1980 No. 265

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1980

Made . . . . . *5th August 1980*

Coming into operation . . . *12th September 1980*

The Department of the Environment in exercise of powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) and now vested in it(**b**) and of all other powers enabling it in that behalf and after consultation with the Association of Local Authorities of Northern Ireland, 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:—

Citation, commencement and retrospection

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1980 and shall come into operation on 12th September 1980 and shall have effect from that date, except for regulation 11 which shall have effect as from 1st August 1975, regulation 3(*a*), (*b*) and (*d*) which shall have effect as from 1st August 1979 and regulations 3(*c*), 4, 5, 7, 8 and 10 which shall have effect as from 1st April 1980.

Interpretation

2. In these regulations—

"the Committee" means the Northern Ireland Local Government Officers' Superannuation Committee;

"employing authority" means a local authority as defined in Article 2(2) of the Superannuation (Northern Ireland) Order 1972 or a designated body as defined in regulation 6 of the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(**c**);

"the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**d**);

and other words and expressions have the same meaning as in the principal regulations.

Payments by officer to avoid reduction of retiring allowance and death gratuity

3. In regulation 8A of the principal regulations (Payments by officer to avoid reduction of retiring allowance and death gratuity)—

(*a*) after paragraph (10)(*a*) there shall be inserted the following sub-paragraph—

"(*aa*) he ceases to be employed, one of the conditions prescribed in regulation 9(2)(*a*) and (*b*) applies in his case and payment by him in

(a) S.I. 1972/1073 (N.I. 10)
(b) S.R. & O.(N.I.) 1973 No. 504 art. 7(1) (II, p. 2992); 1973 c. 36 sch. 5 para 8(1); S.I. 1976/424 (N.I. 6)
(c) S.R. 1975 No. 347 (II, p. 1695)
(d) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by the following relevant regulations — S.R. & O. (N.I.) 1973 No. 242 (I, p. 1207); S.R. 1974 No. 72 (I, p. 211); S.R. 1978 No. 386 (II, p. 1426); S.R. 1979 No. 23 (I, p. 69); S.R. 1979 No. 214 (II, p. 1029)

accordance with paragraph (3) or, as the case may be, paragraph (4) has not been discontinued by virtue of paragraph (9), he may, if he gives notice in writing for the purpose to the Committee within the period of 3 months beginning—

(i) on the day after the last day of his employment, or

(ii) on 12th September 1980,

whichever is the later date, pay to the superannuation fund within the period specified in paragraph (11) an amount calculated by the Government Actuary to represent the capital value of the payments remaining to be made, and shall in that event be treated as having completed payment in accordance with paragraph (3) or, as the case may be, paragraph (4); or'';

(*b*) for the words ''sub-paragraph (*a*)'' in paragraph (10)(*b*)(i) there shall be substituted the words ''sub-paragraphs (*a*) and (*aa*)'';

(*c*) for paragraphs (ii) and (iii) of the proviso to paragraph (10)(*b*) there shall be substituted the following—

''(ii) elected to receive a payment under regulation 33(6); or

(iii) made such a request for earlier payment as is mentioned in regulation 33(11);'' and

(*d*) After paragraph (10) there shall be added the following paragraph—

''(11) The period mentioned in paragraph (10)(*aa*) is the period of one month beginning on the date on which the person is notified by the Committee of the amount calculated as mentioned in that paragraph.''.

Entitlement to pension and retiring allowance

4. For regulation 9(1)(*c*) of the principal regulations (Officer's pension and retiring allowance) there shall be substituted—

''(*c*) he is not entitled to benefit under sub-paragraphs (*a*), (*b*) or (*d*) and—

(i) the service he is entitled to reckon amounts in aggregate to not less than 5 years; or

(ii) he has made an election under regulation 33(3)(*b*) or is a person to whom regulation 33(4)(*a*) applies; or''

Reckoning of service

5. In regulation 18(9) of the principal regulations (Reckoning as service of previous periods of employment) there shall be inserted after the words ''1st April 1950'' the words ''and before 1st April 1980''.

