1958 No. 1328 (S. 60)

The Local Government Superannuation (Benefits) (New Towns Staffs) (Scotland) Regulations, 1958

Made - - - -	*4th August*, 1958
Coming into Operation	*19th August*, 1958

In exercise of the powers conferred on me by section 1 of the Local Government Superannuation Act, 1953(a), and of all other powers enabling me in that behalf, I hereby make the following regulations in the terms of a draft which has been laid before Parliament and approved by resolution of each House of Parliament:—

Citation and commencement

1.—(1) These regulations may be cited as the Local Government Superannuation (Benefits) (New Towns Staffs) (Scotland) Regulations, 1958.

(2) The Local Government Superannuation (Benefits) (Scotland) Regulations, 1954 and 1955(b), and these regulations may be cited together as the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954 to 1958.

(3) These regulations shall come into operation on the fifteenth day after the day on which they are made.

Interpretation

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them—

"the Act of 1948" means the Superannuation (Miscellaneous Provisions) Act, 1948(c);

"the Act of 1953" means the Local Government Superannuation Act, 1953;

"the appropriate authority", in relation to any person to whom these regulations apply, means the corporation by whom the person was last employed or, if that corporation has been dissolved, such other authority as has been named for the purposes of these regulations in the order dissolving the corporation;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954, as amended by the Local Government Superannuation (Benefits) (Scotland) Amendment Regulations, 1955;

"contributory employee" has the same meaning as in the Local Government Superannuation (Scotland) Act, 1937(d);

"corporation" means a development corporation established under the New Towns Act, 1946(e);

"pensionable age", in relation to any person, means the earliest age at which, if he were to remain a contributory employee without any break in service, he would become entitled, on ceasing to be employed, to a retirement pension other than a retirement pension payable in consequence of his being incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

(a) 1 & 2 Eliz. 2. c. 25. (b) S I. 1954/1059, 1955/1226 (1954 II, p. 1632; 1955 II, p. 1831).
(c) 11 & 12 Geo. 6. c. 33. (d) 1 Edw. 8 & 1 Geo. 6. c. 69. (e) 9 & 10 Geo. 6. c. 68.

" the prescribed period ", in relation to a person who ceases to be employed by a corporation in any of the circumstances mentioned in regulation 3 of these regulations, means a period of twelve months after the date on which he so ceases to be employed, so however that—

(*a*) in calculating the said period of twelve months there shall be excluded any period of national service served after the person's ceasing to be employed by the corporation ; and

(*b*) in relation to a person to whom section 6 of the Act of 1948 has become applicable, there shall be substituted for the reference to a period of twelve months a reference to a period of five years or such longer period as the Secretary of State may in any particular case allow ;

" retirement pension " means a retirement pension payable under paragraph (1) of regulation 5 of the benefits regulations ;

" superannuation benefit " means a superannuation benefit payable to or in respect of a contributory employee under the benefits regulations ;

and other expressions have the same meaning as in the benefits regulations.

(2) Unless the context otherwise requires, references in these regulations to any enactment shall be construed as references to that enactment as amended by any other enactment including these regulations.

(3) The Interpretation Act, 1889(a), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Persons to whom the regulations apply

3.—(1) These regulations (except regulation 10) shall apply to any person who, being a contributory employee in the employment of a corporation, ceases to be employed in any of the circumstances mentioned in paragraph (2) of this regulation and who, at the date of so ceasing to be employed, has completed five years' service :

Provided that these regulations (except regulation 10) shall not apply to any person who, when he ceases to be employed by a corporation before the age at which he attains pensionable age, has attained the age of fifty-five years and is at that time entitled by virtue of his contract of employment either to supplementary superannuation payments at his eventual retirement or to superannuation payments conditionally on his not having obtained such further employment as is specified in that contract within a specified time after the date on which he ceases to be employed by the corporation.

(2) The circumstances referred to in the last foregoing paragraph are that the person resigns or is dismissed in consequence of, or in pursuance of, or (by agreement with the corporation) in expectation of, a resolution passed, or to be passed, by the corporation employing him declaring that—

(*a*) by reason of the making, or of the expectation of the making, of an order for the dissolution of the corporation ; or

(*b*) by reason of an agreement approved by the Secretary of State for the transfer of the corporation's undertaking or of some part of that undertaking to a local authority or to statutory undertakers ; or

(*c*) by reason of a decision made by the Secretary of State, and communicated in writing to the corporation, which is certified by the Secretary of State for the purposes of these regulations to involve a substantial curtailment of the activities of the corporation,

his post is, or within a time specified in the resolution will become, redundant.

(a) 52 & 53 Vict. c. 63.

