

Addressees Listed Overleaf

St Margaret's House  
151 London Road  
Edinburgh EH8 7TG

Tel: 0131-244 3215  
Fax: 0131-244 3334

Your ref:

Our ref: BJR/16/1

21 July 1995

Dear Sirs

## THE LOCAL GOVERNMENT (COMPENSATION FOR REDUCTION OF REMUNERATION ON REORGANISATION) (SCOTLAND) REGULATIONS 1995

1. I enclose for your comments, by 18 August 1995, a copy of draft regulations which the Secretary of State proposes to make under sections 7, 9 and 24 of the Superannuation Act 1972.
2. The draft regulations provide for compensation to be payable to eligible employees of local authorities, joint boards, water and sewerage authorities, the Scottish Children's Reporter Administration and the new Strathclyde Passenger Transport Authority who suffer a loss of remuneration arising from the reorganisation during the period 6 April 1995 to 31 March 1997.
3. The policy on detriment compensation was set out in the Scottish Office Environment Department's letter of 28 March 1995. The purpose of this exercise, therefore, is to consult on the technical aspects of the draft regulations.
4. Regulations 1 and 2 deal with citation, commencement and interpretation.
5. Regulation 3 describes the persons to whom the Regulations apply. They apply to eligible employees (defined in regulation 2 so as to exclude uniformed police and fire personnel and teachers) who, having been on 6 April 1995 employed by an old authority, during the period 6 April 1995 to 31 March 1997 (the prescribed period), cease to be employed by an old authority and who, without obtaining employment in the interim, take up employment with a new authority in which the annual rate of remuneration is lower than that payable at the termination of employment with the old authority, or is reduced at any time within the prescribed period. However, the Regulations will apply only if the employee is

not a person to whom the provisions of section 13(4) of the Local Government etc (Scotland) Act 1994 applies (relating to termination of a fixed term contract entered into after 9 December 1993 and extending beyond 1 April 1996) and if he meets certain prescribed conditions and if the new authority determines that the reduction in remuneration is attributable to provisions of, or made under, the 1994 Act.

6. Regulation 4 sets out the prescribed conditions. Regulation 4(2) requires that the person is not entitled to have their case considered for compensation under the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979, (S.I. 1979/785), the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994 (S.I. 1994/3068) or the Local Government (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995 (S.I. 1995/340). Regulation 4(3) requires that, at the time the reduction in remuneration occurs, the person has not attained age 65. Regulation 4(4) identifies how the date on which the reduction in remuneration occurs is to be determined.

7. Regulation 5 deals with the amount of compensation payable. Regulation 5(1) provides that compensation is to be payable in respect of each separate reduction of remuneration. Regulation 5(2) provides that the new authority is to determine to pay compensation within 3 months of the date on which the reduction occurs or the date on which the Regulations come into force, whichever is the later. Regulation 5(3) describes how the compensation is calculated. Regulations 5(4) and 5(5) deal with circumstances where the remuneration payable, or previously payable, to an eligible employee is either not determined at an annual rate or is determined by applying a fixed rate to an irregular pattern of employment. Regulation 5(6) provides that compensation is to be payable in 36 equal instalments, on a monthly basis.

8. Regulation 6(1) to (5) deals with the recalculation of compensation in cases where it is subject to readjustment because, for reasons other than reorganisation, the person's remuneration subsequently varies in the 3 year period during which the compensation is payable. Regulation 6(6) deals with the circumstances where an eligible employee who is receiving instalments of compensation from one new authority but before payment of the instalments is completed he or she ceases employment with that authority and immediately takes up employment with a second new authority. The second new authority will become liable to pay the instalments, recalculated if necessary to take account of variations in the person's remuneration.

9. Regulation 7 describes the circumstances in which payment of compensation will cease.

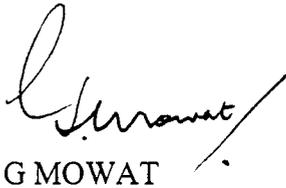
10. Regulations 8 and 9 deal with notification and payment of compensation.

11. Regulations 10 and 11 make amendments to the definitions of the term "remuneration" in the Local Government Superannuation (Scotland) Regulations 1987 (S.I. 1987/1850), and the term "contributable salary" in the Teachers' Superannuation (Scotland) Regulations 1992 (S.I. 1992/280), respectively.

