STATUTORY INSTRUMENTS

1978 No. 1739

PENSIONS

The Local Government Superannuation (Amendment) (No. 3) Regulations 1978

Made - - - -	*29th November* 1978
Laid before Parliament	*8th December* 1978
Coming into Operation	*30th December* 1978

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**), 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 other persons likely to be affected by the regulations as appeared to him to be appropriate, hereby makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Amendment) (No. 3) Regulations 1978.

(2) The Local Government Superannuation Regulations 1974 to 1978(**b**) and these regulations may be cited together as the Local Government Superannuation Regulations 1974 to 1978.

(3) These regulations shall come into operation on 30th December 1978 and, except as provided in paragraphs (4) to (8), shall have effect from that date.

(4) Subject to paragraph (5), regulations 6 and 8 shall have effect as from 6th April 1975.

(5) In relation to the principal regulations as they apply by virtue of regulation 3 of the Local Government Superannuation (City of London) Regulations 1977(**c**), regulations 6 and 8 shall have effect as from 1st October 1977.

(6) Regulation 14(1) shall have effect as from 6th April 1975.

(7) Regulation 14(2) shall have effect as from 1st October 1977.

(8) Regulations 3(*a*), 4, 9 and 12 shall have effect as from 6th April 1978.

(**a**) 1972 c. 11.
(**b**) S.I. 1974/520, 1977/1121, 1845, 1978/266, 822, 1738
(**c**) S.I. 1977/1341.

Interpretation

2.—(1) In these regulations "the principal regulations" means the Local Government Superannuation Regulations 1974(**a**).

(2) In these regulations, unless the context otherwise requires, any reference to any enactment or instrument shall be construed as a reference thereto as amended, modified, extended or applied by or under any other enactment or instrument (including these regulations).

(3) The Interpretation Act 1889(**b**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if these regulations and the rules revoked by regulation 17 below were Acts of Parliament.

Definitions in principal regulations

3. In regulation A3(1) of the principal regulations—

(*a*) at the end of the definition of "remuneration" there shall be added the following proviso—

"Provided that where the employee in his employment under a scheduled body belongs to a class or description of employee in relation to which an agreement entered into by that body under regulation L11A is in force, then in respect of the period during which that agreement remains in force and the employee in his employment under that body remains an employee of that class or description, the amount determined in relation to him in accordance with the method specified in the agreement as the amount representing the whole of his remuneration or, as the case may be, such part of his remuneration as is specified in the agreement, shall be deemed for the purposes of these regulations to be his remuneration or, as the case may be, such part of his remuneration as is so specified;";

(*b*) after the definition of "service" there shall be inserted the following definition—

""statutory scheme" means a scheme established under section 1 of the Act of 1972 or other arrangements for superannuation maintained in pursuance of regulations made, or having effect as if made, under sections 9 and 10 of that Act or section 1 of the Police Pensions Act 1976(**c**) or a Firemen's Pension Scheme made under the Fire Services Act 1947(**d**);".

Pensionable remuneration

4. After sub-paragraph (*g*) of regulation E1(3) of the principal regulations there shall be added the following sub-paragraph—

"(*h*) in the case of a pensionable employee whose remuneration, or part of whose remuneration, throughout the whole or part of the relevant period

(**a**) S.I. 1974/520. (**b**) 1889 c. 63. (**c**) 1976 c. 35.
(**d**) 1947 c. 41.

was an amount determined in accordance with the method specified in an agreement under regulation L11A, then, if the amount of his pensionable remuneration is less than the amount it would have been if—

(i) the agreement had not been in force; and

(ii) his pensionable remuneration had been determined by reference to so much of his remuneration (if any), other than payments for overtime and payments by way of bonus, in the relevant period as exceeds one and a half times the lower earnings limit within the meaning of the Social Security Act 1975(a) in force when he ceases to hold the employment and does not exceed the upper earnings limit within the meaning of the said Act of 1975 in force as aforesaid,

it shall be increased by the difference between it and the last-mentioned amount.

In the application of the definition of "remuneration" in regulation A3(1) to the word "remuneration", in the second place in which the word occurs in (ii) above, that definition shall have effect as if the proviso thereto were omitted.".

Entitlement to retirement pension and retiring allowance

5. At the end of regulation E2(1A) of the principal regulations there shall be added the following—

"For the purposes of this paragraph a pensionable employee who, on ceasing to hold an employment, became entitled to a benefit under paragraph (1)(*c*) and to whom in respect of his so ceasing a return of contributions is made under these regulations shall be treated as ceasing to hold that employment on the day immediately before the date on which the return of contributions is made and as not being entitled in respect of his so ceasing to a benefit under paragraph (1)(*c*).".

