

2006 No. 2914	2006 No. 2914
Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006	Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 <i>modified for the Isle of Man</i>
Citation, commencement and extent	Citation, commencement and extent
1. —(1) These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.	1. —(1) These Regulations may be cited as the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006.
(2) They shall come into force on 29th November 2006 but shall have effect from 1st October 2006 and extend to England and Wales.	(2) They shall come into force on 1st April 2012.
Interpretation	Interpretation
2. —(1) In these Regulations—	2. —(1) In these Regulations—
"the 1996 Act" means the Employment Rights Act 1996;	"the 1990 Act" means the Redundancy Payments Act 1990 (an Act of Tynwald);
"the 2000 Regulations" means the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000;	"the 2000 Regulations" means the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000;
"the Benefits Regulations" means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007; <i>ins. 2009/3150</i>	"the Benefits Regulations" means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007; <i>ins. 2009/3150</i>
"the Administration Regulations" means the Local Government Pension Scheme (Administration) Regulations 2008; <i>ins. 2009/3150</i>	"the Administration Regulations" means the Local Government Pension Scheme (Administration) Regulations 2008; <i>ins. 2009/3150</i>
"employing authority", in relation to a person, means—	"employing authority", in relation to a person, means—
(a) a body listed in Schedule 2 (Scheme employers) to the Pension Regulations by whom he is employed immediately before the termination date;	(a) a body specified in paragraph (2) of regulation 4 of the Local Government Pension Scheme (Administration) Regulations 2008 (not being a body specified in paragraph (3) of that regulation) by whom the person is employed immediately before the termination date; or
(b) a body listed in regulation 4(6) (resolution bodies) of those Regulations—	(b) a body specified in paragraph (3) of that regulation —
(i) by whom he is employed immediately before the termination date; and	(i) by whom the person is employed immediately before the termination date; and
(ii) which has passed a relevant resolution, within the meaning of regulation 4(5) of those Regulations, which covers him; or	(ii) who has designated that person as being eligible for membership of the Scheme under that paragraph;
(c) in the case of a person who is eligible to be a Scheme member under regulation 127(1)(a) or (aa) of the Pension Regulations, the local	

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education authority by whom he is deemed to be employed under regulation 128 of the Pension Regulations.	
(a) a body listed in Schedule 2 (Scheme employers) to the Administration Regulations by whom the person is employed immediately before the termination date;	
(b) a body listed in Part 2 of that Schedule—	
(i) by whom the person is employed immediately before the termination date; and	
(ii) who has been designated by the body as being eligible for membership of the Scheme under regulation 4(3) of those Regulations; or	
(c) in the case of a person who is eligible to be a Scheme member under regulation 8(1)(a) or (b) of the Administration Regulations, the local education authority by whom the person is deemed to be employed under regulation 8(2) of those Regulations. <i>subst. 2009/3150</i>	
"employment" includes office but does not include a period as—	"employment" includes office ...
(a) the Mayor of London,	
(b) a member of the London Assembly, or	
(c) a councillor member;	
"Pension Regulations" means the Local Government Pension Scheme Regulations 1997; <i>om. 2009/3150</i>	
"Scheme member" means a member of the Local Government Pension Scheme constituted by the Pension Regulations; "Scheme member" means a member of the Local Government Pension Scheme constituted by the Benefits Regulations and the Administration Regulations; <i>subst. 2009/3150</i>	"Scheme member" means a member of the Local Government Pension Scheme constituted by the Pension Regulations; "Scheme member" means a member of the Local Government Pension Scheme constituted by the Benefits Regulations and the Administration Regulations; <i>subst. 2009/3150</i>
"termination date" in relation to a person means the final day of his employment.	"termination date" in relation to a person means the final day of his employment.
(2) Expressions not defined in paragraph (1) but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations.	(2) Expressions not defined in paragraph (1) but used in these Regulations and in the Pension Regulations have the same meaning as in those Regulations.
(2) Expressions not defined in paragraph (1) but used in these Regulations and in the Benefits Regulations or the Administration Regulations or both have the same meaning as in the Benefits	(2) Expressions not defined in paragraph (1) but used in these Regulations and in the Benefits Regulations or the Administration Regulations or both have the same meaning as in the Benefits