12. I would be grateful if any comments on the draft regulations could be submitted by 18 August 1995 to Mr D Lauder, Scottish Office Pensions Agency, Room 506, St Margaret's House, 151 London Road, Edinburgh, EH8 7TG.

13. In accordance with normal practice the Agency intends to make available to the public, on request, copies of the responses received. The Agency will assume, therefore, that responses can be made publicly available in this way. If respondents indicate that they wish all, or part, of their reply excluded from this arrangement, its confidentiality will be strictly respected.

Yours faithfully



G MOWAT

The Chief Executives of Regional, Islands and District Councils  
Chief Executives of New Councils  
COSLA  
TGWU  
STUC  
UNISON  
Union of Construction, Allied Trades and Technicians  
Strathclyde Passenger Transport Executive  
Central Scotland Water Development Board  
North of Scotland Water Authority  
East of Scotland Water Authority  
West of Scotland Water Authority  
The Local Government Staff Commission (Scotland)  
Staff Commission for Wales  
Local Government Staff Commission (England)  
The Accounts Commission  
CIPFA  
Scottish Local Government Information Unit  
Managerial and Professional Officers Federation  
Occupational Pensions Board  
Pension Schemes Office  
United Kingdom Steering Committee on Local Government Superannuation  
SOLACE  
Educational Institute of Scotland  
Scottish Children's Reporter Administration  
Lothian and Borders Police Board  
Northern Joint Police Committee  
Lothian and Borders Fire Board  
Highlands and Islands Fire Board  
Association of Directors of Education in Scotland  
National Association of Schoolmasters/Union of Women Teachers  
Scottish Secondary Teachers' Association  
Association of Headteachers in Scotland  
Headteachers' Association of Scotland  
Professional Association of Teachers  
Other Government Departments

---

**STATUTORY INSTRUMENTS**

---

1995 No. (S. )

**LOCAL GOVERNMENT, SCOTLAND****EDUCATION, SCOTLAND****The Local Government (Compensation for Reduction of Remuneration  
on Reorganisation) (Scotland) Regulations 1995**

|                               |      |
|-------------------------------|------|
| <i>Made</i>                   | 1995 |
| <i>Laid before Parliament</i> | 1995 |
| <i>Coming into force</i>      | 1995 |

The Secretary of State, in exercise of the powers conferred on him by sections 7, 9 and 24 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, representatives of education authorities and of teachers and such representatives of other persons likely to be affected by the Regulations as appeared to him to be appropriate in accordance with sections 7(5) and 9(5) of that Act, and not having considered consultation

---

(a)1972 c.11; section 7(3) was extended by the Pensions (Increase) Act 1974 (c.9), section 2(2); section 9 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7), sections 4, 8 and 11.

with any individual local authority desirable, and with the consent of the Treasury(a) hereby makes the following Regulations:

### Citation and commencement

1. These Regulations may be cited as the Local Government (Compensation for Reduction of Remuneration on Reorganisation) (Scotland) Regulations 1995 and shall come into force on [            ] 1995.

### Interpretation

2.— (1) In these Regulations—

“the 1994 Act” means the Local Government etc (Scotland) Act 1994;

“the 1979 Regulations” means the Local Government (Compensation for Premature Retirement) (Scotland) Regulations 1979(b);

“the 1994 Regulations” means the Local Government (Compensation for Redundancy) (Scotland) Regulations 1994(c);

“the 1995 Regulations” means the Local Government (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995(d);

---

(a) This function was transferred to the Treasury by S.I. 1981/1670.

(b) S.I. 1979/785, amended by S.I. 1982/917, 1984/846, 1986/409, 1990/125, 1992/1025 and 1597, 1993/490, 1994/1715 and 3068 and 1995/340.

(c) S.I. 1994/3068 amended by S.I. 1995/340.

(d) S.I. 1995/340.

“eligible employee” means an eligible employee within the meaning of—

- (a) the 1994 Regulations; or
- (b) the Local Government (Education Administration) (Compensation for Redundancy or Premature Retirement on Reorganisation) (Scotland) Regulations 1995(a),

who was, on 6th April 1995, an employee of an old authority;

“new authority” means—

- (a) any of the following established under the Local Government etc. (Scotland) Act 1994:—
  - (i) an authority established under section 2;
  - (ii) Strathclyde Passenger Transport Authority established under section 40;
  - (iii) a body established under section 62(1) (water and sewerage authorities); or
  - (iv) the Scottish Children’s Reporter Administration established under section 128; or
- (b) a joint board appointed under any Act or any statutory order or statutory scheme, if all the constituent authorities are local authorities described in paragraph (a)(i) of this definition;

