STATUTORY INSTRUMENTS

1982 No. 1514

PENSIONS

The Local Government Superannuation (Amendment) (No. 2) Regulations 1982

Made - - - -	*26th October* 1982
Laid before Parliament	*9th November* 1982
Coming into Operation	*1st December* 1982

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 7 and 12 of the Superannuation Act 1972(**a**), as read with paragraph 5(1) of Schedule 7 to that Act, 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 etc.

1.— (1) These regulations may be cited as the Local Government Superannuation (Amendment) (No. 2) Regulations 1982 and shall come into operation on 1st December 1982.

(2) These regulations shall be included among the regulations which may be cited together as the Local Government Superannuation Regulations 1974 to 1982(**b**).

(3) In these regulations "the principal regulations" means the Local Government Superannuation Regulations 1974(**c**) and "enactments" includes instruments made under an Act.

Definitions in principal regulations

2. Regulation A3(1) of the principal regulations is amended—

(a) by inserting after the definition of "local education authority" the following definition:

(**a**) 1972 c. 11.
(**b**) S.I. 1974/520, 1977/1121, 1845, 1978/266, 822, 1738, 1739, 1979/2, 592, 1534, 1980/216, 233, 234, 1981/1250, 1509, 1982/908.
(**c**) S.I. 1974/520; relevant amending instruments are S.I. 1977/1341, 1978/266, 1738, 1739, 1979/2, 1534, 1980/234, 1981/1250.

" "local government employment" has the meaning given by regulation N1"; and

(b) by inserting in the definition of "war service", after the words "any person,", the words "except in Part R, where it is to be construed in accordance with regulation R2,".

Payments by employee to avoid reduction under regulation E3(5) or (6) of retiring allowance and under regulation E11(2)(aa) or (3) of death gratuity

3. Regulation C2A of the principal regulations is amended by substituting for paragraph (4B) the following paragraph:

"(4B) Where—

(a) a determination or consent is given under regulation D4(2) or D10(2) after—

(i) a notice containing such a statement as is mentioned in paragraph (4A) has been given of an election under paragraph (2), (3) or (4), or

(ii) an election has been made under regulation D4A(5) or D10A(6), or

(b) an election is made under regulation R7,

any resulting increase in any payment mentioned in paragraph (3) or (4) is payable from the date which is for the purposes of Schedule 20 the date of the election under the paragraph in question, and any resulting increase in any payment mentioned in paragraph (2) shall, unless the authority concerned allow a longer period, be paid within one month after the date of notification of the determination or consent or, as the case may be, the date of the election under regulation R7.".

Reckonable service

4. Regulation D1(1) of the principal regulations is amended by inserting in sub-paragraph (g), after the words "by virtue of", the words "Part R (war service) or any other provision of".

Reduction of added years reckonable on payment as reckonable service

5. The principal regulations are amended by inserting after regulation D10A the following regulation:

"Reduction of added years reckonable on payment as reckonable service

D10B.— (1) This regulation applies where—

(a) a consent—

(i) has been given under regulation D10, or

(ii) was given under regulation 12 of the Benefits regulations in respect of a person who became a pensionable employee on 1st April 1974,

(b) the person in respect of whom the consent was given is a person in relation to whom regulation R3 applies,

(c) the notice of election under regulation R3 was given within the period of 6 months beginning on 1st December 1982, or in the case of a deceased employee (within the meaning of Part R) who died during that period, within the period of 12 months beginning on the date of his death, and

(d) apart from this regulation some of the person's reckonable service would, or would if payments under regulation D10 or D11 were to continue up to the age specified in paragraph 1*(a)* or, as the case may be, paragraph 1*(b)* of Schedule 6, be left out of account in accordance with regulation D21 or E3(10)*(a)*.

(2) Where this regulation applies, the consent shall be deemed always to have related not to the original number of added years but instead to the longest additional period that would not entail any such leaving out of account of reckonable service as is mentioned in paragraph (1)*(d)*; and payments made and any remaining to be made are to be adjusted accordingly.".

Amount of retirement pension and retiring allowance

6. Regulation E3 of the principal regulations is amended—

(a) by substituting for the words "paragraphs (11) to (13)", in paragraph (10)*(a)*, the words "paragraphs (10A) to (13)"; and

(b) by inserting after paragraph (10) the following paragraph:

"(10A) For the purposes of paragraph (10)*(a)*, a period which a person is entitled to reckon as reckonable service by virtue of regulation R6(1)*(a)* or *(b)* shall be treated as reckonable service before attaining the age of 60 years.".

Reduction of pension

7. Regulation F7 of the principal regulations is amended by inserting after paragraph (1A) the following paragraph:

"(1B) A person in relation to whom regulation R3 applies shall not on that account be treated for the purposes of this regulation as having paid reduced contributions in relation to any service.".

Initial determination of questions

8. Regulation H1 of the principal regulations is amended by inserting after paragraph *(b)* the following:

"or

(c) the rights of any other person under Part R,".

Appeal by employee, etc

9. Regulation H2 of the principal regulations is amended by inserting after paragraph (1)*(b)* the following:

"or

(c) any other person is dissatisfied with any decision made by the body concerned as to his rights under Part R or with the body's failure to make any such decision,".

