1988 No. 271

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1988

Made . . . . . *26th July 1988*

Coming into operation . . *6th September 1988*

The Department of Health and Social Services, in exercise of 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 and commencement

1. These regulations may be cited as the Health and Personal Social Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation on 6th September 1988.

Interpretation

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

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

(*a*) after the definition of ''appointed day'' there shall be inserted the following definition—

'' ''appropriate policy'' means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under paragraph 13(2)(*b*) of Schedule 1A to the Pensions Order;''(**d**);

(*b*) in the definition of ''mental health officer'' for ''any medical specialist who devotes'' there shall be substituted ''a maximum part-time specialist as defined in regulation 71(3) who devotes the whole or'';

(**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
(**d**) Schedule 1A was inserted by Article 4 of, and Schedule 1 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), and is amended by Article 83 of, and paragraphs 23 and 24 of Schedule 9 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)). Paragraph 13 is modified by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 294)

(*c*) after the definition of ''statutory scheme'' there shall be inserted the following definition—

'' ''superannuation scheme'' means an ''occupational pension scheme'' within the meaning of Article 2(2) of the Pensions Order;'';

(*d*) in the definition of ''temporary additional session'' after ''extra notional half-day'' there shall be added '', or in the case of a specialist to whom sub-paragraph (*a*) of regulation 71(3) applies any session in excess of 10 in any one week regardless of its length,''.

Amendment of regulation 7 of the principal regulations

4. In regulation 7 of the principal regulations (officer's pension and retiring allowance)—

(*a*) in paragraph (1)(*a*)(iv) ''regulation 34(4) or'' shall be omitted;

(*b*) in paragraph (5)(*b*) ''or is a person to whom regulation 34(4) applies'' shall be omitted.

Amendment of regulation 11 of the principal regulations

5. In regulation 11 of the principal regulations (death gratuity)—

(*a*) in paragraph (1) after ''at the time of his death'' there shall be inserted ''and he has not elected by notice to the Department that she shall be excluded'';

(*b*) in paragraph (3) there shall be inserted at the beginning ''Except in any case to which any proviso to regulation 12(1) applies and'';

(*c*) in paragraph (4)—

(i) for the words from ''Where'' to ''calculated'' there shall be substituted ''Where the death referred to in paragraph (1) was of a married woman, this regulation shall apply'', and

(ii) ''in this regulation'' shall be omitted;

(*d*) after paragraph (6) there shall be inserted the following paragraph—

''(7) Notice to the Department under paragraph (1) shall be given in writing and may similarly be cancelled.''.

Amendment of regulation 12 of the principal regulations

6. In the proviso to regulation 12(1) of the principal regulations (widow's pension) after the words ''a widow shall'' there shall be inserted ''not''.

Amendment of regulation 13 of the principal regulations

7. In regulation 13(2)(*b*) of the principal regulations (child's allowance)—

(*a*) in sub-paragraph (i) after ''profession or vocation'' there shall be inserted ''in respect of which he does not receive remuneration of more than the allowable maximum'';

(*b*) for sub-paragraph (ii) there shall be substituted the following—

''(ii) by reason of permanent ill-health or infirmity of mind or body was at the time of the death of that person incapable, or at a time when sub-paragraph (i) above applied to him became

incapable, of earning his own living and has at all times subsequently remained incapable.'';

(*c*) after sub-paragraph (ii) there shall be inserted ''and in (i) above ''allowable maximum'' means the sum of £1,177 a year as increased from time to time by the amount of the increase, rounded up to the nearest pound, which would be applied under Part I of the Pensions (Increase) Act (Northern Ireland) 1971 (disregarding for this purpose the words ''for a period of not less than two years'' in section 3(3)(*d*) of that Act) to a pension of £1,177 a year first beginning on 6th April 1987 and as increased also by the annual amount (if any) of essential expenses necessarily incurred for the purposes of the full-time training.''(**a**).

Amendment of regulation 14 of the principal regulations

8. In regulation 14(3)(*a*)(ii) of the principal regulations (pensions of limited duration for widows and dependent children) after ''profession or vocation'' there shall be inserted ''in respect of which he was not receiving remuneration of more than the allowable maximum as defined in regulation 13(2)(*b*), or was in a break in such instruction or training''.

Amendment of regulation 16 of the principal regulations

9. In regulation 16 of the principal regulations (power to compound small benefits)—

(*a*) in paragraph (1) after ''death gratuity'' there shall be inserted, in both places where those words occur, '', widow's pension and child's allowance'';

(*b*) in paragraph (2) for ''in relation to'' there shall be substituted ''where the annual sum is'';

(*c*) after paragraph (2) there shall be inserted the following paragraph—

''(2A) Where a person has died and the annual amount of the pension payable to his widow is less than £104 the Department may discharge its liability in respect of the pension by the payment of a lump sum representing its capital value.'';

(*d*) paragraph (3) shall be omitted.

