1983 No. 30

LOCAL GOVERNMENT

Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983

Made . . . . . *2nd March 1983*

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

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The Department of the Environment, in exercise of powers conferred by Article 19 of the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983 and shall come into operation on 1st April 1983.

Interpretation

2.—(1) In these regulations—

"additional service", in relation to a person, means service with which he is credited under regulation 4, in respect of the cessation of his former employment;

"associated body", "average remuneration", "officer", "remuneration" and "service" have the same respective meanings as in the Superannuation Regulations;

"beneficiary" means an eligible person who has been credited (whether before or after his death) with additional service;

"eligible child" means—

(*a*) a legitimate child of a marriage of a beneficiary which took place on or before the material date, born before the expiration of one year after that date; or

(*b*) an adopted child of a beneficiary, adopted on or before the material date; or

(a) S.I. 1972/1073 (N.I. 10)
(b) S.R. & O. (N.I.) 1973 No. 504 Art. 7(1); Northern Ireland Constitution Act 1973 (c. 36) Sch. 5 para. 8(1); S.I. 1976/424 (N.I. 6)

(c) a step-child or illegitimate child of a beneficiary, an adopted child of the wife of a marriage of a beneficiary which took place on or before the material date or a child accepted by a beneficiary as a member of the family, being a child wholly or mainly dependent on him both on the material date and at the time of his death;

"eligible person" means a person who is described in regulation 3;

"employing authority", in relation to a person whose employment ceased as provided in regulation 3 means the body specified in Schedule 1 by whom that person is employed on the material date;

"excepted payment", in relation to an employment of a beneficiary, means a payment received by him which is—

(i) a redundancy payment in respect of the cessation of that employment, including any amount by which that payment is reduced in accordance with the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965(a); or

(ii) a payment in respect of that employment made under regulations, or under provisions having effect as provisions of regulations, made under Article 9 of the Superannuation (Northern Ireland) Order 1972; or

(iii) a payment in lieu of notice of termination of that employment, which does not exceed the remuneration he would have received if he had remained in that employment for a period of 3 months after the material date; or

(iv) in the case of a payment in lieu of notice of termination of that employment which exceeds that remuneration, so much of that payment as is equal to that remuneration; or

(v) a payment in lieu of annual leave or other leave to which he was entitled in that employment.

"former employment", in relation to a person, means the employment which ceased as described in regulation 3(a); and paragraphs (3) to (5) of regulation 30 of the Superannuation Regulations shall apply for the purposes of these regulations, as if reference in those paragraphs to "former employment" were a reference to former employment within the meaning of these regulations;

"instrument" includes a direction or agreement;

"material date", in relation to a person, means the date upon which he ceased to hold his former employment;

"new employment", in relation to a beneficiary, means employment in which he is entitled to participate in the benefits provided by the Superannuation Regulations which he enters after the material date; and paragraphs (4) to (6) of regulation 30 of the Superannuation Regulations shall apply for the purposes of these regulations, as if reference in those paragraphs to "new employment" were a reference to new employment within the meaning of these regulations;

"the Northern Ireland Local Government Officers' Superannuation Committee" means the body established by the Local Government (Superannuation) Act (Northern Ireland) 1950(b) for the purpose of administering the Superannuation Regulations;

"occupational pension" in relation to a person means a pension (other than a lump sum) to which he has become entitled, whether payable immediately or

(a) S.R. & O (N.I.) 1965 No. 246 (b) 1950 c. 10 (N.I.)

in the future, in accordance with any enactment whenever enacted, contract, scheme or other arrangement associated with any employment, other than a pension under the Superannuation Regulations;

"periodic payment", in relation to a beneficiary, means an instalment of an allowance (other than annual compensation under these regulations) for life or other period granted to—

(*a*) him, or

(*b*) for the purposes of regulations 8(3) and 10(4)(*b*), his widow or child, by his employing authority, in consequence of or as compensation for the loss of his former employment, under any enactment whenever enacted or under any contract or arrangement with that authority, but does not include an excepted payment in relation to that employment;

"redundancy payment" in relation to an employment of a beneficiary means—

(*a*) a redundancy payment within the meaning of section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(a); and

(*b*) any amount which, in pursuance of a contract or arrangement, is payable in addition to such a payment, and is calculated by reference to—

(i) that payment, and

(ii) a period of continuous employment or employments, subject to a maximum period of 20 years, and

(iii) his remuneration in that employment,

if no account were taken of an abatement thereof in accordance with a contract or arrangement;

"the Superannuation Regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(b).

(2) any reference to the annual rate of compensation payable to a beneficiary immediately before the date of his death shall, if he died before he had been credited with additional service, include a reference to the annual rate of compensation which would have been payable if he had been so credited before his death.

PART II

ENTITLEMENT TO BENEFIT

Persons to whom the regulations apply

3. Subject to the provisions of regulation 4, these regulations shall apply to an officer who—

(*a*) on or after 29 March 1976 ceases to hold his employment with an employing authority by reason of redundancy or in the interests of the efficient exercise of that authority's functions and in relation to whom that authority has certified in accordance with regulation 18(3)(*a*) of the Superannuation Regulations; and

(*b*) is not in respect of the loss of that employment entitled to have his case considered for the payment of compensation within the meaning of Part I of Schedule 2; and

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(a) 1965 c. 19 (N.I.)
(b) S.R. 1981 No. 96 as amended by S.R. 1982 No. 58

(*c*) on the material date—

(i) has attained the age of 50 years, but has not attained the age of 65 years; and

(ii) is entitled to reckon an aggregate of not less than 5 years' service; and

(iii) his service and any period in respect of which he has become entitled to an occupational pension, does not in aggregate exceed 40 years; and

(iv) the period beginning with the day following the material date and ending on the day on which he attains the age of 65 years, exceeds any period of residual entitlement which he has to his credit (as described in Part II of Schedule 2).

Additional service

4. Subject as hereafter in these regulations provided, an employing authority may, within 6 months after the date upon which these regulations come into operation or the material date, whichever is the later, credit an eligible person with a period of service not exceeding the shortest of the following periods—

(*a*) a period which, when added to his service and any period in respect of which he has become entitled to an occupational pension, does not in the aggregate exceed 40 years; or

(*b*) a period equal to the period beginning with the day following the material date and ending with the day on which he attains the age of 65 years, less any period of residual entitlement which he has to his credit (as described in Part II of Schedule 2); or

(*c*) a period equivalent to his service as an officer; or

(*d*) a period of 10 years.

PART III

COMPENSATION

Lump sum compensation and annual compensation

5.—(1) Subject as hereafter in these regulations provided, a beneficiary shall be entitled to receive compensation in accordance with paragraphs (2) and (3).

(2) Where a beneficiary is entitled to a retiring allowance under the Superannuation Regulations—

(*a*) 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 the service after 31st March 1972 which he is entitled to reckon as service were increased by the period of his additional service; and

(*b*) the amount of such compensation payable to a beneficiary, whose material date falls on or after the date upon which these regulations come into operation, shall be reduced by the amount of any lump sum to which he is previously entitled.

(3) From the day following the material date—

(*a*) a beneficiary shall be entitled to receive annual compensation at a rate equal to the rate by which his pension under the Superannuation Regulations would be increased in accordance with those regulations if his service were increased by the period of his additional service; and

(*b*) the amount of such compensation payable to a beneficiary, whose material date falls on or after the date upon which these regulations come into operation, in respect of any period which begins after the material date shall be reduced by the amount of any allowance to which he is previously entitled in respect of that period.