STATUTORY INSTRUMENTS

1983 No. 178

PENSIONS

The Local Government Superannuation (Transferred Water Employees) Regulations 1983

Made - - - -	15*th February* 1983
Laid before Parliament	1*st March* 1983
Coming into Operation	1*st April* 1983

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 and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Transferred Water Employees) Regulations 1983.

(2) The Local Government Superannuation Regulations 1974 to 1982 (**b**) and these regulations may be cited together as the Local Government Superannuation Regulations 1974 to 1983.

(3) These regulations shall come into operation on 1st April 1983.

Interpretation

2.—(1) In these regulations "the principal regulations" means the Local Government Superannuation Regulations 1974 (**c**) and, unless the context otherwise requires, expressions used in these regulations have the same meaning as they have in the principal regulations and—

"the Metropolitan Water Board scheme" means the Superannuation and Provident Fund established by a Scheme approved by the Metropolitan Water Board on 23rd April 1909, as amended from time to time;

"previous employing body", in relation to a transferred employee, means the body by which he was employed immediately before being transferred to or appointed by his new employing body; and

"the Training Boards' scheme" means the rules of the Industrial Training Boards' Pension Fund (constituted by a definitive trust deed dated 20th July 1967) as in force on 31st March 1974.

(**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, 1514.
(**c**) S.I. 1974/520; relevant amending instruments are S.I. 1979/2, 1534, 1980/234, 1981/1250, 1509.

(2) In these regulations, unless the context otherwise requires, any reference to a regulation or to the Schedule shall be construed as a reference to a regulation contained in or to the Schedule to these regulations as the case may be, any reference to a paragraph shall be construed as a reference to a paragraph in the same regulation or, as the case may be, in the Schedule, and any reference to a sub-paragraph shall be construed as a reference to a sub-paragraph in the same paragraph.

Persons deemed not to have become pensionable employees

3.—(1) A transferred employee—

(a) whose new employing body is a body specified in column 1 in the Table below,

(b) whose previous employing body was a body specified in relation to that authority in column 2, and

(c) who was not before 1st October 1973 a contributory employee,

shall be deemed not to have become a pensionable employee in the employment of his new employing body so long as he remains in their employment, whether in the same post or some other post.

TABLE

1. New employing body	2. Previous employing body
The Thames Water Authority	The Conservators of the River Thames The Lee Conservancy Catchment Board
The Southern Water Authority	The Thanet Water Board

(2) In relation to a person deemed by virtue of paragraph (1) not to have become a pensionable employee—

(a) the principal regulations shall be deemed to have been modified in accordance with paragraphs 35, 36*(a)* and *(c)* and 37 of the Schedule.

(b) any employment in which he is deemed not to have become a pensionable employee shall for the purposes of regulations N7, N8, N10 and N11 of and Schedule 22 to the principal regulations be deemed to have been an approved non-local government employment in which he was subject to a statutory scheme, and

(c) in respect of his ceasing to hold that employment and becoming employed in any local government employment a transfer value, calculated as if it had been payable under regulation N2 of the principal regulations, shall be offered by the Thames Water Authority or as the case may be the Southern Water Authority and accepted by the appropriate administering authority accordingly.

Elections as to superannuation terms

4.—(1) This regulation applies—

(a) to a transferred employee whose new employing body is the National Water Council or a water authority and whose previous employing

body was the Water Supply Industry Training Board or the Metropolitan Water Board, and

(b) to a person who after 31st March 1972 became entitled to retirement benefits under, or died while a contributor to, the Metropolitan Water Board scheme.

(2) Where paragraph (1)*(a)* applies and the previous employing body was the Water Supply Industry Training Board, the person may elect that in their application to him from 1st April 1974 the principal regulations are to be deemed to have been modified in accordance with Parts I and III of the Schedule.

(3) Where paragraph (1)*(a)* applies and the previous employing body was the Metropolitan Water Board, the person may—

(a) where there was any entitlement to a benefit under Part E of the principal regulations before 6th April 1978, elect—

(i) that in their application to him from 1st April 1974 the principal regulations are to be deemed to have been modified in accordance with Parts II and III of the Schedule, or

(ii) that the principal regulations are to be deemed never to have applied to him, and

(b) in any other case, elect that in their application to him from 1st April 1974 the principal regulations are to be deemed to have been modified in accordance with Parts II and III of the Schedule.

(4) Where paragraph (1)*(b)* applies, the person may elect—

(a) to be treated as if he had been a person to whom regulation K1 of the principal regulations applied and as if references in that regulation to the former regulations had where applicable been references to the Metropolitan Water Board scheme, or

(b) to be treated as in sub-paragraph *(a)* and as if references to the principal regulations had been references to those regulations modified in accordance with Parts II and III of the Schedule.

(5) An election under this regulation is to be made by giving notice in writing to the National Water Council; and notice is, subject to paragraph (7), to be given within 6 months after 1st April 1983 or such longer period as the Council may allow.

(6) Any right to make an election conferred on a person by this regulation may, if he died before 1st April 1983 or dies within 6 months after that date without making an election, be exercised—

(a) if the person was a man and has left a widow, by her,

(b) if the person was a man and has not left a widow, or his widow has died without making an election, by his personal representatives, and

(c) if the person was a woman, by her personal representatives.