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Regulations or the Administration Regulations, as the case may be. <i>subst. 2009/3150</i>	Regulations or the Administration Regulations, as the case may be. <i>subst. 2009/3150</i>
Application to the Isles of Scilly	
3. These Regulations apply to the Isles of Scilly as if they were a district in the county of Cornwall and the Council of the Isles of Scilly were a council of that district.	
Application of the Regulations	Application of the Regulations
4. —(1) Subject to regulation 11(2), these Regulations apply in relation to a person—	4. —(1) Subject to regulation 11(2), these Regulations apply in relation to a person—
(a) whose employment is terminated—	(a) whose employment is terminated—
(i) by reason of redundancy,	(i) by reason of redundancy,
(ii) in the interests of the efficient exercise of the employing authority's functions, or	(ii) in the interests of the efficient exercise of the employing authority's functions, or
(iii) in the case of a joint appointment, because the other holder of the appointment has left it;	(iii) in the case of a joint appointment, because the other holder of the appointment has left it;
(b) who, on the termination date, is—	(b) who, on the termination date, is—
(i) employed by an employing authority, and	(i) employed by an employing authority, and
(ii) eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for the giving of a notification under regulation 8 of the Pension Regulations; and	(ii) eligible to be a Scheme member (whether or not he is such a member) or would be so eligible but for the giving of a notification under regulation 8 of the Pension Regulations; and
(ii) eligible to be a scheme member (whether or not the person is such a member) or would be so eligible but for the giving of a notification under regulation 14 of the Administration Regulations; <i>subst. 2009/3150</i>	(ii) eligible to be a scheme member (whether or not the person is such a member) or would be so eligible but for the giving of a notification under regulation 14 of the Administration Regulations; <i>subst. 2009/3150</i>
(c) whose termination date is on or after 1st October 2006,	(c) whose termination date is on or after 1st April 2012 ,
and in the following provisions of these Regulations, "person" shall be construed accordingly, unless the context indicates that it has a different meaning.	and in the following provisions of these Regulations, "person" shall be construed accordingly, unless the context indicates that it has a different meaning.
(2) Where an additional requirement is specified in any provision of regulations 5 and 6 in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.	(2) Where an additional requirement is specified in any provision of regulations 5 and 6 in relation to a person, that provision does not apply in relation to him unless he satisfies that additional requirement.
Power to increase statutory redundancy payments	Power to increase statutory redundancy payments
5. —(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1996 Act on the termination of his employment.	5. —(1) Compensation may be paid in accordance with this regulation to a person who is entitled to a redundancy payment under the 1990 Act on the termination of his employment.
(2) The amount which may be paid must not be more than the difference between—	(2) The amount which may be paid must not be more than the difference between—

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(a) the redundancy payment to which he is entitled under Part 11 of the 1996 Act; and	(a) the redundancy payment to which he is entitled under the 1990 Act ; 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.	(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) The power to pay compensation is exercisable by the employing authority.	(3) The power to pay compensation is exercisable by the employing authority.
Discretionary compensation	Discretionary compensation
6. —(1) This regulation applies where a person—	6. —(1) This regulation applies where a person—
(a) ceases to hold his employment with an employing authority, and	(a) ceases to hold his employment with an employing authority, and
(b) in respect of that cessation may not count an additional period of membership under regulation 52 (power of employing authority to increase total membership of members) of the Pension Regulations.	(b) in respect of that cessation may not count an additional period of membership under regulation 52 (power of employing authority to increase total membership of members) of the Pension Regulations.
(b) in respect of that cessation is not awarded— (i) an additional period of membership under regulation 12 (power of employing authority to increase total membership of active members); or (ii) an additional pension under regulation 13 (power of employing authority to award additional pension) of the Benefits Regulations. <i>subst. 2009/3150</i>	(b) in respect of that cessation is not awarded— (i) an additional period of membership under regulation 12 (power of employing authority to increase total membership of active members); or (ii) an additional pension under regulation 13 (power of employing authority to award additional pension) of the Benefits Regulations. <i>subst. 2009/3150</i>
(2) Where this regulation applies, the employing authority may, not later than six months after the termination date, decide to pay compensation under this regulation 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 amount of the compensation.	(2) Where this regulation applies, the employing authority may, not later than six months after the termination date, decide to pay compensation under this regulation 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 amount of the compensation.
(3) The amount of compensation must not exceed 104 weeks' pay.	(3) The amount of compensation must not exceed 104 weeks' pay.
(4) Chapter 2 (a week's pay) of Part 14 (Interpretation) of the 1996 Act shall apply for the purpose of calculating a person's week's pay as it applies for the purpose of calculating redundancy payments but —	(4) Chapter 2 (a week's pay) of Part 14 (Interpretation) of the 1996 Act shall apply for the purpose of calculating a person's week's pay 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	(a) with the substitution for references to the calculation date of references to the termination date; and
(b) without the limit on a week's pay imposed by section 227 of that Act.	(b) without the limit on a week's pay imposed by section 227 of that Act.
(4) Chapter 2 (a week's pay) of Part 14 (Interpretation) of the 1996 Act shall apply for the purpose of calculating a person's week's pay as	(4) Schedule 6 to the Employment Act 2006 (an Act of Tynwald) Act shall apply for the purpose of calculating a person's week's pay as