Death gratuity

6. In regulation E11 of the principal regulations—

(*a*) in paragraph (1)(*b*), for the words from "(other" to "regulation E2(1)(*c*))" there shall be substituted the words "and at the time of his death was entitled to receive payments in respect of that pension";

(*b*) in paragraph (2)—

(i) in sub-paragraph (*a*), for the expression "(*b*)(ii)" there shall be substituted the words "such a person as is mentioned in paragraph (1)(*b*)(ii) if he became entitled to the retirement pension mentioned in that paragraph other than by virtue of regulation E2(1)(*c*)";

(ii) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) in respect of such a person as is mentioned in paragraph (1)(*b*)(ii) who became entitled to the retirement pension

(a) 1975 c. 14.

mentioned in that paragraph by virtue of regulation E2(1)(*c*), whichever is the greater of the following—

(i) the amount ascertained by multiplying three eightieths of his pensionable remuneration by the length in years of his reckonable service by reference to which that retirement pension was calculated, less—

(A) where a pension under regulation E5 is payable in respect of his death to his widow, the amount ascertained by multiplying two eightieths of his pensionable remuneration by the length in years of his reckonable service (if any) before 1st April 1972; and

(B) an amount equal to the aggregate amount of any payments made to him in respect of that retirement pension and the retiring allowance mentioned in paragraph (1)(*b*)(ii); or

(ii) an amount calculated in accordance with the formula $\frac{T}{H} \times A$ where—

T is the length in years of his reckonable service;

H is the length in years of the reckonable service which he would have been entitled to reckon if he had remained in the employment in relation to which he became entitled to that retirement pension until the earliest age at which he would, under regulation E2(1)(*a*) or (*b*)(ii), have become entitled to receive a retirement pension; and

A is the amount of his pensionable remuneration, less—

(A) where a pension under regulation E5 is payable in respect of his death to his widow, the amount ascertained by multiplying two eightieths of his pensionable remuneration by the length in years of his reckonable service (if any) before 1st April 1972; and

(B) an amount equal to the aggregate amount of any payments made to him in respect of that retirement pension and the retiring allowance mentioned in paragraph (1)(*b*)(ii);"; and

(iii) in sub-paragraph (*b*), after the words "paragraph (1)(*b*)(i)" there shall be inserted the words "other than by virtue of regulation E2(1)(*c*) or (*d*)"; and

(iv) after sub-paragraph (*b*) there shall be added the following sub-paragraph—

"(*bb*) in respect of such a person as is mentioned in paragraph (1)(*b*)(i) who became entitled to the retirement pension mentioned in that paragraph by virtue of regulation E2(1)(*c*)

or (*d*), an amount calculated in accordance with the formula

$\frac{T}{H} \times A$ where—

T is the length in years of his reckonable service;

H is the length in years of the reckonable service which he would have been entitled to reckon if he had remained in the employment in relation to which he became entitled to that retirement pension until the earliest age at which he would, under regulation E2(1)(*a*) or (*b*)(ii), have become entitled to receive a retirement pension; and

A is an amount equal to five times the rate of that retirement pension, less an amount equal to the aggregate amount of any payments made to him in respect of that retirement pension;";

(*c*) after paragraph (2) there shall be inserted the following paragraph—

"(2A) For the purposes of paragraph (2)(*aa*) and (*bb*), a person who became entitled to a retirement pension by virtue of regulation E2(1)(*c*) shall be treated as such a person as is mentioned in paragraph (1)(*b*)(ii), and shall not be treated as such a person as is mentioned in paragraph (1)(*b*)(i), if the reckonable service by reference to which the retirement pension would have been calculated if he had remained in the employment in relation to which he became entitled to that pension until the earliest age at which he would, under regulation E2(1)(*a*) or (*b*)(ii), have become entitled to receive a retirement pension amounts in aggregate to not less than 10 years.";

(*d*) in paragraph (3), for the words "paragraph (1)(*a*), (*b*)(ii) or (*c*)" there shall be substituted the words "paragraph (1)(*a*) or (*c*) or such a person as is mentioned in paragraph (1)(*b*)(ii) who became entitled to the retirement pension mentioned in that paragraph other than by virtue of regulation E2(1)(*c*)";

(*e*) in paragraph (5)—

(i) after the words "paragraph (1)(*b*)(i)" there shall be inserted the words "who became entitled to the retirement pension mentioned in that paragraph other than by virtue of regulation E2(1)(*c*) or (*d*)"; and

(ii) for the words "the retirement pension mentioned in that paragraph" there shall be substituted the words "that retirement pension"; and

(*f*) in paragraph (6), after the words "paragraph (1)(*b*)(ii)" there shall be inserted the words "who became entitled to the retirement pension mentioned in that paragraph other than by virtue of regulation E2(1)(*c*)".

Power to compound certain small pensions

7. After regulation E11 of the principal regulations there shall be added the following regulation—

"*Power to compound certain small pensions*

E11A.—(1) This paragraph applies where—

(*a*) a pensionable employee has become entitled to a retirement pension and has attained the age of 65 years in the case of a man or 60 years in the case of a woman; and

(*b*) the aggregate of the annual rates of—

(i) that pension,

(ii) any other retirement pension to which he has become entitled, and

(iii) any increase payable under the Pensions (Increase) Act 1971(**a**) in respect of any retirement pension to which he has become entitled,

does not exceed £39.

(2) Where paragraph (1) applies, the appropriate administering authority may discharge their liability in respect of—

(*a*) any retirement pension to which the pensionable employee has become entitled, and

(*b*) if the pensionable employee is a man—

(i) any widow's long-term pension which, in the event of his dying leaving a widow, would be payable to her in respect of his reckonable service, and

(ii) any children's long-term pension which, in the event of his dying leaving an eligible child or eligible children, would be payable to or for the benefit of his eligible child or eligible children in respect of his reckonable service,

by payment to the pensionable employee of a lump sum of such amount as represents the capital value of the pensions mentioned in sub-paragraphs (*a*) and (*b*), calculated in accordance with tables prepared by the Government Actuary.

