1979 No. 43

FISHERIES

Foyle Area (Pension) (Amendment) Regulations 1979

Made . . . . . *25th January* 1979

Coming into operation . . . *31st January* 1979

The Foyle Fisheries Commission, hereinafter referred to as "the Commission", in exercise of its powers under section 13 of the Foyle Fisheries Act, 1952(a) and paragraph 16 of the Third Schedule to that Act as amended by the Foyle Fisheries (Amendment) Act 1961(b) and section 13 of the Foyle Fisheries Act (Northern Ireland) 1952(c) and paragraph 16 of the Third Schedule to that Act as amended by the Foyle Fisheries (Amendment) Act (Northern Ireland) 1962(d) hereby makes the following regulations:

1.—(1) These regulations may be cited as the Foyle Area (Pension) (Amendment) Regulations 1979

(2) These regulations shall come into operation on 31st January 1979 and shall have effect as from 6th April 1975.

2. The provisions of the pension scheme contained in the Schedule hereto shall, subject to the conditions therein specified, apply to those persons employed in a whole time capacity by the Commission or who are in receipt of a pension from the Commission.

SCHEDULE

Pension Scheme

Short Title

1. This scheme may be cited as the Foyle Fisheries Commission Pension (Amendment) Scheme 1979 and is hereinafter referred to as "the Scheme".

Definitions

2. In the Scheme—

"A deferred pension or gratuity" means a pension or gratuity granted in pursuance of Paragraph 12 of the Scheme the payment of which is deferred.

"Normal Pension Age" means 60 years of age.

"Pensionable Salary" means the annual rate of remuneration for the time being paid by the Commission to a member, excluding any payment made by the Commission to such member over and above the annual basic rate of remuneration, as specified in his contract of service other than cost of living bonus, if any.

"Qualifying Service" means in relation to a member of the Scheme the aggregate of the following periods namely:—

(1) service with the Commission, whether or not continuous which is pensionable under the Scheme;

(a) No. 5 of 1952 (Republic of Ireland)
(b) No. 44 of 1961 (Republic of Ireland)
(c) 1952 c.5 (N.I.)
(d) 1962 c. 5 (N.I.)

(2) years of service whilst a member of another scheme relating to the same or any other employment in respect of which additional rights to long service benefit have been granted under the Scheme in substitution for accrued rights under such other scheme provided that:—

(*a*) no account shall be taken of any period which does not qualify the member of the Scheme for long service benefit;

(*b*) no period shall be reckoned twice;

(*c*) a member's service shall not be treated as terminated if any break in employment does not exceed one month, or where he returns to other employment covered by the Scheme within one month. The earlier service, but not any break, shall count for qualifying purpose even if he had received a benefit under the Scheme.

"Pensionable Service" means—

(*a*) in the case of members of the former scheme other than those in receipt of a pension, the whole period of service with the Commission;

(*b*) in the case of officers and servants of the Commission who were not members of the former scheme on the establishment date the whole of their service in respect of which contributions have been paid from that date.

"Retirement on Medical Grounds" means retirement from the Commission's service on the issue of a certificate by the Commission's medical consultant that the member is incapable of performing his duties by reason of infirmity of mind or body, which in the opinion of the consultant is likely to be permanent.

"Retiring Salary" means the salary in whichever of the last three years of pensionable service gives the highest figure.

"The Establishment Date" means 6th April 1975.

"The former scheme" means the scheme set out in the Schedule in the Foyle Area (Pension) Regulations 1963(e).

Establishment

3. The Scheme shall come into operation on the Establishment Date as a scheme constituted under paragraph 16 of the Third Schedule to the Foyle Fisheries Act 1952, as amended and paragraph 16 of the Third Schedule to the Foyle Fisheries Act (Northern Ireland) 1952, as amended and the provisions of the said Acts shall apply to the Scheme accordingly.

Membership

4. Membership of the Scheme shall consist of:—

(*a*) all members of the former scheme other than members who elect not to have the Scheme applied to them;

(*b*) all those wholetime officers and servants of the Commission who on the establishment date were not members of the former scheme;

(*c*) all wholetime officers and servants of the Commission who join the Commission's staff on or after the establishment date;

(*d*) all former officers and servants of the Commission who on the establishment date were in receipt of a pension from the Commission.

Member's Retention in Service with Commission

5. A member of the Scheme who has reached the normal pension age may at the option of the Commission and with his own consent, be retained in the Commission's service for any period up to his 65th birthday, and shall pay contributions during such period and be entitled to have his service during such period reckoned as pensionable service.

(e) S.R. & O. (N.I.) 1963 No. 223 (p. 897)

Contributions

6. (*a*) An officer or servant of the Commission who becomes a member of the Scheme on the establishment date shall pay contributions at the rate of 6% of his pensionable salary from that date.

(*b*) An officer or servant of the Commission who is appointed after the establishment date shall pay a contribution of 6% of his pensionable salary from the date of his appointment.

(*c*) Contributions will be deducted from salary or wages at source.

