STATUTORY INSTRUMENTS

1982 No. 908

PENSIONS

The Local Government Superannuation (Amendment) Regulations 1982

Made - - - -	*5th July* 1982
Laid before Parliament	*14th July* 1982
Coming into Operation	*5th August* 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**), 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 and commencement

1.— (1) These regulations may be cited as the Local Government Superannuation (Amendment) Regulations 1982 and shall come into operation on 5th August 1982.

(2) The Local Government Superannuation Regulations 1974 to 1981(**b**) and these regulations may be cited together as the Local Government Superannuation Regulations 1974 to 1982.

Interpretation

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

Pensionable remuneration

3. Regulation E1(1) of the principal regulations is amended by substituting for the words "regulation J9" the words "regulations E1A and J9".

(**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.

(**c**) S.I. 1974/520; relevant amendments were made by S.I. 1978/1739.

Further provision as to pensionable remuneration

4. The principal regulations are amended by inserting after regulation E1 the following regulation:

"*Further provision as to pensionable remuneration*

E1A.— (1) This regulation applies to a person who has at any time after 31st March 1978 ceased to hold an employment in which he was a pensionable employee and who —

(*a*) was at a material time a teacher whose remuneration fell to be determined by reference to the Primary and Secondary Schools Document 1979 or the Further Education Document 1979, as from time to time amended, or

(*b*) is affected by a staging agreement.

(2) A person who has ceased to hold an employment as mentioned in paragraph (1) is affected by a staging agreement if—

(*a*) there has been an agreement or award—

(i) which, whether before or after he ceased to hold his employment, gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time,

(ii) which, whether or not it entitled him to any interim increase, entitled him, or would if he had not ceased to hold his employment have entitled him, in that employment to the payment of remuneration from a specified date at an increased rate ("the final rate") which was either specified in or to be determined by a method or in a manner specified in the agreement or award, and

(iii) under the terms of which the final rate, or an interim increase, or the first of two or more interim increases, became payable before 2nd January 1980,

(*b*) but for considerations of economy the final rate would have been made payable from a date ("the relevant date") earlier than the date mentioned in sub-paragraph (*a*)(ii), and

(*c*) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(3) Subject to paragraph (4), where this regulation applies to a person the amount of any remuneration that is material for the purposes of regulation E1 shall for those purposes—

(*a*) where paragraph (1)(*a*) applies, be taken to be what it would have been on the hypothesis set out in regulation 3(2)(*a*) or, as the case may be, regulation 3(2)(*b*) of the Teachers' Superannuation (Notional Salaries) Regulations 1981(**a**), and

(**a**) S.I. 1981/934.

(*b*) where paragraph (1)(*b*) applies, be taken to be what it would have been if the final rate had become payable from the relevant date.

(4) Paragraph (3) does not apply to the calculation of a person's pensionable remuneration for the purposes of regulation E6(1)(*b*), E7, E9(1)(*b*) and E10.

(5) For the purposes of this regulation—

(*a*) a material time is a time material for the purpose of calculating the person's pensionable remuneration under regulation E1,

(*b*) in paragraph (1)(*a*) the reference to the Primary and Secondary Schools Document 1979 is a reference to the document published by Her Majesty's Stationery Office on 21st September 1979 under the title "Scales of Salaries for Teachers in Primary and Secondary Schools, England and Wales 1979", and the reference to the Further Education Document 1979 is a reference to the document so published on 21st February 1980 under the title "Scales of Salaries for Teachers in Establishments for Further Education, England and Wales 1979", and

(*c*) a class or description of employees may include persons who neither are nor are deemed to be employees of a scheduled body.

(6) In relation to a person to whom regulation J9 applies, any reference in this regulation to regulation E1 is to be construed as a reference to regulation E1 as it has effect in relation to him by virtue of regulation J9.".

Transitional

5.—(1) Subject to paragraph (2) below, where before 5th August 1982 a decision has been made in accordance with regulation L9 of the principal regulations (decisions to be taken by administering authorities as to benefits and notification thereof) in respect of a person to whom regulation E1A of the principal regulations applies, the decision, whether notified or not, shall cease to have effect and regulation L9 shall apply as if it had been neither made nor notified.

(2) Paragraph (1) above does not apply to a decision as to a widow's short-term pension or special short-term pension payable under regulation E5(1)(i) or E7 of the principal regulations or a children's short-term pension or special short-term pension payable under regulation E8(1)(i) or E10 of those regulations.

Right to opt out

6. No provision of these regulations shall apply to any person to whom at any time before 5th August 1982 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 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 5th August 1982 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 5th August 1982, elects that that provision shall not apply to him.

Right of appeal

7. The provisions of Part H of the principal regulations (determination of question and appeals) shall apply in relation to rights and liabilities under these regulations as they apply in relation to rights and liabilities under the principal regulations.

Michael R. D. Heseltine,

5th July 1982. 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 principal regulations").

The regulations, which insert a new regulation E1A into the principal regulations, make provision for certain cases where the pensionable remuneration of persons leaving a pensionable employment after 31st March 1978 would otherwise be affected by arrangements under which the payment of approved pay increases was deferred.

In the case of teachers who were pensionable employees under the principal regulations, the provision made (new regulation E1A(1)(*a*) and (3)(*a*)) is similar to that already made for teachers pensionable under regulations made under section 9 of the Superannuation Act 1972.

In other cases (new regulation E1A(1)(*b*), (2) and (3)(*b*)), pensionable remuneration is to be calculated as if the approved pay increase had not been deferred.

These provisions do not apply to the calculation of pensionable remuneration for the purposes of short-term widows' and children's pensions (new regulation E1A(4)).

Where the amounts of other benefits payable in respect of a person to whom the new regulation E1A applies have already been decided, they are to be recalculated (regulation 5).

Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These regulations are to a certain extent retrospective. Where rights in relation to ex-employees could be adversely affected, provision is made for opting out and for the determination of related questions (regulations 6 and 7).

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