1955 No. 1226 (S. 118)

The Local Government Superannuation (Benefits) (Scotland) Amendment Regulations, 1955

Made - - - - *29th July*, 1955
Coming into Operation *13th August*, 1955

In exercise of the powers conferred on me by sections 1, 2 and 3 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:—

1.—(1) These regulations may be cited as the Local Government Superannuation (Benefits) (Scotland) Amendment Regulations, 1955.

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

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

2. The following paragraph shall be inserted at the end of regulation 2 of the principal regulations (which relates to interpretation):—

"(7) Any reference in these regulations to a husband and wife being judicially separated on terms which do not require the husband to contribute to the support of his wife shall be construed as referring to any case in which a husband and wife are judicially separated and the husband is not required by the decree or order of any competent court to contribute to the support of his wife, and is not in fact so contributing."

3. In paragraph (3) of regulation 7 of the principal regulations (which provides in relation to injury allowances that an injury sustained while an employee is travelling as a passenger by any vehicle shall in certain circumstances be deemed to have been sustained in the actual discharge of his duty)—

(*a*) after the word "duty" there shall be inserted the words "and to be specifically attributable to the nature of his duty"; and

(*b*) in sub-paragraph (*a*) after the word "sustained" there shall be inserted the words "and so to be attributable".

4. In paragraph (7) of regulation 8 of the principal regulations (under which, if a widow's pension ceases on re-marriage or death and the aggregate of the sums therein mentioned is less than the amount of the death grant which would have been payable in respect of the death of the employee if no widow's pension had been payable in respect thereof, the deficiency is to be made up) for the words "if no widow's pension had been payable in respect thereof" there shall be substituted the words "if he had died while still in his employment and no widow's pension had been payable in respect of him".

5.—(1) In sub-paragraph (*b*) of paragraph (1) of regulation 10 of the principal regulations (under which the legal personal representatives of a

(a) 1 & 2 Eliz. 2. c. 25. (b) S.I. 1954/1059 (1954 II, p. 1632).

person are entitled to receive a death grant if the person, having ceased after completing five years' service to hold an employment in which he was a contributory employee without becoming entitled to a retirement pension or an injury allowance, dies within twelve months after having ceased to hold the employment) for the words "a retirement pension or an injury allowance" there shall be substituted the words "a retirement pension, an injury allowance or a short service grant".

(2) In paragraph (6) of the said regulation 10 (which applies the regulation with modifications to a person who, having exercised the option conferred on him by regulation 17 of the principal regulations, dies after having become entitled to a benefit under those regulations corresponding to a superannuation allowance under Part I of the Local Government Superannuation (Scotland) Act, 1937(a)) after the words "the said paragraph (1)" there shall be inserted the words "and as if the last foregoing paragraph referred to such a benefit instead of a retirement pension".

6.—(1) At the end of paragraph (*a*) of the proviso to paragraph (1) of regulation 12 of the principal regulations (which specifies persons in respect of whom a local authority may not consent to the adding of a number of years of service) the following sub-paragraph shall be inserted:—

"(iii) if he has become entitled, by virtue of a determination made by a local authority under subsection (6) of section 12 of the Act of 1937 or subsection (3) of section 7 of the Act of 1953 or under the said subsection (3) as applied by any enactment, to reckon as a period of non-contributing service any period in which he had before reaching the age of twenty-seven years been in the employment of an officer of a local authority".

(2) In paragraph (*a*) of the proviso to paragraph (7) of the said regulation 12 (which specifies cases in which years added to a person's service by a consent under that regulation are not to be reckonable as years of contributing service) at the end of sub-paragraph (ii) there shall be inserted the word "or", and after the said sub-paragraph there shall be inserted the following sub-paragraph:—

"(iii) if by virtue of such a determination as is referred to in sub-paragraph (iii) of paragraph (*a*) of the proviso to paragraph (1) of this regulation made after the employing authority have given a consent under this regulation the employee becomes entitled to reckon as a period of non-contributing service any period in which he had been employed before reaching the age of twenty-seven years".

