1979 No. 214

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979

Made	*22nd June* 1979
Coming into operation . . .	*1st August* 1979

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 and commencement

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979, and shall come into operation on 1st August 1979.

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 to avoid reduction of retiring allowance and death gratuity

3. After regulation 8 of the principal regulations there shall be added the following regulation—

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

8A.—(1) This regulation shall apply to an officer the amount of whose retiring allowance would, if he were to cease to be employed by an employ-

(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.) 1971 No. 108 (p. 539); S.R. & O. (N.I.) 1973 No. 242 (I, p. 1207); S.R. 1974 No 72 (I, p. 211); S.R. 1975 No. 187 (II, p. 984); S.R. 1977 No. 205 (II, p. 1159); S.R. 1977 No. 308 (II, p. 1666); S.R. 1978 No. 386; S.R. 1979 No. 23; S.R. 1979 No. 56

ing authority and become entitled on so ceasing to a retiring allowance, fall to be reduced under proviso (*a*) or calculated under proviso (*b*) to regulation 10(2).

(2) Subject to paragraph (6), an officer to whom this regulation applies may, by notice in writing given to the Committee within the time specified in paragraph (8), elect to make payment to the superannuation fund in accordance with Part I of the fourteenth schedule in respect of such of his service before 1st April 1972, or in the case of an officer such as is mentioned in proviso (*b*) to regulation 10(2), such earlier date when he became a widower, was divorced or was judicially separated from his wife, as is specified in the notice, for the purpose of avoiding, in respect of that service, if such payment is completed, any reduction under regulation 10(2) of the retiring allowance to which the officer may become entitled on ceasing to be employed by his employing authority and under regulation 14(2)(*aa*) or (3) of any death gratuity which may become payable.

(3) Subject to paragraphs (6) and (7), an officer to whom this regulation applies may, by notice in writing given to the Committee within the time specified in paragraph (8), elect to make payment to the superannuation fund in accordance with Part II of the fourteenth schedule, subject, however, to the proviso to paragraph (8) in respect of such of his service before 1st April 1972, or in the case of an officer such as is mentioned in proviso (*b*) to regulation 10(2), such earlier date as is mentioned in paragraph (2), as is specified in the notice for the purpose mentioned in that paragraph.

(4) Subject to paragraphs (6) and (7), an officer to whom this regulation applies, may from time to time, by notice in writing given to the Committee, elect to make payment to the superannuation fund in accordance with Part III of the fourteenth schedule in respect of such of his service before 1st April 1972 or, in the case of an officer such as is mentioned in proviso (*b*) to regulation 10(2), such earlier date as is mentioned in paragraph (2), as is specified in the notice, for the purpose mentioned in that paragraph:

Provided that where such an election is made within 6 months after 1st August, 1979 it shall be deemed for the purposes of paragraphs 2 and 3 of Part III of the fourteenth schedule to have been made on 31st March 1978 or the date before 1st August 1979 on which the officer last became a person to whom this regulation applies, whichever is the later, unless the person so electing also elects that this proviso shall not apply to him.

(5) Where the Committee are not the employing authority, the officer shall, when giving a notice under paragraph (3) or (4), send a copy of that notice to the employing authority.

(6) An officer shall not—

(*a*) make an election under paragraph (2), (3) or (4) in respect of a period of service of less than a year unless the whole of his service before 1st April 1972 amounts to less than one year or, if he has completed or is in the course of making payment in accordance with any of those paragraphs, that part of his service before that date in respect of which he has not completed or is not in the course of making such payment amounts to less than one year;

(*b*) if the Committee so decide, make an election under such of paragraphs (3) and (4) as the Committee may specify unless he has undergone a medical examination to their satisfaction, and any fee payable in respect of that examination to be paid by him;

(*c*) make an election under paragraph (2), if he has attained the age of 65 years;

(*d*) make an election under paragraph (3), if he has not attained the age of 60 years or has attained the age of 65 years; and

(*e*) make an election under paragraph (4), if he has attained the age of 64 years.

(7) Where an officer has made an election under paragraph (3) or, as the case may be, paragraph (4), he shall not make an election under paragraph (4) or, as the case may be, paragraph (3).

(8) An election under paragraph (2) or (3) shall be made within 12 months after—

(*a*) 1st August 1979, if on that date the person is such a person as is described in paragraph (1); and

(*b*) otherwise, the date on which the person first becomes after 1st August 1979 such a person as is described in that paragraph:

Provided that where such an election is made within 6 months after 1st August 1979 by a person to whom on that date this regulation applies it shall be deemed for the purposes of paragraph 2 of Part I of the fourteenth schedule or, as the case may be, paragraphs 2 and 3 of Part II thereof, to have been made on 31st March 1978 or the date before 1st August 1979 on which he last became such a person as is described in paragraph (1), whichever is the later, unless the person so electing also elects that this proviso shall not apply to him.

(9) If, on application for the purposes made in writing by an officer to the Committee, the Committee are of the opinion that payment in accordance with paragraph (3) or, as the case may be, paragraph (4) is causing, or continuation of such payment would cause, him financial hardship and in their discretion consent to the discontinuance of such payment, the officer shall not continue to make such payment.

