1979 No. 23

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1979

Made . . . . . 31*st January* 1979

Coming into operation . . . 16*th March* 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, commencement and retrospective application

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1979 and shall come into operation on 16th March 1979 and shall have effect as from 5th April 1978 with the exception of regulations 7, 8 and 13 which shall have effect as from 16th March 1979.

Interpretation

2. In these regulations—

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

"contracted-out employment" shall be construed in accordance with article 32 of the Pensions Order;

"guaranteed minimum pension" has the meaning assigned to it by article 28 of the Pensions Order;

"pension" means a pension payable under regulation 9 of the principal regulations other than a pension payable under paragraph (1A) of that regulation;

"the Pensions Order" means the Social Security Pensions (Northern Ireland) Order 1975(**c**);

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

(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) and S.I. 1976/424 (N.I. 6)
(c) S.I. 1975/1503 (N.I. 15)
(d) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by the following relevant regulations:—S.R. & O. (N.I.) 1966 No. 274 (p. 871) S.R. & O. (N.I.) 1968 No. 153 (p. 588); S.R. & O. (N.I.) 1971 No. 108 (p. 539); S.R. & O. (N.I.) 1973 No. 216 (I, p. 1108); 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. 1975 No. 347 (II, p. 1695); S.R. 1977 No. 205 (II, p. 1159); S.R. 1978 No. 386

"the scheme" means the provisions of the principal regulations;

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

Guaranteed minimum pension for certain officers and their widows

3.—(1) This regulation shall apply if the service of an officer in any employment in which he is an officer becomes contracted-out employment by reference to the scheme and it shall then override any other provisions of the scheme which are inconsistent with it, except regulation 9 (officer's pension and retiring allowance) and the following provisions of the principal regulations, namely, regulation 16 (power to compound small annual benefits) and regulation 35 (reduction of pension or injury allowance in certain cases).

(2) If an officer has a guaranteed minimum under article 37 of the Pensions Order in relation to the pension to which the officer is entitled—

(*a*) the officer shall, as from the date on which he attains the age of 65 years in the case of a male officer or 60 years in the case of a female officer, be entitled to receive, in relation to that pension, not less than his or her guaranteed minimum pension, the weekly rate of which shall be not less than his or her guaranteed minimum under that article; and

(*b*) if a male officer dies at any time and leaves a widow, the weekly rate of the widow's pension shall, during any such period as is mentioned in article 38(6) of the Pensions Order, be not less than half his guaranteed minimum.

(3) Where this regulation applies in the case of an officer who on ceasing to hold the employment in which he or she is an officer does not become entitled to a pension or in the case of a male officer, on whose death no widow's pension is payable to his widow, then—

(*a*) the officer on attaining the age of 65 years in the case of a male officer or 60 years in the case of a female officer shall be entitled to a pension under the scheme, the weekly rate of which is equal to his or her guaranteed minimum; and

(*b*) in the case of a male officer, if he dies at any time and leaves a widow, she shall during any such period as is mentioned in article 38(6) of the Pensions Order be entitled to a pension under the scheme, the weekly rate of which is equal to half his guaranteed minimum.

(4) Where an officer on attaining the age of 65 years in the case of a male officer or 60 years in the case of a female officer is in employment in which he or she is an officer and continues without any break of service in that employment until the expiration of 5 years from the date on which he or she attains the age of 65 years or 60 years, as the case may be, then, notwithstanding that he or she does not cease to hold that employment, if he or she has a guaranteed minimum in relation to the pension to which he or she would become entitled, if he or she were to cease to hold that employment, he or she shall be entitled as from the expiration of the said 5 years to such part of that pension as equals his or her guaranteed minimum:

Provided that if the officer consents to the non-application to him or her of this paragraph, this paragraph shall not apply to him or her so long as the consent continues in force.

(5) In paragraphs (2) and (3) "weekly rate" means, in relation to a pension which is paid otherwise than at weekly intervals, a rate which is equivalent to the guaranteed minimum of the officer in question having regard to the period in respect of which the pension is paid.

Rate of pension of certain officers and restriction on right to elect for early payment thereof

4.—(1) This regulation shall apply to an officer who on ceasing to hold an employment in which he is an officer and which in relation to him is contracted-out employment by reference to the scheme becomes entitled to a pension by virtue of regulation 9(1)(*c*) or (*e*) of the principal regulations.

(2) The provisions of regulation 10(5) of the principal regulations (scales of pension and retiring allowance) shall not operate so as to reduce the annual rate of the pension to which a female officer to whom this regulation applies becomes entitled on ceasing to hold the employment mentioned in paragraph (1) below an annual rate determined by multiplying one eightieth of her average remuneration by the length in years of the whole period of her service in contracted-out employment by reference to the scheme.

(3) Notwithstanding anything in regulation 9A(1)(*a*)(*iv*) or (2)(*b*) of the principal regulations, an officer to whom this regulation applies may not make an election under the said regulation 9A(1)(*a*)(*iv*) or (2)(*b*) if the pension to which he becomes entitled on ceasing to hold the employment mentioned in paragraph (1)—

(*a*) is a pension in relation to which he has a guaranteed minimum under article 37 of the Pensions Order; and

(*b*) on reduction under regulation 10(5) of the principal regulations, would, but for the provisions of regulation 3(2), be less than his guaranteed minimum pension.

Postponement and suspension of guaranteed minimum pension

5. Where the commencement of the guaranteed minimum pension to which an officer is entitled under the scheme is postponed for any period or the whole or part of that pension is suspended during any period his guaranteed minimum shall be increased to the extent, if any, specified in article 37(6) of the Pensions Order, as amended from time to time.

