
STATUTORY INSTRUMENTS

1996 No. 711

PENSIONS

**The Local Government Pension Scheme
(Environment Agency) Regulations 1996**

<i>Made</i>	- - - -	<i>11th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State, in exercise of the powers conferred on him by section 7 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 Pension Scheme (Environment Agency) Regulations 1996 and shall come into force on 1st April 1996.

(2) In these Regulations:—

“the Active Fund” means the fund established by the National Rivers Authority on 7th July 1989 under the provisions of the Local Government Superannuation (Water) Regulations 1989(2);

“the Closed Fund” means the pension fund vested in the National Rivers Authority by virtue of regulation 2(2)(a) of the Local Government Superannuation (Water) Regulations 1989 to which the pension fund vested in the National Rivers Authority by virtue of regulation 2(2)(b) of those Regulations was transferred under the Local Government Superannuation (National Rivers Authority) Regulations 1993(3);

“the Environment Agency” has the same meaning as in the Environment Act 1995(4);

(1) 1972 c. 11.
(2) S.I.1989/1462; amending instrument S.I. 1993/1810.
(3) S.I. 1993/1810.
(4) 1995 c. 25.

“the principal Regulations” means the Local Government Pension Scheme Regulations 1995(5) and, unless the context otherwise requires, expressions which are also used in the principal Regulations have the same meaning as they have in these Regulations.

The Environment Agency

2.—(1) On the transfer of functions of the National Rivers Authority to the Environment Agency under section 2(1) of the Environment Act 1995, the Active Fund and the Closed Fund, together with all rights and liabilities in respect of them, shall vest in the Environment Agency which shall maintain them for the purposes of the principal Regulations.

(2) Where the National Rivers Authority would have become liable, or would have been empowered, on the happening of an event, to make a payment out of the Active Fund or the Closed Fund or to take any other action as administering authority in respect of any person who has ceased to participate in the benefits of either of the Active Fund or the Closed Fund before 1st April 1996, then, on the happening of that event, such payment shall or, as the case may be, may be made by the Environment Agency out of the Active Fund or the Closed Fund as appropriate or such action shall or, as the case may be, may be taken by the Environment Agency.

Modification of Part L of the principal Regulations

3. Regulation L21(3) of and Part I of Schedule B1 to the principal Regulations are amended by substituting for the words “National Rivers Authority” in each place where they occur the words “Environment Agency”.

Definitions

4. Schedule A1 to the principal Regulations is amended by inserting after the item “Enactment” the following—

““Environment Agency” has the same meaning as in the Environment Act 1995;”.

Modification in special circumstances

5. Schedule M2 to the principal Regulations is amended by adding the following—

“Former employees of HM Inspectorate of Pollution and Department of the Environment

- 9.—(1) This paragraph applies to a person who
- (a) is in employment with the Environment Agency and is a member of the Scheme;
 - (b) immediately before that employment was employed in the civil service of the State and was a member of or eligible to be a member of the Principal Civil Service Pension Scheme; and
 - (c) transferred to the employment of the Environment Agency either—
 - (i) on 1st April 1996 as a consequence of the transfer under the Environment Act 1995 of functions which on that date became functions of the Environment Agency; or

- (ii) as a consequence of a transfer to the Environment Agency of the undertaking in which he was employed to which transfer the Transfer of Undertakings (Protection of Employment) Regulations 1981(6) apply.
- (2) In their application to a person to whom this paragraph applies, these Regulations have effect subject to the modifications in sub-paragraphs (3) and (4).
- (3) In regulation D9(1) delete the words “(reduced in accordance with regulation D13)” in sub-paragraph (a) and the words “(so reduced)” in sub-paragraph (b).
- (4) Delete regulation D13.
- (5) In relation to a person to whom this paragraph applies and who—
 - (a) if a man, had service which under the PCSPS Rules was reckonable service prior to 1st June 1972; or
 - (b) if a woman, had service which under the PCSPS Rules was reckonable service prior to 1st June 1972 or after 31st May 1972 but before 6th April 1988, the provisions of Part II of Schedule D2 and regulation E5 shall apply as if—
 - (i) references to periods of membership included references to that reckonable service and regulation K14(2) shall not apply; and
 - (ii) the reference to payment under regulation C13 which has been or is to be treated as having been completed included a reference to any contribution paid or treated as paid under the PCSPS Rules which would have reduced the potential lump sum contribution under rule 4.18 of the PCSPS Rules in the case of a man or rule 4.23c in the case of a woman.
- (6) Even in a case where a transfer value is not paid to the Environment Agency as the funding authority under regulation K13 in relation to a person to whom this paragraph applies—
 - (a) that person shall for the purposes of—
 - (i) regulation D7(2) (entitlement to additional period under Schedule D3 in cases of early retirement on grounds of ill-health) and
 - (ii) regulation D8(1) (entitlement to ill-health retirement grants)be entitled to count as a period to which Part II of Schedule B6 applies the period which he would have been entitled to count under regulation K14(1)(b) if a transfer value had been accepted under regulation K13 in relation to him and his accrued rights under the Principal Civil Service Pension Scheme; and
 - (b) the additional period in relation to him referred to in regulation D7(2) shall be a period equal to $A - B$ where—
 - (i) A is a period calculated as mentioned in paragraph 2 of Schedule D3, but on the assumption that his relevant period of membership includes the period which he would have been entitled to count as a period of membership under regulation K14(1)(a) if a transfer value had been accepted under regulation K13 in relation to him (“the PCSPS period”), and
 - (ii) B is the PCSPS period.
- (7) Where the Environment Agency is paying, in recognition of the difference between the contribution rates of members of the Principal Civil Service Pension Scheme and members of the Scheme, a supplement to a person to whom this paragraph applies the

