1990 No. 62

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1990

Made . . . . . *22nd February 1990*

Coming into operation . . *1st April 1990*

The Department of Health and Social Services, in exercise of the powers conferred by Articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to it to be appropriate and with the consent of the Department of Finance and Personnel for Northern Ireland(**b**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation on 1st April 1990.

(2) In these regulations "the principal regulations" means the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984(**c**).

Amendment of regulation 3 of the principal regulations

2. In regulation 3 of the principal regulations (definitions)—

(*a*) after the definition of "participating employment" there shall be inserted the following definition—

" 'pay period' means the period set out in the officer's contract of employment in respect of which each payment of salary or wages is made or, in the case of a practitioner, a period of 3 months ending on the last day of March, June, September or December as the case may be;";

(*b*) after the definition of "pensionable age" there shall be inserted the following definition—

" 'personal pension scheme' has the same meaning as in Article 2 of the Social Security (Northern Ireland) Order 1986(**d**);";

(*c*) after the definition of "retiring allowance" there shall be inserted the following definition—

(**a**) S.I. 1972/1073 (N.I. 10)
(**b**) Formerly the Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3
(**c**) S.R. 1984 No. 336 as amended by S.R. 1988 No. 271 and S.R. 1989 No. 173
(**d**) S.I. 1986/1888 (N.I. 18)

" 'self-employed pension arrangement' means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(**a**) which is approved by the Inland Revenue under that chapter; but which is neither a personal pension scheme within the meaning of the Social Security (Northern Ireland) Order 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;";

(*d*) in the definition of "service" for the words "18 years" there shall be substituted the words "16 years" and at the end of sub-paragraph (*c*) there shall be inserted the word "or" and the following sub-paragraph—

"(*d*) any period of employment subject to an election made under regulation 5(2);".

Application of the principal regulations

3.—(1) Regulation 4(1) of the principal regulations (application) shall be amended as follows—

(*a*) for the words "regulation 7(3)" there shall be substituted "regulations 5 and 7(3)" and for the words "18 years" there shall be substituted "16 years";

(*b*) in sub-paragraph (*a*) the words "whose duties are wholly or mainly administrative, professional or clerical" shall be omitted;

(*c*) sub-paragraphs (*b*), (*c*) and (*d*) are revoked;

(*d*) for sub-paragraph (*f*) there shall be substituted—

"any part-time officer who is employed by one or more employing authorities, or by such other body or bodies as the Department may designate, in an employment or employments none of which is subject to an election under regulation 5(2), for such hours in any period as in the aggregate amount to not less than one-half of the hours which would constitute whole-time employment in his case;";

(*e*) sub-paragraph (*g*) is revoked;

(*f*) proviso (i) is revoked and after proviso (iv) the following further proviso shall be added—

"(*v*) for the purpose of sub-paragraph (*f*)—

(*a*) a person whose hours of employment are less than one half of the hours which would constitute whole time employment in his case shall nonetheless be treated as satisfying that requirement if his hours of employment under sub-paragraph (*e*) (not being employment subject to an election under regulation 5(2)) when added to his hours of employment under sub-paragraph (*f*) would be not less than the period of hours required under that paragraph;

(**a**) 1988 c. 1

(*b*) a part-time officer who continues to be employed by an employing authority shall not cease to be treated as an officer in respect of any period, not exceeding one month, during which his hours of employment are less than one-half of the hours which would constitute whole-time employment in his case;

(*c*) a person who, prior to 6th April 1988, satisfied the requirements of paragraph 1(*c*) of Schedule 6 may continue to qualify to be treated as an officer as if those requirements continued to apply in his case:''.

(2) Schedule 6 to the principal regulations (application to persons employed in a part-time capacity) is revoked.

Amendment of regulation 5 of the principal regulations

4. For regulation 5 of the principal regulations (participation in superannuation benefit) there shall be substituted the following—

''*Participation in superannuation scheme*

5.—(1) Every officer, unless he has made or is deemed to have made an election under paragraph (2), shall participate in the scheme provided under these regulations, subject to and in accordance with the terms and conditions thereof.

(2) An officer may at any time, by giving notice in writing to his employing authority, elect not to participate in the scheme provided under these regulations and such an election may be made in respect of all or any of the employments in which he is an officer.

(3) An officer who makes an election under paragraph (2) shall in respect of the employment or employments to which it relates be treated as having ceased to be an officer within the meaning of regulation 4 from the date on which the election takes effect.

(4) An election pursuant to paragraph (2) shall take effect from the beginning of the pay period immediately following its receipt or such later date, if any, as is specified in the election provided that—

(*a*) where on or before 6th April 1988 an officer gave notice that he did not wish to participate in the scheme provided under these regulations, that notice shall be treated as an election under paragraph (2) with effect from 6th April 1988 or such later date as is specified in the notice;

(*b*) in the case of an officer who commenced employment on or after 6th April 1988 an election made during the first pay period of that employment shall, if so expressed, take effect from the beginning of the first day of that employment.

