1991 No. 492

LOCAL GOVERNMENT

Local Government (Superannuation) (Reserve Forces) Regulations (Northern Ireland) 1991

Made . . . . . *8th November 1991*

Coming into operation . . *13th December 1991*

The Department of the Environment, in exercise of the powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) and now vested in it(**b**) and of every other power enabling it in that behalf and after consultation with the Association of Local Authorities for Northern Ireland, the district councils, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appear to it to be appropriate, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Local Government (Superannuation) (Reserve Forces) Regulations (Northern Ireland) 1991 and shall come into operation on 13th December 1991, and shall have effect from 17th December 1990.

Interpretation

2. In these regulations—

"the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(**c**) and any expression which is also used in the principal regulations has the same meaning as in those regulations;

"the 1951 Act" means the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**d**);

"former employment" means the employment in which a person is an officer immediately before he begins to perform relevant service, and "former employer" shall be construed accordingly;

"relevant service" has the meaning given in the Schedule to these regulations;

"service pay" means pay for performing relevant service, and includes marriage, family and other similar allowances.

(**a**) S.I. 1972/1073 (N.I. 10)
(**b**) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6) Article 3(1)
(**c**) S.R. 1981 No. 96
(**d**) S.R. 1951 c. 65 as extended to Northern Ireland and modified by The Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) Order 1979 (S.I. 1979/291) and further modified by The Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) and The Recreation and Youth Service (Northern Ireland) Order 1986 (S.I. 1986/2232 (N.I. 25))

Persons to whom these regulations apply

3.—(1) Subject to paragraph (3) these regulations apply to a person who ceases to be an officer, or is granted leave of absence from duty in an employment in which he is an officer, in order to perform relevant service.

(2) Subject to paragraph (3) where—

(*a*) a person is not an officer when he ceases his employment, or begins his leave of absence from duty in that employment in order to perform relevant service, but

(*b*) he is before so ceasing his employment, or beginning his leave of absence from duty in that employment, entitled by virtue of that employment to make an election to become an officer under regulation 11A or 11C of the principal regulations(**a**), and

(*c*) he has before so ceasing his employment, or beginning his leave of absence from duty in that employment, made such an election,

these regulations shall apply to him as if he were an officer when he so ceased his employment, or began his leave of absence from duty in that employment but as if references to his relevant service did not include references to any period before the day from which his notice of election has effect.

(3) These regulations shall not apply to a person in respect of a period of relevant service if he gives notice in writing to the Committee that he does not wish these regulations to apply to him in respect of that period.

(4) A notice under paragraph (3) shall be given not later than 12 months after—

(*a*) the end of the period of relevant service to which the notice relates;

(*b*) the date on which these regulations come into force; or

(*c*) such other date as may be agreed by the Committee;

whichever is the latest.

Rights under the principal regulations

4.—(1) Where these regulations apply to a person, the period of his relevant service shall, for the purposes of the principal regulations, be treated as service reckonable as contributing service in relation to his former employment.

(2) Where these regulations apply to a person who is entitled under any provision of the principal regulations (other than regulation 45A(**b**)) to pay additional contributions, make payment by instalments, or make any other payment to the fund other than a lump sum payment, that person shall be treated, for the purposes of the principal regulations, as if he has, throughout the whole of the period of his relevant service, paid any such additional contributions, instalments or other payments.

(3) If, during the period of his relevant service, a person to whom these regulations apply—

(**a**) Regulations 11A and 11C were inserted by S.R. 1991 No. 19, regulation 5
(**b**) Regulation 45A was inserted by S.R. 1991 No. 19, regulation 19

(*a*) dies; or

(*b*) becomes incapable of discharging efficiently the duties of his former employment by reason of permanent ill-health, injury or infirmity of mind or body; or

(*c*) attains pensionable age,

he shall be deemed for the purposes of the principal regulations to have been serving in his former employment at the time of his death, or at the time when he ceased to perform relevant service, or at the time at which he attained pensionable age, as the case may be.

(4) Where, for the purpose of calculating the amount of any benefit payable to any person under the principal regulations, it is necessary to take account of his remuneration in respect of any period of his relevant service, the amount of his remuneration during that period shall be deemed to be the amount by reference to which the calculation would have been made if he had continued to be employed in his former employment.

Payment of contributions

5.—(1) A person to whom these regulations apply shall, subject to paragraph (2), during any period of his relevant service when his service pay, when aggregated with any payments under Part V of the 1951 Act, is not less than the remuneration he would have received if he had during that period continued to be employed in his former employment, pay to the fund all such contributions, additional contributions, payments by way of instalments and other payments as would have been payable under the principal regulations if he had continued to be employed in his former employment.

(2) Paragraph (1) does not apply in respect of contributions under regulation 45A of the principal regulations.

(3) All payments made by a person under this regulation shall, subject to paragraph (4), be treated for the purposes of the principal regulations as if they were made under the provision of those regulations under which they would have been made if he had continued to be employed in his former employment.

(4) Regulation 14(6) of the principal regulations (deduction and recovery of employee's contributions) shall not apply to sums payable under this regulation.

Return of contributions

6. Where any person to whom these regulations apply elects to receive a return of contributions under regulation 16 of the principal regulations, no period after the date on which the election is made shall be included in the period of his relevant service for the purpose of these regulations.

Deduction and recovery of contributions

7.—(1) The former employer of a person by whom any sums are payable under regulation 5 may deduct such sums from any payment made to him by that employer under Part V of the 1951 Act, but only insofar as those sums are payable in respect of the period in respect of which that payment is made.