Intervals in service due to pregnancy or confinement

6. After regulation 19 of the principal regulations there shall be added the following regulation—

''*Intervals in service due to pregnancy or confinement*

19A.—(1) A female officer whose remuneration is suspended owing to leave of absence from duty wholly or partly on account of her pregnancy or confinement and who does not give notice under regulation 8(5)(*b*) of her intention to make contributions during the period of her absence, shall be deemed to have ceased her employment as an officer from the date on which she ceased to make contributions under regulation 8(5)(*a*) but shall not on that account be entitled to receive payment of any benefit under these regulations.

(2) Where a person is deemed by virtue of paragraph (1) to have ceased her employment as an officer on account of her pregnancy or confinement and again

becomes an officer, no account shall be taken of any period during which she is entitled under any enactment to a right to return to her employment in determining whether for any purpose of these regulations there has been a break in her employment as an officer of the employing authority by whom she was employed.''.

Return of contributions

7. For regulation 33 of the principal regulations there shall be substituted—

''*Return of contributions*

33.—(1) This regulation shall apply to an officer of an employing authority who—

(*a*) before becoming entitled to a pension (other than an annual pension under regulation 9(1A)) or an injury allowance ceases to be employed by that employing authority and a person who, though not ceasing to be employed, ceases to be an officer to whom these regulations apply; and

(*b*) does not within one month and one day after ceasing to be so employed, enter further employment with any employing authority and within the said period of one month and one day become in that further employment an officer:

Provided that for the purpose of this regulation a person shall not be regarded as entitled to an injury allowance if by reason of the provisions of regulation 11(4) no sum is for the time being receivable by him on account thereof.

(2) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' service and whose relevant remuneration has not in any financial year exceeded £5,000 is, subject to paragraph (8), entitled to receive a payment under paragraph (6).

(3) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' service, whose relevant remuneration has exceeded £5,000 in any financial year, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1980 is, subject to paragraph (8), entitled to receive a payment under paragraph (6) unless he—

(*a*) became an officer before 6th April 1980; and

(*b*) by notice given in accordance with paragraph (5) elects not to receive such a payment.

(4) A person to whom this regulation applies—

(*a*) who is entitled to reckon an aggregate of less than 5 years' service, whose relevant remuneration has exceeded £5,000 in any financial year, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1978 but before 6th April 1980; or

(*b*) who is entitled to reckon an aggregate of 5 or more than 5 years' service, whose relevant remuneration has not in any financial year ending before 6th April 1978 exceeded £5,000, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1978 but before 6th April 1980; or

(*c*) who is entitled to reckon an aggregate of 5 or more than 5 years' service and has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1980;

may subject to paragraph (8), by notice given in accordance with paragraph (5) elect to receive a payment under paragraph (6).

(5) Notice for any of the purposes of paragraphs (3) and (4) must be given in writing to the Committee—

(*a*) not earlier than one month and two days after the date on which the person ceased to be employed as mentioned in paragraph (1)(*a*); but

(*b*) within the period of 12 months beginning on—

(i) the date on which he so ceased to be employed, or

(ii) 6th April 1980;

whichever is the later date.

(6) Subject to paragraph (10) and to regulation 8 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1979(e), a payment under this paragraph is a payment out of the superannuation fund of a sum equal to the aggregate amount of the person's contributions to the fund, together, if he has ceased to be employed for any reason other than his voluntary resignation, or his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct, with compound interest thereon calculated, to the date on which he ceased to be employed or ceased to be employed as an officer, for any period before 1st April 1972 at the rate of 3% per annum with half-yearly rests on 31st March and 30th September and for any period after 31st March 1972 at the rate of 4% per annum with yearly rests on 31st March, and for any period after 31st March 1980 at the rate of 9% per annum with yearly rests on 31st March:

Provided that in its application to an excepted officer, this paragraph shall have effect as if for the words "if he has ceased to be employed for any reason other than his voluntary resignation, or" there were substituted the words "unless he has ceased to be employed on account of".

