1991 No. 418

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991

Made . . . . . 10th September 1991

Coming into operation . . 1st November 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 Articles 37(7) and (8) of the Social Security Pensions (Northern Ireland) Order 1975(**c**) 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, commencement and retrospection

1.—(1) These regulations may be cited as the Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991 and shall come into operation on 1st November 1991 and, except as provided in paragraphs (2) and (3), shall have effect from that date.

(2) Regulation 12 shall have effect from 1st January 1985.

(3) Regulation 19 shall have effect from 1st January 1986.

(4) The Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991(**d**) and these regulations may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991.

Interpretation

2. In these regulations "the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(**e**).

(**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.I. 1975/1503 (N.I. 15); Article 37(7) was amended by the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), Article 18(7), by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), Schedule 3, paragraph 19(*b*), and by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 3, paragraph 2(1); Article 37(8) was amended by the Social Security (Northern Ireland) Order 1985 Schedule 3, paragraph 8 and a relevant exception to it was prescribed by the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985 (S.R. 1985 No. 357), regulation 9, as amended by the Contracting-out (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 108), regulation 2(11)

(**d**) S.R. 1981 No. 96, S.R. 1982 No. 58, S.R. 1984 No. 175, S.R. 1984 No. 355, S.R. 1985 No. 315, S.R. 1986 No. 294, S.R. 1989 No. 345 and S.R. 1991 No. 19

(**e**) S.R. 1981 No. 96; relevant amending regulations are S.R. 1982 No. 58, S.R. 1984 No. 175 and S.R. 1985 No. 315

Definitions in principal regulations

3. Regulation 2(1) of the principal regulations is amended by inserting after the definition of ''injury allowance'' the following definition—

'' ''investment manager'' means a person—

(*a*) who is authorised under the Financial Services Act 1986(**a**) and entitled by virtue of that authorisation to manage the assets of occupational pension schemes; or

(*b*) who—

(i) does not transact investment business (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom and whose head office is situated in a member State other than the United Kingdom;

(ii) is recognised by the law of that member State as a national of that or another member State; and

(iii) is for the time being authorised under that law to engage in one or more of the activities falling within Part II of Schedule 1 to that Act, and is not precluded by that law from managing the assets of occupational pension schemes or assets belonging to another person,

and who is reasonably believed by the administering authority to be suitably qualified by his ability in and practical experience of financial matters to make investment decisions on their behalf, but who is not an employee of that authority;''.

Constitution and powers of the Committee

4. Regulation 3 of the principal regulations is amended—

(*a*) in paragraph (2) by inserting after the words ''and hold land, shall'' the words ''subject to paragraphs (2A) to (2F)'';

(*b*) by inserting after paragraph (2) the following paragraphs—

''(2A) The Committee may appoint a sub-committee or an officer employed by the Committee to discharge, with or without restrictions or conditions as the Committee thinks fit, any of the functions assigned to the Committee by regulations 5 and 5A.

(2B) The number of members of a sub-committee appointed under paragraph (2A) and their term of office shall be fixed by the Committee or in the case of an officer his term of office shall be fixed by the Committee.

(2C) A sub-committee appointed under paragraph (2A) shall consist of members of the Committee and may include officers of the Committee appointed under paragraph (6) or (7).

(2D) A sub-committee or an officer appointed under paragraph (2A) shall report to the Committee at each of its meetings setting out all actions taken under such appointment.

(**a**) 1986 c. 60

(2E) The Committee may revoke any appointment made under paragraph (2A) or any restriction or condition imposed under paragraph (2A) or anything fixed under paragraph (2B).

(2F) Any arrangements made by the Committee for the discharge of the functions specified in regulations 5 and 5A by a sub-committee or officer shall not prevent the Committee from exercising those functions.''.

Use and investment of fund's moneys

5. Regulation 5A of the principal regulations is amended—

(*a*) in paragraph (1) by substituting for the words ''paragraphs (2) to (4)'' the words ''paragraphs (2) to (4A)'';

(*b*) by inserting after paragraph (1) the following paragraph—

''(1A) For the purpose of this regulation and of regulation 5(1), investment includes any contract which by virtue of section 45 of the Finance Act 1984(**a**) (extension of pension schemes' tax exemptions to dealings in financial futures and traded options) is to be regarded as an investment for the purposes of the enactments referred to in that section.'';

(*c*) in paragraph (2) by substituting for sub-paragraph (*b*)(iii) the following sub-paragraph—

''(iii) a deposit with the Bank of England, an institution authorised under Part I of the Banking Act 1987(**b**) or a person for the time being specified in Schedule 2 to that Act,

so as to result in more than 5% of the value at the time of all investments of fund moneys being represented by a single holding, or more than 20% of that value being represented by investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body, or'';

(*d*) in paragraph (2)(*d*), by substituting for the words ''paragraph 13 or 14 of Schedule 1 to the Banking Act 1979'' the words ''paragraph 12 or 13 of Schedule 2 to the Banking Act 1987'';

(*e*) by substituting for paragraph (3)(*b*) the following sub-paragraph—

''(*b*) deposited with the Bank of England, an institution authorised under Part I of the Banking Act 1987 or a person for the time being specified in paragraph 1 to 11 of Schedule 2 to that Act''.

