1983 No. 155

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983

Made . . . . . *20th June 1983*

Coming into operation . . . . *1st August 1983*

The Department of Health and Social Services, in exercise of the powers conferred by Article 19 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**a**) and of all other powers enabling it in that behalf, 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 (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983 and shall come into operation on 1st August 1983.

Interpretation

2. In these regulations, unless the context otherwise requires—

"additional period of service" means a period of service calculated in accordance with regulation 5;

"early retirement regulations" means any regulations made under Article 3 of the Superannuation (Northern Ireland) Order 1973(**c**), section 44 of the National Health Service Reorganisation Act 1973(**d**), section 34A of the National Health Service (Scotland) Act 1972(**e**), section 260 of the Local Government Act 1972(**f**) and section 220 of the Local Government (Scotland) Act 1973(**g**);

"employing authority" means a Health and Social Services Board, the Northern Ireland Central Services Agency for the Health and Social Services, the Northern Ireland Staffs Council for the Health and Social Services, the Northern Ireland Council for Nurses and Midwives (until its dissolution), the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland and any such other body constituted under the Health and Personal Social Services (Northern Ireland) Order 1972(**h**) as the Department may approve;

"entitled officer" means a person to whom these regulations apply in accordance with regulation 3;

"the local government compensation regulations" means any regulations made under Article 19 of the Superannuation (Northern Ireland) Order 1972 in relation to local government service, section 137 of the Local Government (Northern Ireland) Act 1972(**i**), the corresponding provisions of any previous

(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.I. 1973/962 (N.I. 13)
(d) 1973 c. 32
(e) 1972 c. 58
(f) 1972 c. 70
(g) 1973 c. 65
(h) S.I. 1972/1265 (N.I. 14)
(i) 1972 c. 9 (N.I.)

enactment, and the corresponding provisions in force in England and Wales, Scotland and the Isle of Man;

"the material date", in relation to an entitled officer, means the date on which a person became an entitled officer;

"officer" has the same meaning as in the superannuation regulations except that it shall not include—

(*a*) a practitioner as defined in regulation 2 of those regulations; and

(*b*) a person to whom regulation 38 (persons subject to non-statutory superannuation schemes and arrangements) or regulation 65 (continuation of contracts or policies of insurance in certain cases) of those regulations applied immediately before the material date if that person is not entitled to benefits payable by the Department under the provisions of those regulations in respect of the employment referred to in regulation 3(1);

"reckonable service", in relation to an entitled officer, means his service in respect of which benefits are payable under the superannuation regulations;

"the superannuation regulations" means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(**a**);

"the 1973 regulations" means the Health and Personal Social Services (Compensation) Regulations (Northern Ireland) 1973(**b**).

Persons to whom the regulations apply

3.—(1) Subject to paragraph (2) these regulations shall apply to a person who ceases to hold an employment with an employing authority on or after 1st April 1983 and who is entitled to benefits in accordance with regulation 7(1)(*a*)(vii) or regulation 7(6)(*a*) (officer's pension and retiring allowance) of the superannuation regulations.

(2) These regulations shall not apply to an officer to whom the 1973 regulations apply in respect of the cessation of employment referred to in paragraph (1).

Payment of compensation

4.—(1) Subject to the provisions of these regulations an entitled officer shall be entitled with effect from the material date to receive from the Department compensation in accordance with paragraphs (2) and (3).

(2) Where an entitled officer becomes entitled under the superannuation regulations to receive a retiring allowance in relation to the cessation of such an employment as is referred to in regulation 3(1) he shall be entitled to receive lump sum compensation equal to the amount by which that allowance would be increased in accordance with those regulations if a period equal to the period with which he is credited under regulation 5 were added to his reckonable service.

(3) An entitled officer shall be entitled to receive compensation consisting of an annual allowance at a rate equal to the rate by which his pension under the superannuation regulations would be increased in accordance with those regulations if a period equal to the period with which he is credited under regulation 5 were added to his reckonable service.

