STATUTORY RULES OF NORTHERN IRELAND

2003 No. 61

LOCAL GOVERNMENT

The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003

Made - - - - 10th February 2003

Coming into operation 24th March 2003

The Department of the Environment, in exercise of the powers conferred on it by Articles 9 and 19 of the Superannuation (Northern Ireland) Order 1972(**1**) and now vested in it(**2**) and of every other power enabling it in that behalf and after consultation with the Northern Ireland Local Government Association, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to it to be appropriate, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations (Northern Ireland) 2003 and shall come into operation on 24th March 2003.

General interpretation

2.—(1) Schedule 1 contains definitions of expressions used in these Regulations which apply for their interpretation.

(2) Expressions not defined in Schedule 1 but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations or, if the expression is not defined in those Regulations, but is defined in the 2000 Regulations, as in the 2000 Regulations.

(**1**) S.I.1972/1073 (N.I. 10)
(**2**) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(3) Schedule 2 has effect for the purposes of the definition of "appropriate percentage" in Schedule 1.

(4) Where these Regulations refer to anything done, required or arising under any provision of the Pension Regulations, those references shall include anything done, required or arising under the corresponding provision of the 2000 Regulations, the 1992 Regulations or the 1981 Regulations.

(5) Where these Regulations refer to a Scheme member or a person who would be or would have been a Scheme member, those references shall include a pensionable employee and a person who would be or would have been a pensionable employee.

General and special application of Regulations

3.—(1) These Regulations apply in relation to, or as the case may be, in consequence of the death of, a person –

(a) whose employment is terminated –

(i) by reason of redundancy;

(ii) in the interests of the efficient exercise of the Scheme employer's functions; or

(iii) in the case of a joint appointment, because the other holder of the appointment has left it; and

(b) who, on his final day of employment, is eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for a relevant disqualification,

and in the following provisions of these Regulations "person" shall be construed accordingly.

(2) Where an additional requirement is specified in any provision of Parts II to IX in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.

PART II

INCREASE OF STATUTORY REDUNDANCY PAYMENTS

Power to increase statutory redundancy payments

4.—(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Order on the termination of his employment.

(2) The amount which may be paid must not be more than the difference between –

(a) the redundancy payment to which he is entitled under Part XII of the 1996 Order; and

(b) the payment to which he would have been entitled if there had been no limit on the amount of a week's pay used in the calculation of his redundancy payment(**3**).

(3) The power to pay compensation is exercisable by the body by which he is employed immediately before the termination date.

(**3**) *See* Article 23(1)(c) of the Employment Rights (Northern Ireland) Order 1996

PART III

DISCRETIONARY COMPENSATION FOR REDUNDANCY: GENERAL

Discretionary compensation for redundancy: general

5.—(1) This Part applies where a person –

(a) ceases to hold his employment with a Scheme employer;

(b) in respect of that cessation –

(i) has not lost his right to a redundancy payment under Part XI of the 1996 Order by agreement under Article 240(2) of that Order (agreements to exclude rights to redundancy payments on expiry of fixed term contracts);

(ii) may not count an additional period of membership under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50); and

(iii) either is not entitled to have his case considered for compensation under Part IV or is so entitled but has not been awarded a credited period;

(c) is over 18 and under 65 on the termination date;

(d) if under 50 on the termination date, is entitled to count a qualifying employment of at least two years; and

(e) has a total membership not exceeding 40 years.

(2) Where this Part applies, the Scheme employer may, not later than six months after the termination date, decide to pay compensation under this Part; and in that event shall, as soon as reasonably practicable after the decision, notify the person in whose favour it has been made, giving details of the calculation of the compensation.

(3) The amount of compensation must not exceed one week's pay for each complete week between the termination date and the person's 65th birthday and, subject to that, must not exceed 66 weeks' pay or, if less, whichever of sub-paragraphs (a) to (d) applies to him –

(a) if the employee is at least 18 but under 20 on the termination date, half a week's pay for each complete year of qualifying employment after he became 18;

(b) if the employee is at least 20 but under 23 on the termination date –

(i) half a week's pay for each complete year of qualifying employment after he became 18; and

(ii) an additional half a week's pay for each complete year of qualifying employment after he became 20;

(c) if the employee is at least 23 but under 41 on the termination date, two weeks' pay for each complete year of qualifying employment after he became 18; or

(d) if the employee is at least 41 on the termination date –

(i) two weeks' pay for each complete year of qualifying employment after he became 18; and

(ii) an additional three weeks' pay for each complete year of qualifying employment after he became 41.

