 18; and
  - (b) where such cessation is on or after the attainment of age 20, a sum equivalent to one half week's remuneration for each complete year of reckonable service on or after the attainment of age 20.
- (4) In the case of cessation of employment on or after the attainment of age 23, the relevant aggregate sum shall be—
- (a) a sum equivalent to two weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18; and
  - (b) where such cessation is on or after the attainment of age 41, a sum equivalent to three weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41.

**Discretionary compensation for certain persons with 2 or more but less than 5 years' service**

- 7.—(1) This regulation applies to a person to whom this Part applies and who—
- (a) ceases employment on or after the attainment of age 50; and
  - (b) is entitled to count reckonable service and qualifying service amounting in aggregate to 2 or more but less than 5 years.
- (2) The compensation which a relevant body may determine to pay under regulation 5(b) shall be the aggregate of—
- (a) a sum equivalent to one and one half weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18;
  - (b) a sum equivalent to two and one half weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41; and
  - (c) a sum equivalent to one half week's remuneration.
- (3) No compensation prescribed in this regulation, or in regulation 9 in respect of a person to whom this regulation applies, shall be paid unless—
- (a) the person gives written consent to such payment after receipt of the written notification referred to in regulation 11; and
  - (b) the person waives in writing his right to the immediate payment of benefit under regulation E2(1)(b)(iii) of the Superannuation Regulations.

**Discretionary compensation for certain persons with 5 or more years' service**

- 8.—(1) This regulation applies to a person to whom this Part applies and who—
- (a) ceases employment on or after the attainment of age 50; and
  - (b) is entitled to count reckonable service and qualifying service amounting in aggregate to not less than 5 years.
- (2) The compensation which a relevant body may determine to pay under regulation 5(c) shall be the lesser of—
- (a) a sum equivalent to 45 weeks' remuneration; or
  - (b) a sum calculated in accordance with the formula specified in regulation 7(2).
- (3) No compensation prescribed in this regulation or in regulation 9 in respect of a person to whom this regulation applies, shall be paid if that person is, as a result of the loss of employment specified in regulation 3(a), credited with an additional period of service in accordance with the provisions of regulation 5 of the 1979 Regulations.

### **Additional discretionary compensation**

9.—(1) Subject to the provisions of regulations 7(3) and 8(3), the compensation which a relevant body may determine to pay under regulation 5(d) is a sum which, when aggregated with the compensation which the relevant body has determined to pay under regulation 5(b) or 5(c), as the case may be, shall not exceed the relevant maximum.

(2) In paragraph (1) above “relevant maximum” means the lesser of—

- (a) a sum equivalent to 66 weeks' remuneration, or
- (b) the aggregate of—
  - (i) a sum equivalent to two weeks' remuneration for each complete year of reckonable service on or after the attainment of age 18; and
  - (ii) a sum equivalent to three weeks' remuneration for each complete year of reckonable service on or after the attainment of age 41.

### **Offset of redundancy payment**

10. From the total compensation that a relevant body determines to pay to an eligible employee under these Regulations there shall be deducted an amount equivalent to the aggregate of any redundancy payment made to that person in respect of the loss of employment specified in regulation 3(a).

## **PART III**

### **NOTIFICATION AND PAYMENT**

#### **Notification of compensation**

11.—(1) A relevant body, after making a determination in accordance with regulation 5, shall, as soon as reasonably practicable, give the person in respect of whom that determination is made, or such other person or persons to whom compensation is payable in accordance with these Regulations, written notification of the compensation that the relevant body has determined to pay, less any deduction that requires to be made under regulation 10, and the calculation thereof.

(2) Where a relevant body determines to pay compensation under regulation 5(b), or under regulation 5(d) to a person to whom the provisions of regulation 7 apply, the notification given in terms of paragraph (1) above shall refer to the conditions that the eligible employee must satisfy in terms of regulation 7(3) before such compensation can be paid.

#### **Payment of compensation**

12. Subject to any statutory provision in that behalf, and subject to satisfaction of any conditions which require to be met before payment can be made, any sum payable under these Regulations, less any deduction under regulation 10, shall be paid by the relevant body, as soon as practicable after making a determination in accordance with regulation 5, in the form of a lump sum payment to or in trust for the person entitled to receive the compensation and shall not be assignable.