Amendment of regulation 17 of the principal regulations

10. In regulation 17 of the principal regulations (guaranteed minimum pension under the Pensions Order)—

(*a*) in paragraph (1) for ''paragraph (3)'' there shall be substituted ''paragraphs (2A) and (3)'';

(*b*) after paragraph (2) there shall be inserted the following paragraph—

(**a**) 1971 c. 35 (N.I.) Part 1 was amended by the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)), Article 23(1) and Schedule 6 paragraphs 8 to 10; the Pensions (Increase) (Northern Ireland) Order 1974 (S.I. 1974/1267 (N.I. 2)), Articles 5(2) and (3); the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), Article 74(2) and Schedule 6; and the Pensions Increase (Reduction of Qualifying Age) Order (Northern Ireland) 1972 (S.R. & O. (N.I.) 1972 No. 264) Article 2

"(2A) Where payment of an officer's guaranteed minimum pension is secured by an appropriate policy his earnings factors shall be determined (for the purposes of Article 37(2) of the Pensions Order) without reference to any order that comes into force under Article 23 of that Order, but the weekly equivalent mentioned in that paragraph of that Order shall be increased by the minimum rate of increase specified in regulation 21(3) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985."(a).

Amendment of regulation 18 of the principal regulations

11. In regulation 18 of the principal regulations (reckoning as service of previous periods of employment)—

(*a*) in paragraph (1)(*c*)(i), for "6 months" there shall be substituted "1 year";

(*b*) in paragraph (1)(*c*)(ii) there shall be added at the end "from that scheme.";

(*c*) for paragraph (3) there shall be substituted the following paragraph—

"(3) Subject to paragraphs (4) and (6), where a person enters employment as an officer and paragraph (1) does not apply to him, and in consequence of his service in previous employment he has accrued rights to benefits under a superannuation scheme (whether or not his rights are preserved in that scheme or have been transferred to and are held under one or more such schemes or are appropriately secured for the purposes of Article 53C of the Pensions Order by one or more appropriate policies) that service shall be reckonable at its full length for the purposes of determining whether any benefit is payable to or in respect of him under these regulations, if—

(*a*) within 12 months after entering employment as an officer he gives written notice to the Department that he wishes the Department to request a transfer payment in relation to some or all of his accrued rights from—

(i) the trustees or managers of the superannuation scheme under which some or all of those rights are held, or

(ii) from the insurance company with whom an appropriate policy securing some or all of those rights is held; and

(*b*) those trustees or managers or that insurance company makes a transfer payment in respect of some or all of those rights to the Department, and, when the Department so requests, indicating the period of service in respect of which it is made.";

(*d*) in paragraph (4) from ", and the contributing service reckonable in respect of any part of the former employment" to the end shall be omitted;

(*e*) for paragraph (6)(*c*) there shall be substituted the following sub-paragraph—

"(*c*) decline to accept a transfer payment in respect of a person under paragraph (3), if it does not exceed the annual amount of the

(a) S.R. 1985 No. 259

guaranteed minimum pension for which the Department would have been liable as a result of accepting it multiplied by the factor appropriate to that person, as set out in column 2 of the following table opposite his age, as at the date when the Department is requested to accept the transfer payment, as set out in column 1—

Age	*Appropriate factor*
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12''.

Amendment of regulation 22 of the principal regulations

12. In regulation 22(11) of the principal regulations (purchase of added years of contributing service)—

(*a*) for ''ceased to make payments'' there shall be substituted ''failed or ceased to make payment'';

(*b*) after ''liable to pay and'' there shall be inserted '', except in a case where payment was not made by reason of his absence from duty without leave,'';

(*c*) for sub-paragraph (*d*) there shall be substituted the following sub-paragraph—

''(*d*) if sub-paragraph (*c*) of this paragraph has applied to him, his election under paragraph (1)(*b*) shall continue to have effect if—

(i) having been absent from duty without leave, he ceases within 12 months to be so absent (while remaining an officer), or

(ii) having ceased to be an officer in circumstances other than those mentioned in sub-paragraph (*a*) of this paragraph, he again becomes an officer within 12 months in circumstances, other than those to which regulation 18(3) applies, in which his previous service is reckonable as contributing service;''.

Amendment of regulation 24 of the principal regulations

13. In regulation 24 of the principal regulations (purchase of unreduced retiring allowance)—

(*a*) in paragraph (1)(*a*) ''to make a payment in accordance with the provisions of paragraph 1 of Schedule 8; or'' shall be omitted in, and shall be inserted after, sub-paragraph (ii);

(*b*) in paragraph (8)—

(i) for ''ceased to make payments'' there shall be substituted ''failed or ceased to make payment'',

(ii) after ''liable to pay and'' there shall be inserted '', except in a case where payment was not made by reason of his absence from duty without leave,'', and

(iii) for sub-paragraph (*d*) there shall be substituted the following sub-paragraph—