

2006 No.

LOCAL GOVERNMENT, SCOTLAND

The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2006

<i>Made</i> - - - -	2006
<i>Laid before the Scottish Parliament</i>	2006
<i>Coming into force</i> - -	2006

The Scottish Ministers, in exercise of the powers conferred by sections 7, 12 and 24 of the Superannuation Act 1972(a) and of all other powers enabling them in that behalf, after consulting with such associations of local authorities as appear to them to be concerned and such representatives of other persons likely to be affected by these Regulations as appear to them to be appropriate, in accordance with section 7(5) of that Act, and not having considered consultation with any individual local authority desirable, hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Amendment Regulations 2006 and shall come into force on [xxxx] 2006, but shall have effect from [1st December] 2006.

Amendment of the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998

2.-(1) The Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998(b) are amended as follows.

(2) In regulation 34(1) (persons to whom Part IV applies) insert “and” at the end of sub-paragraph (b) and omit sub-paragraphs (c), (e) and (f).

(3) For regulation 35(1) (determination to pay and commutation of compensation) substitute –

“(1) The LGPS employer may before the end of the period of six months beginning with the material date determine to pay to an employee to whom this Part applies compensation which shall not exceed 66 weeks’ remuneration, but no person may be paid compensation under this regulation in respect of the cessation of an employment in respect of which an additional period of membership may be counted under regulation 51 of the Local Government Pension Scheme (Scotland) Regulations 1998(c).”.

(a) 1972 c.11; the functions of the Secretary of State exercised in the making of these Regulations were transferred to the Scottish Ministers as regards Scotland by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750).

(b) S.I. 1998/192; relevant amending instruments are S.I. 1998/364 and S.S.I. 2000/77.

(c) S.I. 1998/366; relevant amending instruments are S.S.I. 2000/199, 2005/293 and 2006/468.

- (4) Omit regulation 35(1A).
- (5) For regulation 35(2) substitute –
- “(2) Where the employee has received, in respect of the cessation of his former employment –
- (a) a redundancy payment to which he is entitled under Part XI of the 1996 Act; or
- (b) compensation paid to him under Part II of these Regulations,
- an amount equivalent to such payment and, as the case may be, compensation shall be deducted from the amount of the compensation otherwise payable to him under this Part.”
- (6) Omit regulation 37(2) (supplementary provisions).

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on XXXX 2006, and have effect from 1st December 2006, make further amendments to the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (“the 1998 Regulations”).

The Regulations amend Part IV of the 1998 Regulations, which allows a discretionary compensation lump sum to be paid to certain local government employees who cease to hold employment on grounds of redundancy or in the interest of the efficient exercise of the employer's functions. The Regulations remove certain age related criteria for eligibility for the payment and amend regulation 35 (1) to replace the existing paragraph with one which simply limits the compensation lump sum to one of 66 weeks pay. This limit is inclusive of any statutory redundancy payment to which the employee is entitled and any additional compensation paid in connection with that statutory redundancy payment under Part II of the 1998 Regulations.

The power to make retrospective provision is found in section 24(3)(c) of the Superannuation Act 1972.