(6) S.I. 1981/1794; a relevant amendment to the definition of “undertaking” is made by the [Trade Union Reform and Employment Rights Act 1993, \(c.19\)](#), section 33.

amount of the supplement shall not be included in pensionable remuneration for the purposes of regulation D1.

(8) If a person to whom this paragraph applies ceases to hold a local government employment and—

- (a) has a statutory pension entitlement,
- (b) has attained the age of 50, and
- (c) satisfies the conditions mentioned in sub-paragraph (9),

he is entitled—

- (i) to a standard retirement pension (reduced in accordance with sub-paragraph (10), and
- (ii) a standard retirement grant (so reduced)

which are payable to him immediately on his ceasing to hold that employment.

(9) The conditions mentioned in sub-paragraph (8)(c) are—

- (a) that there has been no disqualifying break in service, and
- (b) The Environment Agency consents in writing to the payment of benefits referred to in sub-paragraph (8)(i) and (ii).

(10) Subject to regulation D17, his standard retirement pension and standard retirement grant, calculated in accordance with regulation D2 and Schedule D2, are reduced by the appropriate percentage for the member's pension advancement period.

(11) In sub-paragraph (10)—

- (a) “the member's pension advancement period” means the period remaining from the date from which the benefits become payable to the date of his 60th birthday; and
- (b) “the appropriate percentage” means the percentage shown in tables produced from time to time by the Government Actuary for the purpose of calculating the reduction in a member's pension under sub-paragraph (10).

(12) Any person to whom this paragraph applies who has entered into a contract under the PSCPS Rules to purchase an additional period of membership under the Principal Civil Service Pension Scheme shall be entitled for so long as there is no disqualifying break of service to continue to make additional periodic payments as if they were made pursuant to an election made under regulation C9 of these Regulations and in respect of the same additional period of membership and in the same amount as required under the Principal Civil Service Pension Scheme and regulation C11 shall not apply.

(13) A person to whom this paragraph applies who has elected under the Principal Civil Service Pension Scheme to pay contributions to an additional voluntary contributions scheme may continue to make voluntary contributions on the same terms as if the payment of contributions was made under regulation C24 of these Regulations and by notice under paragraph 1(1) of Schedule C4.

(14) The provisions of Schedule C4, where applicable, shall have effect in relation to contributions payable under an additional voluntary contributions scheme referred to in sub-paragraph (13) as if references in that schedule to contributions under regulation C24 and notice under paragraph 1(1) (except the reference in paragraph 18 to a fresh election under regulation C24 by notice under paragraph 1 in relation to his new employment) were references to contributions to that additional voluntary contributions scheme and notice given to contribute to that scheme.

(15) These Regulations—

- (a) shall have effect in relation to a person to whom this paragraph applies as if they conferred on him rights relating to service overseas corresponding with those which he would have enjoyed if he had remained subject to the PSCPS Rules, and
- (b) shall continue so to have effect so long as the person is employed without a disqualifying break of service.

(16) Part I of Schedule D5 shall not apply to a person where the new employment referred to in paragraph 1(1) of that Schedule is entered into in the circumstances set out in subparagraph (1) of this paragraph.

(17) For the purposes of this paragraph—

- (a) “the Principal Civil Service Pension Scheme” means the scheme made under section 1 of the Superannuation Act 1972 and referred to as such in section 2(10) of that Act; and
- (b) “the PSCPS Rules” means the rules constituting the Principal Civil Service Pension Scheme.”.

Calculation of transfer value

6.—(1) Where a person to whom paragraph 9 of Schedule M2 of the principal Regulations (as added by these Regulations) applies gives written notice to the Environment Agency within 12 months of becoming a member that he wishes them to accept a transfer value in respect of all his accrued rights from the Principal Civil Service Pension Scheme, the transfer value in respect of those rights shall be calculated in accordance with paragraph (2) and the provisions of paragraph (3) shall apply in relation to that person to the exclusion of regulation K16 of the principal Regulations.