(7) Where a person has ceased to be employed as mentioned in paragraph (1)(*a*) before 1st April 1980, the amount of any payment to which he became entitled under this regulation as it had effect at the time when he so ceased to be employed shall be set off against any payment to him under paragraph (6) in respect of the same cessation of employment.

(8) Where a person to whom this regulation applies ceases to be employed as mentioned in paragraph (1)(*a*) in consequence of an offence of a fraudulent character or of grave misconduct, being such an offence or such misconduct in connection with his employment, the Committee may, if they think fit, return to him a sum equal to the whole or a part of the aggregate amount of his contributions to the fund or, if he so ceases to be employed in consequence of such an offence of a fraudulent character as aforesaid, the payment of an equivalent sum to his spouse or any dependant of his:

Provided that in the case of an officer who ceases to be employed in the circumstances mentioned in regulation 9(1)(*c*) the power of the Committee under this paragraph shall apply only in respect of any contributions relating to a period of service in respect of which they have given a direction as to forfeiture under regulation 48.

(9) If a person dies, who, at the time of his death, was entitled to an injury allowance but to no other benefit under these regulations then, unless the Committee grant a gratuity or annual allowance to that person's widow in accordance with regulation 11(3), or a benefit becomes payable in respect of him under the provisions of regulation 15, his personal representatives shall be entitled to receive from the Committee the aggregate amount of his contributions to the fund, together with compound interest thereon, less the amount which that person has received in respect of the said injury allowance.

(10) Notwithstanding anything in the foregoing provisions of this regulation, no payment shall be made thereunder—

(e) S.R. 1979 No. 23 (I, p. 69)

(*a*) to a person who, having ceased to be employed as an officer by an employing authority in the circumstances mentioned in regulation 9(1)(*c*) and before giving a notice under paragraph (5) again becomes an officer and gives notice under regulation 9A(1)(*e*); or

(*b*) in the case of a person who has completed not less than 5 years' service after 5th April 1975, in respect of any period of service after that date; or

(*c*) in the case of a person whose period of service commenced before 6th April 1975 and amounts to not less than 5 years, in respect of any period of service after 5th April 1975 of less than 5 years, unless a payment under this regulation is being or has been made in respect of the period of service before 6th April 1975.

(11) A payment under paragraph (6) to a person falling within paragraph (2), or a person falling within paragraph (3) who has not made an election under paragraph (3)(*b*), shall be made at the end of the 12 months following the cessation of his employment but, if a written request is received by the Committee, an earlier (but in no case earlier than one month and 2 days after the termination of the employment) or, as the case may be, a later payment shall be made.

(12) Where the Committee are charged to income tax on any repayment of contributions (with or without interest) under this regulation, they shall be entitled to deduct from the repayment an amount equal to that tax.

(13) For the purposes of this regulation an officer of an employing authority who ceases to be employed by them in the circumstances mentioned in regulation 9(1)(*c*) (other than a person who elects under regulation 9A(1)(*a*)(iv) to receive benefits from the date on which he so ceased or to whom, on so ceasing, regulation 9A(1)(*b*)(ii) applies), or who satisfies the requirement of regulation 9(1)(*e*) (other than a person who elects under regulation 9A(2)(*b*)) shall be treated as not being entitled to a pension.

(14) In this regulation—

"contributions" has the meaning assigned to it by regulation 2(6) but only in so far as any sums included in that application—

(*a*) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he is required under these or the previous regulations to pay; and

(*b*) are attributable to service which might have been reckoned under these regulations in relation to the employment he has ceased to hold or in which he has ceased to be employed as an officer; and

(*c*) are not attributable to any earlier period of service in respect of which a pension, retiring allowance, injury allowance, or short service gratuity has been paid;

"relevant remuneration" means, in relation to an officer, the remuneration on which contributions were paid under regulation 8 or under the corresponding provision of the 1950 regulations or under the Belfast Corporation Superannuation Scheme, or were paid under some other Superannuation Scheme in respect of service or employment which became, by virtue of regulation 18, or otherwise, reckonable for the purposes of these regulations.".

