1980 No. 265

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1980

Made . . . . . *5th August 1980*

Coming into operation . . . *12th September 1980*

The Department of the Environment in exercise of powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) and now vested in it(**b**) and of all other powers enabling it in that behalf and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:—

Citation, commencement and retrospection

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1980 and shall come into operation on 12th September 1980 and shall have effect from that date, except for regulation 11 which shall have effect as from 1st August 1975, regulation 3(*a*), (*b*) and (*d*) which shall have effect as from 1st August 1979 and regulations 3(*c*), 4, 5, 7, 8 and 10 which shall have effect as from 1st April 1980.

Interpretation

2. In these regulations—

"the Committee" means the Northern Ireland Local Government Officers' Superannuation Committee;

"employing authority" means a local authority as defined in Article 2(2) of the Superannuation (Northern Ireland) Order 1972 or a designated body as defined in regulation 6 of the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(**c**);

"the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**d**);

and other words and expressions have the same meaning as in the principal regulations.

Payments by officer to avoid reduction of retiring allowance and death gratuity

3. In regulation 8A of the principal regulations (Payments by officer to avoid reduction of retiring allowance and death gratuity)—

(*a*) after paragraph (10)(*a*) there shall be inserted the following sub-paragraph—

"(*aa*) he ceases to be employed, one of the conditions prescribed in regulation 9(2)(*a*) and (*b*) applies in his case and payment by him in

(a) S.I. 1972/1073 (N.I. 10)
(b) S.R. & O.(N.I.) 1973 No. 504 art. 7(1) (II, p. 2992); 1973 c. 36 sch. 5 para 8(1); S.I. 1976/424 (N.I. 6)
(c) S.R. 1975 No. 347 (II, p. 1695)
(d) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by the following relevant regulations — S.R. & O. (N.I.) 1973 No. 242 (I, p. 1207); S.R. 1974 No. 72 (I, p. 211); S.R. 1978 No. 386 (II, p. 1426); S.R. 1979 No. 23 (I, p. 69); S.R. 1979 No. 214 (II, p. 1029)

accordance with paragraph (3) or, as the case may be, paragraph (4) has not been discontinued by virtue of paragraph (9), he may, if he gives notice in writing for the purpose to the Committee within the period of 3 months beginning—

(i) on the day after the last day of his employment, or

(ii) on 12th September 1980,

whichever is the later date, pay to the superannuation fund within the period specified in paragraph (11) an amount calculated by the Government Actuary to represent the capital value of the payments remaining to be made, and shall in that event be treated as having completed payment in accordance with paragraph (3) or, as the case may be, paragraph (4); or'';

(*b*) for the words ''sub-paragraph (*a*)'' in paragraph (10)(*b*)(i) there shall be substituted the words ''sub-paragraphs (*a*) and (*aa*)'';

(*c*) for paragraphs (ii) and (iii) of the proviso to paragraph (10)(*b*) there shall be substituted the following—

''(ii) elected to receive a payment under regulation 33(6); or

(iii) made such a request for earlier payment as is mentioned in regulation 33(11);'' and

(*d*) After paragraph (10) there shall be added the following paragraph—

''(11) The period mentioned in paragraph (10)(*aa*) is the period of one month beginning on the date on which the person is notified by the Committee of the amount calculated as mentioned in that paragraph.''.

Entitlement to pension and retiring allowance

4. For regulation 9(1)(*c*) of the principal regulations (Officer's pension and retiring allowance) there shall be substituted—

''(*c*) he is not entitled to benefit under sub-paragraphs (*a*), (*b*) or (*d*) and—

(i) the service he is entitled to reckon amounts in aggregate to not less than 5 years; or

(ii) he has made an election under regulation 33(3)(*b*) or is a person to whom regulation 33(4)(*a*) applies; or''

Reckoning of service

5. In regulation 18(9) of the principal regulations (Reckoning as service of previous periods of employment) there shall be inserted after the words ''1st April 1950'' the words ''and before 1st April 1980''.

Intervals in service due to pregnancy or confinement

6. After regulation 19 of the principal regulations there shall be added the following regulation—

''*Intervals in service due to pregnancy or confinement*

19A.—(1) A female officer whose remuneration is suspended owing to leave of absence from duty wholly or partly on account of her pregnancy or confinement and who does not give notice under regulation 8(5)(*b*) of her intention to make contributions during the period of her absence, shall be deemed to have ceased her employment as an officer from the date on which she ceased to make contributions under regulation 8(5)(*a*) but shall not on that account be entitled to receive payment of any benefit under these regulations.

(2) Where a person is deemed by virtue of paragraph (1) to have ceased her employment as an officer on account of her pregnancy or confinement and again

becomes an officer, no account shall be taken of any period during which she is entitled under any enactment to a right to return to her employment in determining whether for any purpose of these regulations there has been a break in her employment as an officer of the employing authority by whom she was employed.''.