(3) For the purposes of paragraphs (1) and (2), a pensionable employee shall not be treated as having become entitled to a retirement pension in relation to any employment—

(*a*) in which he ceases to be employed in the circumstances mentioned in regulation E2(1)(*c*), or

(**a**) 1971 c. 56.

(*b*) in relation to which he satisfies the requirements of regulation E2(1)(*d*),

until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(4) This paragraph applies where—

(*a*) a widow's long-term pension is payable to a widow, and

(*b*) the aggregate of the annual rates of—

(i) that pension,

(ii) any other widow's long-term pension payable to her, and

(iii) any increase payable under the Pensions (Increase) Act 1971 in respect of any widow's long-term pension payable to her,

does not exceed £52.

(5) Where paragraph (4) applies, the appropriate administering authority may discharge their liability in respect of any widow's long-term pension payable to the widow by payment to her of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

(6) This paragraph applies where—

(*a*) a children's long-term pension is payable to or for the benefit of an eligible child or eligible children, and

(*b*) the aggregate of the annual rates of—

(i) that pension,

(ii) any other children's long-term pension payable to him or them or for his or their benefit, and

(iii) any increase payable under the Pensions (Increase) Act 1971 in respect of any children's long-term pension so payable,

does not exceed £52.

(7) Where paragraph (6) applies, the appropriate administering authority may discharge their liability in respect of any children's long-term pension payable to or for the benefit of the eligible child or children by payment of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).".

Separate benefits in the case of certain re-employed local government pensioners

8. In regulation E17 of the principal regulations—

(*a*) for sub-paragraph (*c*) of paragraph (2) there shall be substituted the following sub-paragraph—

"(*c*) dies—

(i) regulation E11(2)(*a*)(ii) shall not apply to the death gratuity payable in relation to the further pensionable employment; and

(ii) if he became entitled to the first pension or to the retirement pension in relation to the further pensionable employment by virtue of regulation E2(1)(*c*) or (*d*), then—

(A) if the aggregate of the amounts specified in paragraph (2A) equals or exceeds the amount specified in paragraph (2B), title to death gratuity shall not arise under regulation E11 in relation to the further pensionable employment;

(B) if (A) above does not apply and the aggregate of the amounts specified in paragraph (2A), together with the amount of the death gratuity payable under regulation E11 in relation to the further pensionable employment, exceeds the amount specified in paragraph (2B), the amount of the death gratuity as calculated under that regulation shall be reduced by the amount of the excess."; and

(*b*) after paragraph (2) there shall be inserted the following paragraphs—

"(2A) The amounts specified in this paragraph shall be—

(*a*) the amount of the death gratuity payable in relation to the employment in relation to which the person became entitled to the first pension as calculated under regulation E11 and as increased by virtue of the Pensions (Increase) Act 1971;

(*b*) the aggregate amount of any payments made to the person in respect of the first pension, including any increase paid under the said Act of 1971;

(*c*) the amount of the retiring allowance to which the person became entitled in conjunction with the first pension, including as aforesaid;

(*d*) the aggregate amount of any payments made to the person in respect of the retirement pension to which he became entitled in relation to the further pensionable employment, including as aforesaid; and

(*e*) the amount of the retiring allowance to which the person became entitled in conjunction with the retirement pension mentioned in sub-paragraph (*d*), including as aforesaid.

(2B) The amount specified in this paragraph shall be whichever is the greater of the following—

(*a*) the aggregate of the amount of the pensionable remuneration by reference to which the first pension was calculated and the amount (if any) by which an annual pension of an amount equal to that pensionable remuneration would have been increased under the Pensions (Increase) Act 1971 in respect of the period ending with the last date on which he held the further pensionable employment if the person were in receipt of such a pension and that pension were specified in Part II of Schedule 2 to that Act and were one which began for the purposes of the said Act on the day immediately following the day on which the person ceased to hold the employment in relation to which he became entitled to the first pension and the person had on the day on which he so ceased attained the age of 55 years; or

(*b*) the amount of the pensionable remuneration by reference to which the retirement pension to which the person became entitled in relation to the further pensionable employment was calculated.

(2C) Where a person has become entitled to two or more first pensions, in relation to death gratuity in relation to a further pension-

able employment after the first further pensionable employment, this regulation shall have effect as if—

(*a*) in paragraph (2)(*a*), (*b*) and (*c*)(ii), for the words "the first pension" there were substituted the words "a first pension";

(*b*) in paragraph (2A)—

(i) in sub-paragraph (*a*), for the words "the amount of the death gratuity" there were substituted the words "the aggregate amount of the death gratuities" and for the word "pension" there were substituted the word "pensions"; and

(ii) in sub-paragraph (*b*), for the word "pension" there were substituted the word "pensions"; and

(iii) in sub-paragraph (*c*), for the words "the amount of the retiring allowance" there were substituted the words "the aggregate amount of the retiring allowances" and for the word "pension" there were substituted the word "pensions"; and

(*c*) in paragraph (2B)(*a*), before the word "aggregate" there were inserted the word "greatest" and for the word "the", in the fourth place where it occurs, there were substituted the word "a".".