Decisions by administering authorities as to war service

10. The principal regulations are amended by inserting after regulation L3 the following regulation:

"*Decisions by administering authorities as to war service*

L3A.— (1) Within 6 months after receiving notice of an election under regulation R3 and the information mentioned in regulation R5(2)*(a)* in respect of a person who is a pensionable employee or entitled to an annual retirement pension under regulation E2, an administering authority shall decide whether the conditions specified in regulation R3(2) to (8) are satisfied in relation to him.

(2) If they decide, or the Secretary of State determines under regulation H2(1), that those conditions are satisfied in relation to the person, the authority shall within 12 months after the date of notification of that decision or determination decide what period if any he is entitled, or is to be deemed to have been entitled, to reckon as reckonable service by virtue of regulation R6(1)*(a)* or *(b)*.

(3) If they decide, or the Secretary of State determines under regulation H2(1), that there is such a period, the authority shall within 3 months after the date of notification of that decision or determination decide whether regulation D10B applies.".

Notification of decisions as to status

11. Regulation L4 of the principal regulations is amended—

(a) by inserting in paragraph (1)*(b)*, after the words "regulation L3", the words "or L3A";

(b) by inserting in paragraph (3), after the word "include", the words ", in the case of an adverse decision under regulation L3A, the grounds for the decision, and in any case";

(c) by inserting after paragraph (3) the following paragraph:

"(3A) In paragraphs (1) and (3) "employee", in relation to a question decided in accordance with regulation L3A, is to be taken to mean the person who gave notice of the election under regulation R3."; and

(d) by substituting for the words from "regulation L3(2)", in paragraph (5), to the end of that paragraph the words "regulation L3(2) or L3A, and such other particulars relating to that person as are referred to in regulation L3(2) and (3) or, as the case may be, in regulation L3A.".

Transmission of documents and information between authorities

12. Regulation L6 of the principal regulations is amended—

(a) by inserting in paragraph (4), after the words "regulation L3", the words "or L3A"; and

(b) by substituting for the words "the employing authority", in paragraph (4), the words "the body, if any, who are the employing authority in relation to that person".

Decisions to be taken by employing authorities as to benefits and notification thereof

13. Regulation L8 of the principal regulations is amended by inserting in paragraph (1), after the word "contributions", the words "but excluding a benefit specified in regulation R6(5) or (9)".

Decisions to be taken by administering authorities as to benefits and notification thereof

14. Regulation L9 of the principal regulations is amended—

(a) by inserting after paragraph (1) the following paragraphs:

"(1A) Within 6 months after receiving notice of an election under regulation R3 and the information mentioned in regulation R5(2)*(a)* in respect of a person who is not a pensionable employee or entitled to an annual retirement pension under regulation E2, an administering authority shall decide whether the conditions specified in regulation R3(2) to (8) are satisfied in relation to him.

(1B) If they decide, or the Secretary of State determines under regulation H2(1), that those conditions are satisfied in relation to the person, the authority shall within 12 months after the date of notification of that decision or determination decide to which if any of the additional benefits specified in regulation R6(5) and (9) he or any other person is entitled.";

(b) by inserting in paragraph (2), after the words "was made", the words ", and an authority by whom a decision has been made under paragraph (1A) or (1B) shall send to the person who gave notice of the election under regulation R3,";

(c) by inserting in paragraph (3)*(a)*, after the words "regulation L8", the words "or paragraph (1B)";

(d) by substituting for the words "the person", in paragraph (3)*(a)*, the words "any person";

(e) by inserting after paragraph (3)*(a)* the following sub-paragraph:

"*(aa)* in the case of an adverse decision under paragraph (1A) or (1B), the grounds for the decision;"; and

(f) by substituting for the words "the person", in paragraph (3)*(b)*, the words "any person".

Injury allowances, etc. and war service

15. The principal regulations are amended by inserting after Part P the following Parts—

"PART Q

INJURY ALLOWANCES ETC.

Interpretation

Q1. In this Part, unless the context otherwise requires—

"benefits" means any allowance or lump sum payable under this Part;

"relevant body" has the meaning given by regulation Q7; and

"relevant employment" has the meaning given by regulation Q2(2).

Persons to whom Part Q applies

Q2.— (1) Subject to paragraph (4), this Part applies to a person employed in a relevant employment if he—

(a) sustains an injury, or

(b) contracts a disease,

as a result of anything he was required to do in carrying out his work.

(2) Relevant employment is employment, otherwise than as a teacher—

(a) with a body listed in column (1) of Part I of Schedule 1 or (with the exception of passenger transport executives) column (3) of Part II of that Schedule or the predecessor of such a body, or

(b) in which the person is by virtue of section 15 of the Act of 1953 or regulation B4 or J8 (which relate to admission agreements) entitled to participate in the benefits of a superannuation fund maintained under the former regulations or these regulations,

and for the purposes of this Part a police cadet appointed under section 17 of the Police Act 1964(**a**) shall be deemed to be in employment with the police authority who maintain the police force with which he is undergoing training.

(3) A person is to be treated for the purposes of paragraph (1) as having sustained an injury as mentioned in that paragraph if—

(a) he sustains the injury while travelling as a passenger by a vehicle with the express or implied permission of his employer to or from his place of work, and

(b) at the time of the injury the vehicle was being operated, otherwise than in the course of a public transport service, by or on behalf of his employer or pursuant to arrangements made by his employer.