Rights of employees declared redundant who have attained an age within ten years of pensionable age

4.—(1) Subject as hereinafter provided, a person to whom these regulations apply who—

(*a*) on ceasing to be employed by a corporation in any of the circumstances mentioned in the last foregoing regulation, is not entitled to any superannuation benefit and is within ten years of attaining pensionable age and

(*b*) within the prescribed period does not enter employment in which he—

(i) continues to participate in the benefits of the superannuation fund in which he participated in his employment with a corporation; or

(ii) becomes a contributory employee or local Act contributor in circumstances in which a transfer value is payable; or

(iii) becomes entitled to the benefit of rules made under section 2 of the Act of 1948 providing for the pension rights of persons who, having left employment with a local authority, enter other employment specified in the rules or would have become entitled to the benefit of those rules if he had given any notice and obtained any consent required thereby

shall be entitled, if he gives notice to the appropriate authority in the manner and within the time specified in paragraph (2) of this regulation, either to the rights specified in regulation 6 of these regulations (hereinafter called "deferred pension rights") or, as he shall elect, to the rights specified in regulation 7 of these regulations (hereinafter called "immediate pension rights"):

Provided that—

(i) a person shall not be entitled to deferred pension rights or to immediate pension rights unless he has during the prescribed period used his best endeavours to obtain employment reasonably comparable with that which he last held under the corporation in which he would become a contributory employee or local Act contributor or in which he would be entitled to claim the benefit of rules made under section 2 of the Act of 1948;

(ii) it shall be a condition of a person's right to receive any benefit under these regulations that he repays—

(*a*) a sum equal to any sum paid to him by way of return of contributions, whether with or without interest, on or after his ceasing to be employed by a corporation; and

(*b*) a sum equal to the amount of any gratuity paid to him under section 18 of the Act of 1953 on ceasing to be employed by a corporation;

(iii) notwithstanding anything in sub-paragraph (*b*) of this paragraph a person shall be entitled to deferred pension rights or immediate pension rights in a case where he would have become entitled to the benefit of rules made under the said section 2 but for the fact that any consent required by those rules has been refused.

(2) A notice for the purposes of the last foregoing paragraph shall be given to the appropriate authority in writing within three months after the expiration of the prescribed period and shall state—

(*a*) the name and address of the person giving the notice;

(*b*) the post held by him immediately before he ceased to be employed by the corporation;

(*c*) the posts for which he has applied during the prescribed period;

(*d*) whether any employment has been offered to him, and, if it has and he has declined to accept the employment, the reasons for his decision;

(*e*) the kind of pension rights which, in pursuance of the last foregoing paragraph, he has elected to claim.

(3) For the purposes of proviso (i) to paragraph (1) of this regulation employment shall not be deemed to be not reasonably comparable with employment held under a corporation by reason only of the fact that the duties of the employment are duties in relation to the administration of a different service from that in connection with which the employment under the corporation was held or are duties which involve the transfer of a person's employment from one place to another within Scotland.

Rights of employees declared redundant who have not attained an age within ten years of pensionable age

5. Where the last foregoing regulation would apply to a person but for the fact that on ceasing to be employed he is not within ten years of attaining pensionable age, that regulation shall apply to him with the modification that he shall have no right to immediate pension rights and shall be entitled only to deferred pension rights.

Deferred pension rights

6.—(1) A person who under these regulations is entitled to deferred pension rights shall be entitled to the rights specified in paragraphs (2), (3), (4), (5) and (6) of this regulation.

(2) Where any such person attains pensionable age without having become entitled to benefits payable under paragraph (3) of this regulation or to a short service grant payable under paragraph (4) of this regulation, there shall be payable to and in respect of him, as from the date on which he attains pensionable age, the like superannuation benefits as would have been payable if he had attained pensionable age immediately before ceasing to be employed by a corporation and had been entitled to reckon for the purpose of determining his eligibility to receive superannuation benefits (but not for the purpose of calculating the amount of those benefits) the period from the date on which he so ceased to be employed to the date on which he attains pensionable age.

(3) Any such person who—

(*a*) on ceasing to be employed by a corporation, has completed ten years' service and

(*b*) before attaining pensionable age, ceases to hold any employment on becoming incapable of discharging efficiently the duties of that employment by virtue of permanent ill-health or infirmity of mind or body; or

(*c*) before attaining pensionable age and while he is not employed, suffers such permanent ill-health or infirmity of mind or body that he would have been incapable of discharging efficiently the duties of his last employment had he continued to hold that employment,

shall be entitled to the like superannuation benefits as would have been payable under the benefits regulations if on ceasing to be employed by a corporation he had been incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body and had then attained the age which he had attained when he became incapacitated as aforesaid.