(7) Notice of an election made by a person's widow or personal representatives is to be given within 6 months after—

(a) 1st April 1983, or

(b) the date of his death if later,

or such longer period as the National Water Council may allow.

Modification of principal regulations in other cases

5. In their application from 1st April 1974 to a transferred employee—

(a) whose new employing body is a body specified in column 1 in the Table below, and

(b) whose previous employing body was a body specified in relation to that authority in column 2,

the principal regulations shall be deemed to have been modified in accordance with the Case in Part IV of the Schedule specified in column 3.

TABLE

1. New employing body	2. Previous employing body	3. Case
The National Water Council	The British Waterworks Association	A
The Thames Water Authority	The Port of London Authority	B
The Southern Water Authority	The Mid Kent Water Company The Chatham Water Company	C
The Wessex Water Authority	The Trowbridge, Melksham and District Water Board	C

Modification of former regulations

6.—(1) Where—

(a) regulation 3 applies to, or

(b) an election under regulation 4(2) or (3) is made by,

a person who became a contributory employee on 31st December 1973 by virtue of regulation 7 of the Local Government Superannuation (Miscellaneous Provisions) (No. 2) Regulations 1973 (**a**), he shall be deemed not to have become a contributory employee but to have continued during the period ending with 31st March 1974 to be a member of his former superannuation scheme.

(2) In paragraph (1) "his former superannuation scheme" means the Training Boards' scheme or the Metropolitan Water Board scheme as the case may be.

Continuation of certain rights and liabilities

7.—(1) This regulation applies where—

(a) regulation 3 applies, or

(b) an election is made under regulation 4(3)*(a)* (ii), or

(c) a person entitled to make an election under regulation 4(4) does not do so.

(**a**) S.I. 1973/1996.

(2) Where this regulation applies in relation to a person, he and his new employing body or as the case may be the National Water Council shall be deemed to have had from 1st April 1974 the rights and liabilities they would have had on the relevant assumptions in paragraph (3), (4) or (5) as the case may be.

(3) Where the previous employing body was the Conservators of the River Thames ("the Conservators") or the Lee Conservancy Catchment Board ("the Board"), it is to be assumed—

(a) that any scheme that applied in relation to the person immediately before 1st April 1974 by virtue of section 20 of the Superannuation Act 1972 has continued so to apply, and

(b) that references in that section and in the scheme to the Conservators or, as the case may be, the Board became on 1st April 1974 references to the new employing body, and

(c) where the previous employing body was the Conservators, that any undertaking given by them as to the payment of a gratuity was given by the new employing body.

(4) Where the previous employing body was the Metropolitan Water Board, it is to be assumed—

(a) that the Metropolitan Water Board scheme has continued after 31st March 1974 to have effect in relation to the person, and

(b) that references in that scheme to payment to or receipt from the Fund became on 1st April 1974 references to payment to or receipt from the superannuation fund maintained under the principal regulations by the National Water Council.

(5) Where the previous employing body was the Thanet Water Board, it is to be assumed—

(a) that any rights retained by virtue of an election under section 154(5) of the Kent Water Act 1955 (**a**) have continued to be exercisable after 31st March 1974, and

(b) that any corresponding obligation imposed on the Thanet Water Board by section 154(2) of that Act became on 1st April 1974 an obligation of the new employing body.

(6) Where paragraph (1)*(c)* applies, the reference in paragraph (2) to the new employing body is to be construed as a reference to the Thames Water Authority.

Actuary's certificates

8. In preparing a certificate under regulation B8 of the principal regulations for any period beginning after 31st March 1986 in respect of the superannuation fund maintained by the National Water Council, the actuary is to take into consideration as circumstances peculiar to a new employing body—

(a) the benefits provided by the principal regulations and these regulations in respect of transferred employees, and

(b) any amount paid in to the fund in respect of the proceeds of the surrender of policies of insurance relating to such employees.

(**a**) 1955 c.xi.

Right to opt out

9. No provision of these regulations shall apply to any person to whom at any time before 1st April 1983 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 1st April 1983 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 National Water Council within 6 months after 1st April 1983, elects that that provision shall not apply to him.

Right of appeal

10. The provisions of Part H of the principal regulations (determination of questions 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.

SCHEDULE

MODIFICATION OF PRINCIPAL REGULATIONS

PART I

Modification where election made under regulation 4(2)

1. In regulation A3(1)—

(a) in the definition of "eligible child", for the word "means" substitute "means in relation to a female employee any child of hers who was substantially dependent upon her for the necessities of life and is for the time being in need of financial support, and in relation to a male employee";

(b) for the definition of "remuneration" substitute:

" "remuneration" means the annual amount of an employee's salary or wages (excluding payment for overtime, emoluments in kind, commission, bonus payments and other fluctuating emoluments) less £100;"; and

(c) insert at the appropriate points the following definitions:

" "the Boards' scheme" means the rules of the Industrial Training Boards' Pension Fund (constituted by a definitive trust deed dated 20th July 1967) as in force on 31st March 1974;"; and

" "transferred water employee" means a transferred employee (within the meaning of Part J) whose new employing body is the National Water Council or a water authority and who immediately before being transferred was employed by the Water Supply Industry Training Board;".