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it applies for the purpose of calculating redundancy payments but without the limit on a week's pay imposed by section 227 of that Act. <i>subst. 2009/3150</i>	it applies for the purpose of calculating redundancy payments but without the limit on a week's pay imposed by paragraph 10 of that Schedule. <i>subst. 2009/3150</i>
(5) If the person in whose favour a decision under paragraph (2) has been made receives a redundancy payment under Part 11 of the 1996 Act or compensation under regulation 5 of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under this regulation.	(5) If the person in whose favour a decision under paragraph (2) has been made receives a redundancy payment under the 1990 Act or compensation under regulation 5 of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under this regulation.
(6) Compensation under this regulation shall be paid by the employing authority as soon as practicable after the decision under paragraph (2).	(6) Compensation under this regulation shall be paid by the employing authority as soon as practicable after the decision under paragraph (2).
(7) The compensation shall be payable in the form of a lump sum.	(7) The compensation shall be payable in the form of a lump sum.
Policy Statements	Policy Statements
7. —(1) Each employing authority must formulate, publish and keep under review the policy that they apply in the exercise of their discretionary powers under regulations 5 and 6.	7. —(1) Each employing authority must formulate, publish and keep under review the policy that they apply in the exercise of their discretionary powers under regulations 5 and 6.
(2) If the authority decide to change their policy, they must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.	(2) If the authority decide to change their policy, they must publish a statement of the amended policy and may not give effect to any policy change until one month after the date of publication.
(3) In formulating and reviewing their policy the authority must—	(3) In formulating and reviewing their policy the authority must—
(a) have regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and	(a) have regard to the extent to which the exercise of their discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and
(b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.	(b) be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.
Payments and repayments	Payments and repayments
8. —(1) Any compensation payable under these Regulations is payable to or in trust for the person entitled to receive it.	8. —(1) Any compensation payable under these Regulations is payable to or in trust for the person entitled to receive it.
(2) Where any compensation is paid in error to any person—	(2) Where any compensation is paid in error to any person—
(a) the employing authority must, as soon as possible after the discovery of the error—	(a) the employing authority must, as soon as possible after the discovery of the error—
(i) inform the person concerned, by notice in writing, giving details of the relevant calculation,	(i) inform the person concerned, by notice in writing, giving details of the relevant calculation,
(ii) where there has been an underpayment, make a further payment,	(ii) where there has been an underpayment, make a further payment,
(iii) where there has been an overpayment, specify a reasonable period for repayment;	(iii) where there has been an overpayment, specify a reasonable period for repayment;

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(b) a person who has received a notice under sub-paragraph (a) must repay any overpayment within the specified period; and	(b) a person who has received a notice under sub-paragraph (a) must repay any overpayment within the specified period; and
(c) the employing authority may take such steps as they consider appropriate to recover from the person to whom it was paid any overpayment which has not been repaid within the specified period.	(c) the employing authority may take such steps as they consider appropriate to recover from the person to whom it was paid any overpayment which has not been repaid within the specified period.
(3) The employing authority shall take into account the person's circumstances (so far as known or reasonably ascertainable) before taking steps under paragraph (2) (c).	(3) The employing authority shall take into account the person's circumstances (so far as known or reasonably ascertainable) before taking steps under paragraph (2) (c).
Finance	Finance
9. The cost of any payment to be made under these Regulations must not be met out of any pension fund maintained under the Pension Regulations [the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998, the Benefits Regulations and the Administration Regulations]. <i>am. 2009/3150</i>	9. The cost of any payment to be made under these Regulations must not be met out of any pension fund maintained under the Pension Regulations [the Local Government Pension Scheme (Management and Investment of Funds) Regulations 1998, the Benefits Regulations and the Administration Regulations]. <i>am. 2009/3150</i>
Consequential amendments	
10. Schedule 1 shall have effect for the purpose of making amendments which are consequential on the making of these Regulations.	
Revocation of Regulations, transitional provisions and savings	Revocation of Regulations, transitional provisions and savings
11. —(1) The following are revoked but subject to the transitional provision in paragraph (2) and the savings in Schedule 2 —	11. —(1) The following are revoked but subject to the transitional provision in paragraph (2) and the savings in Schedule 2 —
(a) the 2000 Regulations,	(a) the 2000 Regulations,
(b) regulation 598 of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001,	
(c) the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) (Miscellaneous) Regulations 2002,	
(d) regulation 9(2) of the Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003, and	
(e) regulation 5 of the Local Government Pension Scheme (Civil Partnership) (Amendment) (England and Wales) Regulations 2005	
(2) An employing authority may decide to pay compensation under the 2000 Regulations to a person whose employment with them commenced before 1st October 2006 and whose termination date is after 30th September 2006 and before 1st April 2007.	(2) An employing authority may decide to pay compensation under the 2000 Regulations to a person whose employment with them commenced before 1st April 2012 and whose termination date is after 31st March 2012 and before 1st October 2012.

