1988 No. 363

EDUCATION

Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988

Made . . . . . *12th October 1988*

Coming into operation . . *18th November 1988*

The Department of Education in exercise of the powers conferred on it by Articles 11(1) and (2), and 14(1) of, and paragraphs 1, 4, 6 and 13 of Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**a**) and of every other power enabling it in that behalf, and after consultation with representatives of education and library boards and of teachers and with such representatives of other persons likely to be affected by the regulations as appear to it to be appropriate as required by Article 11(5) of the said Order, with the consent of the Department of Finance and Personnel(**b**), hereby makes the following regulations:—

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988 and shall come into operation on 18th November 1988 and shall have effect as from 6th April 1988.

Interpretation

2.—(1) In these Regulations "the principal regulations" means the Teachers' Superannuation Regulations (Northern Ireland) 1977(**c**).

(2) Other expressions in these regulations have the same meaning as in the principal regulations.

PART II
AMENDMENT OF THE PRINCIPAL REGULATIONS

3. The principal regulations shall be amended as provided in this Part.

Interpretation

4. In regulation 2(1) the definitions of "child" and "disqualifying income" shall be deleted.

(a) S.I. 1972/1073 (N.I. 10)
(b) Formerly Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3. Consent function was transferred from the Department of the Civil Service by S.I. 1982/338 (N.I. 6) Art. 4
(c) S.R. 1977 No. 260. Relevant amending regulations are S.R. 1978 No. 351, S.R. 1980 No. 305 and S.R. 1987 No. 76

Repayment on cessation of employment

5. In regulation 42(1) there shall be substituted for sub-paragraphs (*a*) and (*b*) the following:

"(*a*) he is treated as having ceased to be employed in reckonable service by virtue of an election under regulation 12 of the Teachers' Superannuation (Miscellaneous Provisions No. 2) Regulations (Northern Ireland) 1988, and he has for the purposes of regulation 48 been employed in reckonable service for less than two years;

(*b*) in any other case, he is not qualified by service for any benefit;".

Entitlement to allowances

6. In regulation 48 there shall be substituted—

(*a*) for paragraph (1)(*a*)(i) and (ii) the following:

"(i) was on 6th April 1988 employed in reckonable service and has been employed in such service, whether before or after that date, for at least two years;

(ii) has been employed in reckonable service after 5th April 1988 for at least two years; or"; and

(*b*) for paragraph (1)(*b*) the following:

"(*b*) has attained the age of 60 and has been employed for at least five years in reckonable service, or partly in reckonable service and partly in service of a description specified in Schedule 4, for at least five years; or"; and

(*c*) for the words "five years", in both places where they occur, in paragraph (3) the words "two years".

Amount of annual allowance and additional allowance

7. In regulations 49(3) and 51(4) after the words "regulation 48(1)(*c*)" there shall be added the words "and he has for the purposes of regulation 48 been employed in reckonable service for five years or more".

Death gratuities

8.—(1) Subject to paragraph (2) in regulation 53(2)(*b*) for the word "five" there shall be substituted the word "two".

(2) Paragraph (1) shall not have effect in relation to a person who died before 6th April 1988.

Family benefits

9. For regulations 57 to 62 there shall be substituted the following:—

"*Family benefits generally*

57.—(1) Pensions are payable in accordance with regulations 59 to 65 to widows, children and nominated beneficiaries of persons who die while, or after having been, employed in reckonable service.

(2) References in those regulations to a widow include references to a widower; but in the case of a person who has not been employed in reckonable service, or paying contributions under regulations 27 and 28, at any time after 5th April 1978, they do not include references to a man or woman married by that person after his last day of employment in reckonable service or, as the case may be, the end of the period for which any such contributions were paid.

(3) Where those regulations provide for a pension to be payable to a widow and there are two or more widows, the widows are jointly entitled to the pension.

(4) References in those regulations to a person's child are to a person who is—

(*a*) his legitimate, adopted or illegitimate child; or

(*b*) accepted by him as a member of the family and wholly or mainly dependent on him,

and who is a child within the meaning given in paragraphs (5) to (7).

(5) Subject to paragraphs (6) and (7), for the purposes of regulations 58 to 65 a person is a child while he is unmarried and—

(*a*) he has not attained the age of 17;

(*b*) having attained that age, he is receiving full-time education or attending a course of not less than two years' full-time training for a trade, profession or calling; or

(*c*) having ceased while incapacitated to fall within sub-paragraph (*a*) or (*b*), he continues to be incapacitated.

(6) For the purposes of paragraph (5)(*b*)—

(*a*) a person is to be treated as receiving full-time education up to (but not including) the first Monday in January or the first Monday after Easter Monday or the first Monday in September next following the end of the last term in which he received it, and

(*b*) a person is to be treated as not attending a course of training while he is receiving disqualifying remuneration.