(4) This Part does not apply where the injury or disease is one in respect of which the person is entitled to an injury award under a scheme made in accordance with section 26 of the Fire Services Act 1947(**b**) or is entitled to

(**a**) 1964 c. 48.
(**b**) 1947 c. 41.

injury benefits under regulations made in accordance with section 35 of the Police Act 1964.

Loss of employment through permanent incapacity

Q3.— (1) If as a result of an incapacity which is likely to be permanent caused by the injury or disease a person to whom this Part applies ceases to be employed in a relevant employment (whether or not is it the same employment as that in which the injury or disease was sustained or contracted), he shall be entitled to an annual allowance.

(2) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(3) The relevant body may suspend or discontinue the allowance if the person becomes capable of working again.

(4) The allowance is not to be paid at a rate which exceeds 85 per cent of the person's annual rate of remuneration in respect of the employment when he ceased to be employed.

(5) In ascertaining for the purposes of paragraph (4) a person's annual rate of remuneration in respect of the employment when he ceased to be employed—

(a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;

(b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;

(c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;

(d) if at that date he was entitled to an allowance under regulation Q4 by reason of a reduction in his remuneration, whether as a result of the same or of some other injury or disease, the annual rate is to be taken to be the annual rate which would have applied if his remuneration had not been reduced;

(e) if his remuneration is retrospectively altered as a result of a pay award, the annual rate of his remuneration is to be based on the retrospective pay award; and

(f) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed.

(6) In determining the amount of the allowance the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation Q8.

Reduction in remuneration

Q4.— (1) If as a result of the injury or disease a person to whom this Part applies suffers a reduction in his remuneration while he is employed in relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted) and regulation Q3 does not apply, he shall be entitled to an allowance while the reduction continues.

(2) A person's remuneration is to be treated for the purposes of paragraph (1) as reduced if at any time it is lower than it would have been but for the injury or disease.

(3) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(4) The amount of the allowance, together with the person's remuneration in the relevant employment, is not in any year to exceed the remuneration he would have been paid if he had not sustained or contracted the injury or disease.

(5) In determining the amount of an allowance under this regulation the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation Q8.

Allowances for pensioners

Q5.— (1) If on ceasing to be employed in a relevant employment a person becomes entitled under regulation E2 to receive payments in respect of an annual retirement pension and—

(a) immediately before ceasing to be so employed he was entitled to an allowance under regulation Q4, and

(b) on ceasing to be so employed he does not become entitled to an allowance under regulation Q3, and

(c) regulation E1(2)*(b)*(ii) does not apply,

the relevant body may pay him an allowance under this regulation.

(2) An allowance under this regulation—

(a) is not in any year to exceed the amount by which the annual rate of the retirement pension falls short of what it would have been if the amount of the allowance paid under regulation Q4 during the relevant period (within the meaning of regulation E1(2)) had been part of his remuneration in the relevant employment, and

(b) continues for such period as the relevant body may determine.

Death benefits

Q6.— (1) If a person to whom this Part applies dies as a result of the injury or disease—

(a) if he leaves a widow who qualifies under paragraph (2), she shall be entitled to an annual allowance or lump sum, and

(b) if he leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.

(2) A widow qualifies for an annual allowance or lump sum unless—

(a) her marriage to the person in question took place after he ceased to be employed in relevant employment and he was not subsequently employed in such employment; or

(b) at the date of death she was judicially separated or cohabiting with another man as his wife.

(3) The allowance or lump sum is to be paid by the relevant body and is to be of such amount as the body may from time to time determine or, as the case may be, may determine.

(4) In determining the amount of any allowance or lump sum the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation Q8.

(5) An allowance to a widow shall cease if she remarries or cohabits with another man as his wife, but if she again becomes a widow or the marriage is dissolved or the cohabitation ceases the relevant body may restore the allowance for such period as they may determine.

(6) An allowance to a dependant shall continue for such period as the relevant body may determine.

(7) This regulation shall apply with necessary modifications to a widower who at the date of his wife's death is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her.

The relevant body

Q7.— (1) The relevant body for the purposes of this Part is—

(a) the body by whom the person in question was employed immediately before he first qualifies for any benefit under this Part; or

(b) if he dies without qualifying for any benefit under this Part, the body which last employed him in a relevant employment before his death; or

(c) if the body specified in sub-paragraph *(a)* or *(b)* has ceased to exist, the body to which he would have been transferred if he had continued in the employment in question.

(2) Any question arising under paragraph (1)*(c)* as to the identity of the body to which the person would have been transferred shall be determined by the Secretary of State.

Rights and payments to be taken into account in determining amount of benefit

Q8. In determining the amount of any benefit under this Part the relevant body is to have regard to—

(a) any right to benefit under Chapter IV or Chapter V of Part II of the

Social Security Act 1975(a) or corresponding provisions of earlier enactments;

(b) any other statutory right to benefit or compensation;

(c) any right to receive superannuation benefit (whether payable under an enactment or otherwise) out of any fund to which any body which employed him in relevant employment has made any contributions in respect of him or out of any fund to which assets of any such fund were transferred; and

(d) any damages recovered and any sum received by virtue of a contract of insurance.