Reduction of pension

9. After regulation F7(1) of the principal regulations there shall be inserted the following paragraph—

"(1A) Where a person's pensionable remuneration has been increased under regulation E1(3)(*h*), his retirement pension shall not be reduced under this regulation.".

Special provision for certain cases

10. The following regulations shall be added after regulation G11 of the principal regulations—

"*Continuation in certain cases of participation in policy schemes*

G12.—(1) This regulation shall apply to a person who becomes, or on or after 1st April 1974 and before 30th December 1978 became, employed in an employment in which, but for the provisions of this regulation, he would be a pensionable employee, having, within 12 months before becoming so employed, or within such longer period as the scheduled body by whom he is so employed may in any particular case allow, been employed in an employment in which he is a participant in a superannuation scheme mentioned in paragraph (4).

(2) If a person to whom this regulation applies, within 3 months after becoming employed in such employment as is mentioned in paragraph (1) or, if he became employed in that employment before 30th December 1978, within 3 months after that date, or within such longer period as the scheduled body by whom he is so employed may in any particular case allow, notifies that body in writing that he desires this paragraph to apply in his case, that body may—

(*a*) where the terms of the relevant superannuation scheme so provide or permit, pay contributions authorised or required by that scheme to be paid by the employer; and

(*b*) in any other case, subject to the policies held in respect of the person under the relevant scheme being assigned to that body, make suitable arrangements to be approved by the Secretary of State for carrying out that scheme with such modifications as may be appropriate,

and in that event the person shall not in that employment be subject to any provisions of these regulations, except those contained in this regulation.

(3) Where contributions are paid by a body under paragraph (2), that body shall deduct from the person's remuneration the contributions required by the relevant superannuation scheme to be paid by the employee.

(4) The reference in paragraph (1) to a superannuation scheme mentioned in this paragraph is a reference to the superannuation scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or any other similar superannuation scheme approved for the purposes of this regulation by the Secretary of State.

Option for persons subject to policy schemes and arrangements to become pensionable employees

G13.—(1) This regulation shall apply to a person who is in the employment of a scheduled body but is not in that employment a a pensionable employee by reason only of regulation G12 or J17(2) or a rule specified in paragraph (4).

(2) If a person to whom this regulation applies, within 6 months after 30th December 1978, notifies the scheduled body mentioned in paragraph (1) in writing that he desires this paragraph to apply to him, or has before that date notified that body to the like effect, then—

(*a*) as from the first day of the month next following the month in which he gave such notification or 30th December 1978, whichever is the later, no further contributions authorised or required to be paid by the employer in respect of him by the superannuation scheme or other arrangements for superannuation in which he has during his employment with that body continued to participate shall be paid by that body; and

(*b*) on the day mentioned in sub-paragraph (*a*) he shall in his employment with that body become a pensionable employee:

Provided that, if he gave such notification before 30th December 1978 and, within 3 months after the day mentioned in sub-paragraph (*a*), pays to the appropriate administering authority a sum equal to the contributions that he would have been required to pay if this regulation had been in force at the date on which he gave such notification, he shall be treated as if he had become a pensionable employee entitled to participate in the benefits of the fund maintained by that authority as from that date.

(3) A person who is a pensionable employee by virtue of paragraph (2) shall be entitled to reckon as qualifying service the period during which contributions authorised or required by the superannuation scheme or other arrangements for superannuation mentioned in sub-paragraph (*a*) of that paragraph were paid by or in respect of him.

(4) The reference in paragraph (1) to a rule specified in this paragraph is a reference to—

(*a*) rule 3 or rule 3A of the Superannuation (Policy and Local Government Schemes) Interchange Rules 1948(**a**);

(*b*) rule 4(1) of the Superannuation (Wisbech Water Works Company and Wisbech and District Water Board) Interchange Rules 1950(**b**);

(*c*) rule 4 of the Superannuation (Birmingham School of Music and Birmingham City Council) Interchange Rules 1965(**c**).

Reckoning of previous periods subject to policy schemes and arrangements on assignment of policies

G14.—(1) Subject to the conditions in paragraph (2) being satisfied, this regulation shall apply to a person—

(*a*) (i) who became a pensionable employee in his employment under a scheduled body by virtue of exercising an option under regulation G13, after having been in that employment a participant in a relevant scheme; or

(ii) who on 30th December 1978 was in the employment of a body mentioned in paragraph (4) of regulation B4 and on that date was in that employment a participant in a relevant scheme and who, within 3 months after that date, by virtue of an agreement made, or continued in force as if made, under that regulation became in that employment entitled to participate in the benefits of a superannuation fund maintained under Part B; or

(iii) who on or after 1st April 1974 and before 30th December 1978—

(A) entered the employment of a scheduled body and became a pensionable employee in his employment under that body; or

(B) entered the employment of a body mentioned in paragraph (4) of regulation B4 and by virtue of an agreement made, or continued in force as if made, under that regulation became in that employment entitled to participate in the benefits of a superannuation fund maintained under Part B,

and who, in either case, at any time within the period of 12 months before entering such employment, or within such longer period as the scheduled body or, as the case may be, the body and the body maintaining that fund may agree, was a participant in a relevant scheme; and

(**a**) S.I. 1948/1446. (**b**) S.I. 1950/1987. (**c**) S.I. 1965/1660.