(5) Subject to paragraph (6) a person who would be an officer but for an election under paragraph (2) may at any time revoke that election by giving notice in writing to his employing authority and such notice shall take effect from the beginning of the pay period immediately following its receipt or such later date, if any, as is specified in the notice.

(6) A person may not revoke an election—

(*a*) at any time whilst he is absent from duty, for whatever reason, or

(*b*) where in consequence of the election benefits become payable under regulation 7,

and in a case to which sub-paragraph (*b*) applies any subsequent employment to which these regulations would otherwise apply shall be deemed to be subject to an irrevocable election under paragraph (2).

(7) Where a person in respect of whom the conditions set out in regulation 4(1)(*f*) are satisfied was, at 5th April 1988, a person in respect of whom an election pursuant to Schedule 6 of these regulations could have been, but was not, made such person shall be deemed to have made an election under paragraph (2) on that date.''.

Reduction in period of qualifying service

5. In regulation 7(1)(*a*)(i), (iv) and (v), 7(5)(*b*), 12(1)(*b*), 12(4)(*a*) and 14(1) of the principal regulations for the words ''5 years'' there shall be substituted ''2 years''.

Amendment of regulation 7 of the principal regulations

6.—(1) In regulation 7(1)(*a*)(iv) of the principal regulations (entitlement to pension) after the words ''regulation 34(5)(*b*)'' there shall be inserted ''or (*c*)''.

(2) In regulation 7(2)(*c*) of the principal regulations (requirements relating to payment of pension and lump sum) after the word ''employment'' there shall be inserted ''or, in the case of a person who would be an officer but for an election under regulation 5(2), of discharging efficiently the duties of his employment''.

Amendment of regulation 11 of the principal regulations

7. In regulation 11(4) of the principal regulations (widowers entitlement to death gratuity) after the words ''or a widower's pension'' there shall be inserted ''except that no reduction in the amount of the death gratuity shall be made under paragraph (2) or (3) above in respect of a widower's pension payable under regulation 15A or 15B''.

Amendment of regulation 12 of the principal regulations

8.—(1) In regulation 12(1) of the principal regulations (entitlement to widow's pension) after the word ''officer'' where it appears in proviso (i) there shall be inserted the words ''unless those spouses were previously married to each other at the date he last ceased to be an officer''.

(2) At the beginning of regulation 12(7) of the principal regulations (circumstances in which a widow's pension shall not be payable) there shall be inserted ''Subject to paragraph (7A)'' and after paragraph (7) there shall be inserted—

''(7A) Where the disallowance of a widow's pension under paragraph (7)(*a*) or (*b*) would result in severe financial hardship the Department may restore the widow's pension in whole or in part; if it does so it may take account of any deficiency payment already made under paragraph (8).''.

Insertion of new regulation 12A of the principal regulations

9. After regulation 12 of the principal regulations there shall be inserted—

"*Polygamous Marriages*

12A. Where on the death of a person referred to in regulation 11(1), 12(1) or 14(1) it appears to the Department that there is no widow who would be entitled to receive the death gratuity, annual widow's pension or limited pension, as the case may be, but the deceased was at the date of his death married to a wife under a law which permits polygamy, the wife of that polygamous marriage shall be treated as if she were such a widow. Where there are two or more such wives each shall be entitled to an equal share of the death gratuity, annual widow's pension or limited pension provided that such share in relation to any such pension shall not be increased by reason of the death of any other wife so entitled.".

Widower's Pensions

10.—(1) At the beginning of regulation 15 of the principal regulations (nomination for a widower's pension) there shall be inserted "In respect of contributing service prior to 6th April 1988".

(2) After regulation 15 of the principal regulations there shall be inserted—

"*Widower's pension in respect of service after 5th April 1988*

15A. The widower of a person in respect of whom there is a period of contributing service after 5th April 1988 (including a period added as a result of an election under regulation 22 made after that date) shall, in relation to that servcice, be entitled to receive from the Department an annual widower's pension or, as the case may be, a limited pension. Such widower's or limited pension shall, subject as aforesaid, be payable in like circumstances and calculated in like manner as a widow's pension under regulation 12 or a limited pension under regulation 14 as the case may be.

Purchase of increased widower's pension

15B.—(1) Subject to paragraphs (2) and (3) a female officer, unless she is a person in respect of whom a pension has already become payable under regulation 7, may, in respect of the whole or any part of her contributing service prior to 6th April 1988, elect to purchase an increase in the amount of any annual widower's pension which may become payable by virtue of regulation 15A.

(2) The purchase of an increase pursuant to paragraph (1) above may only be made in respect of complete years of service unless the officer wishes to purchase an increase in respect of all of her service before 6th April 1988 or all of her service in respect of the period beginning on 25th March 1972 and ending on 5th April 1988 in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election pursuant to paragraph (1)—

(*a*) shall be made not later than 30th June 1989 by giving notice in writing to the Department specifying the period in respect of which the election is made;