Retrospective Effect

Q9.— (1) Subject to the following provisions of this regulation, this Part applies even if the injury or disease was sustained or contracted before 1st December 1982.

(2) Regulation Q3, Q4, Q5 or Q6, as the case may be, does not apply if the relevant event occurred before 31st March 1972 but, subject to the following provisions of this regulation, does apply if the relevant event occurred on or after that date and before 1st December 1982.

(3) For regulations Q3 and Q5 the relevant event is the cessation of the employment, for regulation Q4 it is the reduction of remuneration and for regulation Q6 it is the death of the employee.

(4) If the relevant body has anticipated this Part by paying before 1st December 1982 any benefit authorised by this Part, anything done by them in connection with that benfit is to be treated as if it has been done under this Part.

(5) If adequate provision has already been made for the person in question under regulation 7 of the Benefits regulations, this Part does not apply to him.

(6) If regulation Q3, Q4, Q5 or Q6 applies in any case by virtue of paragraph (2) and paragraphs (4) and (5) do not apply, the relevant body shall decide what benefit, if any, is to be granted in accordance with the applicable regulation for any past or future period but in making that decision they shall take into account any allowance to which the person is or was entitled under regulation 7 of the Benefits regulations.

Finance

Q10.— (1) Benefits under this Part are not to be met out of any superannuation fund.

(2) Where—

(a) an allowance under regulation 7 of the Benefits regulations is payable in addition to any benefit under this Part, and

(a) 1975 c. 14.

(b) the relevant body are the employing authority for the purposes of regulation 7(4) of the Benefits regulations (repayment to appropriate superannuation fund),

the allowance shall be treated for the purposes of paragraph (1) as a benefit under this Part.

Appeals

Q11. Regulation H3 shall not apply to this Part.

Notice of decisions

Q12. The relevant body shall give notice in writing of any decision relating to any benefit under this Part to the person affected and shall inform him about his right of appeal under regulation H2 and the time in which it must be exercised.

PART R

War Service

Interpretation etc

R1.— (1) In this Part, unless the context otherwise requires—

"deceased employee" means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation R3(2) to (8) were or are deemed to have been satisfied when he died;

"excess remuneration" means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer's former employment in those forces;

"non-effective pay" includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(a), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

"occupational pension scheme" means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and

"public service scheme" means an occupational pension scheme—

(a) 1945 (9 & 10 Geo. 6) c. 13.

(a) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department, and

(b) which includes provisions for any such whole-time service as is described in regulation R2(1), rendered before becoming entitled to participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme;

and references to war service are to be construed in accordance with regulation R2.

(2) Where by virtue of a determination or determinations given under one or more of the following, that is to say section 12(6) of the Act of 1937, section 7(3) of the Act of 1953 and regulation D4, a period comprising the whole or a part or parts of a person's indirect service was, or has fallen to be treated as having been, reckonable by him as non-contributing service for the purposes of the former regulations, then—

(a) for the purposes of regulation R2(2)*(b)*, the period shall be deemed to have been so reckonable only to the extent that its length exceeds that of his civilian indirect service, and

(b) if the period is not the whole of the indirect service—

(i) it shall for the purposes of regulation R3(2)*(c)* be deemed to have been a continuous period ending on the last day of the indirect service, and

(ii) none of the indirect service shall for the purposes of regulation R2(2)*(d)* be taken to be or to have been capable of being taken into account as there mentioned.

(3) For the purposes of paragraph (2)—

(a) a person's indirect service is the total of any service, employment and periods in respect of which determinations could have been given under any of the provisions mentioned in that paragraph, and

(b) a person's civilian indirect service is any of his indirect service that was not such whole-time service as is described in regulation R2(1).

War service

R2.— (1) For the purposes of this Part, a person's war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years old or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in Schedule 25.

(2) Subject to regulation R1(2), a person's war service does not include—

(a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded,

(b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or of a local Act scheme,

(c) any period that has at any time been taken into account (whether at its

full length or otherwise) for the purpose of calculating any benefit under any other occupational pension scheme, or

(d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme.

Election as to war service

R3.— (1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (8) are satisfied, or the personal representatives of a deceased employee, may by notice given in accordance with regulation R5 elect that this regulation shall apply in relation to him.

(2) One at least of the following must be the case:

(a) he became before 1st July 1950 entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act or by a body specified in Column 1 of Schedule 15, or

(b) he became before 1st July 1950 a participant in a scheme which is a relevant scheme within the meaning of regulation G14 or a relevant policy scheme within the meaning of regulation P13 of the Local Government Superannuation (Scotland) Regulations 1974(**a**), and is a person to whom regulation G14 applies, or

(c) a period beginning before 1st July 1950 was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or of a local Act scheme, or

(d) sub-paragraph *(c)* is not the case, but he is or has been a person to whom regulation D4 applies, and—

(i) his period of previous employment (within the meaning of regulation D4) began before 1st July 1950, and

(ii) an application has been made by or in respect of him under regulation D4 or D4A, or

(e) he was on 30th June 1950 undergoing a full-time course of training for, and subsequently obtained, the Royal Sanitary Institute's Diploma in Public Health Inspection, and not later than 6 months after completing the course of training he became entitled or a participant as mentioned in sub-paragraph *(a)* or *(b)* or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in sub-paragraph *(c)*.