(2) The transfer value shall be such amount as shall be agreed between the Government Actuary and the actuary to the Active Fund maintained by the Environment Agency and shall be adjusted to take account of any period between the date the person becomes a member of the Scheme and the date of actual payment of the transfer value as those actuaries shall agree.

(3) The period which shall be counted under regulation K14(1)(a) of the principal Regulations in relation to the person shall be equal to the actual length of his reckonable service under the Principal Civil Service Pension Scheme and the provisions of regulation K14(1)(a) shall be modified accordingly in relation to him.

Change of local government employment and fund authority: interfund adjustments.

7.—(1) This regulation applies where—

- (a) a person ceases to be employed by a body which is a waste regulation authority in England or Wales (within the meaning given to that expression by section 56 of the Environment Act 1995) on the transfer under paragraph (a)(ii) or (b)(ii) of section 3(1) of that Act of its property, rights and liabilities to the Environment Agency (“the previous employment”) and is thereupon employed by the Environment Agency (“the new employment”), and
- (b) he is a member of the Scheme in his new employment and is entitled to count in relation to that employment any period of membership which he was entitled to count in his previous employment.

(2) Where this regulation applies, the body maintaining the pension fund to which the person was a contributor immediately before he ceased to be employed in his previous employment (“the previous fund authority”) shall pay out of that pension fund (“the transferring fund”) to the Environment Agency for the credit of the Active Fund an amount calculated in accordance with paragraph (3) of this regulation (“the agreed amount”) and regulation K21 of the principal Regulations shall not apply.

(3) The actuaries to the transferring fund and the Active Fund shall determine the agreed amount and as soon as reasonably practicable after the determination, the previous fund authority shall pay the agreed amount to the Environment Agency.

(4) If the actuaries are unable to agree the determination of the agreed amount within twelve months of the date of the transfer of the persons to whom this regulation applies from the transferring fund to the Active Fund, then an actuary appointed by the Secretary of State shall make such determination.

(5) Where—

- (a) a discretionary power exercisable by the employing body in the previous employment (“the former employing authority”) under the principal Regulations becomes exercisable by the Environment Agency in relation to a person in consequence of a transfer referred to in paragraph (1)(a), and
- (b) it was the practice of the former employing authority to exercise that power in a way which was beneficial to employees

the Environment Agency shall exercise the power in a way which is not less beneficial than the general character of that practice.

Valuations and rates of contributions and adjustments

8.—(1) As soon as is practicable after the coming into force of these Regulations, the Environment Agency shall obtain from an actuary a certificate specifying the matters referred to in regulation L11(1) of the principal Regulations (actuary’s certificates) for each of the years, or, if appropriate, part of a year, ending on 31st March in the relevant period.

(2) The certificate shall be in respect of the Active Fund.

(3) The certificate obtained under this regulation, and the matters specified in it, shall be deemed for the purposes of regulation L12 of the principal Regulations (employer’s contributions) to have been obtained and specified under regulation L11(1) of the principal Regulations.

(4) The certificate obtained under this regulation may be reviewed by the actuary to the Active Fund and the rate of the employer’s contribution may be adjusted for any part of the relevant period in such manner as the actuary shall decide.

(5) In this regulation “relevant period” means the period beginning on 1st April 1996 and ending on 31st March 1999.

Signed by authority of the Secretary of State

11th March 1996

Paul Beresford
Parliamentary Under Secretary of State
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the Local Government Pension Scheme (“the LGPS”) constituted under the Local Government Pension Scheme Regulations 1995 (“the principal Regulations”) in connection with the abolition of the National Rivers Authority, the establishment of the Environment Agency, and the transfer of staff to the Environment Agency from both the Civil Service and local authority bodies.

Regulation 2 provides for the vesting in the Environment Agency on 1st April 1996, when the functions of the National Rivers Authority transfer to the Environment Agency, of the LGPS pension funds vested in the National Rivers Authority.

Regulations 3 and 4 make amendments to the principal Regulations consequent upon the Environment Agency becoming an administering authority under the LGPS.

Regulation 5 adds a new paragraph 9 to schedule M2 to the principal Regulations. It deals with adjustments to be made to the LGPS and to benefits under it in respect of persons who become employees of the Environment Agency on a transfer from employment in respect of which they were members of the Principal Civil Service Pension Scheme.

Regulation 6 makes provision for the calculation of transfer values to the LGPS from the Principal Civil Service Pension Scheme in respect of members whose employment transfers to the Environment Agency.

Regulation 7 provides a method for calculating inter-fund adjustments in certain circumstances where members of the LGPS transfer from an LGPS fund to the fund administered by the Environment Agency. Regulation K21 of the principal Regulations is disapplied.

Regulation 8 makes special provision until 31st March 1999 in connection with the actuary’s certificate and employer’s contributions in respect of the active fund maintained by the Environment Agency.