(*b*) has retained rights in the relevant scheme by way of policies of insurance in respect of the whole of the premiums which have been paid (in this regulation referred to as "relevant policies").

(2) The conditions referred to in paragraph (1) are that—

(*a*) the person, within 6 months after the date on which he became a pensionable employee as mentioned in paragraph (1) or, as the case may be, became entitled to participate in the benefits of a superannuation fund as mentioned in that paragraph or within 6 months after 30th December 1978, whichever period ends the later, notifies his employing authority in writing that he desires to relinquish the rights which he has retained in the relevant scheme; and

(*b*) either—

(i) his relevant policies are assigned to the appropriate administering authority freed and discharged in relation to the person from the trusts and conditions of the relevant scheme, or

(ii) his relevant policies are, with the agreement of the appropriate administering authority, surrendered and the proceeds paid to that authority and carried to the superannuation fund maintained by them under Part B.

(3) A person to whom this regulation applies shall be entitled to reckon—

(*a*) such a period as is calculated in accordance with the provisions of paragraph (4), as reckonable service for all the purposes of these regulations, other than for the purpose of determining whether he is entitled to a benefit under these regulations or any such benefit is payable in respect of him; and

(*b*) if he is not entitled to the benefit of regulation G13(3), the period during which contributions required by the relevant scheme were paid by or in respect of him, as qualifying service.

(4) The period of reckonable service referred to in paragraph (3)(*a*) shall be calculated as follows—

(*a*) all periods during which the whole of the person's relevant policies have been fully maintained shall be aggregated;

(*b*) the aggregate period shall, subject to sub-paragraphs (*c*) and (*d*), be reckonable—

(i) where the relevant scheme is the superannuation scheme operated under the Federated Superannuation System for Universities, arrangements made under rule 3 of the Superannuation (Policy and Local Government Schemes) Interchange Rules 1948 for carrying out that scheme or the Federated Superannuation Scheme for Nurses and Hospital Officers, in the proportion of 9 years' reckonable service for every 10 years of the aggregate period, shorter periods being reckoned proportionately; and

(ii) otherwise, in such manner as is determined by the Secretary of State;

(*c*) any period of part-time service or employment shall be treated as though it were whole-time service or employment for a proportionately reduced period;

(*d*) where a person has applied the proceeds from a surrender of part of his relevant policies or a surrender of any other policy or policies effected in relation to him under the relevant scheme in making payments under a superannuation scheme in which he was or is entitled to participate, the period calculated in accordance with sub-paragraph (*b*) shall be multiplied by $\frac{A}{A+B+C}$, where—

A is the surrender value of the relevant policies on the date on which they are assigned as mentioned in paragraph (2)(*b*)(i) or, as the case may be, the amount of the proceeds from their surrender as mentioned in paragraph (2)(*b*)(ii),

B is the amount of the proceeds from a surrender which have been applied as mentioned in this sub-paragraph, and

C is an amount equal to compound interest on B calculated, from the date of the surrender in question to the date on which the relevant policies are assigned or surrendered as mentioned in paragraph (2)(*b*), at the rate of 6% per annum with yearly rests.

(5) For the purposes of paragraph (4)—

(*a*) any period during which less than the full premiums on a person's relevant policies have been paid shall be reduced to a length which bears the same proportion to the whole of such period as the amount of the premiums paid on those policies bears to the full premiums payable thereon and as so reduced shall be treated as though it were a period during which the whole of those policies have been fully maintained;

(*b*) where part of the premiums on a person's relevant policies have been paid by way of the application of the proceeds of the policy of insurance which was, or as the case may be some of the policies of insurance which were, effected in relation to him under the relevant scheme, the period during which the last-mentioned policy was, or as the case may be the last-mentioned policies were, fully maintained shall be treated as a period during which the whole of the relevant policies were fully maintained; and

(*c*) where—

(i) any of a person's relevant policies were purchased with a sum paid by way of a transfer value by a former local authority, a scheduled body, or a scheduled body within the meaning of the Local Government Superannuation (Scotland) Regulations 1974(**a**), either as originally enacted or as amended by the Local Government Superannuation (Scotland) Amendment Regulations 1975(**b**), the aggregate of the period of contributing service which was reckonable for the purpose of calculating that transfer value and half the period

(**a**) S.I. 1974/812. (**b**) S.I. 1975/638.

of non-contributing service so reckonable shall be treated as a period during which the whole of his relevant policies were fully maintained; and

(ii) any of a person's relevant policies were purchased with a sum paid by way of a transfer value by a body administering a statutory scheme or a body managing any other superannuation scheme which is for the time being treated by the Secretary of State as a statutory scheme for the purposes of this regulation, the period of service or employment reckonable for the purpose of calculating that transfer value shall be treated as a period during which the whole of his relevant policies were fully maintained.

