1978 No. 386

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1978

Made . . . . . 15*th December* 1978

Coming into operation . . . 9*th February* 1979

The Department of the Environment in exercise of powers conferred by section 103 of the National Insurance Act (Northern Ireland) 1966(**a**) (in accordance with which section the Department(**b**) of Finance had determined the Ministry of Health and Local Government(**c**) to be the appropriate Ministry for the purposes of that section to make regulations modifying the scheme for the provision of pensions and other benefits established by regulations made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(**d**)) and by articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**e**) and now vested in it(**c**) 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:

PART I

PRELIMINARY

Citation, commencement and retrospection

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1978 and shall come into operation on and shall have effect as from 9th February 1979, with the exception of—

(*a*) regulation 15 which shall have effect as from 1st April 1974;

(*b*) regulations 18 and 19 which shall have effect as from 5th April 1975; and

(*c*) regulation 13 which shall have effect as from 6th March 1978.

Interpretation

2. In these regulations—

"the Act of 1966" means the National Insurance Act (Northern Ireland) 1966;

(a) 1966 c. 6 (N.I.) (the said section 103 having been continued in force by regulation 3 of S.R. 1975 No. 48 (I, p. 217))
(b) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(c) *See* S.R. & O. (N.I.) 1964 No. 205 Art. 2 (p. 937); 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)
(d) 1950 c. 10 (N.I.)
(e) S.I. 1972/1073 (N.I. 10)

"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(**f**);

"equivalent pension benefits" has the meaning assigned to that expression by sections 55(1)(*a*) and 56(1) of the Act of 1966;

"the Great Britain Acts" means the National Insurance Acts 1959 and 1965(**g**);

"Insurance Measures" means the National Insurance Measures (Northern Ireland) 1966 to 1974;

"the Isle of Man Act" means the National Insurance (Isle of Man) Act 1961 (an Act of Tynwald);

"non-participating employment" has the meaning assigned to that expression by section 55 of the Act of 1966 or the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be;

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

and other words and expressions in Part II have the same meaning as in the principal regulations and in Part III as in the National Insurance (Local Government Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1966(**i**).

PART II

AMENDMENT OF THE PRINCIPAL REGULATIONS

Amendment of definitions

3. Regulation 2 of the principal regulations (Interpretation) shall be amended as follows—

(*a*) in paragraph (1), after the definition of "widow's pension", there shall be added—

" "widower's pension" means a widower's pension payable under regulation 15D";

(*b*) in paragraph (6)(*c*) after the words "regulation 26" there shall be inserted the words ", 26A, 26B".

Leave of absence from duty

4. The following paragraph shall be substituted for regulation 8(5) of the principal regulations—

"(5) An officer of an employing authority who is on leave of absence from duty, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall—

(*a*) for a period of thirty days beginning with the date on which he went on leave of absence; and

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(**f**) S.R. 1975 No. 347 (II, p. 1695)
(**g**) 1959 c. 47 and 1965 c. 51
(**h**) 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.) 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. 1975 No. 347 (II, p. 1695); S.R. 1977 No. 205 (II, p. 1159)
(**i**) S.R. & O. (N.I.) 1966 No. 281 (p. 909)

(*b*) if he gives notice in writing for the purpose to that employing authority not later than thirty days after the day before the date on which he went on leave of absence, for the period beginning with the day after the expiration of the period specified in sub-paragraph (*a*) and ending with the expiration of thirty-six months from the day before the date on which he went on leave of absence, make contributions under this regulation on such remuneration as he would have received during that period in his employment under that employing authority but for that leave of absence from duty.".

Officer's pension and retiring allowance

5. Regulation 9 of the principal regulations shall be amended as follows—

(*a*) for paragraph (1)(*c*) there shall be substituted—

"(*c*) he is not entitled to a benefit under sub-paragraph (*a*) or (*b*) and either he has completed in aggregate not less than five years' service or, by reason of his not being such an officer or person as is referred to in regulation 33(10), he is not a person who is entitled on so ceasing to a return of contributions under that regulation; or";

(*b*) the following paragraph shall be inserted after paragraph (1)—

"(1A) Subject to the provisions of these regulations an officer of an employing authority shall, on ceasing to be employed by them, be entitled to receive from the Committee in relation to that employment an annual pension if—

(*a*) he is not entitled to a benefit under paragraph (1);

(*b*) the whole or some part of the service he has completed was service in a non-participating employment;

(*c*) a period of his service in a non-participating employment came to an end by reason of the repeal of section 55(1) of the Act of 1966 or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(**j**) as modified by regulation 10(2)(*a*) or 10(2)(*b*) of the National Insurance (Non-participation —Transitional Provisions) (Northern Ireland) Regulations 1975(**k**); and

(*d*) at some time during the settlement period (within the meaning of regulation 2 of the last-mentioned regulations) he became, and has remained assured of equivalent pension benefits.".

Deferment of pension, etc., rights

6. In regulation 9A of the principal regulations—

(*a*) in sub-paragraph (*a*)(iv) the words "three months" shall be substituted for the words "one month";

(*b*) in sub-paragraph (*a*)(iii) and (iv) and in sub-paragraph (*b*)(iv) the words "that regulation" shall be substituted for the words "this regulation".