Discontinuance of modification of benefits and obligations under the principal regulations

8. Regulation 42 of the principal regulations (Modification of benefits and obligations under these regulations in connection with the National Insurance Act (Northern Ireland) 1946) shall be amended as follows—

(*a*) in paragraph (1)(*b*), after the word "shall", there shall be inserted the words "subject to paragraph (4A)";

(*b*) in paragraph (2), after the word "reduced" where it first occurs, there shall be inserted the words "for any period ending before 1st April 1980";

(*c*) for the proviso to paragraph (3) there shall be substituted—

"Provided that—

(i) where before the date of coming into operation of these regulations an officer to whom this paragraph applies has paid additional contributions in respect of years added to his service by virtue of a consent given under regulation 26(1) of the 1950 regulations there shall be applied to the reduction of the additional contributions payable by him under regulation 26 of these regulations a further sum equal to the amount by which the additional contributions paid by him under regulation 26 of the 1950 regulations would have been reduced had this paragraph applied for the reduction of those contributions; and

(ii) no reduction shall be made for any additional contributions in respect of years added under regulation 26 or, as the case may be, regulation 26 of the 1950 regulations, which are payable on or after 1st April 1980.";

(*d*) for proviso (ii) to paragraph (4) there shall be substituted—

"(ii) for the purpose of calculating the amount of any reduction under this paragraph, where an officer's service is increased by virtue of regulation 31(3) and he ceased to hold the employment in respect of which the pension is received before 1st April 1980, he shall be deemed to have paid reduced contributions under this regulation in respect of that added service;";

(*e*) after paragraph (4) there shall be added the following paragraph—

"(4A). In the case of a person to whom paragraph (1)(*a*) applies who makes any additional contributions in respect of years added under regulation 26 or, as the case may be, regulation 26 of the 1950 regulations, which are payable on or after 1st April 1980, no reduction to the pension shall be made under paragraph (4) in connection with those added years."; and

(*f*) in paragraph (11), after the word "period" where it first occurs, there shall be inserted the words "before 1st April 1980".

Further provision for increases on payment of retiring allowance and death gratuity in certain cases

9.—(1) A person who—

(*a*) attained the age of 65 years on or after 31st March 1978 and before 1st August 1979; and

(*b*) was on the day before his 65th birthday in an employment in which he would have been a person to whom regulation 8A of the principal regulations applied, if that regulation had come into operation on 30th March 1978; and

(*c*) was in that employment on 1st August 1979,

shall for the purposes of regulation 14 of the Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979(**f**) be deemed to be a retired officer falling within paragraph (1)(*a*) of that regulation and to have ceased to hold that employment on the day before his 65th birthday.

(2) In relation to such a person as is mentioned in paragraph (1)—

(*a*) paragraph (3) of the aforesaid regulation 14 shall not apply and the notice mentioned in paragraph (2)(*a*) of that regulation may be given—

(**f**) S.R. 1979 No. 214

(i) by the person concerned or, if he has died before 12th September 1980, by his personal representatives, within the period of 12 months beginning on 12th September 1980; or

(ii) if the person concerned dies within the period of 12 months beginning on 12th September 1980, without giving such a notice, by his personal representatives within the period of 12 months beginning on the date of his death;

(*b*) the reference in paragraph (4)(*a*) of the aforesaid regulation 14 to 31st March 1978 shall be construed as a reference to 30th March 1978; and

(*c*) references in paragraph (5)(*a*) of the aforesaid regulation 14 to paragraph (1)(*a*) of that regulation shall be construed as references to paragraph (1) of this regulation.

Provisions applicable as respects additional contributions where amount remains outstanding

10. In paragraph 5 of the thirteenth schedule to the principal regulations for the words "under regulation 33 that that regulation should apply in his case" there shall be substituted the words "to receive a payment under regulation 33(6)".