(3) He must on 1st April 1978 have been—

(a) an employee entitled to participate in the benefits of a superannuation fund maintained under these regulations, or

(**a**) S.I. 1974/812; relevant amending instruments are S.I. 1975/638, 1978/425.

(b) a participant in a scheme which is a relevant scheme within the meaning of regulation G14, or

(c) entitled to receive payments in respect of an annual pension out of a superannuation fund maintained under these regulations, or

(d) entitled to an annual pension under regulation E2(1)*(c)*, or

(e) a person to whom regulation E15 applied.

(4) Except where paragraph (2)*(e)* is the case, there must not since the date specified in paragraph (10) have been a continuous period of 12 months or more throughout which none of the following was the case:

(a) he was entitled or a participant as mentioned in paragraph (2)*(a)* or *(b)*, or

(b) the period mentioned in paragraph (2)*(c)* or *(d)*(i) was running, or

(c) he was undergoing such a course of training as is mentioned in paragraph (2)*(e)*, or

(d) he was entitled or a participant as mentioned in paragraph (3), or

(e) he was entitled to receive payments in respect of a pension out of a superannuation fund mentioned in paragraph (2)*(a)*, or

(f) he was a person to whom regulation E15, section 6 of the Act of 1953 or section 31 of the Act of 1937 applied.

(5) Where paragraph (2)*(e)* is the case, paragraph (4) applies—

(a) with the substitution for the date specified in paragraph (10) of the date (being a date later than 30 June 1950) on which he became entitled or a participant as mentioned in paragraph (2)*(a)* or *(b)* or, as the case may be, a period began which was reckonable, or falls to be treated as having been reckonable, as mentioned in paragraph (2)*(c)*, and

(b) with the substitution for the reference in paragraph (4)*(b)* to the period mentioned in paragraph (2)*(c)* or *(d)*(i) of a reference to such a period as is mentioned in sub-paragraph *(a)*.

(6) If he is a person to whom regulation D1(2) applied in respect of any service after the end of his war service, he must have repaid to the appropriate administering authority the sum or amount there mentioned.

(7) If he is an employee entitled to participate in the benefits of a superannuation fund maintained under these regulations, he must not be entitled to reckon more than 45 years' reckonable service, disregarding reckonable service before attaining the age of 60 years beyond a total of 40 years.

(8) If he has become entitled to receive payment in respect of an annual pension out of a superannuation fund maintained under these regulations (including a pension which is for the time being subject to reduction or suspension under regulation E15), no more than 45 years' service must have been taken into account in calculating the amount of that pension.

(9) In the case of a deceased employee, paragraph (2)*(d)*(ii) shall for the

purposes of paragraph (1) be deemed to be satisfied even though the application was made after his death.

(10) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—

(a) he became entitled or a participant as mentioned in paragraph (2)*(a)* or *(b)*, or

(b) the period mentioned in paragraph (2)*(c)* or *(d)*(i) began.

Modified application of regulation R3 in certain cases

R4.— (1) Regulation R3 applies in accordance with paragraphs (3) to (5) of this regulation in the cases specified in those paragraphs.

(2) In this regulation, unless the context otherwise requires—

"public health service employment" has the meaning given by regulation 2(1) of the National Health Service (Superannuation) (War Service, etc) Regulations 1977(**a**), and

"service" means service or employment with any employer.

(3) In the case of a person to whom rule 11 of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1969(**b**) applied otherwise than by virtue of rule 3(3)*(c)* of those Rules, or to whom rule 5 of the Superannuation (Local Government and Overseas Employment) Interchange Rules 1958(**c**), rule 3 of the Superannuation (Local Government, Commonwealth and Foreign Service) Interchange Rules 1952(**d**), or rule 3 of the Superannuation (Local Government and Colonial Service) Interchange Rules 1949(**e**) applied—

(a) service reckonable by virtue of the provisions of any of those Rules shall for the purposes of regulation R3(2)*(c)* be deemed to have been reckonable by him otherwise than by virtue of interchange rules, and

(b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation R3(4).

(4) In the case of a person to whom regulation 4 of the Electricity (Pension Rights) Regulations 1948(**f**) applied, or to whom regulation 4 of the Gas (Pension Rights) Regulations 1950(**g**) applied as mentioned in paragraph (4) of that regulation, and who has re-entered local government employment not more than 12 months after ceasing to hold the employment by virtue of which the relevant regulation applied to him—

(a) any period of service beginning before 1st July 1950 —

(i) in respect of which a transfer value has been accepted under

(**a**) S.I. 1977/1922.
(**b**) S.I. 1969/975.
(**c**) S.I. 1958/1416.
(**d**) S.I. 1952/133.
(**e**) S.I. 1949/1463.
(**f**) S.I. 1948/2172.
(**g**) S.I. 1950/1206.

interchange rules, or has been accepted or fallen to be treated as if it had been accepted under Part N, or

(ii) which he became entitled to reckon as reckonable service, or as non-contributing or contributing service or a period of contribution for the purposes of the former regulations or of a local Act scheme,

shall be deemed to be such a period as is mentioned in regulation R3(2)*(c)*, and

(b) the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation R3(4).