Scales of pension and retiring allowance

7. The following paragraph shall be inserted after regulation 10(5) of the principal regulations—

(**j**) S.R. & O. (N.I.) 1960 No. 181 (p. 645)
(**k**) S.R. 1975 No. 48 (I, p. 217)

"(5A) Notwithstanding any provision in these regulations, where an officer becomes entitled to an annual pension by virtue of regulation 9(1A), that pension shall be payable in respect of any period of completed service in a non-participating employment and shall be the rate of equivalent pension benefits applicable to him in respect of that period and the officer shall be entitled to receive payments in respect of such pension when he has retired and has attained the age of 65 years in the case of a man or 60 years in the case of a woman.".

Widow's pension

8. The following regulation shall be substituted for regulation 15 of the principal regulations—

"*Widow's pension*

15.—(1) The widow of a person who dies and who—

(*a*) was entitled at the time of his death to receive payments in respect of a pension under these regulations or the 1950 regulations; or

(*b*) was at the time of his death employed in employment in which he was as officer and had completed not less than five years' service; or

(*c*) was entitled at the time of his death to a pension, but was not entitled at that time to receive payments in respect of that pension,

shall be entitled to receive from the Committee an annual widow's pension:

Provided that a widow shall not be entitled to receive a widow's pension—

(i) by virtue of sub-paragraph (*a*) or (*c*), if the marriage took place on or after the date on which her husband became entitled to the pension; or

(ii) by virtue of sub-paragraph (*a*) or (*b*), if her husband before ceasing to be employed, or, if he died while still an officer, before dying, had reached the age of sixty-five years or, not having reached the said age, would have been entitled to a

(iii) if at the date on which her husband became entitled to a pension under these regulations or the 1950 regulations, or at pension on ceasing to be employed and had completed forty years' contributing service, or forty years' contributing service and non-contributing service, the non-contributing service being reckoned at half its length, and the marriage took place on or after the date on which he reached the said age or would have been so entitled as aforesaid; or
the date of his death, the husband and wife were judicially separated; or

(iv) by virtue of sub-paragraph (*a*) or (*c*), if her husband became entitled to the pension by virtue of regulation 9(1A).

(2) Subject to the provisions of paragraphs (3) and (4) the amount of the widow's pension shall be as follows—

(*a*) in the case of the widow of an officer, one half of the pension which would have been payable to the officer had he become entitled to a pension under regulation 9(1)(*b*)(i) on the day of his death;

(*b*) in the case of the widow of a person who was entitled at the time of his death to receive payments in respect of a pension, one half of such pension; and

(*c*) in the case of the widow of a person who was entitled at the time of his death to a pension, but was not entitled at that time to receive payments in respect of that pension, one half of the pension to which he would have been entitled if he had been at the time of his death a person who had attained the age of sixty-five years:

Provided that—

(i) if any such pension as is mentioned in sub-paragraphs (*a*), (*b*) or (*c*) would have been increased under regulation 10(6), no account shall be taken of the increase; or

(ii) if any such pension as is mentioned in sub-paragraphs (*a*) or (*c*) would have been reduced under the provisions of regulation 42, no account shall be taken of the reduction and the pension shall be deemed to be the pension that would have been payable but for any surrender of part thereof under regulation 13; and

(iii) any such pension as is mentioned in sub-paragraph (*b*) shall be deemed to be the pension that would have been payable but for any reductions under the provisions of regulations 10(5), 35 or 42 or regulation 29 of the 1950 regulations and any surrender of part thereof under regulation 13.

(3) For the first three months immediately following the death of a person mentioned in paragraph (1)(*a*) or (*b*) and subject to the provisos thereto, a widow's pension shall be payable if, at the date of his death—

(*a*) he was a person mentioned in paragraph (1)(*a*) and he was not an officer at the date of his death, at the rate at which his pension was payable at the date of his death, without having regard to any reduction or suspension by reason of the operation of regulation 35; or

(*b*) he was a person mentioned in paragraph (1)(*a*) and he was an officer at the date of his death, at the aggregate of his rate of remuneration at the date of his death and the rate at which his pension was being paid at that date, having regard to any reduction of suspension by reason of the operation of regulation 35; or

(*c*) he was a person mentioned in paragraph (1)(*b*), not being a person mentioned in paragraph (1)(*a*), at the rate of his remuneration at the date of his death, so, however, that in the case of an officer whose remuneration was suspended by reason of his absence from duty he shall be deemed to be a person mentioned in paragraph (1)(*a*) who had become entitled to a pension under regulation 9 (1)(*b*)(i) on the date of his death:

Provided that—

(i) a widow's pension shall not be payable at any of the rates mentioned in paragraph (2) whilst a widow's pension is payable at any of the rates mentioned in this paragraph; and

(ii) where the remuneration of an officer who was absent from duty by reason of illness or injury was reduced only by his having become entitled to benefit under the National Insurance Acts (Northern Ireland) 1966 to 1972, it shall, for the purposes of sub-paragraph (*b*) *and* (*c*) of this paragraph, be deemed not to have been so reduced.

(4) During the period that a widow's pension is payable at any of the rates specified in paragraph (3) a child's allowance shall not be payable under regulation 15A in respect of any child dependent upon the widow.