7. In paragraph (2) of regulation 13 of the principal regulations (which applies paragraph (1) of that regulation with modifications to employees who have exercised the option conferred by regulation 17 of those regulations, one of the modifications being that for the purposes of the said regulation 13 average remuneration is calculated in respect of the five years ending on the last day of the employee's service) for the words "and the reference therein to three years were a reference to five years" there shall be substituted the words "and the reference therein to the three years ending on the last day of her service were a reference to the five years immediately preceding the day on which she attained the age of sixty years".

8.—(1) In paragraph (*b*) of regulation 14 of the principal regulations (under which a contributory employee who has had a disqualifying break of service after being subject to provisions corresponding to those of that regulation is not entitled to have his retirement grant increased in accordance with that

(a) 1 Edw. 8 & 1 Geo. 6. c. 69.

regulation) the words " without having a disqualifying break of service after being so subject " shall cease to have effect.

(2) At the end of the said paragraph (*b*) there shall be inserted the word " or," and after the said paragraph there shall be inserted the following paragraph :—

" (*c*) having been in employment in which he would have become subject or would have been entitled to become subject to such provisions as aforesaid by virtue of such a scheme as is referred to in paragraph (*b*) of this regulation but for the fact that the scheme had not come into operation when he left the employment, becomes or has become a contributory employee after the coming into operation of these regulations without a disqualifying break of service ".

(3) At the end of paragraph (i) of the proviso to the said regulation 14 there shall be inserted the words " so however that the increase shall not be greater in the case of a person as respects whom part only of the grant falls to be calculated as aforesaid than it would have been if the whole of the grant had fallen to be so calculated ".

(4) In paragraph (ii) of the said proviso after the words " in paragraph (*b*) " there shall be inserted the words " or paragraph (*c*) ".

9. In paragraph (3) of regulation 17 of the principal regulations (under which a person who has exercised an option under that regulation is entitled to enjoy rights corresponding to his former rights so long as he continues to be a contributory employee without a disqualifying break of service) after the words " contributory employee " there shall be inserted the words " within the meaning of the Act of 1937 ".

10.—(1) In paragraph (4) of regulation 21 of the principal regulations in the last line for the word " has " there shall be substituted the word " had ".

(2) In paragraph (11) of the said regulation 21 for the words " the said paragraph (9) " there shall be substituted the words " the said paragraph (8) ".

(3) The following paragraph shall be inserted after paragraph (13) of the said regulation 21 :—

" (14) Where immediately before the first day of October, 1954, the Act of 1937 applied to a contributory employee with the modifications relating to calculation of service mentioned in paragraph (4) of regulation 49 of the regulations of 1950, and the employee has since that date been subject to this regulation without a break of twelve months or more at any one time, and without in the meantime having again entered employment in which he was subject to regulations made under paragraph (*a*) of subsection (1) of section 66 of the National Health Service (Scotland) Act, 1947, his service shall count, for the purpose of the calculation of any benefit under these regulations, in the manner provided by the said paragraph (4) ".

11. At the end of regulation 22 of the principal regulations (which relates to local Act contributors on the medical or nursing staff of a local authority) the following paragraph shall be inserted :—

" (4) Paragraph (13) of the said regulation 21, in its application to such a local Act contributor as aforesaid, shall have effect as if the words " not being employment with a local authority " were omitted."

12. In paragraph (*c*) of regulation 26 of the principal regulations (which specifies that re-employed age pensioners shall be exempt from modification of benefits) in the second line after the words " contributory employee " there shall be inserted the words " being employment ".

13. The following paragraph shall be substituted for paragraph (1) of regulation 28 of the principal regulations:—

"(1) If by virtue of regulation 11 of the modification regulations (which relates to persons who were subject to a scheme made pursuant to subsection (3) of section 28 of the Act of 1936) the provisions of the Act of 1937 with respect to the payment of contributions apply to a person immediately before he becomes entitled to a retirement benefit subject to the like modifications as were applicable in relation to him by virtue of the existing scheme to which that regulation refers, or would have applied to a person subject to such modifications but for the revocation by the said existing scheme of provisions relating to the modification of contributions, the retirement benefit shall be subject to the like modifications as were applicable to him by virtue of the said existing scheme, and if he is entitled to a retirement grant the amount thereof (including any increase under regulation 14) shall be reduced by the amount ascertained by—