(6) For the purpose of making any calculation under these regulations such part of the period of reckonable service reckonable by a person by virtue of paragraph (3) as is attributable to any period before 1st April 1972 shall be treated as reckonable service before that date.

(7) So much of any retirement pension payable to a person as is attributable to the period of reckonable service he is entitled to reckon by virtue of paragraph (3) shall be reduced in like manner as if—

(*a*) he had during that period been a person within case B within the meaning of Part F;

(*b*) that period were service after 31st August 1947; and

(*c*) he had not been immediately before the appointed day a person entitled to the optant's rate for the purposes of the Modification regulations.

(8) Where a person to whom this regulation applies ceases to hold an employment in which he is a pensionable employee and in respect of his so ceasing he is entitled under regulation C8(2) to an amount by way of return of contributions, then, in calculating that amount, the amount of the contributions paid by him to the appropriate superannuation fund shall be deemed to be increased by the amount of the payments made by him towards the maintenance of his relevant policies.

(9) In this regulation "relevant scheme" means—

(*a*) a superannuation scheme or other arrangements for superannuation a person's contributions to which were deducted from his remuneration under regulation J17(2);

(*b*) the superannuation scheme operated under the Federated Superannuation System for Universities;

(*c*) the Federated Superannuation Scheme for Nurses and Hospital Officers;

(*d*) a superannuation scheme approved by the Secretary of State under rule 3 of the Superannuation (Policy and Local Government Schemes) Interchange Rules 1948 or deemed by rule 3A of those rules to have been so approved;

(*e*) arrangements made under the said rule 3 for carrying out the scheme mentioned in sub-paragraph (*b*);

(*f*) the Birmingham and Midland Institute Pension Scheme or the Birmingham and Midland Institute Pension Scheme No. 2;

(*g*) the Wisbech Water Works Company Pension and Life Assurance Scheme; or

(*h*) the Selly Oak Colleges Superannuation Scheme.".

Persons transferred to scheduled bodies (other than the Common Council of the City of London) under section 18(4)(*a*) *of the National Health Service Reorganisation Act* 1973(**a**)

11. At the end of regulation J17(4) of the principal regulations there shall be added the following sub-paragraphs—

"(*c*) regulation C8(4) shall have effect in relation to a pensionable employee to whom that paragraph applies as if—

(i) the reference therein to "the foregoing provisions of this regulation" were a reference to regulation J17(3)(*e*);

(ii) sub-paragraph (*a*) were omitted; and

(iii) any reference therein to reckonable service and qualifying service were a reference to service reckonable for the purpose of determining whether any benefit is payable to or in respect of him;

(*d*) regulation D16 shall have effect in relation to a pensionable employee to whom that paragraph applies as if—

(i) in paragraph (1)—

(A) sub-paragraph (*a*)(iii) were omitted and, in sub-paragraph (*a*)(iv), the reference to regulation E2(1)(*c*) included a reference to regulation 8(1)(*a*)(iv) of the Health Service regulations and the reference to regulation C8 was a reference to those regulations;

(B) in sub-paragraph (b) the words from "and" to the end of that sub-paragraph were omitted;

(C) the reference to qualifying service included a reference to service reckonable for the purpose of determining whether any benefit is payable to or in respect of him, and

(D) the words from "or the", in the first place where they occur, to "granted" were omitted; and

(ii) in paragraph (2), after the word "includes" there were inserted the words "a pension payable to a pensionable employee under regulation J17(3)(*e*)".".

(**a**) 1973 c. 32.

Power to agree notional remuneration

12. After regulation L11 of the principal regulations there shall be added the following regulation—

"*Power to agree notional remuneration*

L11A.—(1) A scheduled body may from time to time enter into an agreement with the bodies or persons representative of any class or description of employee of that authority specifying the method by which an amount representing the whole of the remuneration of a member of that class or, as the case may be, an employee of that description or such part of his remuneration as is specified in the agreement shall, in respect of the period during which the agreement remains in force, be determined.

(2) Where a scheduled body enter into an agreement under paragraph (1) they shall send a written notification of that fact, which shall include a conspicuous statement directing the attention of the employee to the place at which he may obtain information about details of the agreement, to every employee of theirs who is a member of a class or, as the case may be, an employee of a description, to which the agreement relates.

(3) The notification required by paragraph (2) shall be sent—

(*a*) where the agreement was entered into before 30th December 1978—

(i) in the case of a person in the employment of the scheduled body before that date, as soon as is reasonably practicable after that date; and

(ii) in the case of a person entering the employment of that body on or after that date, within 3 months after he has entered that employment; and

(*b*) where the agreement was entered into on or after 30th December 1978—

(i) in the case of a person in the employment of the scheduled body on the date on which the agreement was entered into, as soon as is reasonably practicable after that date; and

(ii) in the case of a person entering the employment of that body after that date, within 3 months after he has entered that employment.".

Provisions as to contributions equivalent premiums

13. After regulation L12 of the 1974 regulations there shall be added the following regulation—

"*Provisions as to contributions equivalent premiums*

L12A.—(1) Where a contributions equivalent premium under Part III of the Social Security Pensions Act 1975(**a**) is paid in respect of any pensionable employee, the authority responsible for paying that premium shall be entitled to recover out of the superannuation fund

(**a**) 1975 c. 60.

to which that person was a contributor or, if that authority is an administering authority, themselves to retain out of that fund a sum not exceeding the amount of that premium, less the amount (if any) which the authority could recover or retain under section 47 of the said Act of 1975 in respect of that premium.