(4) Chapter IV of Part I of the 1996 Order (calculation of a week's pay) shall apply for the purpose of calculations under paragraph (3) as it applies for the purpose of calculating redundancy payments but –

(a) with the substitution for references to the calculation date of references to the termination date; and

(b) without the limit in a week's pay imposed by Article 231 of that Order.

(5) In calculating compensation under this Part the Scheme employer shall exclude any years of qualifying employment which that Scheme employer or any other Scheme employer has taken into account when calculating compensation already paid under these Regulations or other regulations made under Article 19 of the 1972 Order, other than years of concurrent qualifying employment.

(6) If the person in whose favour a decision under paragraph (2) has been made receives a redundancy payment under Part XII of the 1996 Order or compensation under Part II of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under this Part.

(7) Compensation payable under this Part shall be paid by the Scheme employer, as soon as practicable after the decision under paragraph (2), in the form of a lump sum.

PART IV

ALTERNATIVE DISCRETIONARY AWARDS FOR THOSE AGED 50 AND OVER

Persons eligible for discretionary awards

6.—(1) A person is an eligible person for this Part if he satisfies the requirements in paragraph (2).

(2) The requirements are that, on the termination date of his employment by an employing authority –

(a) he is not entitled to have his case considered for long-term compensation or retirement compensation under section 137 (compensation of officers) of the 1972 Act or under any statutory provision to similar effect;

(b) that his total membership is not to be increased under regulation 54 of the Pension Regulations (power of employing authority to increase total membership of members leaving employment at or after 50) because of the terminated employment;

(c) that he is not to receive compensation for the terminated employment under regulation 5;

(d) he is at least 50, but under 65;

(e) the total of –

(i) his total membership(**4**),

(ii) any periods of superannuable membership(**5**), and

(iii) any increase in membership under regulation 11 of the Transitional Regulations,

is 5 years or more; and

(f) his total membership is not more than 40 years; or

(g) if he is an assumed member, his total membership –

(i) amounts in total to at least 5 years; and

(ii) does not in total exceed 40 years.

(**4**) *See* regulation 8(2) of the Pension Regulations
(**5**) *See* regulation 9 of the Pension Regulations

Award of credited period by way of compensation

7.—(1) An employing authority may award a credited period to an eligible person.

(2) A credited period must not exceed whichever is the shortest of –

(a) the difference between his total membership and 40 years;

(b) the period beginning with the day after the termination date and ending on his 65th birthday, less the period of his residual entitlement (if any) (see regulation 8);

(c) the total of –

(i) his total membership; and

(ii) any period which counts as a period of superannuable membership; and

(iii) any increase in membership under regulation 11 of the Transitional Regulations,

or, if he is an assumed member, any period which would count or any increase which would be awarded apart from a relevant disqualification and on the relevant assumptions; and

(d) 10 years.

(3) An award may not be made later than six months after the termination date.

Period of residual entitlement

8.—(1) A person has a period of residual entitlement under regulation 7(2)(b) if he has been awarded a credited period in respect of an earlier cessation.

(2) The period of his residual entitlement is that found by applying the formula –

$$(A \quad B \mid C) - D$$

where –

A is his earlier extra service, or if paragraph (3) applies to him, that service as reduced in accordance with paragraph (4);

B is the length of the terminated employment;

C is the total of any other periods during which he was or could have been a Scheme member, being periods between the end of the first employment for which earlier extra service was granted and the beginning of the terminated employment; and

D is the period between the end of the first employment for which earlier extra service was granted and the termination date.

(3) This paragraph applies to a person –

(a) who, after an earlier cessation or, if there has been more than one, the first of them, has ceased to hold another employment ("his subsequent employment"); and

(b) whose earlier extra service has been reduced by the whole or part of the period of his subsequent employment; or

(c) whose retirement payment attributable to that earlier extra service has been reduced on account of the whole or part of the period of his subsequent employment.

(4) The earlier extra service of a person to whom paragraph (3) applies shall be reduced by the period of his subsequent employment or, where the reduction in paragraph (3)(b) or (c) was of, or attributable to, part of that period, by that part.