(*f*) by substituting for paragraph 4 the following paragraphs—

''(3A) The Committee, subject to paragraph (3B), may appoint one or more investment managers to manage and invest fund moneys on their behalf.

(3B) The Committee shall not make an appointment under paragraph (3A) unless—

(**a**) 1984 c. 43
(**b**) 1987 c. 22

(*a*) they have considered the value of the fund moneys to be managed by the investment manager or, as the case may be, by each of the investment managers to be appointed and are satisfied that it will not be excessive, having regard to proper advice, to the desirability of securing diversification of the management of the fund, and to the value of the assets of the fund; and

(*b*) the terms of the appointment—

(i) provide for the appointment to be terminable by not more than one month's notice given by the Committee;

(ii) require the investment manager to provide the Committee at least once every 3 months with a report setting out the action he has taken under the appointment;

(iii) require the investment manager to comply with such instructions as the Committee, or a sub-committee or officer when exercising authority under regulation 3(2A), may give;

(iv) require the investment manager to have regard to the need for diversification of investments of fund moneys, and to the suitability of investments of any description of investment which he proposes to make and of any investment proposed as an investment of that description;

(v) prohibit the investment manager from making investments which would contravene paragraph (2).

(3C) Where the Committee have made an appointment under paragraph (3A) they shall, at least once every 3 months, review the investments made by the investment manager and from time to time consider the desirability of continuing or terminating the appointment.

(4) In the discharge of their functions under this regulation the Committee shall have regard—

(*a*) to the need for diversification of investments of fund moneys; and

(*b*) to the suitability of investments of any description of investment which they propose to make and of any investment proposed as an investment of that description, and

(*c*) to proper advice, obtained at reasonable intervals.

(4A) Where the Committee appoint an investment manager under paragraph (3A) they shall have regard—

(*a*) in determining the terms of the appointment, to proper advice, and

(*b*) in exercising their functions under paragraph (3C)—

(i) to the need for diversification of investments of fund moneys,

(ii) to the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description, and

(iii) to proper advice.'';

(*g*) in paragraph (6) in the definition of ''single holding'', by substituting the following sub-paragraphs for sub-paragraph (*a*)—

''(*a*) in securities of, or in loans to or deposits with, any one body, other than investments in unit trust schemes, or

(*aa*) in units or other shares of the investments subject to the trusts of any one unit trust scheme; or''.

Periodical valuation of the fund

6. Regulation 8 of the principal regulations is amended—

(*a*) in paragraph (1)(*a*) by substituting for the words ''31st March 1979'' the words ''31st March 1992'';

(*b*) in paragraph (1)(*b*) by substituting for the word ''fifth'' the word ''third'';

(*c*) in paragraph (2) by substituting for the words ''21 months'' the words ''12 months''; and

(*d*) in paragraph (3) by substituting for the words ''9 months'' the words ''6 months''.

Actuary's certificates

7. Regulation 9 of the principal regulations is amended—

(*a*) by substituting for paragraph (2) the following paragraph—

''(2) The period referred to in paragraph (1) is the period of 3 years beginning with 1st April in the year following.''; and

(*b*) by deleting paragraph (4).

Combined benefits in the case of certain re-employed pensioners

8. Regulation 31 of the principal regulations is amended in paragraph (2) by substituting for the words from ''Provided that'' to the end, the following—

''Provided that if in conjunction with the pension mentioned in paragraph (1) the person was entitled to a retiring allowance (''the first allowance'')—

(*a*) if he has not received the first allowance before becoming entitled as mentioned in this paragraph, he ceases to be entitled to it;

(*b*) if he has received the first allowance and the amount of that allowance equals or exceeds the amount of the retiring allowance to which, apart from this sub-paragraph, he would be entitled under this paragraph (''the second allowance'')—

(i) the second allowance shall not be payable under this paragraph; and

(ii) any other benefits payable to or in respect of the person under this paragraph shall be reduced in such manner as the Committee may determine to be necessary for the purpose of recovering the amount (if any) by which the first allowance exceeds the second allowance;