Crediting of additional period of service

5.—(1) Subject to paragraph (2) for the purpose of calculating the amount of the annual compensation and the amount of the lump sum compensation payable under regulation 4 there shall be credited to the entitled officer who becomes entitled to a

(a) S.R. & O. (N.I.) 1962 No. 237 as amended by S.R. & O. (N.I.) 1967 No. 55; 1971 No. 352; 1972 No. 343; 1973 Nos. 101, 201 and 360; S.R. 1974 Nos. 93, 248 and 327; 1976 No. 46; 1978 No. 301 and 1983 No. 152

(b) S.R. & O. (N.I.) 1973 No. 361

pension under the superannuation regulations on or after 1st April 1983 an additional period of service calculated as follows—

(*a*) where the entitled officer's reckonable service together with any relevant optant service is not less than 5 years and not more than 10 years there shall be credited to him an additional period of service equal to the aggregate of his reckonable service and his relevant optant service;

(*b*) where the entitled officer's reckonable service together with any relevant optant service is 10 years or more there shall be credited to him an additional period of 10 years:

Provided that the total of an entitled officer's reckonable service and any additional period of service credited to him shall not exceed 40 years or the amount of service which he would have been able to reckon had he remained in employment until retirement age, whichever period is the shorter.

(2) Where the reckonable service of such an officer as is referred to in paragraph (1) includes service in the employment of an employing authority before 4th November 1980 the additional period of service credited to him for the purpose of calculating the amount of the annual compensation and the amount of the lump sum compensation payable under regulation 4 shall be calculated in accordance with this paragraph if the additional period of service to be credited to him in accordance with this paragraph would be greater than the period calculated in accordance with paragraph (1). The additional period of service shall be calculated as follows—

(*a*) if his reckonable service does not exceed 10 years, either a period equal to such service or a period by which such service would have been increased if the entitled officer had continued to be employed until he had attained the age of 65 years, whichever is the shorter;

(*b*) if his reckonable service exceeds 10 years, a period equal to whichever is the longer of the following—

(i) the period by which such service is less than 20 years or the period by which such service would have been increased if the entitled officer had continued to be employed until he had attained the age of 65 years, whichever is the shorter; or

(ii) 6 years and 243 days or the period by which such service would have been increased if the entitled officer had continued to be employed until he had attained the age of 60 years, whichever is the shorter.

(3) For the purposes of paragraph (1)—

"relevant optant service" means—

(*a*) service in which the entitled officer was subject to regulation 38 (persons subject to non-statutory superannuation schemes and arrangements) of the superannuation regulations and which terminated within 12 months immediately before the beginning of his reckonable service, and

(*b*) any local authority service in which he was immediately before becoming an officer subject to such a scheme as is referred to in regulation 38(1) of the superannuation regulations and who became such an officer—

(i) in consequence of a transfer of employment to the former Northern Ireland General Health Services Board or Northern Ireland Hospitals Authority under section 58 of the Health Services Act (Northern Ireland) 1948(**a**) or in consequence of the acquisition of premises by the former Northern Ireland Hospitals Authority under section 67 of that Act; or

(ii) in consequence of a transfer of employment under Article 77 of the Health and Personal Social Services (Northern Ireland) Order 1972 to an employing authority;

(a) 1948 c. 3 (N.I.)

"retirement age" means the age at which, under any written condition of employment, an employee may be required to retire, or if there is no such condition, age 65.

(4) In determining the period by which the reckonable service would have been increased if the officer had continued to be employed no account shall be taken of any provision in the superannuation regulations for reckoning any period of service at more than its actual length.

(5) Where an entitled officer has received a redundancy payment under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(**a**) as amended by the Industrial Relations (Northern Ireland) Orders 1976—1982(**b**) and the Redundancy Rebates Act 1977(**c**) or a corresponding payment under the arrangements of the Joint Councils for the Health and Personal Social Services of Northern Ireland in respect of the cessation of his employment referred to in regulation 3(1), and that payment has not been reduced to take account of any additional period of service the entitled officer may have been credited with, notwithstanding paragraphs (1) and (2), any additional period of service shall not exceed 6 years and 243 days.

(6)(*a*) Subject to sub-paragraph (*b*), the compensation in respect of the additional period of service of an entitled officer shall be calculated at the same rates as those which apply to the calculation of his pension and, if he is entitled to receive a retiring allowance, that allowance payable under the superannuation regulations or which would have been payable but for his superannuation benefits having been transferred to another scheme by means of a transfer payment made under regulation 70 (rights on transfer to other employment) of those regulations.