(*a*) multiplying three eightieths of the amount which, by the existing scheme, was required to be deducted from the annual average of his remuneration in calculating his superannuation allowance by the number of years of contributing service in respect of which his retirement benefit is by virtue of the said modifications reduced;

(*b*) multiplying three one hundred and sixtieths of the amount which was required to be deducted as aforesaid by the number of years of non-contributing service in respect of which his retirement benefit is by virtue of the said modifications reduced; and

(*c*) increasing the sum of the products by one half per cent. for any such year of contributing service, and by one quarter per cent. for any such year of non-contributing service, in respect of which his retirement grant is increased under regulation 14 of these regulations:

Provided that—

(i) where a person's retirement pension is by virtue of paragraph (3) of regulation 5 of these regulations at the rate of twenty eightieths of his average remuneration he shall be treated as having had, and as having paid reduced contributions in respect of, additional contributing service equal to the difference between the period of his service (non-contributing service being reckoned in calculating that period at half its actual length) and twenty years;

(ii) so much of this paragraph as relates to the reduction of a retirement grant shall not apply to any person unless under the existing scheme the amount of the reduction of benefit is calculated by reference to the annual average of his remuneration;

(iii) where under the existing scheme the reduction is subject to a maximum amount in respect of each year or other shorter period of payment the retirement grant shall not be reduced by any greater amount than the amount by which the capital value of the said maximum amount (or, as the case may be, of the annual equivalent of the maximum amount) exceeds the capital value of the amount by which the retirement pension is reduced."

14. In regulation 31 of the principal regulations (which provides for the reduction of amounts payable under regulations 12 and 15 of those regulations by a person whose contributions are subject to modification) for the words "shall be reduced by the amount obtained" there shall be substituted the words "shall be reduced in the case of the additional contributions mentioned in paragraph (*a*) of this regulation by the annual amount, and in the case of any amount to which paragraph (*b*) thereof applies by the lump sum, obtained".

15. For sub-paragraph (3) of paragraph 7 of the Second Schedule to the principal regulations (which provides for the manner of calculation of the sum payable by an employee for each year of non-contributing service which in pursuance of subsection (3) of section 2 of the Local Government Superannuation Act, 1953 he wishes to have reckoned as contributing service) the following paragraph shall be substituted:—

"(3) The sum payable by an employee for each year of non-contributing service which he wishes to have reckoned as contributing service is a sum equal to that percentage of his remuneration which is shown opposite his age in the appropriate column of the said table, and so proportionately for any period of less than a year:

Provided that, if at the time when the notice under paragraph 2 of this Schedule is given the employee is in whole-time employment, non-contributing service which was part-time shall be reckoned for the purposes of this paragraph as if it were whole-time service for a proportionately reduced period."

16. In sub-paragraph (4) of paragraph 2 of the Third Schedule to the principal regulations (which contains provisions as to the manner of counting service for the purpose of calculating the reduction of retirement benefits) for head (*b*) there shall be substituted the following provision:—

"(*b*) where a retirement pension is, by virtue of paragraph (3) of regulation 5 of these regulations, at the rate of twenty eightieths of a person's average remuneration, he shall be treated as having reckonable as contributing service in calculating the amount of the pension, and as having paid reduced contributions in respect of, an additional period equal to the difference between the aggregate of his contributing and non-contributing service (non-contributing service being reckoned for that purpose at half its actual length) and twenty years."

Dated this twenty-ninth day of July, nineteen hundred and fifty-five.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

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

These regulations make detailed amendments in the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954. The regulations in the main remedy defects of drafting in those regulations and in general are so framed as to show what change is being made.

Regulation 10 (3) amends regulation 21 of the regulations of 1954 (which relates to contributory employees on the medical or nursing staff of a local authority) by adding a new paragraph to take the place of regulation 49 (4) of the National Health Service (Scotland) (Superannuation) Regulations, 1950, (which under section 4 (2) (*c*) of the Act of 1953 ceased to have effect on the 1st October, 1954).

Regulation 13 re-writes regulation 28 (1) of the regulations of 1954, the main changes being in the method of calculating the reduction of a retirement grant (paragraphs (*a*), (*b*) and (*c*)) and the addition of new paragraphs (i) and (ii) to the proviso.