2. In regulation C1—

(a) for paragraph (1)*(a)* to *(c)* substitute:

"*(a)* in the case of a man, 6% of his remuneration, and

(b) in the case of a woman, 5% of her remuneration."; and

(b) for paragraph (2) substitute:

"(2) The reference in paragraph (1) to a pensionable employee mentioned in this paragraph is a reference to a pensionable employee who—

(a) has completed 40 years' reckonable service but has not attained the age of 65 years in the case of a man or 60 years in the case of a woman, or

(b) has completed not less than 45 years' reckonable service.".

3. In regulation C8—

(a) in paragraph (2), for the words from "before 1st April 1972" to (where last occurring) "31st March" substitute "before 1st April 1971, at the rate of 3% per annum and for any period after 31st March 1971, at the rate of 4% per annum, in each case with yearly rests on 31st March"; and

(b) in paragraph (8), at the end of sub-paragraph *(a)* insert "or in respect of service or employment which he is entitled to reckon as reckonable service by virtue of regulation D1(1)*(b)* ".

4. In regulation D1—

(a) at the end of paragraph (1)*(b)* insert:

"and any period—

(i) during which he paid or is deemed to have paid Members' Contributions, or

(ii) which before the appointed day he had purchased as Member Credited Service,

under the Boards' scheme"; and

(b) at the end of paragraph (1) insert:

"but sub-paragraphs *(a)* to *(g)* do not apply where regulation N7(1A) applies.".

5. In regulation D11—

(a) after "Benefits regulations" insert "or for the purchase of Member Credited Service under the Boards' scheme", and

(b) after "regulation D10" insert ", but shall in the latter case continue to be payable at the same percentage of remuneration for the time being as before the appointed day".

6. In regulation D21(1), for the words "60 years" substitute "in the case of a man, 65 years, and in the case of a woman 60 years,".

7. In regulation E2—

(a) in paragraph (1), delete the words "and a lump sum retiring allowance";

(b) in paragraph (1)*(a)* —

(i) for the words "he has" substitute "he is a man who has", and

(ii) for the words "25 years" substitute "40 years";

(c) for paragraph (1)*(b)* (ii) substitute:

"(ii) his reckonable service amounts to not less than 10 years and he has attained the age of 65 years in the case of a man or 60 years in the case of a woman; or";

(d) delete paragraph (4)*(a)* (iii);

(e) in paragraph (4)*(a)* (iv), for the words "60 years" substitute "55 years";

and

(f) for paragraph (4)*(b)* (iv) substitute:

"(iv) unless she so ceases to be employed after attaining the age of 55 years and elects as mentioned in sub-paragraph *(a)* (iv);".

8. In regulation E3—

(a) in paragraph (1)—

(i) for the words "one eightieth" substitute "one sixtieth", and

(ii) after the word "service" insert "; and in the case of a man who has not during any part of any period which he is entitled to reckon as reckonable service had a wife or an eligible child, there shall be added to that amount such further amount as the fund's actuary may specify as being appropriate on the assumption that one sixth of his contributions is attributable to provision for benefits under regulations E5 and E8";

(b) for paragraph (3) substitute:

"(3) A person entitled to receive payment of a retirement pension may commute it for a lump sum as if, and to the same extent as if, it had been a pension to which he was entitled under the Boards' scheme and in rule 29 of that scheme (commutation of pension benefits)—

(a) references to the Managing Trustees were references to the appropriate administering authority, and

(b) references to the Actuary were references to the fund's actuary.";

(c) delete paragraphs (4), (5) and (6);

(d) for paragraph (7) substitute:

"(7) Where a pensionable employee becomes entitled to a retirement pension by virtue of regulation E2(1)*(b)* (i), it shall be calculated, and be liable to suspension or reduction, as if it had been a pension to which he had become entitled under rule 28 (disability pension) of the Boards' scheme and—

(a) references in that rule to accrued pensionable service were references to his reckonable service, and

(b) in rule 66(4) (conditions)—

(i) references to the Managing Trustees were references to the appropriate administering authority, and

(ii) the reference to the Actuary were a reference to the fund's actuary.".

9. In regulation E4(1)—

(a) for the words "a pensionable employee" substitute "a male pensionable employee";

(b) in sub-paragraph *(a)*, after the word "pension" insert "otherwise than by virtue of regulation E2(1)*(b)* (i)";

(c) in sub-paragraph *(b)*, for the words "such a pension" substitute "a retirement pension"; and

(d) for the words "the spouse or any dependant of his" substitute "his wife".

10. For regulation E5 substitute:

"E5.—(1) If at the time of his death a man with not less than 10 years' reckonable service—

(a) was a pensionable employee, or

(b) was entitled to receive payments in respect of a retirement pension, or

(c) was entitled to a retirement pension but not to receive payments in respect of it,

and he leaves a widow, she is entitled, subject to paragraph (3), to a widow's pension calculated in accordance with regulation E6(1) and (2).

(2) If at the time of his death a man with less than 10 years' reckonable service—

(a) was a pensionable employee, or

(b) was entitled to receive payments in respect of a retirement pension,

and he leaves a widow, she is entitled, subject to paragraphs (3) and (4), to a widow's pension calculated in accordance with regulation E6(3).

(3) A widow is not entitled to a widow's pension under paragraph (1) or (2) if—

(a) the marriage—

(i) took place after, or

(ii) was not disclosed to the appropriate administering authority before,

her husband became entitled to a retirement pension, or

(b) at the time of his death she was—

(i) judicially separated from her husband on terms which did not require him to contribute to her support, or

(ii) cohabiting with another man as his wife,

or at any time after she has re-married or commenced to cohabit with another man as his wife.

