STATUTORY INSTRUMENTS

1968 No. 1298 (S. 136)

PENSIONS

The Pensions Increase (Approved Schemes) (Local Government) (Scotland) Regulations 1968

Made - - - -	*25th July* 1968
Laid before Parliament	*20th August* 1968
Coming into Operation	*21st August* 1968

In exercise of the powers conferred on me by section 3(2)(*b*)(ii) and (4) of the Pensions (Increase) Act 1965(a) and of all other powers enabling me in that behalf, with the consent of the Treasury, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Pensions Increase (Approved Schemes) (Local Government) (Scotland) Regulations 1968, and shall come into operation on 21st August 1968.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act of 1937" means the Local Government Superannuation (Scotland) Act 1937(b);

"the Act of 1965" means the Pensions (Increase) Act 1965;

"average remuneration", in relation to a person, means the annual average of the remuneration of his employment as assessed for the purposes of calculating the employer's superannuation contribution during the last 3 years of his reckonable service;

"contributory employee" means a contributory employee within the meaning of section 3(1) of the Act of 1937 to whom the provisions of the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(c) (other than regulation 17) apply;

"dependant", in relation to a woman, means a person who is to the satisfaction of the relevant local authority wholly or mainly supported by that woman and who either has not attained the age of 16 years or is receiving instruction or undergoing training as referred to in section 1(5) of the Pensions (Increase) Act 1959(d) (as applied by section 1(2) of the Act of 1965);

"Health Service Regulations" means the National Health Service (Superannuation) (Scotland) Regulations 1961(e);

"local authority" has the meaning assigned to it by section 34 of the Act of 1937;

"minimum pensionable age", in relation to a person, means the earliest age at which he could have become entitled to a pension (other than a pension payable consequent on physical or mental infirmity) if in his employment he had been a contributory employee;

(a) 1965 c. 78. (b) 1937 c. 69. (c) S.I. 1954/1059 (1954 II, p. 1632).
(d) 1959 c. 50. (e) S.I. 1961/1398 (1961 II, p. 2697).

"notional pension", in relation to a person, has the meaning assigned to it by regulation 5 of these regulations;

"reckonable service", in relation to a person, has the meaning assigned to it by the schedule to these regulations;

"relevant local authority", in relation to a person, means the local authority by whom an allowance will be payable under regulation 6 hereof if the conditions set out in regulation 4 are satisfied;

"statutory pension increases" means the benefits conferred by

(i) section 1 of the Pensions (Increase) Act 1952(a);
(ii) section 1 of the Pensions (Increase) Act 1956(b);
(iii) section 1 of the Pensions (Increase) Act 1959;
(iv) sections 1 and 2 of the Pensions (Increase) Act 1962(c); and
(v) section 1 of the Act of 1965,

on persons whose superannuation benefits are regulated under the Superannuation Act 1965(d);

"superannuation scheme" means the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved by the Treasury for the purposes of section 3 of the Act of 1965.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, references to any enactment or regulations shall be construed as references to that enactment or those regulations as amended or extended by any other enactment or regulations.

Effect of these regulations

3. These regulations shall apply for the payment to persons described in regulation 4 hereof of the allowances described in regulation 6, being allowances which appear to the Secretary of State to be appropriate having regard to the statutory pension increases.

Persons to whom the regulations apply

4.—(1) These regulations shall apply to any person who—

(*a*) has retired from the employment of a local authority at or after minimum pensionable age or on account of physical or mental infirmity; and

(*b*) immediately before so retiring—

(i) was subject to a superannuation scheme, and
(ii) had completed 10 years' reckonable service; and

(*c*) has received or has become entitled to receive payment of any retirement benefit under a superannuation scheme; and

(*d*) either—

(i) has attained the age of 60 years; or

(ii) has retired on account of physical or mental infirmity or is to the satisfaction of the relevant local authority disabled by physical or mental infirmity or permanently incapacitated by such infirmity from engaging in any regular full-time employment; or

(iii) is a woman who has at least one dependant.

(2) For the purposes of the preceding paragraph, a person who was entitled to receive, and received, payment of any retirement benefit under a superannuation scheme within 12 months of minimum pensionable age shall be deemed to have attained that age.

(a) 1952 c. 45. (b) 1956 c. 39. (c) 11 & 12 Eliz. 2, c. 2.
(d) 1965 c. 74. (e) 1889 c. 63.

Notional pension

5.—(1) There shall be ascribed to each person to whom these regulations apply a notional pension calculated on the following basis—

(*a*) for each year of reckonable service, one eightieth of his average remuneration; and

(*b*) for any additional part of a year of reckonable service which amounts to or exceeds 6 months, one one hundred and sixtieth of his average remuneration.

(2) In calculating a notional pension any fraction of a pound shall be treated as a whole pound.

(3) Where the amount of a notional pension ascribed to any person does not exceed £26 a year, these regulations shall not apply to him.