(4) Any such person who—

(*a*) on ceasing to be employed by a corporation, has completed five but has not completed ten years' service and

(*b*) before attaining pensionable age, would have become entitled to benefits under the last foregoing paragraph if he had completed ten years' service

shall be entitled to a short service grant of the like amount as would have been payable under regulation 9 of the benefits regulations if he had ceased to be employed by a corporation in the circumstances mentioned in the said regulation 9.

(5) Where any such person—

(*a*) on ceasing to be employed by a corporation has completed ten years' service and

(*b*) before attaining pensionable age dies after the expiration of a period of twelve months after so ceasing to be employed in circumstances in which neither a widow's pension under paragraph (3) of regulation 8 of the benefits regulations nor a death grant under paragraph (2) of regulation 10 of the benefits regulations is payable in respect of him,

there shall be payable in respect of him the like widow's pension (if any) and death grant as would have been payable under regulation 8 or regulation 10 of the benefits regulations if he had died within the said period of twelve months and if he had then attained the age which he had attained at his death.

(6) Where any such person—

(*a*) on ceasing to be employed by a corporation has completed five but has not completed ten years' service and

(*b*) before attaining pensionable age dies after the expiration of a period of twelve months after so ceasing to be employed in circumstances in which no death grant under paragraph (2) of regulation 10 of the benefits regulations is payable in respect of him and without having previously become entitled to a short service grant under paragraph (4) of this regulation,

there shall be payable in respect of him a death grant of the like amount as would have been payable under regulation 10 of the benefits regulations if he had died within the said period of twelve months.

Immediate pension rights

7.—(1) A person who under these regulations is entitled to immediate pension rights shall be entitled to the rights specified in paragraphs (2) and (3) of this regulation.

(2) There shall be payable to and in respect of any such person such superannuation benefits as would have been payable to and in respect of him if—

(*a*) on ceasing to be employed by a corporation, he had become entitled to a retirement pension (other than a retirement pension payable as a result of incapacity due to permanent ill-health or infirmity of mind or body) and retirement grant calculated in respect of service reckonable by him immediately before he ceased to be so employed; and

(*b*) the amount so calculated had in each case been reduced, according to his age on ceasing to be so employed, by the percentage shown in the appropriate column of the relevant Table set out in the Schedule to these regulations:

Provided that the reduction effected under sub-paragraph (*b*) of this paragraph shall be disregarded in the calculation of any widow's pension which may become payable under this paragraph.

(3) The first instalment of retirement pension payable to a person under this regulation shall be calculated in respect of the period from the date on which he ceased to be employed by a corporation as aforesaid to the date on which the payment is made.

Restriction on reckoning of deferred pension service

8. Where, after the expiration of the prescribed period, a person who under these regulations is entitled to deferred pension rights enters further employment in which he is a contributory employee, service of which account has been, or is required to be, taken in calculating the amount of superannuation benefits payable in respect of his deferred pension rights shall not be reckonable on his ceasing to be employed in that further employment or in any subsequent employment in which he is a contributory employee—

(i) for the purpose of calculating the amount of any superannuation benefits payable to or in respect of him ; or

(ii) for the purpose of determining whether any retirement pension is payable to him under sub-paragraph (*a*) of paragraph (1) of regulation 5 of the benefits regulations,

and accordingly in regulation 4 of the benefits regulations in paragraph (2) there shall be added after sub-paragraph (*b*) the following sub-paragraph:—

"(*c*) does not include any service reckonable for the purpose of calculating the amount of superannuation benefit payable to or in respect of a person entitled to deferred pension rights under the Local Government Superannuation (Benefits) (New Towns Staffs) (Scotland) Regulations, 1958, or any amendment thereof"

and after paragraph (3) of the said regulation 4 there shall be added the following paragraph (4):—

"(4) In determining whether any benefit is payable to a contributory employee under sub-paragraph (*a*) of paragraph (1) of regulation 5 of these regulations no account shall be taken of such service as is mentioned in sub-paragraph (*c*) of paragraph (2) of this regulation."

Further provision with respect to widows' pensions

9. Paragraphs (6) and (7) of regulation 8 of the benefits regulations shall apply to and in respect of a widow's pension payable under these regulations as they apply to and in respect of a widow's pension payable under the said regulation 8.

Option to enjoy former benefits

10.—(1) This regulation applies to any person who—

(*a*) was, as a contributory employee in the employment of a corporation, a person who could have exercised, but did not exercise within the time allowed to him under regulation 17 of the benefits regulations, the option for which that regulation provided ; and

(*b*) at the date of the coming into operation of these regulations, is a contributory employee in the employment of a corporation.