(4) A widow is not entitled to a widow's pension under paragraph (2) unless—

(a) at the time of her husband's death she had attained the age of 40 years, or

(b) she is for the time being responsible for a child who was in relation to her husband an eligible child.".

11. For regulation E6 substitute:

"E6.—(1) The annual rate of a widow's pension under regulation E5(1) is £175 or, if greater—

(a) where regulation E5(1)*(a)* applies, one half of the annual rate of the retirement pension to which her husband would have been entitled if on the date of his death he had ceased to be employed and regulation E2(1)*(b)* (i) had applied to him, or

(b) where regulation E5(1)*(b)* or *(c)* applies, one half of the annual rate of the retirement pension to which her husband was entitled at the time of his death.

(2) In determining the rate of a retirement pension for the purposes of paragraph (1)*(a)* or *(b)* any commutation under regulation E3(3) is to be ignored.

(3) The annual rate of a widow's pension under regulation E5(2) is the rate specified in column 2 of the Table below in relation to the number of complete years her husband was entitled to reckon as reckonable service.

TABLE

1. Complete years of reckonable service	2. Annual rate of pension £
Less than 1	51
1	63
2	75
3	87
4	99
5	111
6	123
7	135
8	147
9	159

12. Delete regulation E7.

13. For regulation E8 substitute:

"E8.—(1) If at the time of his death a person with not less than 10 years' reckonable service—

(a) was a pensionable employee, or

(b) had become entitled to receive payments in respect of a retirement pension and had not commuted any of it under regulation E3(3), or

(c) had become entitled to a retirement pension but not to receive payments in respect of it and had not commuted any of it under regulation E3(3),

and he leaves an eligible child or eligible children, a children's pension calculated in accordance with regulation E9(1) to (3) is payable.

(2) If at the time of his death a person with less than 10 years' reckonable service—

(a) was a pensionable employee, or

(b) had become entitled to a retirement pension by virtue of regulation E2(1)*(b)* (i),

and he leaves an eligible child or eligible children, a children's pension calculated in accordance with regulation E9(4) and (5) is payable.

(3) Where a children's pension is payable under paragraph (1) or (2) the appropriate administering authority may—

(a) pay all or part of it to the parent or guardian or other person responsible for an eligible child or eligible children, or

(b) pay all or part of it to an eligible child who has attained the age of 18 years, or

(c) apply all or part of it for the benefit of an eligible child or eligible children,

but where there is more than one eligible child then, subject to regulation E9(2) and (5), the authority are not to pay to or apply for the benefit of any one of them more than his rateable share of the pension.".

14. For regulation E9 substitute:

"E9.—(1) Subject to paragraphs (2) and (3), the annual rate of a children's pension payable under regulation E8(1) is A x B, where—

A is the annual rate of the widow's pension to which a widow became or, as the case may be, would have become if the deceased person had been a man and had left a widow, entitled under regulation E5(1), and

B is the fraction specified in column 2 or, as the case may be, column 3 of the Table below in relation to the number of eligible children.

TABLE

1. Number of eligible children	Fraction of widow's pension	
	2. Where widow's pension payable	3. Where widow's pension not payable
1	1/4	1/2
2	1/2	3/4
3	3/4	1/1
4 or more	1/1	1/1

(2) Where—

(a) a widow's pension is payable, but

(b) the widow is not, and some other person is, responsible for one or more of the eligible children,

the appropriate administering authority may substitute the fraction in column 3 of the Table for the fraction in column 2 and may apportion the pension suitably as between the eligible children.

(3) The rate of a children's pension payable under regulation E8(1) is not in any case to be less than the rate that would have been payable in accordance with paragraph (4) if the pension had been one payable under regulation E8(2).

(4) Subject to paragraph (5), the annual rate of a children's pension payable under regulation E8(2) is the rate specified in column 2 or, as the case may be, column 3 of the Table below in relation to the number of eligible children.

TABLE

1. Number of eligible children	2. Rate where widow's pension payable £	3. Rate where widow's pension not payable £
1	90	130
2	165	250
3	240	370
4 or more	315	490

(5) Where—

(a) a widow's pension is payable, but

(b) the widow is not, and some other person is, responsible for one or more of the eligible children,

the appropriate administering authority may substitute the rate in column 3 of the Table for the rate in column 2 and may apportion the pension suitably as between the eligible children.".

15. Delete regulation E10.

16. For regulation E11 substitute:

"E11.—(1) If at the time of his death a person—

(a) was a pensionable employee, or

(b) was entitled to receive payments in respect of a retirement pension other than a pension to which he became entitled under regulation E2(1)*(c)*, or

(c) was entitled to receive payments in respect of a retirement pension to which he became entitled under regulation E2(1)*(c)* or was entitled to a retirement pension but not to receive payments in respect of it, had not less than 10 years' reckonable service, and was—

(i) a man who had not during any part of any period which he was entitled to reckon as reckonable service had a wife or an eligible child, or

(ii) a woman who left no eligible child, or

(d) was entitled to a retirement pension under regulation E2(1)*(c)* and had less than 10 years' reckonable service,

a lump sum death gratuity calculated in accordance with paragraphs (2) to (5) is to be paid to his personal representatives.

