
STATUTORY INSTRUMENTS

1995 No. 901

PENSIONS

The Local Government Superannuation (Equality and Maternity Absence) Regulations 1995

<i>Made</i>	- - - -	<i>27th March 1995</i>
<i>Laid before Parliament</i>		<i>3rd April 1995</i>
<i>Coming into force</i>	- -	<i>24th April 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 (Equality and Maternity Absence) Regulations 1995 and shall come into force on 24th April 1995, but regulation 2 shall have effect as from 1st January 1993 and paragraphs (1) and (2)(b) of regulation 3 shall have effect as from 17th May 1990.

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

Contributions and remuneration during maternity absence

2.—(1) Regulation C3 of the principal Regulations shall be amended—

- (a) in paragraph (1), by deleting the words “Subject to regulation C3A,”; and
- (b) in paragraph (2), by inserting at the beginning “Unless, in the case of a female employee, regulation C3A applies to her,”.

(2) Regulation C3A of the principal Regulations shall be amended—

- (a) in paragraph (2), by substituting for the words “equal to” to the end, the following words, “equal to the amount of the contributions which, but for the provisions of regulation C3(1),

(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 instrument is S.I. 1993/2531.

she would have been required to make under regulation C2 if her remuneration in the employment were an amount equal to the remuneration which she is entitled to receive for the relevant period.”;

- (b) in paragraph (3), by substituting for the words “equal to” to the end, the following words “equal to the amount of the contributions which, but for the provisions of regulation C3(1), she would have been required to make under regulation C2 if for the unpaid period her remuneration in the employment were equal to the remuneration she was entitled to receive immediately before the beginning of that period.”; and
- (c) in paragraph (6) by adding at the end the following sub-paragraphs—
 - “(c) the contributions which an employee would have been required to make under regulation C2 shall, for the purposes of this regulation, be calculated without disregarding any reduction in remuneration during a period of maternity absence by reason of the actual or assumed enjoyment of statutory maternity pay under the Social Security Contributions and Benefits Act 1992(3); and
 - (d) references to “the relevant period” or “the unpaid period” shall not include any period before the day from which the date of the election referred to in paragraph (1)(b) has effect.”.

Equality

- 3.—(1) Regulation E2 of the principal Regulations shall be amended—
 - (a) in paragraph (6), by substituting for the words “to (11)” the words “and (10)”;
 - (b) in paragraph (7), by deleting “Subject to paragraph (11),”; and
 - (c) by deleting paragraph (11).
- (2) Regulation E3(15) of the principal Regulations shall be amended—
 - (a) in sub-paragraph (b) by adding at the end the words “before 1st May 1995”; and
 - (b) by adding the following—
 - “(c) in the case of a man, to less than the annual rate obtained by multiplying one eightieth of his pensionable remuneration by the length in years of the period of his service in contracted-out employment after 16th May 1990 and before 1st May 1995.”.

Right to opt out

- 4.—(1) This regulation shall apply in the case of any person (“a relevant beneficiary”) to whom any benefit (including a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender) is or may become payable, being a benefit (“a relevant benefit”) payable to, or in respect of, a person who before the date on which the relevant regulation of these Regulations has effect—
 - (a) ceased to hold an employment in respect of which he was a pensionable employee (whether or not he has subsequently recommenced any such employment); or
 - (b) died while in such employment.
- (2) If, in relation to a relevant benefit, a relevant beneficiary—
 - (a) would be placed by any amendment made by these Regulations in a worse position than he would have been in if that amendment had not been made, and

(b) so elects, by notice in writing given to the appropriate administering authority within the six month period beginning with the date on which these Regulations come into force, then, in the case of that beneficiary and in relation to that benefit, the principal Regulations shall have effect, subject to paragraph (3), as if these Regulations had not been made.

(3) If such an election as is mentioned in paragraph (2) is made in relation to a benefit which is or may become payable in respect of a person who is employed in local government employment, or if that person subsequently recommences service in such an employment, then

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued—

(i) by virtue of periods of service rendered before the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the date on which the relevant regulation of these Regulations has effect); or

(ii) by virtue of contributions paid in respect of any such periods of service; and

(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall (without prejudice to the application of this paragraph) be treated as if he had never recommenced service in such employment at any time after the cessation referred to in sub-paragraph (a); and the principal Regulations shall be amended accordingly.

Retrospective effect

5. Where—

(a) if these Regulations had come into force on 17th May 1990, a man would have been entitled to make an election under regulation E2(6) or (7)(a) of the principal Regulations, and

(b) he gives notice of such election within six months of the date when these Regulations come into force,

the election may be expressed to have effect as if these Regulations had come into force on 17th May 1990 and the notice had been given on the first day on which he would in that case have been entitled to give notice of the election.

Signed by authority of the Secretary of State.

27th March 1995

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 make amendments to the Local Government Superannuation Regulations 1986 (“the principal Regulations”) in connection with maternity absence and equal treatment.

Regulation 2 makes drafting changes to clarify regulation C3A which was introduced by the Local Government Superannuation (Maternity Absence) Regulations 1993 (S.I.1993/2531). It has effect from 1st January 1993.

Regulation 3(1) removes, with effect from 17th May 1990, a provision which prevented a man electing to receive an actuarially reduced pension at 60 if that pension were less than his guaranteed minimum pension. The guaranteed minimum is payable from age 65. Regulation 5 allows a man who was unable to make such an election before the removal of the provision and who would otherwise be time barred, to make an election.

Regulation 3(2) removes an inequality whereby the pension of a man retiring at 60 with less than 25 years' service is subject to an actuarial reduction of up to 33% whereas that of a woman is not. A woman's pension in respect of her service since 6th April 1978 has been protected as a consequence of a requirement of the Social Security Pensions Act 1975. The amendment provides that a man's pension should enjoy the same protection as that of a woman in respect of his service from and including 17th May 1990. The amendment further provides that the protection for both men and women lasts only until 1st May 1995.

Regulation 4 confers a right for a person, in certain circumstances, to opt that these Regulations shall not apply.