(2) Any such person shall be entitled within six months after the date of the coming into operation of these regulations to notify the employing authority in writing that he does not wish to avail himself of the benefits provided under the benefits regulations, and if he does so notify the

employing authority he shall be entitled to enjoy rights to benefits corresponding to those enjoyed by him before the coming into operation of the benefits regulations in lieu of the rights (other than any right expressly made applicable to or in respect of him by the benefits regulations) which he would otherwise enjoy under or by virtue of the benefits regulations.

(3) In relation to a person who has exercised the option conferred on him by this regulation the benefits regulations shall apply as if that option had been exercised under paragraph (1) of regulation 17 of the benefits regulations.

Dated this 4th day of August, 1958.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh 1.

SCHEDULE

REDUCTION OF PENSION AND RETIREMENT GRANT UNDER REGULATION 7

PART I—RETIREMENT PENSION

Age of person on ceasing to be employed:—	Percentage reduction to be made under regulation 7 (2) (*b*) by reference to the under-mentioned pensionable age:—										
	55	56	57	58	59	60	61	62	63	64	65
45	46	50	53	56	59	62	65	67	69	71	73
46	43	47	51	54	57	60	63	65	67	70	72
47	40	44	48	51	55	58	61	63	65	68	71
48	36	41	45	48	52	56	59	61	63	66	69
49	32	37	42	45	49	53	56	59	61	64	67
50	28	33	38	42	46	50	53	56	59	62	65
51	23	29	34	38	43	47	50	53	57	60	63
52	18	24	30	34	39	43	47	50	54	58	61
53	13	19	25	30	35	39	44	47	51	55	58
54	7	13	20	25	31	35	40	44	48	52	55
55	—	7	14	20	26	31	36	41	45	49	52
56	—	—	7	14	20	26	31	37	41	46	49
57	—	—	—	7	14	20	26	32	37	42	46
58	—	—	—	—	7	14	20	27	32	38	42
59	—	—	—	—	—	7	14	21	27	33	38
60	—	—	—	—	—	—	7	15	21	28	33
61	—	—	—	—	—	—	—	8	15	22	28
62	—	—	—	—	—	—	—	—	8	16	23
63	—	—	—	—	—	—	—	—	—	9	17
64	—	—	—	—	—	—	—	—	—	—	9

PART II—RETIREMENT GRANT

Age of person on ceasing to be employed:—	Percentage reduction to be made under regulation 7 (2) (*b*) by reference to the under-mentioned pensionable age:—										
	55	56	57	58	59	60	61	62	63	64	65
45	31	33	36	38	41	43	45	47	50	52	54
46	28	31	34	36	39	41	43	45	48	50	52
47	25	28	31	34	37	39	41	44	46	48	50
48	23	26	29	32	35	37	39	42	44	46	49
49	20	23	26	29	32	35	37	40	42	45	47
50	17	20	23	26	29	32	35	38	40	43	45
51	14	18	21	24	27	30	33	35	38	41	43
52	11	14	18	21	24	27	30	33	36	39	41
53	8	11	15	18	22	25	28	31	34	36	39
54	4	8	11	15	19	22	25	28	31	34	37
55	—	4	8	12	15	19	22	26	29	32	35
56	—	—	4	8	12	15	19	23	26	29	32
57	—	—	—	4	8	12	16	20	23	26	29
58	—	—	—	—	4	8	12	16	20	23	26
59	—	—	—	—	—	4	8	12	16	20	23
60	—	—	—	—	—	—	4	9	13	16	20
61	—	—	—	—	—	—	—	5	9	13	17
62	—	—	—	—	—	—	—	—	5	9	14
63	—	—	—	—	—	—	—	—	—	5	10
64	—	—	—	—	—	—	—	—	—	—	5

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Local Government Superannuation Act, 1953, s. 1 (2), empowers the Secretary of State to make provision as to the superannuation benefits which shall be payable to or in respect of persons who are or have been contributory employees within the meaning of the Local Government Superannuation (Scotland) Act, 1937.

These regulations accordingly—

(*a*) enable any employee of a development corporation, to whom the Local Government Superannuation Acts apply, who, having been declared redundant through the winding up of the corporation within ten years of pensionable age, is unable within twelve months to find further employment in which his pension rights can be preserved, either to have his accrued pension rights frozen until he reaches pensionable age or to commute immediately for an actuarially equivalent pension;

(*b*) enable any such employee who is declared redundant before he is within ten years of pensionable age to have his accrued rights frozen as in (*a*);

(*c*) provide a further period within which any such employee may exercise the right previously given to him under Local Government Superannuation (Benefits) (Scotland) Regulations, 1954, reg. 17, to retain his existing rights under the Local Government Superannuation (Scotland) Act, 1937, if he has not already exercised it.