(2) Where a contributions equivalent premium under the said Part III which has been paid in respect of any pensionable employee is refunded under the provisions of regulation 8(3)(*c*) of the Contracted-out Employment (Notifications, Premium Payment and Miscellaneous Provisions) Regulations 1976(**a**), the authority to whom the refund is made shall pay to the superannuation fund to which the person has become a contributor a sum equal to the amount of that premium.".

Modifications to Part E in its application to persons with no entitlement under the former regulations to a retiring allowance and widow's pension or to a widow's pension

14.—(1) In Schedule 12 to the principal regulations—

(*a*) in Part I—

(i) for sub-paragraph (*a*) of paragraph (3) there shall be substituted the following sub-paragraph—

"(*a*) in paragraph (1)(*b*), for the words "and retiring allowance" there shall be substituted the words ", other than a person who became entitled thereto by virtue of regulation E2(1A),"; and

(ii) at the end there shall be added the following paragraph—

"**4.** In regulation E17, paragraph (2A)(*c*) and (*e*) shall be omitted.";
and

(*b*) for paragraph 4 of Part III there shall be substituted the following paragraph—

"**4.** In regulation E11—

(*a*) in paragraph (1)(*b*), the words from "and either" to the end shall be omitted;

(*b*) in paragraph (2)(*a*), for the words "paragraph (1)(*b*)(ii)", in both places where those words occur, there shall be substituted the words "paragraph (1)(*b*)";

(*c*) in paragraph (2)(*aa*), for the words "paragraph (1)(*b*)(ii)", in the first place where those words occur, there shall be substituted the words "paragraph (1)(*b*)";

(*d*) paragraph (2)(*aa*)(i)(A) shall be omitted;

(*e*) in paragraph (2)(*aa*)(i)(B), the words "and the retiring allowance mentioned in paragraph (1)(*b*)(ii)" shall be omitted;

(*f*) in paragraph (2)(*aa*)(ii), for the words "A is the amount" to the end there shall be substituted the words—

(**a**) S.I. 1976/143.

"A is the amount of his pensionable remuneration less an amount equal to the aggregate amount of any payments made to him in respect of that retirement pension;";

(*g*) paragraphs (2)(*b*) and (*bb*), (3) and (8) shall be omitted; and

(*h*) in paragraph (7), the words "Subject to paragraph (8)," shall be omitted.".

(2) Paragraph (1) above shall not apply to Schedule 12 to the principal regulations as substituted by regulation 14(*c*) of, and Schedule 3 to, the Local Government Superannuation (City of London) Regulations 1977(**a**), but in Part III of the said Schedule 12 as so substituted—

(*a*) for paragraph 4 there shall be substituted the following paragraph—

"**4.** In regulation E11—

(*a*) in paragraph (1)(*b*), for the words "and retiring allowance" to the end there shall be substituted the words ", other than a person who became entitled thereto by virtue of regulation E2(1A); or";

(*b*) in paragraph (1)(c), for the words "and retiring allowance" there shall be substituted the words ", other than a person who became entitled thereto by virtue of regulation E2(1A)", and the words "or payment of that allowance" shall be omitted;

(*c*) in paragraph (2)(*a*), for the words "paragraph (1)(*b*)(ii)", in both places where those words occur, there shall be substituted the words "paragraph (1)(*b*)";

(*d*) in paragraph (2)(*aa*), for the words "paragraph (1)(*b*)(ii)", in the first place where those words occur, there shall be substituted the words "paragraph (1)(*b*)";

(*e*) paragraph (2)(*aa*)(i)(A) shall be omitted;

(*f*) in paragraph (2)(*aa*)(i)(B) the words "and the retiring allowance mentioned in paragraph (1)(*b*)(ii)" shall be omitted;

(*g*) in paragraph (2)(*aa*)(ii), for the words "A is the amount" to the end there shall be substituted the words—

"A is the amount of his pensionable remuneration less an amount equal to the aggregate amount of any payments made to him in respect of that retirement pension;";

(*h*) paragraphs (2)(*b*) and (*bb*), (3), (6) and (8) shall be omitted;

(*i*) in paragraph (5), for the words "paragraph (1)(*b*)(i)" there shall be substituted the words "paragraph (1)(*b*)"; and

(*j*) in paragraph (7), the words ", subject to paragraph (8)," shall be omitted.";

and

(*b*) at the end there shall be added the following paragraph—

"**6.** In regulation E17, paragraph (2A)(*c*) and (*e*) shall be omitted.".

(**a**) S.I. 1977/1341.