Limitation of remuneration not to affect average remuneration in certain cases

11.—(1) This regulation applies to a person if his average remuneration in relation to his employment as an officer of an employing authority would, apart from this regulation, be less than it would have been but for a relevant limitation.

(2) In this regulation, "relevant limitation" means a limitation of remuneration—

(*a*) which was necessary to comply with limits referred to in section 1 of the Remuneration, Charges and Grants Act 1975(**g**); and

(*b*) the effect of which was that any relevant remuneration was less than would, apart from that section, have been payable under an agreement entered into before 1st August 1975.

(3) In paragraph (2), "relevant remuneration" means any remuneration which is material for any of the purposes of regulation 32 of the principal regulations (Meaning of average remuneration).

(4) The average remuneration of a person to whom this regulation applies shall be taken to be the amount it would have been but for the relevant limitation.

(5) Where it appears to an employing authority that a person who has been an officer in their employment may be a person to whom this regulation applies, they shall as soon as is reasonably practicable decide whether he is such a person and shall notify the Committee accordingly.

Right to opt out

12. No provision of these regulations shall apply to any person to whom at any time before 12th September 1980 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or may become payable if—

(*a*) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and

(*b*) that provision relates to a benefit paid or payable in respect of a person who—

(i) ceased before 12th September 1980 to hold an employment in respect of which he was an officer; or

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(**g**) 1975 c. 57; section 1 was amended, and the period for which it had effect to extended by the Price Commission Act 1977 (c. 33), section 17; references to limits set out in documents laid before Parliament in 1976 and 1977 were added by S.I. 1976/1097 and 1977/1294

(ii) died before that date while still in such an employment; and

(*c*) the first-mentioned person, by notice in writing given to the Committee within 3 months after 12th September 1980, elects that that provision shall not apply to him.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 5th August 1980.

(L.S.) *J. A. D. Higgins*
Senior Assistant Secretary

EXPLANATORY NOTE

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

These regulations further amend the Local Government (Superannuation) Regulations (Northern Ireland) 1962 ("the principal regulations"). The main changes are—

(1) Regulation 3(*a*), (*b*) and (*d*) provides that an officer making payments under regulation 8A of the principal regulations (to avoid reduction of retiring allowance, etc) may on becoming redundant elect to pay the capital equivalent of any outstanding payments.

(2) Regulation 5, together with regulation 8, provides for the discontinuance of the modification of contributions and benefits originally imposed on account of state pension provision.

(3) Regulation 6 provides that the period of a female officer's leave of absence for maternity purposes during which she has a statutory entitlement to return to her employment shall be disregarded in determining whether her service before and after that period is to be regarded as continuous.

(4) Regulation 7 amends regulation 33 of the principal regulations so as to give effect, with regulations 3(*c*), 4 and 10, to successive relaxations (for officers leaving employment after 5th April 1978 and 5th April 1980 respectively) of Inland Revenue restrictions on the return of superannuation contributions. In addition, certain time limits are amended to satisfy the preservation requirements of the Social Security Pensions (Northern Ireland) Order 1975.

(5) Regulation 9 extends regulation 14 of the Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979 (which enabled officers who retired or died between 31st March 1978 and 1st August 1979 to be treated as if those regulations had been in force before the date of retirement or death) to officers who became 65 between those dates but were still employed on the latter date.

(6) Regulation 11 makes provision for cases where contractual remuneration was limited to the extent authorised by section 1 of the Remuneration, Charges and Grants Act 1975. Average remuneration is to be calculated as if the limitation had not occurred.

Under the powers conferred by Article 14 of the Superannuation (Northern Ireland) Order 1972, the regulations are framed so as in some cases to have effect as from a date earlier than the making of the regulations and to apply in relation to officers who retired or died before these regulations came into operation, provision being made for opting out if a person is thereby placed in a worse position (regulation 12).