---

(a)S.I. 1995/ ;

“old authority” means—

- (a) Central Scotland Water Development Board established under section 3 of the Water (Scotland) Act 1967(a);
- (b) a Passenger Transport Executive established under section 9(1) of the Transport Act 1968(b);
- (c) a local authority constituted under section 2 of the Local Government (Scotland) Act 1973(c); or
- (d) a joint board appointed under any Act or any statutory order or statutory scheme if all the constituent authorities are local authorities described in paragraph (c) of this definition;

“prescribed period” means the period beginning with 6th April 1995 and ending with 31st March 1997;

“remuneration” means all the salary, wages, fees and other payments paid or made by an employer to an employee for his own use and shall include the money value associated with the provision by the employer to the employee of accommodation or a motor vehicle insofar as that accommodation or motor vehicle is available for the employee’s private use, together with any allowances in kind provided or paid to the employee and appertaining to his employment, but shall not include—

---

(a) 1967 c.78; section 3 was repealed by the Water (Scotland) Act 1980 (c.45), Schedule 11, but the Board continues to exercise its functions by virtue of section 80 of that Act.

(b) 1968 c.73; section 9(1) was substituted by the Transport Act 1985 (c.67), section 57(1).

(c) 1973 c.65; to which no relevant amendments have been made.

**DRAFT**

- (i) any payment made by an employer to an employee in consequence of that employee undertaking additional or different duties on behalf of the employer on a temporary basis in the absence, for whatever reason, of the employee usually or formerly employed to undertake these duties;
- (ii) any payment made by an employer to an employee in consequence of that employee undertaking additional duties on a temporary basis which arise from any provision of, or made under, the Local Government etc. (Scotland) Act 1994(a);
- (iii) unless it is a usual incident of his employment, any other payment by an employer to an employee for overtime or any bonus payment not of a kind specified in sub-paragraph (ii);
- (iv) any allowance paid by an employer to an employee to cover the cost incurred by the employee in providing office accommodation, or clerical or other assistance;
- (v) any travelling or subsistence allowance or other monies paid by an employer to an employee to be spent, or to cover expenses incurred, by the employee for the purposes of his employment;
- (vi) any payment by an employer to an employee as compensation for loss of holiday entitlement;
- (vii) any payment by an employer in lieu of notice terminating an employee's contract of employment; and
- (viii) any compensation payable to an employee under these Regulations.

---

(a)1994 c.39.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is to be construed as a reference to the regulation that bears that number in these Regulations and any reference in a regulation to a numbered paragraph is to be construed as a reference to the paragraph that bears that number in that regulation.

**Persons to whom these Regulations apply**

3. These Regulations apply to an eligible employee who—

- (a) during the prescribed period ceases employment with an old authority and, without securing alternative employment in the interim, takes up employment with a new authority in which—
  - (i) the annual rate of remuneration payable at commencement is lower than that payable at the date of termination of employment with the old authority; or
  - (ii) whether or not sub-paragraph (i) applies, the annual rate of remuneration is reduced at any time within the prescribed period;
- (b) meets the prescribed conditions specified in regulation 4; and
- (c) is not a person to whom the provisions of section 13(4) of the 1994 Act apply,

and in respect of whom the new authority determines that the reduction of remuneration specified in paragraph (a) is attributable to any provision of, or made under, the 1994 Act.

**Prescribed conditions**

4.— (1) The provisions of paragraphs (2) and (3) of this regulation specify the prescribed conditions for the purposes of regulation 3.

(2) The first condition is that the person is not, in respect of the event that has given rise to the loss of remuneration, entitled to have his case considered for the payment of compensation under any instrument within the meaning of Part I of Schedule 2 to the 1979 Regulations, nor is he entitled to payment of compensation in terms of the 1994 Regulations or the 1995 Regulations.

(3) The second condition is that the person has at the date when the reduction of remuneration occurs, not attained the age of 65.

(4) For the purposes of paragraph (3) of this regulation and regulation 5, reduction of remuneration occurs on the date when the eligible employee to whom this Part applies commences employment with the new authority at a lower annual rate of remuneration than that paid by the old authority or, as the case may be, on the date when any reduction in the annual rate of remuneration payable by a new authority takes effect.

**Amount of compensation payable**

5.— (1) Compensation shall be payable in accordance with this regulation in respect of each separate reduction of remuneration suffered by an eligible employee.