Persons transferred to the Common Council of the City of London under section 18(4)(*a*) *of the National Health Service Reorganisation Act* 1973

15. At the end of regulation 19(3A) of the Local Government Superannuation (City of London) Regulations 1977 there shall be added the following sub-paragraphs—

"(*c*) regulation C8(4) shall have effect in relation to a pensionable employee to whom that paragraph applies as if—

(i) the reference therein to "the foregoing provisions of this regulation" were a reference to the said regulation 19(3);

(ii) sub-paragraph (*a*) were omitted; and

(iii) any reference therein to reckonable service and qualifying service were a reference to service reckonable for the purpose of determining whether any benefit is payable to or in respect of him;

(*d*) regulation D16 shall have effect in relation to a pensionable employee to whom that paragraph applies as if—

(i) in paragraph (1)—

(A) sub-paragraph (*a*)(iii) were omitted and, in sub-paragraph (*a*)(iv), the reference to regulation E2(1)(c) included a reference to regulation 8(1)(*a*)(iv) of the Health Service regulations and the reference to regulation C8 was a reference to those regulations;

(B) in sub-paragraph (*b*) the words from "and" to the end of that sub-paragraph were omitted;

(C) the reference to qualifying service included a reference to service reckonable for the purpose of determining whether any benefit is payable to or in respect of him; and

(D) the words from "or the", in the first place where they occur, to "granted" were omitted; and

(ii) in paragraph (2), after the word "includes" there were inserted the words "a pension payable to a pensionable employee under the said regulation 19(3)".".

Right to opt out

16.—(1) No provision of these regulations shall apply to any person to whom at any time before 30th December 1978 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or became or may become payable if—

(*a*) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit, and

(*b*) that provision relates to a benefit paid or payable in respect of a person who—

(i) ceased before 30th December 1978 to hold an employment in respect of which he was a pensionable employee, or

(ii) died before that date while still in such an employment; and

(*c*) the first-mentioned person, by notice in writing given to the appropriate administering authority within 3 months after 30th December 1978, elects that that provision shall not apply to him.

(2) The provisions of Part H of the principal regulations (determination of questions and appeals) shall apply in relation to any question arising under this regulation as they apply in relation to rights and liabilities under the principal regulations.

(3) In this regulation "appropriate administering authority", "employment", and "pensionable employee" have the same respective meanings as in the principal regulations.

Revocations

17.—(1) The rules specified in the following table are hereby revoked.

TABLE

(1) Rules revoked	(2) Reference
The Superannuation (Policy and Local Government Schemes) Interchange Rules 1948	S.I. 1948/1446
The Superannuation (Wisbech Water Works Company and Wisbech and District Water Board) Interchange Rules 1950	S.I. 1950/1987
The Superannuation (Policy and Local Government Schemes) Interchange (Amendment) Rules 1955	S.I. 1955/125
The Superannuation (Wisbech Water Works Company and Wisbech and District Water Board) Interchange (Amendment) Rules 1957	S.I. 1957/1353
The Superannuation (Birmingham School of Music and Birmingham City Council) Interchange Rules 1965	S.I. 1965/1660
The Superannuation (Policy and Local Government Schemes) Interchange (Amendment) Rules 1970	S.I. 1970/1123

(2) The revocation by these regulations of any rule specified in regulation G13(4) of the principal regulations shall not affect any request made, notice or approval given, arrangements entered into, contribution paid or other thing done under or for the purposes of that rule, but such request, notice, approval, arrangements, contribution or other thing done shall have effect as if made, given, entered into or done under regulation G12 of those regulations.

Peter Shore,

29th November 1978. Secretary of State for the Environment.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the Local Government Superannuation Regulations 1974 ("the 1974 regulations").

The main changes and additions are—

(1) The introduction of a power to make standard remuneration agreements for superannuation purposes (regulations 3, 4 and 12).

(2) The introduction of death gratuities in respect of persons dying while entitled to receive payment of preserved retirement benefits (regulations 6 and 8).

(3) The introduction of compounding of trivial pensions (regulation 7).

(4) Provision is made for persons subject to approved policy scheme pension arrangements before entering local government employment to continue under those arrangements whilst in that employment rather than be superannuated under the local government scheme itself. This is a continuation of a provision (rule 3) of the Superannuation (Policy and Local Government Schemes) Interchange Rules 1948 which are revoked by these Regulations. Provision is also made for local government employees who are subject to policy schemes to elect to become superannuable in the local government scheme, in which case they may further elect to receive a credit of reckonable service in the local government scheme on assigning their policies to, or surrendering the policies and having the proceeds paid to, the authority administering the appropriate superannuation fund (regulation 10).

(5) The cost of payment of any contributions equivalent premium under the Social Security Pensions Act 1975 is to be borne by the appropriate local government superannuation fund (regulation 13).

(6) Minor and consequential amendments to the 1974 regulations, and to the Local Government Superannuation (City of London) Regulations 1977 which apply them to the City of London, are made by regulations 14 and 15.

Under the powers conferred by section 12 of the Superannuation Act 1972, the regulations are framed so as in some cases to have effect as from a date earlier than the making of the regulations, and to apply in relation to employees who retired or died in employment before these regulations come into operation, provision being made for opting out if a person is thereby placed in a worse position (regulation 16). Regulations 6 and 8 (except in relation to the City of London) and regulation 14(1) have effect as from 6th April 1975, and regulations 3(*a*), 4, 9 and 12 have effect as from 6th April 1978. Regulation 14(2) and, in relation to the City of London, regulations 6 and 8 have effect as from 1st October 1977, the date when the Local Government Superannuation (City of London) Regulations 1977 came into operation.

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