(5) In the case of a person—

(a) who was not before 1st July 1950 in public health service employment,

(b) who after the date specified in regulation R3(10) left local government employment and became entitled to participate in the benefits of another public service scheme, and

(c) who re-entered local government employment not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph *(b)* and became entitled in that employment to reckon—

(i) as reckonable service or qualifying service, or

(ii) as non-contributing or contributing service, or a period of contribution, for the purposes of the former regulations or of a local Act scheme, or

(iii) as service material for the purposes of regulation J17(3)*(e)*,

a period at least equal in length to the whole of his service from the date specified in regulation R3(10),

the period between his leaving and re-entering local government employment shall be deemed not to be such a period as is mentioned in regulation R3(4).

Notice of election

R5.— (1) Notice of an election under regulation R3 is to be given in writing—

(a) in the case of a person who has, or a deceased employee who had before he died—

(i) become entitled to receive payments in respect of any annual pension out of a superannuation fund maintained under these regulations (including a pension subject for the time being to reduction or suspension under regulation E15), or

(ii) become entitled to any annual pension under regulation E2(1)*(c)*,

to the administering authority maintaining the superannuation fund which is or was liable in respect of the pension or, where there is more than one pension, the first of them, or

(b) in any other case, to the appropriate administering authority.

(2) The person giving notice of an election under regulation R3—

(a) is to give the authority, in writing—

(i) all information in his possession, and

(ii) if the authority notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain,

concerning the war service of the person to whom the notice relates, and

(b) may—

(i) in that notice, or

(ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation R3(2) to (8) are satisfied in relation to the person to whom that notice relates, by a further notice in writing to the same authority,

elect that regulation R6 shall apply with the substitution, in paragraph (1)*(a)* or *(b)* or (6) as the case may be, for "47 per cent" (or for any reduced percentage substituted under paragraph (8)) of any specified lesser percentage, and

(c) whether or not he has so elected, may at any time before he receives such a notification withdraw the notice given under regulation R3.

Reckonable service and benefits

R6.— (1) Subject to regulation R5(2)*(b)* and paragraphs (2), (4), (7), (8) and (10), a person in relation to whom regulation R3 applies is entitled, or as the case may be shall be deemed to have been entitled—

(a) in the case of a person entitled on the relevant date—

(i) to participate in the benefits of a superannuation fund maintained under these regulations, or

(ii) to a retirement pension,

other than a person to whom regulation G14 applies, to reckon as reckonable service a period equal to 47 per cent of his war service; or

(b) in the case of a person to whom on the relevant date regulation G14 applied, to have a period equal to 47 per cent of his war service treated for the purposes of regulation G14(4) as a period during which the whole of his relevant policies were fully maintained; or

(c) in the case of a person who, having become entitled to receive an annual pension under the former regulations or a local Act scheme, was on the relevant date entitled to receive payments in respect of that pension out of a superannuation fund maintained under these regulations, to receive, in respect of the service in respect of which that pension is payable, the additional benefits specified in paragraph (5).

(2) Where the person was entitled on the relevant date to a retirement pension—

(a) his entitlement under paragraph (1)*(a)* or *(b)*, and to any resulting

increase in the rate of his retirement pension, shall be taken to have arisen on—

(i) 1st April 1978, or

(ii) the date on which he ceased to hold his employment,

whichever is the later date, and

(b) if regulation E3(9) applied to him before 1st December 1982—

(i) any increase by virtue of paragraph (1)*(a)* or *(b)* in the amount of any benefit is not subject to reduction under regulation E3(9), and

(ii) the period that he is entitled by paragraph (1)*(a)* or *(b)* to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation E3(9).

(3) The relevant date for the purposes of paragraphs (1) and (2) is the date of the election under regulation R3, except in the case of a deceased employee where it is the date of his death.

(4) Any period which a person is or is deemed to have been entitled to reckon as reckonable service by virtue of paragraph (1)*(a)* or *(b)* shall for the purposes of regulation E3(5), (6) and (6A) and of regulation E11(2)*(aa)* and (3) be deemed to be reckonable service before, as the case may be—

(a) 1st April 1972, or

(b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(5) The additional benefits mentioned in paragraph (1)*(c)* are—

(a) an additional pension, payable from—

(i) 1st April 1978, or

(ii) the date on which the person became entitled to receive payments in respect of a pension as mentioned in paragraph (1)*(c)*,

whichever is the later date, and

(b) if the person has received or is entitled to receive payment of any lump sum of the same nature as a retiring allowance, an additional lump sum,

calculated in accordance with paragraph (6).

(6) Subject to regulation R5(2)*(b)* and paragraphs (7) and (10)—

(a) the annual rate of an additional pension, and

(b) the amount of an additional lump sum,

specified in paragraph (5) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original lump sum would have been increased if a period equal to 47 per cent of the person's war service had been service, or a period, of a kind which (however described) counted in full in the calculation of the original pension or lump sum.

(7) If a period of part-time service or employment falling to be treated under section 12(5) of the Act of 1937 or under regulation D17 or G14(4)*(c)*

as though it were whole-time service or employment for a proportionately reduced period—

(a) began before and ended on or after 1st July 1950, and

(b) was not preceded, without any break, by a period of whole-time service or employment,

paragraph (1)*(a)* or, as the case may be, paragraph (1)*(b)* or paragraphs (6) and (10) apply with the substitution for "47 per cent" of the percentage obtained by reducing 47 per cent in the same proportion.