Payments of benefits equivalent to statutory pension increases

6.—(1) A local authority may, in respect of any period beginning on or after 1st July 1966, pay to any person to whom these regulations apply and who—

(*a*) was employed by them on the day when his reckonable service ended, or

(*b*) was employed on that day by some other authority to whom the first-mentioned authority are, or are deemed in accordance with paragraph (2) hereof to be, the successor,

an allowance equal to the statutory pension increases which would have been payable to him if he had been eligible under the Superannuation Act 1965 for a pension of the same amount as his notional pension, beginning on the day after the termination of his reckonable service.

(2) For the purposes of this regulation, a local authority shall be deemed to be the successor to any other local authority where the last-mentioned authority has been dissolved and the larger part of their area has been transferred to the first-mentioned authority; and any question as to who are the successor authority for the said purposes shall, in default of agreement, be determined by the Secretary of State.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
23rd July 1968.

We consent,

J. McCann,
Harry Gourlay,
Two of the Lords Commissioners of Her Majesty's Treasury.

25th July 1968.

Regulation 2(1) SCHEDULE

Meaning of reckonable service

1. Subject to the provisions of this schedule, a person's reckonable service shall be a period equivalent to the aggregate of any periods of employment which—

(*a*) have been spent in any employment described in paragraph 2 of this schedule and

(*b*) have become reckonable under a superannuation scheme as described in paragraph 3 of this schedule.

2. The employments to which paragraph 1 of this schedule relates are—

(i) employment under a local authority or a local authority within the meaning of section 40 of the Local Government Superannuation Act 1937(a);

(ii) employment under any voluntary organisation, undertakers or body, any employees of which are or are treated as contributory employees or local Act contributors under section 15 of the Local Government Superannuation Act 1953(b) or section 7 of the Superannuation (Miscellaneous Provisions) Act 1948(c);

(iii) employment under an authority which is or is deemed to be an employing authority for the purposes of the Health Service Regulations or the National Health Service (Superannuation) Regulations 1961(d);

(iv) employment in which the person was subject to any regulations or scheme made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(e) or section 61 of the Health Services Act (Northern Ireland) 1948(f) or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);

(v) employment in the civil service of the State; and

(vi) employment by a district nursing association during any period when a local health authority had arrangements with, or paid contributions to, that association under Part III of the National Health Service (Scotland) Act 1947(g).

3. For the purposes of paragraph 1 of this schedule a period of employment shall be deemed to have become reckonable under a superannuation scheme if—

(*a*) during such period the person was subject to a superannuation scheme and the contributions authorised or required to be paid by the employer were duly paid, or

(*b*) such period was taken into account in calculating a sum in the nature of a transfer value paid to that scheme under rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 or under the Health Service Regulations, or any corresponding provision in force in England and Wales, Northern Ireland or the Isle of Man:

Provided that—

(i) so much of any period referred to in sub-paragraph (*b*) as consisted of non-contributing service shall be reckonable under this paragraph at half its actual length, and

(ii) so much of any such period as consisted of part-time service shall be reckonable under this paragraph as though it were whole-time service for a proportionately reduced period.

4. For the purposes of regulation 4(1)(*b*)(ii) of these regulations, there may be added to the service described in paragraph 1 of this schedule any period of previous service which would have been reckonable under regulation 24 of the Health Service Regulations (which provides for the reckoning of qualifying service in certain cases) or any corresponding provision in force in England and Wales, Northern Ireland or the Isle of Man.

5. For the purposes of paragraph 3(*a*) of this schedule no account shall be taken of any period of employment preceding a break of 12 months or more during which the person was not in employment described in paragraph 2 hereof.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Certain persons who retired from local government employment elected to secure their superannuation benefits through schemes which operated by way of insurance policies to produce lump sums or annuities, or both, upon retirement.

(a) 1937 c. 68. (b) 1953 c. 25. (c) 1948 c. 33.
(d) S.I. 1961/1441 (1961 II, p. 2824). (e) 1950 c. 10 (N.I.).
(f) 1948 c. 3 (N.I.). (g) 1947 c. 27.

These Regulations provide for the payment of allowances corresponding broadly to the increases for which they would have been eligible under the Pensions (Increase) Acts 1952, 1956, 1959, 1962 and 1965 had they been pensionable as contributory employees under local government superannuation.

The relevant schemes are the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved for this purpose by the Treasury.

The conditions of entitlement combine, with necessary modifications, the conditions for a local government pension and the conditions for increases under the Pensions (Increase) Acts. The principal of these are, broadly, that the person—

(i) completed 10 years' qualifying service in local government employment or certain types of related employment, or the National Health Service, or the civil service;

(ii) retired in circumstances in which a contributory employee could have retired with a pension;

(iii) has attained the age of 60 years or is incapacitated or is a woman who has a dependant.

The allowances are payable, as from 1st July 1966, upon a notional pension, which is an amount (defined in Regulation 5) corresponding broadly to the pension the person would have received if he had been a contributory employee to whom the Local Government Superannuation (Benefits) (Scotland) Regulations 1954 applied, and entitled to reckon all his service during which he was within the Federated Superannuation Scheme for Nurses and Hospital Officers or other approved scheme.

Retrospective payment is authorised by Section 3(4) of the Pensions (Increase) Act 1965.