(2) Where paragraph (1)*(a)* applies, the amount of the death gratuity is the greatest of the following amounts:

(a) the aggregate amount of the person's contributions, as defined in regulation C8(8), together with the interest that would have been payable on a payment of that amount under regulation C8(2);

(b) his remuneration at the time of his death;

(c) three eightieths of his pensionable remuneration multiplied by the length in years of his reckonable service.

(3) Where paragraph (1)*(b)* or *(c)* applies, the amount of the death gratuity is the amount, if any, by which—

(a) the death gratuity that would have been payable by virtue of paragraph (1)*(a)* if he had died on the day before he ceased to be employed exceeds

(b) the aggregate of any payments made in respect of the retirement pension, including any lump sum paid by virtue of regulation E3(3).

(4) Where paragraph (1)*(d)* applies, the amount of the death gratuity is the amount if any by which the amount mentioned in paragraph (2)*(a)* exceeds the amount mentioned in paragraph (3)*(b)*.

(5) Where a transfer value has been accepted in respect of the person, the amount mentioned in paragraph (2)*(a)* is to be increased as if regulation N9 had applied.".

17. Delete regulations E12, E15, E16 and E18.

18. In Schedule 11—

(a) in paragraph 1*(a)*, for the words "one third" substitute "one half";

(b) in paragraph 3, for the words "a spouse or dependant" substitute "a wife"; and

(c) delete paragraph 7(2).

PART II

Modification where election made under regulation 4(3)*(a)(i) or (b) or* (4)*(b)*

19. In regulation A3(1)—

(a) in the definition of "remuneration", for paragraph *(a)* substitute:

"*(a)* except in the case of a manual worker, payments for overtime;"; and

(b) insert at the appropriate points the following definitions:

" "the Board" means the Metropolitan Water Board, "the Board's scheme" means the Scheme approved by the Board on 23rd April 1909 establishing a Superannuation and Provident Fund, as amended from time to time, and "the Board's fund" means that Fund;" and

" "transferred water employee" means a transferred employee (within the meaning of Part J) whose new employing body is the National Water Council or a water authority and who immediately before being transferred was employed by the Board;".

20. In regulation C1—

(a) after paragraph (1)*(c)* insert:

"*(d)* notwithstanding anything in sub-paragraphs *(a)* to *(c)*, but subject to paragraph (1A), in the case of a transferred water employee who was on 31st March 1972 a contributor to the Board's fund, an amount equal to the percentage of his remuneration that he was required to contribute to that fund immediately before he ceased to be employed by the Board.

(1A) Paragraph (1)*(d)* applies in any case only while the person remains in the employment of his new employing authority (within the meaning of part J), and does not apply—

(a) after 31st March 1978 if after 31st March 1974 and before 1st April 1978 the person either becomes an officer or becomes a manual worker, or

(b) after the date of the change if he either becomes an officer or becomes a manual worker after 31st March 1978."; and

(b) for paragraph (2) substitute:

"(2) The reference in paragraph (1) to a pensionable employee mentioned in this paragraph is a reference to a pensionable employee who—

(a) has attained the age of 65 years, or if later

(b) has completed 45 years' service reckonable for the purpose of calculating his retirement pension.".

21. In regulation C8(8), at the end of sub-paragraph *(a)* insert "or in respect of service or employment which he is entitled to reckon as reckonable service by virtue of regulation D1(1)*(b)* ".

22. In regulation D1—

(a) at the end of paragraph (1)*(b)* insert:

"and any period—

(i) during which he contributed or is deemed to have contributed to the Board's fund, or

(ii) which is a period of temporary or probationary service in respect of which he has completed payment in accordance with clause 4(D) of the Board's scheme or regulation D11A;"; and

(b) at the end of paragraph (1) insert:

"but sub-paragraphs *(a)* to *(g)* do not apply where regulation N7(1A) applies.".

23. In regulation D2*(a)* —

(a) after the word "enactment" insert "or the Board's scheme"; and

(b) after the word "regulations", in the second place where it occurs, insert "or, as the case may be, under the Board's scheme".

24. After regulation D11 insert:

"D11A. Any instalments of an amount payable under clause 4(D) of the Board's scheme remaining unpaid on the appointed day are to be paid to the appropriate superannuation fund.".

25. In regulation D12, for paragraph (2)*(b)* substitute:

"*(b)* a pensionable employee who is such a person as is mentioned in regulation E19.".

26. In regulation D13, for paragraph (5)*(b)* substitute:

"*(b)* a pensionable employee who is such a person as is mentioned in regulation E19.".

27. In regulation D20—

(a) in paragraph *(a)* —

(i) after the word "enactment" insert "or the Board's scheme", and

(ii) after the word "regulations", in the second place where it occurs, insert "or, as the case may be, under the Board's scheme"; and

(b) after the word "regulations" at the end insert "or, as the case may be, under the Board's scheme".

28. Delete regulation D21.

29. In regulation E2—

(a) in paragraph (1)*(a)*, for the words "25 years" substitute "5 years"; and

(b) after paragraph (1)*(a)* insert:

"*(aa)* he is a transferred water employee and—

(i) he entered an employment under the Board before 19th March 1948,

(ii) he has since remained employed by the Board and by his new employing body for a period amounting in aggregate to not less than 40 years, and

(iii) his new employing body in their discretion decide that he should become so entitled; or".