(8) Where—

(a) before the date of notification of a decision or determination that he is entitled to reckon a period as reckonable service by virtue of paragraph (1)*(a)* or *(b)*, a person in relation to whom regulation R3 applies has been credited with an additional period of service under—

(i) any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation, or

(ii) regulation E3(7) or E11(4),

("the enhancement provision"), and

(b) A + B + C exceeds 40 years, where—

A is the period which would but for this paragraph be reckonable by him as reckonable service by virtue of paragraph (1)*(a)* or *(b)*,

B is the remainder of his reckonable service, and

C is the additional period of service with which he has been credited under the enhancement provision,

the period which is reckonable by him as reckonable service by virtue of paragraph (1)*(a)* or *(b)* is the total of 40 − (B + C) and the amount, if any, by which (A + B + C) − 40 exceeds C; except that where the enhancement provision is comprised in regulations made under section 260 of the Local Government Act "45" is to be substituted for "40" wherever the latter figure occurs in this paragraph.

(9) Where a person dies who was entitled or deemed to be entitled to any additional benefit specified in paragraph (5) and there is payable in respect of him out of a superannuation fund maintained under these regulations any benefit similar to a widow's pension, children's pension or death gratuity payable under Part E ("the death benefit"), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate or, as the case may be, of any amount by which the death benefit would have been increased if a period equal to 47 per cent of the deceased person's war service had been service, or a period, which (however described) counted in full in ascertaining entitlement to the death benefit and its rate or amount.

(10) The total of an additional benefit under paragraph (5) or (9) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

(a) the period equal to 47 per cent of the person's war service had been a period of service before he attained the age of 60 years, and

(b) no more than—

(i) 40 years' service before attaining that age, and

(ii) 45 years' service in all,

had been capable of counting in the calculation of the original benefit.

(11) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

(a) multiplying the number of complete years of war service, if any, by 365, and

(b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

rounding up any fraction of a day resulting from the calculation to the nearest whole day.

Revision of certain elections

R7.— (1) Subject to paragraph (2), where—

(a) notice of an election under regulation C2A(2), (3) or (4) or notice under regulation 16(2)(*a*) of the Local Government Superannuation (Amendment) Regulations 1979(**a**) has been given by or in respect of a person in relation to whom regulation R3 applies, and

(b) the service specified in that notice was the whole of his reckonable service before, as the case may be—

(i) 1st April 1972, or

(ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,

he or his personal representatives may elect that the period which he is or is deemed to be entitled to reckon as reckonable service by virtue of regulation R6(1)*(a)* or *(b)* is to be treated as having been included in the service specified in that notice.

(2) An election under paragraph (1)—

(a) may not be made unless the notice of election under regulation R3 was given within the period of 6 months beginning on 1st December 1982, or in the case of a deceased employee who died during that period, within the period of 12 months beginning on the date of his death, and

(b) must, unless they allow a longer period, be made by giving notice in writing to the administering authority concerned within 3 months after the date of notification of a decision by that authority, or as the case may be a determination by the Secretary of State under

(**a**) S.I. 1979/2.

regulation H2(1), that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1).".

Women's services

16. The principal regulations are amended by adding after Schedule 24 the following Schedule:

"Regulation R2(1) SCHEDULE 25

WOMEN'S SERVICES

1. Member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof.

2. Member of the Women's Royal Naval Service.

3. Woman medical or dental practitioner serving in the Royal Navy or any Naval reserve.

4. Member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof or of Queen Alexandra's Royal Army Nursing Corps or any reserve thereof.

5. Member of the Territorial Army Nursing Service or any reserve thereof.

6. Member of the Auxiliary Territorial Service.

7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.

8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.

9. Member of the Women's Auxiliary Air Force.

10. Woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.

11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council.".

Supplementary provisions

17. Paragraph 1 of Schedule 2 to the Local Government Superannuation (Amendment) (No. 3) Regulations 1980(**a**) is amended by substituting for sub-paragraph (4) the following sub-paragraph:

"(4) Where—

(**a**) S.I. 1980/234.

(a) a determination is given under regulation D4(2) of the principal regulations after—

(i) a notice containing such a statement as is mentioned in sub-paragraph (1) above has been given in accordance with paragraph 16(2)*(a)* of the 1979 regulations, or

(ii) an election has been made under sub-paragraph (2) above, or

(b) an election is made under regulation R7 of the principal regulations,

any resulting increase in the amount specified in regulation 16(4) of the 1979 regulations shall, unless the authority concerned allow a longer period, be paid within one month after the date of notification of the determination or, as the case may be, the date of the election under regulation R7 of the principal regulations.".

Revocations etc.

18. The enactments specified in column (1) of the Schedule(**a**) are revoked to the extent indicated in column (2) except in relation to any person who became entitled to an allowance under them before 1st December 1982.

(**a**) The enactments have effect by virtue of paragraph 5(1) of Schedule 7 to the Superannuation Act 1972 as provisions of regulations under section 7 of that Act.