(2) Within [three] months of the date on which an eligible employee suffers a reduction of remuneration, or the date on which these Regulations come into force, whichever is the later, the new authority shall determine to pay to such an employee the compensation prescribed in paragraph (3).

(3) Subject to the provisions of paragraphs (4) and (5), the compensation which the new authority shall determine to pay under paragraph (2) shall—

- (a) where regulation 3(a)(i) applies, be a sum equal to three times the difference between the annual rate of remuneration payable to the eligible employee by the old authority at the date on which he left that employment and the annual rate of remuneration payable at the start of his new employment with the new authority; and
- (b) where regulation 3(a)(ii) applies, be a sum equal to three times the difference between the annual rate of remuneration payable to the eligible employee immediately before and after the reduction in question took effect.

(4) Where the whole or any part of the remuneration payable to an eligible employee in his former employment or, as the case may be, immediately before the reduction in question took effect was not determined at an annual rate or was determined by applying a fixed rate to an irregular pattern of employment, the annual rate of remuneration for the purposes of paragraph (3) shall be the total amount earned during the period of five years ending with the date on which that person left his former employment, or, as the case may be, the date immediately before the reduction in question took effect, divided by five, or, where the employment subsisted for a shorter period, the total amount earned during that period divided by a factor equal to the length in years, and parts of a year, of that employment.

(5) Where the whole or any part of the remuneration payable to an eligible employee at commencement of his employment with the new authority or, as the case may be, immediately after the reduction in question takes effect, <sup>x</sup> that authority shall, for the purposes of paragraph (3), determine the annual rate of remuneration or relevant part thereof which the employee could, on the basis of the terms and conditions of employment and the circumstances of employment at the time in question, be expected to earn in a year.

*L<sup>x</sup> is not determined at an annual rate or is determined by applying a fixed rate to an irregular pattern of employment*

(6) Subject to the provisions of regulation 6, any compensation payable under this regulation shall be paid in 36 equal instalments, of which the first shall be paid as soon as practicable after the determination under paragraph (2) and the remainder at monthly intervals thereafter.

### **Recalculation of compensation**

6.— (1) Subject to the following provisions of this regulation, the amount of the instalments of compensation payable in accordance with regulation 5 shall be varied in accordance with this regulation whenever, during the period when the compensation is being paid, the annual rate of remuneration with the new authority is increased, and instalments of compensation shall cease to be payable at any time during which the annual rate of remuneration with the new authority equals or exceeds that payable at the date of termination of employment with the old authority or, as the case may be, immediately before the reduction in question took effect.

(2) Any variation or cessation of payments of instalments under paragraph (1) shall affect only the instalments of compensation payable after the date on which the relevant increase or decrease in the annual rate of remuneration took effect.

(3) Where the amount of instalments of compensation payable under regulation 5 requires to be varied, recalculation of the remaining instalments payable shall be carried out in accordance with regulation 5 and accordingly the provisions of regulation 5(3)(a) or, as the case may be, (b) shall apply substituting for the reference there respectively to the annual rate of remuneration payable at the start of the new employment, or the annual rate of remuneration payable immediately after the reduction in question took effect, a reference to the revised annual rate of remuneration payable by the new authority.

(4) Where compensation is being paid in respect of more than one reduction of remuneration and an increase in the annual rate of remuneration takes effect, any variation

in the amount of the instalments of compensation payable shall be made first to the compensation in respect of the most recent reduction; and where the increase equals or exceeds the amount of the most recent reduction instalments of compensation in respect of that reduction shall cease to be payable during the time that this effect continues; and any excess of the increase over the amount of the most recent reduction shall be applied similarly to the instalments in respect of the immediately preceding reduction; and any further such excesses shall be similarly applied to earlier reductions.

(5) Where under this regulation instalments of compensation in respect of any reduction of remuneration have been varied or have ceased to be payable in consequence of an increase of remuneration, and a subsequent decrease of remuneration during the period when compensation is being paid offsets the effect of that increase—

- (a) in whole, the instalments of compensation shall, as from the date on which the decrease of remuneration takes effect, be restored to the amount which they were before the increase;
- (b) in part the instalments of compensation shall, as from that date, be recalculated in accordance with this regulation on the basis of the amount of increase remaining.