30. In regulation E3—

(a) in paragraph (3), for the words "the amount ascertained by multiplying three eightieths of his pensionable remuneration by the length in years of his reckonable service" substitute:

"the total of—

(a) one thirtieth of his pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972, and

(b) three eightieths of his pensionable remuneration multiplied by the length in years of his reckonable service after 31st March 1972";

(b) for paragraph (4) substitute:

"(4) The amount, calculated in accordance with paragraph (3), of the retiring allowance ("the basic amount") is to be increased by the amount ascertained by multiplying ½ per cent of the basic amount by the length in years of any reckonable service before 29th October 1960.";

(c) for paragraph (5) substitute:

"(5) Where at the time when he ceases to be employed a male pensionable employee has a wife to whom a pension may become payable under regulation E5, in calculating the rate of his retirement pension under paragraph (1) the length in years of his reckonable service (if any) before 1st April 1972 is to be reduced by 6 per cent.";

(d) delete paragraphs (6) to (6AA);

(e) for paragraph (8) substitute:

"(8) If in respect only of reckonable service before attaining the age of 60 years the calculation in paragraph (3) would produce an amount greater than one and a half times the person's pensionable remuneration, the retiring allowance calculated in accordance with the other provisions of this regulation is to be reduced by the amount of the excess.";

(f) delete paragraph (9);

(g) in paragraph (10), for the words from "no account shall be taken" to "40 years" substitute:

"no account shall be taken—

(i) in the case of a retirement pension, of reckonable service before attaining the age of 60 years beyond a total of 40 years, or

(ii) in any case, of reckonable service beyond a total of 45 years"; and

(h) in paragraph (12), for the words "falls to be reduced under paragraph (5) or (6)" substitute "includes such an amount as is mentioned in paragraph (3)*(a)* or reckonable service falls to be reduced under paragraph (5)".

31. In regulation E11—

(a) for paragraph (3) substitute:

"(3) For the purposes of paragraph (2), where in ascertaining the amount of a death gratuity a fraction of the deceased person's pensionable remuneration is to be multiplied by the length in years of his reckonable service, in relation to reckonable service before 1st April 1972 the fraction is to be taken to be one thirtieth."; and

(b) for paragraphs (7) and (8) substitute:

"(7) In ascertaining the amount of a death gratuity no account is to be taken of reckonable service beyond a total of 45 years.

(8) If the total of—

(a) one thirtieth of the deceased person's pensionable remuneration multiplied by the length in years of any reckonable service before 1st April 1972 and before attaining the age of 60 years, and

(b) three eightieths of his pensionable remuneration multiplied by the length in years of his reckonable service after 31st March 1972 and before attaining the age of 60 years

is greater than one and a half times his pensionable remuneration, the amount of the death gratuity calculated in accordance with the preceding provisions of this regulation is to be reduced by the amount of the excess.".

32. Delete regulations E15, E16 and E18.

33. For regulation E19 substitute:

"E19. In the case of a person who—

(a) became a contributor to the Board's fund before 29th October 1960, and

(b) did not notify assent under clause 28(1)(D) of the Board's scheme,

this Part applies subject to the modifications set out in Schedule 12.".

34. For Schedule 12 substitute:

"Regulation E19 SCHEDULE 12

MODIFICATIONS TO PART E

1. In regulation E2(1), delete the words "and a lump sum retiring allowance".

2. In regulation E3—

(a) in paragraph (1), for the words "one eightieth" substitute "one sixtieth"; and

(b) delete paragraphs (2) to (4) and (8);

3. In regulation E8—

(a) delete paragraph (1)*(c)*;

(b) for paragraph (1)(i) and (ii) substitute "a children's short-term pension in respect of the period of 3 months after the day of his death";

(c) delete paragraph *(a)* of the proviso to paragraph (1);

(d) in paragraph (2), delete the words "and a children's long-term pension"; and

(e) in the proviso to paragraph (2), delete the words from "or, as" to "pension".

4. In regulation E11—

(a) in paragraph (1), delete the words "and retiring allowance" wherever occurring;

(b) for paragraph (2) substitute:

"(2) Subject to the succeeding provisions of this regulation and as hereafter in these regulations provided, the amount of a death gratuity is the amount of the deceased person's pensionable remuneration.";

(c) delete paragraphs (3) and (4);

(d) in paragraph (6), delete the words "and retiring allowance"; and

(e) delete paragraph (8).".

PART III

Modification where regulation 3(2) applies or election made under regulation 4(2), (3)(*a*)(*i*) *or (b) or* (4)(*b*)

35. Regulations N2, N3, N7, N8, N10 and N11 and Schedules 21 and 22 shall be deemed to have come into operation on 1st April 1974.

36. In regulation N7—

(a) in paragraph (1), delete the words from "if" to "satisfied";

(b) after paragraph (1) insert:

"(1A) Where a transferred water employee—

(a) ceases to be employed by his new employing body,

(b) before becoming entitled to receive payments in respect of a retirement pension under regulation E2(1)*(c)* enters further employment with another scheduled body and becomes in that further employment a pensionable employee, and

(c) does not give notice under regulation E2(4)*(e)*,

his employment with the body mentioned in sub-paragraph *(a)* shall be deemed for the purposes of this regulation, of regulations N8, N10 and N11, and of Schedule 22 to have been an approved non-local government employment in which he was subject to a statutory scheme, and a transfer value, calculated as if it had been payable under regulation N2, shall be, or where the appropriate administering authority remains the same shall be deemed to have been, offered and accepted accordingly."; and

(c) delete paragraphs (3) and (4).