(7) Disqualifying remuneration is remuneration at a rate not less than the annual rate at which an official pension, within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971(**a**), would for the time being be payable if it had begun, and first qualified for increases under that Act, on 1st April 1972 and had then been payable at an annual rate of £250.

(8) References in regulations 58 to 65 to a nominated beneficiary are to a person nominated under regulation 58 or nominated before 18th November 1988 for the purposes of this Part or of previous provisions relating to family benefits.

(9) In this Section "member" and "credited service" have the same meaning as in Section C of Part II.

(**a**) 1971 c. 35 (N.I.)

Nomination of beneficiaries

58.—(1) Subject to paragraph (2), an unmarried person (''the appointor'') may at any time while employed in reckonable service, by giving written notice to the Department, nominate an eligible person who is wholly or mainly financially dependent on the appointor and who is not a child to receive a pension under regulations 59 to 65.

(2) A person may not be nominated while a previous nomination under this regulation has effect.

(3) The eligible persons are—

(*a*) a parent of the appointor;

(*b*) a brother or sister of the appointor; or

(*c*) a widowed step-parent of the appointor.

(4) A nomination under this regulation may be revoked by giving written notice to the Department, and if not previously revoked ceases to have effect—

(*a*) on the death or marriage (or as the case may be remarriage) of the person nominated; or

(*b*) on the marriage of the appointor.

(5) The references in paragraphs (2) and (4) to a nomination under this regulation include references to a nomination made before 18th November 1988 for the purposes of this Part or of previous provisions relating to family benefits.

Entitlement to short-term family benefits

59.—(1) Subject to paragraph (3), a short-term pension is payable, from the day after that of his death, if a person dies—

(*a*) while employed in reckonable service;

(*b*) during a period for which he is paying contributions under regulations 27 and 28;

(*c*) within 12 months after ceasing to be employed in reckonable service, or to pay such contributions, as a result of ill-health, but before becoming entitled to payment of allowances; or

(*d*) after becoming entitled to payment of allowances.

(2) The short-term pension is payable—

(*a*) subject to paragraph (3)(*a*), if the deceased leaves a widow, to the widow;

(*b*) if a nomination had effect at the time of his death, to the nominated beneficiary; or

(*c*) if there is no widow or nominated beneficiary and the deceased is survived by a child or children of his, to or for the benefit of the child or, as the case may be, the children jointly.

(3) No short-term pension is payable—

(*a*) to a widower if one is payable to another person as a nominated beneficiary;

(*b*) if there is no widow, nominated beneficiary or surviving child; or

(*c*) where paragraph (1)(*d*) applies, to a person who is not entitled under regulation 61 to a long-term pension.

Amount and duration of short-term family benefits

60.—(1) Subject to paragraph (2), the annual rate of a short-term pension under regulation 59—

(*a*) if regulation 59(1)(*a*) or (*c*) applies, is the annual rate of the deceased's salary on his last day of employment in reckonable service, disregarding any reduction by reason of sick leave or maternity leave;

(*b*) if regulation 59(1)(*b*) applies, is the annual rate, at the time of his death, of the salary described in regulation 28(1);

(*c*) if regulation 59(1)(*d*) applies, is the annual rate, at the time of his death, of his annual allowance; and

(*d*) if regulation 59(1)(*a*) and (*d*) both apply, is the total of the rates specified in sub-paragraphs (*a*) and (*c*).

(2) If—

(*a*) the short-term pension is payable to the deceased's widow; and

(*b*) the annual rate calculated in accordance with paragraph (1) is less than that of a long-term pension to which the widow is prospectively entitled under regulation 61,

the annual rate of the short-term pension is the same as that of the long-term pension.

(3) Subject to paragraphs (4) and (5), a short-term pension is to be paid for 3 months.

(4) If—

(*a*) either—

(i) no long-term pension is payable under regulation 61; or

(ii) less than two years' service counts in the calculation of a pension payable under that regulation;

(*b*) the deceased is survived by children of his; and

(*c*) the short-term pension is payable to his widow, or to a nominated beneficiary who has the care of the children,

the short-term pension is to be paid for 4½ months if there is one child and for 6 months if there are 2 or more children.

(5) If the short-term pension is payable to or for the benefit of one child, it is to be paid for 2 months; if it is payable to or for the benefit of 2 or more children, it is to be paid for 4 months.

Entitlement to long-term family benefits

61.—(1) Long-term pensions are payable in accordance with paragraph (4) if a person dies who—

(*a*) has been employed in reckonable service at any time after 31st March 1972, and

(*b*) has relevant service amounting to at least two years,