1991 No. 19

LOCAL GOVERNMENT

Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991

Made . . . . . *30th January 1991*

Coming into operation . . *1st March 1991*

The Department of the Environment, in exercise of the powers conferred by Articles 9(1) and (2), 14 and 19(1), (3) and (4) 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:

PART I

PRELIMINARY

Citation, commencement and retrospection

1.—(1) These regulations may be cited as the Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 1st March 1991 and shall have effect from 6th April 1988.

(2) The Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1989(**c**) and these regulations may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991.

PART II

SUPERANNUATION

Interpretation

2. In this Part "the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(**d**).

(**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, 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 and S.R. 1989 No. 345
(**d**) S.R. 1981 No. 96 relevant amending regulations are S.R. 1982 No. 58, S.R. 1984 No. 355, S.R. 1985 No. 315, S.R. 1986 No. 294 and S.R. 1989 No. 345

Definitions in principal regulations

3. Regulation 2(1) of the principal regulations is amended—

(*a*) by inserting after the entry relating to ''the Department'' the following definition—

'' ''earnings factors'' means the earnings factors referred to in Article 37 of the Pensions Order;'';

(*b*) by substituting for the definition of ''officer'' the following definition—

'' ''officer'', subject as provided in paragraph (3) shall be construed in accordance with regulations 11 to 11C;''; and

(*c*) by inserting after the entry relating to ''the superannuation fund'' the following definition—

'' ''tax year'' means the 12 months beginning with 6th April in any year;''.

Application

4. Regulation 11 of the principal regulations is amended—

(*a*) in paragraph (1) by inserting after the words ''shall apply'' the words, ''subject to regulations 11A to 11C'';

(*b*) subject to regulation 26 by deleting paragraphs (1)(*g*), (2)(*e*) and (*f*) and (2A); and

(*c*) in paragraph (3) by inserting after the words ''paragraph (1)'' the words ''and regulations 11A or 11C''.

Election to become an officer, etc.

5. The principal regulations are amended by inserting after regulation 11 the following regulations—

''*Election to become an officer*

11A.—(1) Notwithstanding anything in regulation 11 or Part II of schedule 2, a person who was not an officer on 5th April 1988 shall not after that date become an officer unless he makes an election to become such.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person's employing authority.

(3) Subject to paragraph (4), if a person gives notice of election at least one month before the date on which he commences his employment with the employing authority or such lesser period before that date as the authority allows, the election shall have effect from that date unless the notice specifies otherwise, and in any other case (whether the notice is given before or after the commencement of employment) it shall have effect from the day following the end of the relevant period, or such later date as may be specified in the notice.

(4) In an exempt case, the body to which notice of election is given may give notice to the person electing that he is not to become an officer, and a case is an exempt case for these purposes if that person—

(*a*) has attained or would, on or by the date on which he would otherwise become an officer pursuant to the election, have attained the age of 50 years; and

(*b*) was first employed by that body before he attained that age.

(5) A notice of election shall have effect—

(*a*) subject to any subsequent notification under regulation 11B; and

(*b*) both in relation to the employment with the body which is to become the person's employing authority, and in relation to any subsequent employment under which the person may become an officer.

(6) In paragraph (3), "the relevant period" means the period of service to which the person's payment of wages or salary due from the employing authority next after the day on which the notice of election is given relates.

Notification to cease to be an officer

11B.—(1) An officer may at anytime notify his employing authority in writing that he does not wish to be such for the purposes of these regulations.

(2) Subject to paragraph (3), a person giving a notification under paragraph (1) shall cease to be an officer from the day following the end of the relevant period, or such later date as may be specified in the notification.

(3) In a case where the person was an officer on 5th April 1988 and the notification was given before 6th July 1988 he shall be treated as having ceased to be an officer on 6th April 1988 or such later date as may be specified in the notification.

(4) A person giving a notification under paragraph (1) shall not again become an officer in that or another employment unless he makes an election in accordance with regulation 11C.

(5) Any contributions paid with respect to a period during which a person is to be treated by virtue of a notification under paragraph (1) as not having been an officer shall be returned to him.

(6) In paragraph (2), "the relevant period" means the period of service to which the person's payment of wages or salary due from the employing authority next after the day on which the notification under paragraph (1) is given relates, or the period of 2 months beginning on that day, whichever ends the sooner.

Subsequent election to become an officer

11C.—(1) A person who would be or become an officer in accordance with these regulations but for a notification under regulation 11B may, notwithstanding the giving of that notification but subject to paragraphs (3) and (4), subsequently elect so to become an officer.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person's employing authority.