(6) Where, before all instalments of compensation are paid, an eligible employee ceases employment with one new authority and immediately commences employment with another new authority, the second new authority shall be liable to pay the instalments of compensation payable under these Regulations, subject to any recalculation that may be required under paragraph (3), after the date on which the eligible employee commences employment with that authority, and the first new authority shall cease to be so liable, and the provisions of this paragraph shall apply to any further changes of employment between new authorities.

(7) Where paragraph (6) applies, any reference in these Regulations to a new authority shall be read as a reference to a second new authority.

#### **Cessation of employment with new authority**

7. Payment of compensation under these Regulations shall cease when the eligible employee dies or, except in the circumstances referred to in regulation 6(6), ceases to be employed by a new authority for whatever reason.

#### **Notification of compensation**

8. A new authority, after making a determination in accordance with regulation 5, or after recalculating the compensation payable in accordance with the provisions of regulation 6, shall, as soon as reasonably practicable, give the person in respect of whom that determination or recalculation is made, or such other person or persons to whom compensation is payable in accordance with these Regulations, written notification of the compensation that the new authority has determined to pay, or the revised compensation that is payable following such recalculation.

#### **Payment of compensation**

9. Subject to any statutory provision to the contrary, any sum payable under these Regulations shall be paid to or in trust for the person entitled to receive the compensation and shall not be assignable.

**Amendment of the Local Government Superannuation (Scotland) Regulations 1987(a)**

10. In Schedule 1 to the Local Government Superannuation (Scotland) Regulations 1987 the definition of the term “remuneration” shall be amended by adding after the word “use” the following words—

“(including any compensation paid under the Local Government (Compensation for Loss of Remuneration on Reorganisation) (Scotland) Regulations 1995)”.

**Amendment of the Teachers’ Superannuation (Scotland) Regulations 1992(b)**

11. The Teachers’ Superannuation (Scotland) Regulations 1992 shall be amended by adding after paragraph (1) of regulation C1 the following new paragraph:—

---

(a)S.I. 1987/1850; to which relevant amendments have been made by S.I. 1992/3025.

(b)S.I. 1992/280; to which no relevant amendments have been made.

**DRAFT**

“(1A) Compensation paid by a teacher’s employer under the Local Government (Compensation for Loss of Remuneration on Reorganisation) (Scotland) Regulations 1995 shall be treated as part of the teacher’s contributable salary.”.

Minister of State,  
Scottish Office

St Andrew’s House,  
Edinburgh

1995

We consent

Two of the Lords Commissioners  
of Her Majesty’s Treasury

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for payment of compensation to certain staff of local authorities and other bodies affected by local government reorganisation in Scotland who either secure employment at a lower annual rate of remuneration with a new body established under the Local Government etc. (Scotland) Act 1994 ("the 1994 Act") or a joint board, the constituent authorities of which are all local authorities established under section 2 of that Act or having secured employment with such a body subsequently suffer a reduction or further reduction of remuneration.

To qualify for payment of compensation an eligible employee must be in employment with an old authority on 6th April 1995 and must be aged less than 65 at the date the reduction of remuneration occurs. Regulation 4(4) identifies how the date on which the reduction occurs is to be determined. His new employer must determine that he suffered a reduction of remuneration as a consequence of provisions of, or made under, the 1994 Act. Payment of compensation is mandatory and a formal decision to pay compensation must be made within 3 months of the reduction of remuneration taking effect (regulation 5(2)). The amount of compensation payable is fixed (regulation 5(3) and (4)). Compensation is payable by 36 equal monthly instalments (regulation 5(6)) and is subject to readjustment if the individual's remuneration subsequently varies in the 3 year period during which the compensation is payable (regulation 6(1) to (5)). Compensation may continue to be payable if an eligible employee moves during this 3 year period from employment with one new authority to a second new authority (regulation 6(6)). Regulation 7 specifies the circumstances in which payment of compensation will stop.

Regulations 8 and 9 deal with notification and payment of compensation.

Superannuation contributions are payable on the compensation payments made under these Regulations and such payments may be taken into account for the purposes of calculating superannuation benefits payable under the Local Government Superannuation (Scotland)

**DRAFT**

Regulations 1987 (S.I. 1987/1850) (“the 1987 Regulations”) and the Teachers’ Superannuation (Scotland) Regulations 1992 (S.I. 1992/280) (“the 1992 Regulations”). Regulation 10 makes the necessary amendment to the definition of the term “remuneration” in the 1987 Regulations, and regulation 11 makes the necessary amendment to the definition of the terms “contributable salary” in the 1992 Regulations.