(10) Where an officer, having made an election under paragraph (3) or (4), commenced payment thereunder, but before the expiration of the period during which under paragraph 2 of Part II of the fourteenth schedule or, as the case may be, paragraph 2 of Part III of that schedule payments were to be made—

(*a*) he ceases to be employed on the ground that he is incapable of discharging efficiently the duties of the employment by reason of permanent ill-health or infirmity of mind or body, or dies while in his employment and payment by him in accordance with paragraph (3), or as the case may be, paragraph (4), has not been discontinued by virtue of paragraph (9), he shall, for the purpose mentioned in paragraph (2), be treated as if he had completed such payment; or

(*b*) (i) he ceases to be employed other than in the circumstances mentioned in sub-paragraph (*a*) and payment by him in accordance with paragraph (3) or, as the case may be, paragraph (4) has not been discontinued as aforesaid; or

(ii) payment by him in accordance with paragraph (3) or, as the case may be, paragraph (4) is discontinued as aforesaid,

he shall, for the purpose referred to therein, be treated as if he had made the election in respect only of such part of the service in respect of which he had commenced payment as is determined in

accordance with the formula $\frac{P \times T}{I}$, where—

P is the length (expressed in terms of complete years and 365ths of a year) of the period during which payments have been made;

T is the length (expressed as aforesaid) of the service in respect of which the election was made; and

I is the length (expressed as aforesaid) of the period during which under paragraph 2 of Part II of the fourteenth schedule or, as the case may be, paragraph 2 of Part III of that schedule payments were to be made:

Provided that, if he is such a person as is mentioned in sub-paragraph (*b*)(i) and made the election under paragraph (4) and within 12 months after so ceasing, without having in the meantime—

(i) become entitled to receive payment of any benefit under these regulations in respect of that employment; or

(ii) elected under proviso (ii) to regulation 33(1)(*a*) that the provisions of whichever of paragraphs (2), (3) or (4) of that regulation as was appropriate in his case should apply; or

(iii) made such a claim for payment as is mentioned in regulation 33(8),

becomes an officer of an employing authority and does not give such a notice as is mentioned in regulation 9A(1)(*e*) and, within 3 months after the date on which he again becomes an officer, pays to the employing authority or, as the case may be, the employing authorities by whom he is employed, an amount equal to the additional contributions (if any) which would have been payable, in pursuance of that election, by him between so ceasing to be employed and again becoming an officer, if during that period he had remained in his former employment, this sub-paragraph shall cease to apply to him and his election shall continue to have effect.".

Amendment of definition

4. In regulation 2(6) of the principal regulations (Interpretation)—

(*a*) in sub-paragraph (*e*) the word "and" shall be deleted;

(*b*) in sub-paragraph (*f*) for the colon there shall be substituted a semi-colon; and

(*c*) after sub-paragraph (*f*) there shall be added—

"and

(*g*) any amount paid by him under regulation 8A,

but only in so far as any such contribution, sum or amount—

(i) has not been returned to the officer or, if it has been returned, has subsequently been repaid by him;

(ii) is attributable to service which might have been reckonable under regulation 31 in relation to the employment he has ceased to hold; and

(iii) is not attributable to any earlier period of service in respect of which a benefit under these regulations, other than a return of contributions, has been paid:".

Deduction from remuneration of officer's contributions and recovery thereof

5.—(1) In the heading to regulation 8 of the principal regulations (Contributions) after the word "Contributions" there shall be added "etc".

(2) For regulation 8(6) there shall be substituted—

"(6) The employing authority may deduct from the remuneration payable to an officer the contributions payable by him under this regulation and any amount payable by him to the superannuation fund under regulation 8A(3) or (4) and, if and so far as deductions are not made from the remuneration of an officer, the Committee may recover any such contributions or amount as a simple contract debt in any court of competent jurisdiction or may deduct any sum remaining due on account thereof from any payment by way of benefit under these regulations.".

Scales of pension and retiring allowance

6. In regulation 10 of the principal regulations (Scales of pension and retiring allowance)—

(*a*) in each of provisos (*a*) and (*b*) to paragraph (2), after the word "shall" there shall be inserted the words "subject to paragraph (2A),"; and

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

"(2A) In calculating the amount by which an officer's retiring allowance shall be reduced under proviso (*a*) to paragraph (2) or in calculating the amount of that allowance under proviso (*b*) thereto, any part of his service before 1st April 1972 in respect of which payment under paragraph (2), (3) or (4) of regulation 8A has been completed or is treated by virtue of paragraph (10) of that regulation as having been completed, shall be treated as service after 1st April 1972.".

Death gratuity

7. In regulation 14 of the principal regulations (Death gratuity)—

(*a*) in paragraph (2), after the words "1st April 1972", in both places where they occur, there shall be inserted the words ", other than service in respect of which a return of contributions has been made or in respect of which payment under paragraph (2), (3) or (4) of regulation 8A has been completed or is treated by virtue of paragraph (10) of that regulation as having been completed"; and

(*b*) at the end of paragraph (3) there shall be added the words "or in respect of which payment under paragraph (2), (3) or (4) of regulation 8A has been completed or is treated by virtue of paragraph (10) of that regulation as having been completed.".

Limitation on payment by way of additional contributions

8. For regulation 26(5) of the principal regulations (Added years in certain cases) there shall be substituted—

"(5) If the amount payable by an officer by way of additional contributions under paragraph (4) or in pursuance of an election made under regulation 8A(4) or 26B or the amount of an instalment payable in pursuance of an election made under regulation 8A(3), as the case may be, when aggregated with—

(*a*) any other amounts payable by him under any of those provisions in addition to the first-mentioned amount; and

(*b*) the amount payable by him by way of contributions under regulation 8,

exceeds 15% of his remuneration, he shall satisfy his liability in respect of the excess over 15% by payment in a lump sum of a sum calculated by the Government Actuary to represent the capital value of the excess.".