(*b*) Where regulation 43 (mental health officers) of the superannuation regulations or any corresponding provision of any other scheme to which the entitled officer is subject under regulation 36 (benefits of officers who have exercised option to retain rights corresponding with those previously enjoyed) of those regulations applies to an entitled officer, the compensation in respect of his additional period of service shall be calculated as if that regulation or corresponding provision did not apply to him.

(7)(*a*) Subject to sub-paragraph (*b*) and paragraph (8), where an entitled officer is in receipt of any payment specified in paragraph (9) there shall be deducted from the additional period of service which, but for this paragraph would have been reckonable by virtue of paragraphs (1) to (6), any additional years or deemed added years which were taken into account for the purposes of the calculation of that payment.

(*b*) Where there are differences in the amount of remuneration, the whole-time or part-time nature, or other terms and conditions of the employment of an entitled officer to which regulation 3(1) relates and those of any employment to which any payment specified in paragraph (9) relates, and by reason of those differences the deductions in accordance with sub-paragraph (*a*) of additional years or deemed added years from the additional period of service of that officer would be disproportionately large, the Department may direct either that no such deduction should be made or that a smaller number of years should be deducted from that officer's additional period of service.

(8) For the purposes of paragraph (7)—

(**a**) 1965 c. 19 (N.I.)
(**b**) S.I. 1976/1043 (N.I. 16), 1976/2147 (N.I. 28) and 1982/528 (N.I. 8)
(**c**) 1977 c. 22

(*a*) "additional years" means the number of years (including where the payment referred to in sub-paragraph (*a*) of paragraph (9) is relevant, the additional period of service by reference to which that annual allowance was calculated) which had the corresponding effect on the calculation of any payment specified in paragraph (9) that the additional period of service has on the annual allowance in accordance with these regulations;

(*b*) any additional years or deemed added years shall not be taken into account if such additional years or deemed added years have been taken into account in accordance with any provision of any of the regulations or a scheme referred to in paragraph (9) for the purpose of reducing any payment specified in that paragraph;

(*c*) where a payment specified in paragraph (9) has been enhanced by a sum, being a fraction of the annual rate of remuneration, calculated in sixtieths, each one sixtieth shall be deemed to be an added year for the purposes of this paragraph and paragraph (7), and the expression "deemed added years" shall be construed accordingly;

(*d*) the additional period of service shall be deemed to commence on the material date;

(*e*) the additional years or deemed added years shall be deemed to commence on the day after the happening of the event in respect of which the payment specified in paragraph (9) became payable;

(*f*) any additional years or deemed added years which relate to a period before the material date shall not be taken into account.

(9) The payments referred to in paragraph (7) are—

(*a*) an annual allowance payable under these regulations;

(*b*) any annual compensation payable immediately or prospectively under the 1973 regulations, the corresponding provisions in force in England and Wales, Scotland or the Isle of Man, the local government compensation regulations or any other regulations made under Article 19 of the Superannuation (Northern Ireland) Order 1972;

(*c*) any annual compensation payable under a scheme made under Article 3 of the Superannuation (Northern Ireland) Order 1972 or similar scheme made under a statutory provision;

(*d*) any annual benefit payable under the early retirement regulations; or

(*e*) any other payment provided for by regulations which have like effect to the regulations referred to in sub-paragraphs (*a*), (*b*) or (*d*).

(10) Where, under regulation 11 (allocation of part of pension or injury allowance to spouse or dependant) of, and the First Schedule to, the superannuation regulations, an entitled officer may surrender part of his pension in favour of his spouse or any other dependant, he may surrender part of the annual allowance which is payable to him under these regulations after any reduction under regulation 8(1) on the like terms and conditions and in consideration of the like payments by the Department as if the said annual allowance were a pension to which he had become entitled under the superannuation regulations.

(11) If the amount of any benefit to which an entitled officer is or may become entitled under the superannuation regulations is or may be supplemented under regulation 39 (supplementary payments in the case of certain officers) or 40 (discretionary payments in respect of certain officers) of those regulations at the discretion of the Department, it may in like manner make such payments to such extent as it considers appropriate in addition to any compensation payable to the entitled officer under these regulations.