Regulation 18

SCHEDULE

REVOCATIONS

(1) References	(2) Enactments ceasing to have effect
S.I. 1953/25.	Section 1(1), (3)*(c)* and *(d)* and (4)*(c)* of the Local Government Superannuation Act 1953, so far as applying to England and Wales.
S.I. 1954/1048.	The Local Government Superannuation (Benefits) Regulations 1954, so far as unrevoked.
S.I. 1954/1049.	The Probation Officers and Clerks (Superannuation) Regulations 1954, so far as they apply and amend regulation 7 of the Local Government Superannuation (Benefits) Regulations 1954.
S.I. 1954/1050.	The Justices' Clerks and Assistants (Superannuation) Regulations 1954, so far as they amend regulation 7 of the Local Government Superannuation (Benefits) Regulations 1954.
S.I. 1955/1041.	The Local Government Superannuation (Benefits) (Amendment) Regulations 1955, so far as unrevoked.
S.I. 1965/422.	The Probation Officers and Clerks (Superannuation) (Amendment) Regulations 1965, so far as they amend, or amend provisions contained in the Probation Officers and Clerks (Superannuation) Regulations 1954 applying and amending, regulation 7 of the Local Government Superannuation (Benefits) Regulations 1954.
S.I. 1965/537.	The Superannuation (Inner London Magistrates' Courts) Regulations 1965, so far as they apply and amend regulation 7 of the Local Government Superannuation (Benefits) Regulations 1954 or have effect for the purposes of that regulation as so applied.
S.I. 1974/520.	Paragraph 4 of Part I, and paragraph 1 of Part II, of Schedule 18 to the Local Government Superannuation Regulations 1974.

Michael R. D. Heseltine,
Secretary of State for the Environment.

26th October 1982.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Local Government Superannuation Regulations 1974 ("the principal regulations"). The main changes are set out in regulation 15, which adds Parts Q and R to the principal regulations.

Part Q (which replaces regulation 7 of the Local Government Superannuation (Benefits) Regulations 1954) does not apply to teachers, but applies to all other local government employees who are not entitled to injury benefits under the Fire Services Act 1947 or the Police Act 1964, and to the employees of bodies admitted into the local government superannuation scheme by agreements made under regulation B4 of the principal regulations or continued in force as if so made (new regulation Q2). It increases the maximum allowance which may be paid in cases of loss of employment through work-related injury or disease (new regulation Q3), and extends the circumstances in which an allowance is to be paid to include employees who continue in employment, but with reduced remuneration, after sustaining the injury or contracting the disease (new regulation Q4) and certain pensioners who would not otherwise be entitled to any allowance (new regulation Q5). New regulation Q6 makes provision for death benefits. Subject to the specified limits, the amounts of all benefits under Part Q are discretionary, but other rights and payments are to be taken into account in determining them (new regulation Q8). The provisions of Part Q apply where the event giving rise to an entitlement occurred on or after 31st March 1972 (new regulation Q9). Benefits under Part Q are not payable out of any superannuation fund and fund authorities have no right of appeal (new regulations Q10 and Q11).

Part R provides that a person who fulfils certain conditions may count a period equal in length to 47 per cent of his war service (as defined in new regulation R2) in the calculation of his retirement benefits. The main conditions (new regulations R3 and R4) are—

(a) He must have entered pensionable local government employment or indirect local government employment before July 1950, or have been engaged at that time in a full-time course of training for a diploma in Public Health Inspection, and entered such employment within six months of successfully completing the course.

(b) He must, on 1st April 1978, have been a pensionable employee or a local government pensioner.

(c) He must not, after first qualifying under *(a)* above, have had a break in service of 12 months or more unless the break was for the purpose of taking the training course mentioned above or was reckonable as service under another public service pension scheme in respect of which a transfer value was paid to the local government scheme.

If an election is made in accordance with new regulation R5 in respect of a person with war service who satisfies the conditions, entitlements to enhanced or (in the case of pensioners who became entitled to their pensions under earlier legislation) additional benefits arise under new regulation R6. These are payable from the date of retirement or from 1st April 1978, whichever is later (new regulation R6(2)*(a)* and (5)*(a)*). New regulation R6(8) provides a formula for the calculation of war service credit in cases where reckonable service is enhanced on redundancy. New regulation R6(9) provides for additional death benefits by reference to war service in cases where the basic entitlement to

benefit has arisen by virtue of earlier legislation. Where basic retirement or death benefits result from an entitlement under the principal regulations, their enhancement by reference to war service is restricted by the maximum periods of reckonable service already prescribed by those regulations. Where the basic benefits result from rights acquired under earlier legislation, including local Acts, new regulation R6(10) similarly restricts the amount of additional war service benefits.

New regulation R7 provides that a person who has elected under regulation C2A of the principal regulations (purchase of unreduced lump sum) may in certain circumstances elect that the additional period of service awarded by reference to war service is to be included in his original election.

Regulation 5 inserts a new regulation D10B which provides that where a person is buying or has bought additional service in accordance with regulation D10 or D11 of the principal regulations, and the further service awarded by reference to Part R would take his total reckonable service beyond the prescribed maxima, the terms of the purchase arrangement are to be adjusted accordingly.

The remaining regulations make minor amendments to the principal regulations and to earlier amending regulations, and revoke various enactments having effect as regulations under section 7 of the Superannuation Act 1972, consequent upon the introduction of Parts Q and R.

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These regulations are to a large extent retrospective but do not adversely affect rights in relation to ex-employees.

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