37. Delete regulation N9.

38. In regulation P1, after paragraph (1) insert:

"(1A) This Part does not apply where regulation N7(1A) applies.".

PART IV

Modification where regulation 5 applies

CASE A

39. In regulation A3(1), before the definition of "variable-time employee" insert:

" "transferred water employee" means a transferred employee (within the meaning of Part J) whose new employing body is the National Water Council and who immediately before being transferred was employed by the British Waterworks Association; and".

40. In regulation C8, at the end of paragraph (8)*(a)* insert "or in respect of service or employment which he is entitled to reckon as reckonable service by virtue of regulation D1(1)*(b)* ".

41. In regulation D1, at the end of paragraph (1)*(b)* insert "and any period during which he paid contributions under arrangements for superannuation made by the British Waterworks Association and having effect at any time before the appointed day".

42. In regulation E2—

(a) for paragraph (4)*(b)* (ii) substitute:

"(ii) until she attains the age of 60 years; or"; and

(b) in paragraph (5)*(c)*, for the words "she retires and attains or has attained" substitute "she attains".

43. In regulation E3, delete paragraph (9)*(b)*.

44. For regulation E19 substitute:

"E19.—(1) A transferred water employee may elect that this Part is to apply in relation to him subject to the modifications set out in Parts I and III of Schedule 12.

(2) An election under paragraph (1) must be made by giving notice in writing to the National Water Council within 6 months after 1st April 1983, or such longer period as the Council may allow.".

CASE B

45. In regulation A3(1), insert at the appropriate points the following definitions:

" "the pension rules" means the rules of the Port of London Authority Pension Fund established by section 5 of the Port of London Act 1928 (a), as they had effect immediately before the appointed day, and "the widows' pension rules" means the rules of the Port of London Authority (Upper Division Staff) Widows' and Orphans' Pension Fund constituted by a trust deed dated 7th November 1929, as they had effect immediately before the appointed day;"; and

" "transferred water employee" means a transferred employee (within the meaning of Part J) whose new employing body is the Thames Water Authority, who has remained in the employment of that authority and who immediately before being transferred was employed by the Port of London Authority;".

46. In regulation C1, after paragraph (1)*(c)* insert:

"*(d)* in the case of a transferred water employee, notwithstanding anything in sub-paragraphs *(a)* to *(c)*, the percentage of his remuneration that he was required to contribute under the pension rules and the widows' pension rules immediately before he ceased to be employed by the Port of London Authority.".

47. In regulation D1, at the end of paragraph (1)*(b)* insert "and any period which was pensionable service within the meaning of the pension rules:".

48. After regulation D11 insert:

"D11A. Where immediately before the appointed day a person was in the process of making payments under rule 18 of the pension rules, the outstanding payments shall be deemed to be payments of an amount payable under regulation D13.".

49. In regulation E2, at the end of paragraph (3) insert:

"or

(d) the employee is a female transferred water employee with not less than 10 years' reckonable service.".

50. In regulation E11, after paragraph (1) insert:

"(1A) Notwithstanding anything in paragraph (2), if paragraph (1)*(a)* applies and the person is a transferred water employee the amount of the death gratuity is, subject to paragraph (1C), the amount ascertained by multiplying the annual rate of his remuneration at the date of his death by two, or the amount of his contributions if greater.

(1B) For the purposes of paragraph (1A)—

(a) in ascertaining the annual rate of a person's remuneration at the date of his death—

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

(ii) 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 of his death,

(iii) 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, and

(iv) 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 of his death, and

(a) 1928 c.xlvii.

(b) the amount of a person's contributions is the total of—

(i) the aggregate amount of his contributions to the appropriate superannuation fund, within the meaning of regulation C8, and

(ii) the amount of his contributions to the Port of London Authority Pension Fund established by section 5 of the Port of London Act 1928.

(1C) If the person leaves a widow who is entitled to a widow's pension under regulation E5, the amount of the death gratuity is not to exceed the amount by which the capital value of that pension falls short of the capital value of the person's notional retirement pension.

(1D) For the purposes of paragraph (1C) a person's notional retirement pension is the pension to which he would have become entitled if—

(a) he had continued to be a transferred water employee until he attained the age of 65 years and had then ceased to be employed by the Thames Water Authority,

(b) his remuneration had not by then been increased otherwise than in accordance with the terms of the contract of employment as it had effect at the time of his death, and

(c) regulation E3(1) had applied with the substitution for the words "one eightieth" of the words "one sixtieth",

and the capital values of that pension and of the widow's pension are to be calculated by the fund's actuary.".

51. In regulation E12, after the words "female pensionable employee" insert ", other than a transferred water employee,".

CASE C

52. In regulation D2, after paragraph *(c)* insert:

"*(cc)* any period before the appointed day in respect of which at any time before 1st July 1977 he retains rights under an agreement or trust deed made for the purposes of a scheme of superannuation by a body in whose employment he was before the appointed day; and ".