## PART IV

### SUPPLEMENTARY PROVISIONS

#### **Amendment of 1979 Regulations**

**13.** Regulation 5 of the 1979 Regulations shall be amended—

- (a) by inserting at the beginning the figure “(1)”; and
- (b) by adding at the end the following new paragraph:—

“(2) An employing authority shall not credit an eligible person with an additional period of service in terms of paragraph (1) where a determination is made to pay compensation to that person in terms of regulation 5(c) or (d) of the Local Government (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995.”.

#### **Amendment of 1994 Regulations**

**14.** Regulation 3(b) of the 1994 Regulations shall be amended—

- (a) by inserting after the word “compensation” the figure “(i)”; and
- (b) by inserting at the end of the paragraph the following words:—

“or

(ii) under the Local Government (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995;”.

St Andrew’s House,  
Edinburgh  
15th February 1995

*Fraser of Carmyllie*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

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

The purpose of these Regulations is to allow a lump sum payment to be made to certain employees who cease to hold employment with a relevant body by reason of redundancy or in the interests of the efficiency of their employer during a specified period in consequence of local government reorganisation in Scotland.

Part II of the Regulations lays down the conditions which require to be met if a person is to be eligible and how the compensation is calculated. Regulation 6 applies to employees aged 18 or over but less than 50 with 2 or more years' reckonable and qualifying service. Such employees are not eligible for immediate payment of pension benefits in terms of the Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850) ("the 1987 Regulations") nor can they be credited with an additional period of service in terms of regulation 5 of the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979 (S.I. 1979/785). This regulation provides that the compensation payable to an individual is mandatory and will be on a sliding scale, determined by his age and complete years of service, subject to an overall limit equivalent to 66 weeks' remuneration.

The payment of compensation calculated in accordance with regulations 7, 8 and 9 is at the discretion of the employing body. Regulation 7 applies to employees aged 50 or over with 2 or more but less than 5 years' qualifying and reckonable service. Such employees are eligible for immediate payment of pension benefits under the 1987 Regulations but are not eligible to be credited with an additional period of service under regulation 5 of the 1979 Regulations. Regulation 8 applies to employees aged 50 or over with 5 or more years' qualifying and reckonable service. Such employees are eligible for immediate payment of pension benefits under the 1987 Regulations and may be credited with an additional period of service under regulation 5 of the 1979 Regulations. Should the employing body decide, in the exercise of its discretion, to pay compensation in accordance with regulations 7 or 8 the amount of that compensation is determined in accordance with those regulations, subject, in the case of regulation 8, to an overall limit equivalent to 45 weeks' remuneration. Under regulation 9 however, employing bodies may decide to pay further compensation, in addition to that calculated in accordance with regulations 7 or 8, provided that the total compensation payment under regulations 7 or 8 and 9 shall not exceed the relevant maximum specified in regulation 9(2).

Regulation 10 provides that all payments made under these Regulations are reduced by the aggregate of the amount of any redundancy payment under the Employment Protection (Consolidation) Act 1978 (c. 44) and any compensation paid under Part II of the Local Government (Compensation for Redundancy and Premature Retirement) (Scotland) Regulations 1984 (S.I. 1984/846).

A person will only receive compensation calculated in accordance with regulation 7 of these Regulations if he waives his right to immediate payment of pension benefits under regulation E2(1)(b)(iii) of the 1987 Regulations. A person will not receive compensation calculated in accordance with regulation 8 of these Regulations if he has been credited with an additional period of service in accordance with the provisions of regulation 5 of the 1979 Regulations.

Part III of the Regulations deals with notification and payment of compensation. Part IV of the Regulations amends the 1979 Regulations by providing that an individual who receives compensation under these Regulations shall not be credited with an additional period of service under the 1979 Regulations. It also amends the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994 (S.I. 1994/3068) by providing that the provisions of those Regulations

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shall not apply to any person who is entitled to have his case considered for payment of compensation under these Regulations.