(3) A person who has made an election under paragraph (1) and who subsequently gives another notification under regulation 11B(1) may, subject to paragraph (4), make no further election under paragraph (1).

(4) Notwithstanding paragraph (3), a person may elect under paragraph (1) whenever he begins a new employment which might fall within regulation 11, provided the notice of election is given to the new employing authority before or within the period of 3 months beginning with the day on which he begins that employment.

(5) Regulation 11A(3) to (6) shall apply to an election under paragraph (1) as it applies to an election under regulation 11A(1).''.

Admission of other persons to participation in superannuation benefits

6. Regulation 13 of the principal regulations is amended by inserting after paragraph (1) the following paragraph—

''(1A) Without prejudice to paragraph (1), regulations 11A to 11C shall, without further provision, be taken to apply to any employee to whom an agreement relates, and in particular as if references to an officer included references to a person contributing or entitled to contribute to the fund by virtue of the agreement and references to regulation 11 included references to the agreement.''.

Effect of notification to cease to be an officer on certain additional payments

7. The principal regulations are amended by inserting after regulation 14 the following regulation—

''*Effect of notification to cease to be an officer on certain additional payments*

14A.—(1) This regulation applies where an officer who—

(*a*) has elected under regulations 15(4) or 45, or the corresponding provisions of the previous regulations, to make payments to the fund;

(*b*) is making outstanding additional contributory payments in accordance with regulation 38; or

(*c*) is making payments by way of additional contributions in pursuance of regulation 43 or the corresponding provision of the previous regulations,

gives notification in accordance with regulation 11B.

(2) In a case mentioned in paragraph (1)(*a*), no further payments shall be payable from the day on which the person giving the notification ceases to be an officer; and the benefits to which he is entitled in relation to those payments shall be calculated as if the payments had been discontinued under regulations 15(9) or 45(5), as the case may be.

(3) In a case mentioned in paragraph (1)(*b*), the provisions of paragraph 3 of the second schedule to the 1962 regulations shall apply as if those regulations had not been revoked and the officer had ceased to hold his employment on the day on which he ceased to be an officer.

(4) In a case mentioned in paragraph (1)(*c*), no further payments shall be payable by the person or the employing authority from the date on

which the person giving the notification ceases to be an officer; and the additional period which he is entitled to reckon as contributing service shall be determined as if the payments had been discontinued under proviso (i) of regulation 43(3).

(5) Paragraph (2) shall not preclude a person who has given notification in accordance with regulation 11B making a further election under regulation 15 or 45 after again becoming an officer.

(6) Paragraph (4) shall not preclude a further consent being given under regulation 43 in respect of a person who has given notification in accordance with regulation 11B after he again becomes an officer.''.

Return of contributions

8. Subject to regulation 25 regulation 16 of the principal regulations is amended—

(*a*) in paragraphs (2), (3), (4)(*a*) and (10)(*b*) by substituting for the words ''5 years' '' the words ''2 years' '';

(*b*) in paragraphs (4)(*b*) and (*c*) by substituting for the words ''5 or more than 5 years' '' the words ''2 or more than 2 years' ''; and

(*c*) in paragraph (10)(*c*) by substituting for the words ''5 years'' the words ''2 years''.

Officer's pension and retiring allowance

9. Subject to regulation 25 regulation 18 of the principal regulations is amended in paragraphs (1)(*b*) and (*c*)—

(*a*) in paragraph (1)(*b*) by substituting for the words ''5 years' '' the words ''2 years' ''; and

(*b*) in paragraph (1)(*c*)(i) by substituting for the words ''5 years'' the words ''2 years''.

Entitlement to benefits where a person has given a notification in accordance with regulation 11B

10. The principal regulations are amended by inserting after regulation 18 the following regulation—

''*Entitlement to benefits where a person has given a notification in accordance with regulation 11B*

18A. Where regulations 18 to 20, 22 and 24 to 29 do not apply to a person because he has ceased to be an officer by virtue of a notification in accordance with regulation 11B, he shall nevertheless, on ceasing to hold his employment under an employing authority and subject to the provisions of regulations 18 to 20, 22 and 24 to 29 be entitled to benefits in relation to his service as if he was an officer.''.

Death gratuity

11. Regulation 23 of the principal regulations is amended—

(*a*) in paragraph (1), by inserting after sub-paragraph (*c*) the following—

''or,