Tom King,
Secretary of State for the Environment.

15th February 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. Following a reorganisation of the water industry under the Water Act 1973 (1973 c.37) the National Water Council became an administering authority within the local government scheme embodied in the Local Government Superannuation Regulations 1974 to 1982 (the principal regulations), for all water authority and National Water Council staff. Prior to the inception of that scheme on 1st April 1974 some employees had participated in schemes run by former water industry bodies and it was agreed that they should in various respects be treated differently from persons who had been members of the former local government scheme which the present scheme replaced.

2. These regulations modify the principal regulations in relation to the affected water employees.

3. In particular—

(1) Regulation 3 deems certain employees transferred from the Conservators of the River Thames and the Lee Conservancy Catchment Board to the Thames Water Authority, and from the Thanet Water Board to the Southern Water Authority, not to have become pensionable employees in their new employment. Thus they remain subject to the terms and conditions of their previous superannuation schemes in their entirety (regulation 7(1)*(a)*, (2), (3) and (5)). On moving to pensionable employment within the local government scheme, the pension rights accrued under those terms and conditions are converted into service reckonable in relation to their new employment by the payment of a transfer value to the new fund authority (regulation 3(2)).

(2) Regulation 4 concerns, in the first place, former employees of the Water Supply Industry Training Board who were transferred to the National Water Council or a water authority. They may elect to be treated as having been subject to the principal regulations as modified by Parts I and III of the Schedule to these regulations. Part I embodies certain features of the Industrial Training Boards' scheme, and Part III makes special provision for a subsequent transfer within the local government scheme. If they do not so elect, the principal regulations will have applied to them without modification. Regulation 4 also applies to former employees of the Metropolitan Water Board, as follows:

(a) For employees who retired or died after 31st March 1972 (and were not transferred) there is a right to elect—

(i) to adopt the principal regulations without modification, or

(ii) to adopt the principal regulations as modified by Part II (which embodies certain features of the former Metropolitan Water Board scheme) and Part III of the Schedule.

If they do neither, they will continue to be entitled to the benefits that were provided for in the former Metropolitan Water Board scheme.

(b) Employees who were transferred to the National Water Council or a water authority and then retired before 6th April 1978 may elect—

(i) to adopt the principal regulations as modified by Parts II and III of the Schedule, or

(ii) to retain the terms and conditions of the former Metropolitan Water Board scheme.

If they do neither, they will continue to be entitled to benefits in accordance with the principal regulations without modification.

(c) Employees who retired after 5th April 1978 or are still serving may elect only as in *(b)* (i) above. If they do not do so, they will continue to be subject to the principal regulations without modification.

All elections have retrospective effect, and may be made by widows or personal representatives in appropriate cases.

(3) Regulation 5 deems employees transferred from the British Waterworks Association to the National Water Council, from the Port of London Authority to the Thames Water Authority, from the Mid Kent Water Company and the Chatham Water Company to the Southern Water Authority, and from the Trowbridge, Melksham and District Water Board to the Wessex Water Authority, to have become subject to the principal regulations as modified by Part IV of the Schedule (which embodies certain features of their previous pension schemes).

(4) Regulation 6 applies to certain employees falling within regulations 3 and 4 who were appointed to their new posts before 1st April 1974 who would have been compulsorily subject to the principal regulations by virtue of becoming contributory employees on 31st December 1973 under regulation 7 of the Local Government Superannuation (Miscellaneous Provisions) (No. 2) Regulations 1973. Such person are deemed not to have become contributory employees for the period ending 31st March 1974 in order to enable them to remain subject to the terms and conditions of their previous superannuation schemes.

(5) Regulation 7 concerns employees who are entitled to retain the terms and conditions of their former schemes in their entirety. It deems the provisions of those schemes to have continued in force with necessary adaptations after 31st March 1974.

(6) Regulation 8 requires the actuary of the fund maintained by the National Water Council, when certifying under regulation B8 of the principal regulations adjustments in respect of particular employing authorities to the rate of employer's contribution for any period after 31st March 1986, to take account of the special benefits provided under these regulations and any amounts paid into the fund in respect of surrendered policies of insurance.

(7) Regulations 9 and 10. Section 12 of the Superannuation Act 1972 confers express power to make regulations retrospective in effect. These regulations are to a large 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.

4. The terms and conditions of the relevant superannuation schemes applicable to the transferred employees immediately before 1st April 1974 are set out in the following documents (referred to in regulation 2(1) and in paragraphs 1(c), 19(b) and 45 of the Schedule).

The Industrial Training Boards' Pension Fund (constituted by definitive trust deed dated 20th July 1967) as in force on 31st March 1974.

The Metropolitan Water Board Superannuation and Provident Fund established by a scheme approved by the Board on 23rd April 1909 and incorporating all amendments thereto, as in force on 31st March 1974.

The Rules of the Port of London Authority Pension Fund established by Section 5 of the Port of London Act 1928, as in force on 31st March 1974.

The Rules of the Port of London Authority (Upper Division Staff) Widows' and Orphans' Fund constituted by a trust deed dated 7th November 1929, as in force on 31st March 1974.

These documents are available for inspection at the Superannuation Department of the National Water Council, St Peter's House, Hartshead, Sheffield S1 1EO, and extracts therefrom may be issued to individuals on request.

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