Return of contributions

7. For regulation 33 of the principal regulations there shall be substituted—

''*Return of contributions*

33.—(1) This regulation shall apply to an officer of an employing authority who—

(*a*) before becoming entitled to a pension (other than an annual pension under regulation 9(1A)) or an injury allowance ceases to be employed by that employing authority and a person who, though not ceasing to be employed, ceases to be an officer to whom these regulations apply; and

(*b*) does not within one month and one day after ceasing to be so employed, enter further employment with any employing authority and within the said period of one month and one day become in that further employment an officer:

Provided that for the purpose of this regulation a person shall not be regarded as entitled to an injury allowance if by reason of the provisions of regulation 11(4) no sum is for the time being receivable by him on account thereof.

(2) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' service and whose relevant remuneration has not in any financial year exceeded £5,000 is, subject to paragraph (8), entitled to receive a payment under paragraph (6).

(3) A person to whom this regulation applies who is entitled to reckon an aggregate of less than 5 years' service, whose relevant remuneration has exceeded £5,000 in any financial year, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1980 is, subject to paragraph (8), entitled to receive a payment under paragraph (6) unless he—

(*a*) became an officer before 6th April 1980; and

(*b*) by notice given in accordance with paragraph (5) elects not to receive such a payment.

(4) A person to whom this regulation applies—

(*a*) who is entitled to reckon an aggregate of less than 5 years' service, whose relevant remuneration has exceeded £5,000 in any financial year, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1978 but before 6th April 1980; or

(*b*) who is entitled to reckon an aggregate of 5 or more than 5 years' service, whose relevant remuneration has not in any financial year ending before 6th April 1978 exceeded £5,000, and who has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1978 but before 6th April 1980; or

(*c*) who is entitled to reckon an aggregate of 5 or more than 5 years' service and has ceased to be employed as mentioned in paragraph (1)(*a*) after 5th April 1980;

may subject to paragraph (8), by notice given in accordance with paragraph (5) elect to receive a payment under paragraph (6).

(5) Notice for any of the purposes of paragraphs (3) and (4) must be given in writing to the Committee—

(*a*) not earlier than one month and two days after the date on which the person ceased to be employed as mentioned in paragraph (1)(*a*); but

(*b*) within the period of 12 months beginning on—

(i) the date on which he so ceased to be employed, or

(ii) 6th April 1980;

whichever is the later date.

(6) Subject to paragraph (10) and to regulation 8 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1979(e), a payment under this paragraph is a payment out of the superannuation fund of a sum equal to the aggregate amount of the person's contributions to the fund, together, if he has ceased to be employed for any reason other than his voluntary resignation, or his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct, with compound interest thereon calculated, to the date on which he ceased to be employed or ceased to be employed as an officer, for any period before 1st April 1972 at the rate of 3% per annum with half-yearly rests on 31st March and 30th September and for any period after 31st March 1972 at the rate of 4% per annum with yearly rests on 31st March, and for any period after 31st March 1980 at the rate of 9% per annum with yearly rests on 31st March:

Provided that in its application to an excepted officer, this paragraph shall have effect as if for the words "if he has ceased to be employed for any reason other than his voluntary resignation, or" there were substituted the words "unless he has ceased to be employed on account of".

(7) Where a person has ceased to be employed as mentioned in paragraph (1)(*a*) before 1st April 1980, the amount of any payment to which he became entitled under this regulation as it had effect at the time when he so ceased to be employed shall be set off against any payment to him under paragraph (6) in respect of the same cessation of employment.

(8) Where a person to whom this regulation applies ceases to be employed as mentioned in paragraph (1)(*a*) in consequence of an offence of a fraudulent character or of grave misconduct, being such an offence or such misconduct in connection with his employment, the Committee may, if they think fit, return to him a sum equal to the whole or a part of the aggregate amount of his contributions to the fund or, if he so ceases to be employed in consequence of such an offence of a fraudulent character as aforesaid, the payment of an equivalent sum to his spouse or any dependant of his:

Provided that in the case of an officer who ceases to be employed in the circumstances mentioned in regulation 9(1)(*c*) the power of the Committee under this paragraph shall apply only in respect of any contributions relating to a period of service in respect of which they have given a direction as to forfeiture under regulation 48.

(9) If a person dies, who, at the time of his death, was entitled to an injury allowance but to no other benefit under these regulations then, unless the Committee grant a gratuity or annual allowance to that person's widow in accordance with regulation 11(3), or a benefit becomes payable in respect of him under the provisions of regulation 15, his personal representatives shall be entitled to receive from the Committee the aggregate amount of his contributions to the fund, together with compound interest thereon, less the amount which that person has received in respect of the said injury allowance.

(10) Notwithstanding anything in the foregoing provisions of this regulation, no payment shall be made thereunder—

(e) S.R. 1979 No. 23 (I, p. 69)