Secondment

7. (*a*) A member seconded temporarily to some other employment shall continue to contribute to the Scheme and the period of his secondment shall, for the purposes of the Scheme, be deemed to be pensionable service with the Commission.

(*b*) The contributions payable by a member so seconded shall be calculated on the salary which he would have received had he remained in the employment of the Commission.

Ordinary Retirement Benefits

8. Subject to the other provisions of the Scheme the following benefits shall be paid to a member who retires on or after reaching normal pension age:—

(1) an annual pension of 1/80th of his retiring salary multiplied by the length of his pensionable service in years and fractions of a year subject to a maximum of 40/80ths of his retiring salary;

(2) a lump sum of 3/80ths of his retiring salary multiplied by the length of his pensionable service in years and fractions of a year subject to a maximum of one and a half years retiring salary.

Benefits for Retirement on Medical Grounds

9. (*a*) A member of the Scheme with five or more year's qualifying service who retires or is retired on medical grounds before reaching normal pension age shall subject to sub-paragraph (*c*) be paid an ill-health annual pension and a lump sum each calculated as in paragraph 8 of the Scheme and in any case the pensionable service shall be deemed to be increased as follows:—

(1) if it is less than ten years, it will be deemed to be increased to double its length;

(2) if it is ten years or more it will be deemed to be increased either to 20 years or by 6 years, whichever is greater.

(*b*) A member of the Scheme with less than five year's qualifying service who retires or is retired on medical grounds before reaching normal pension age shall subject to sub-paragraph (*c*) be paid an ill-health lump sum payment amounting to 3/80ths of his retiring salary multiplied by the length of his pensionable service in years and fractions of a year, plus one twelfth of his retiring salary multiplied by the length of his pensionable service in years and fractions of a year. He shall also be eligible to receive, as from his attainment of normal pension age, the guaranteed minimum pension in accordance with paragraph 17.

(*c*) No award under (*a*) shall be permitted to exceed a notional award calculated by reference to the pensionable service which the member could have completed had he continued to serve to normal pension age and no award under (*b*) shall be permitted to exceed a notional award of 3/80ths of the member's retiring salary multiplied by the length of the pensionable service which he could have completed had he continued to serve to normal pension age.

Death Benefits

10.(*a*) If a member dies while in the employment of the Commission his legal personal representatives shall be entitled to receive a lump sum payment of whichever of the following amounts is the greater:—

(1) one year's retiring salary; or

(2) 3/80ths of retiring salary for each year of his pensionable service subject to a maximum of 120/80ths.

(*b*) If an unmarried member of the former scheme who has elected to join the Scheme dies before he has received the full amount of five years pension payable to him, payment of his pension shall be continued to his legal personal representatives until the total sum paid to the member and such legal representatives equals the amount of five years pension. Provided further that, if requested by the legal personal representatives so to do, the Commission may, if it thinks fit, commute the balance so payable for a single payment of such an amount as represents the then present value of the annual payment due at the date of death.

Widows' Benefits

11.(*a*) If a member dies while in the employment of the Commission and has completed five or more years qualifying service his widow shall be entitled to receive a pension equal to one half of the pension to which the member would have been entitled if he had retired on medical grounds on the date of his death, provided that for the first 91 days after the death of the member the pension payable to the widow shall be increased so that it equals the whole rate of pension which the member would have received if he had retired on medical grounds on the date of his death.

(*b*) If a member of the Scheme dies after retirement on pension or after leaving the Commission's service before reaching normal pension age his widow shall be entitled to receive an annual pension equal to one half of the member's pension or deferred pension provided that the first 91 days after the death of a member who has retired on pension the pension payable to the widow shall be increased so that it equals the whole rate of pension which was payable to the member immediately prior to his death.

(*c*) If a member of the Scheme dies while in the employment of the Commission having completed less than five years' qualifying service his widow shall receive an annual pension of 1/160th of his retiring salary multiplied by the length of his pensionable service in years and fractions of a year.

(*d*) Any pension awarded to a widow in accordance with the Scheme shall be payable from the day after the death of her husband until the date of her death, provided that if after attaining the age of 60 she remarries or cohabits with a man the pension will be restricted to half the guaranteed minimum pension which would have been payable to the member under the Social Security Pensions (Northern Ireland) Order 1975(f) and if before attaining the age of 60 she remarries or cohabits with a man the pension will cease to be payable unless the Commission is satisfied that there are compassionate grounds for restoring it. If the second marriage or cohabitation comes to an end the Commission may, if it thinks fit, restore the pension; provided that a widow's pension will remain payable as long as she is receiving a pension from a State Pension Scheme by virtue of her husband's contributions to such scheme.

(*e*) The restriction in paragraph 2 on the amount of service which may be regarded as pensionable service shall not apply to the computation of service for the purpose of calculating a widow's pension. No widow's pension will be less than 1/160th of her husband's retiring salary multiplied by the length of his pensionable service.

(f) S.I. 1975/1503 (N.I. 15)