Provisions with respect to widow's pension of certain widows

6.—(1) This regulation shall apply to the widow of an officer who dies—

(*a*) while serving in an employment which in relation to him is contracted-out employment by reference to the scheme; or

(*b*) after termination of his service in that employment,

who becomes entitled on her deceased husband's death to a widow's pension.

(2) Where the annual rate of the widow's pension to which a widow to whom this regulation applies is entitled as mentioned in paragraph (1) would be higher if it were determined in accordance with paragraph (3) instead of regulation 15 of the principal regulations (widow's pension), then that pension shall be payable at the higher rate.

(3) For the purposes of paragraph (2) the annual rate of the widow's pension of a widow to whom this regulation applies shall be determined by multiplying one one hundred and sixtieth of the average remuneration of her deceased husband by the length in years of the whole period of his service in contracted-out employment by reference to the scheme.

Further restriction on allocation of part of pension

7. Notwithstanding anything in regulation 13 of and the first schedule to the principal regulations (allocation of part of pension or injury allowance to spouse or dependant), an officer whose service in an employment in which he is an officer is or was contracted-out employment by reference to the scheme shall not surrender under the said regulation 13 and the said first schedule, any such part of the pension to which he would, if he ceased to hold that employment, or has, on ceasing to hold that employment, become entitled as would result in that pension—

(*a*) becoming payable at an annual rate less than an annual rate determined by multiplying one eightieth of his average remuneration by the length in years of the whole period of his service in contracted-out employment by reference to the scheme; and

(*b*) if he has a guaranteed minimum under article 37 of the Pensions Order in relation to that pension, being, but for the provisions of regulation 3(2), less than his guaranteed minimum pension.

Further restriction on return of contributions

8. Notwithstanding anything in regulation 33 of the principal regulations (return of contributions), an officer who ceases to be employed in the circumstances mentioned in regulation 9(1)(*c*) of the principal regulations or who satisfies the requirements of regulation 9(1)(*e*) of those regulations shall not be entitled by virtue of the said regulation 33 to receive any sum by way of return of contributions in respect of any period of his service in contracted-out employment by reference to the scheme.

Further restriction on forfeiture of rights

9. Notwithstanding anything in regulation 48 of the principal regulations (forfeiture of rights), no direction shall be given under that regulation which would deprive an officer of his guaranteed minimum pension and, in the event of his dying leaving a widow, his widow of her widow's guaranteed minimum pension, unless the offence in consequence of which he has been dismissed or resigned or otherwise ceased to hold his employment is—

(*a*) an offence of treason; or

(*b*) one or more offences under the Official Secrets Acts 1911 to 1939(**e**) for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

Consequential amendment of the principal regulations

10.—(1) Regulation 2 of the principal regulations (interpretation) shall be amended as follows—

(*a*) in paragraph (1) in the definition of the word "service" for the words "does not include" to the end of the definition there shall be substituted the words "but subject to the exclusion of such employment or periods of employment as are specified in paragraph (5A);";

(*b*) after paragraph (5) there shall be added the following paragraph—

"(5A) In these regulations, unless the context otherwise requires, references to service do not include—

(**e**) 1911 c. 28; 1920 c. 75; 1939 c. 121

(*a*) any period of employment as an officer mentioned in regulation 8(2) or in respect of which the Committee have paid the contributions authorised or required by any pension scheme referred to in regulation 39; or

(*b*) in the case of an officer who has entered the employment in which he is an officer—

(i) after becoming entitled to receive payment of or payments in respect of any superannuation benefit under these regulations or otherwise; or

(ii) after becoming entitled to a benefit under regulation 9(1)(*c*), if he gives notice under regulation 9A(*e*); or

(iii) after an interval not exceeding one month after ceasing on or after 6th April 1975 to hold an employment in which he was an officer and in respect of his so ceasing a return of contributions has been made under these regulations and he had become an officer within the said period,

any employment or period of employment in respect of which account has been taken for the purpose of determining whether he was entitled to that benefit or has been, or will be, taken for the purpose of calculating the amount of that benefit or in respect of which the return of contributions was made; or

(*c*) in the case of an officer who has entered the employment in which he is an officer after becoming entitled to a benefit under regulation 9(1)(*c*) on ceasing to hold an employment in which he was an officer and in respect of his so ceasing a return of the whole or a part of the aggregate amount of his contributions has been made, any employment or period of employment in respect of which the return of contributions was made; or

(*d*) in the case of an officer who before entering the employment in which he is an officer was previously an officer of an employing authority and by reason of his ceasing to be an officer of that authority a transfer value was paid by the Committee, any employment or period of employment in respect of which that transfer value was paid:

Provided that in the case of an officer who entered the employment in which he is an officer in the circumstances mentioned in sub-paragraph (*b*)(iii), the employment or period of employment in respect of which the return of contributions was made shall be reckonable as service for the purpose of determining whether any benefit is payable to or in respect of the officer under these regulations.".

(2) In regulation 9 of the principal regulations (officer's pension and retiring allowance) at the end of paragraph (1) for the full stop there shall be substituted a semi-colon and there shall be added the words—

"or

(*e*) he is not entitled to a benefit under sub-paragraph (*a*), (*b*), (*c*) or (*d*) and has attained the age of 65 years in the case of a man or 60 years in the case of a woman or ceases to hold that employment during the 12 months beginning 6th April in which the 65th anniversary in the case of a man or the 60th anniversary in the case of a woman of his or her birthday will occur.".

(3) In regulation 9A of the principal regulations (deferment of pension, etc., rights)—

(*a*) after "9A" there shall be inserted the figure "(1)"; and