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(3) An employing authority may decide to pay compensation under regulation 6 of these Regulations to a person—	
(a) whose employment with them terminated after 30th September 2006 and before the date on which these Regulations come into force, and	
(b) in respect of whom a decision to pay lump sum compensation has been made and notified under Part 3 of the 2000 Regulations before the date on which these Regulations come into force ("the 2000 lump sum").	
(4) The amount that an employing authority may decide to pay under paragraph (3) may not exceed the difference between—	
(a) 104 weeks' pay, and	
(b) the 2000 lump sum	
but if the person in whose favour a decision under paragraph (3) has been made receives a redundancy payment under Part 11 of the 1996 Act or compensation under regulation 5 of the 2000 Regulations or regulation 5 of these Regulations, the equivalent amount shall be deducted from the compensation otherwise payable to him under paragraph (3) if no such adjustment has already been made.	
(5) Nothing in these Regulations shall place any individual who is eligible to participate in the benefits for which the 2000 Regulations provide in a worse position than he would have been in if all the provisions of these Regulations had been framed so as to have effect only from the date of their making.	(5) Nothing in these Regulations shall place any individual who is eligible to participate in the benefits for which the 2000 Regulations provide in a worse position than he would have been in if all the provisions of these Regulations had been framed so as to have effect only from the date of their making.
SCHEDULE 1	
Regulation 10	
CONSEQUENTIAL AMENDMENTS	
1. In regulations 4(1)(c) and 8(2)(a) of the Local Government Reorganisation (Compensation for Loss of Remuneration) Regulations 1995, for "or Part IV of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000" substitute "or regulation 5 or 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006".	
2. In regulation 12(3) (b) (claims etc. in connection with contracts of employment) of the Local Government Changes for England (Miscellaneous Provision) Regulations 1996 for "Part III of the Local	

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Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000" substitute "or regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006".	
3. In regulation 4(d) of the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 at the end add "or the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006".	
4. In regulation 7A(2)(b) of the Accounts and Audit Regulations 2003 at the end add "or the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006".	
SCHEDULE 2	SCHEDULE 2
Regulation 11	Regulation 11
SAVINGS	SAVINGS
1. The revocation of the 2000 Regulations does not affect—	1. The revocation of the 2000 Regulations does not affect—
(a) any person whose termination date is before 1st October 2006 and who is eligible for compensation under the provisions of those Regulations,	(a) any person whose termination date is before 1st April 2012 and who is eligible for compensation under the provisions of those Regulations,
(b) any person to whom an employing authority have decided that compensation shall be paid under those Regulations in accordance with regulation 11(2) of these Regulations, or	(b) any person to whom an employing authority have decided that compensation shall be paid under those Regulations in accordance with regulation 11(2) of these Regulations, or
(c) the rights of any person who is entitled to benefits under those Regulations in consequence of the death of such a person	(c) the rights of any person who is entitled to benefits under those Regulations in consequence of the death of such a person
and in relation to such persons those Regulations shall continue to apply.	and in relation to such persons those Regulations shall continue to apply.
2. Where—	2. Where—
(a) any provision continues to have effect in relation to any person by virtue of paragraph 1, and	(a) any provision continues to have effect in relation to any person by virtue of paragraph 1, and
(b) immediately before 1st October 2006 it has effect in relation to him subject to any saving, transitional provision or modification	(b) immediately before 1st April 2011 it has effect in relation to him subject to any saving, transitional provision or modification
nothing in these Regulations affects the operation of that saving, transitional provision or modification.	nothing in these Regulations affects the operation of that saving, transitional provision or modification.

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<p>3. The revocation by these Regulations of any provision which previously revoked any provision subject to savings does not affect the continued operation of those savings, in so far as they remain capable of having effect.</p>	<p>3. The revocation by these Regulations of any provision which previously revoked any provision subject to savings does not affect the continued operation of those savings, in so far as they remain capable of having effect.</p>
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