1978 No. 351

EDUCATION

The Teachers' Superannuation (Amendment No. 2) Regulations (Northern Ireland) 1978

Made . . . . . *16th November* 1978

Coming into operation . . . *29th December* 1978

The Department of Education(**a**) in exercise of the powers conferred upon it by Articles 11 and 14 of and Schedule 3 to the Superannuation (Northern Ireland) Order 1972(**b**) and of every other power enabling it in that behalf, and after consultation with representatives of education and library boards, teachers and with such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate as required by Article 11(5) of the said Order, and with the consent of the Department of the Civil Service(**c**), hereby makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the Teachers' Superannuation (Amendment No. 2) Regulations (Northern Ireland) 1978.

(2) These regulations shall come into operation on 29th December 1978 and shall have effect—

(*a*) for the purposes of regulations 4, 18 and 24, as from that date;

(*b*) for all other purposes, as from 6th April 1978.

Interpretation

2.—(1) In these regulations a reference to the principal regulations is a reference to the Teachers' Superannuation Regulations (Northern Ireland) 1977(**d**) as amended by the Teachers' Superannuation (Amendment) Regulations (Northern Ireland) 1978(**e**).

(2) In paragraph (1) of regulation 2 of the principal regulations (Interpretation) after the definition of the expression "full salary" there shall be inserted the following definitions:—

" "guaranteed minimum allowance" and "guaranteed minimum pension" have the meanings assigned to them by regulation 7A;

"insured pensionable age" means, in the case of a man, the age of 65 and, in the case of a woman, the age of 60;"

Guaranteed minimum allowance or pension

3. After regulation 7 of the principal regulations (Modification for National Insurance) there shall be inserted the following regulation:—

(a) Formerly Ministry: 1973 c. 36 s. 40 and Sch. 5 para. 8(1)
(b) S.I. 1972/1073 (N.I. 10)
(c) Formerly a function of the Department of Finance: S.R. 1976 No. 281 (II, p. 1339) Article 3 and Sch. 1
(d) S.R. 1977 No. 260 (II, p. 1375)
(e) S.R. 1978 No. 147

"Guaranteed minimum allowance or pension

7A.—(1) In relation to a widow's pension the expression "guaranteed minimum pension" has the meaning assigned to it by Article 28(2) of the Social Security Pensions (Northern Ireland) Order 1975(f) and in relation to an annual allowance the expression "guaranteed minimum allowance" shall have a corresponding meaning.

(2) The reference in Article 37(6) of the said Order of 1975 to any period for which an earner's guaranteed minimum pension is postponed shall be construed as a reference to any period—

(*a*) for which a teacher continues to be employed in reckonable service after he attains insured pensionable age and expiring on his attaining the age of compulsory retirement, and

(*b*) in respect of which payments on account of his annual allowance are not made, or made at a weekly rate less than that of his guaranteed minimum allowance, by reason of regulation 50(1) or of the abatement of his allowance under regulation 70.

(3) For the purpose of determining whether or not an annual allowance or widow's pension shall be calculated by reference to the guaranteed minimum allowance or pension, a weekly amount shall be taken to be the annual amount divided by 52, the result being rounded to the nearest whole penny, taking one half-penny as nearest to the whole penny above.".

Repayment on cessation of employment

4. At the end of paragraph (3) of regulation 42 of the principal regulations (Repayment on cessation of employment) there shall be added the following provisions:—

"(4) No payment shall be made in pursuance of this regulation to a teacher who has not attained the age of 60 except on written application to the Department supported by such particulars as it may require.

(5) For the purposes of paragraph (1), a woman who ceases to be employed in reckonable service wholly or partly because of pregnancy or confinement shall be treated, so long as she enjoys the right to return to work conferred by Articles 28 and 29 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976(g), as if she remained so employed and, if she exercises that right, as not having ceased to be so employed.".

Calculation of repayment under regulations 42 to 44

5. In paragraph (1) of regulation 45 of the principal regulations (Calculation of repayment under regulations 42 to 44) after the words "regulations 42 to 44" there shall be inserted the words "(which shall have effect subject to the provisions of Article 48 of the Social Security Pensions (Northern Ireland) Order 1975)".

Limited repayments to pensioners

6.—(1) For the heading to regulation 47 of the principal regulations (Repayment to pensioners after further service) there shall be substituted the heading *"Limited repayments to pensioners"*.

(2) Regulation 47 shall be renumbered 47(1) and at the end of the said regulation 47(1) there shall be added the following provision:—

(f) S.I. 1975/1503 (N.I. 15)
(g) S.I. 1976/2147 (N.I. 28)

"(2) Where—

(*a*) a teacher entitled to, or qualified for, allowances by virtue only of regulation 48(1)(*a*)(iii) would otherwise be entitled to a repayment under regulation 42 or 43, and

(*b*) his reckonable service includes periods of service (other than such subsequent service as is mentioned in paragraph (1)(*c*)) disregarded for the purposes of calculating the said allowances,

he shall be entitled to a repayment under the regulation in question but in calculating the amount thereof account shall only be taken of contributions paid in respect of such periods of service as aforesaid and regulation 46(1)(*a*) and (*b*) shall be construed accordingly.".

Entitlement to allowances

7.—(1) At the end of paragraph (1)(*a*) of regulation 48 of the principal regulations (Entitlement to allowances) there shall be inserted the following provision:—

"(iii) not being such a teacher as aforesaid, has been employed in reckonable service during a period in respect of which he has an earner's guaranteed minimum (within the meaning of Article 37 of the Social Security Pensions (Northern Ireland) Order 1975) being a period in respect of which, in pursuance of Article 44 of that Order, a contributions equivalent premium cannot be, or is not, paid by the Department; or".

(2) At the end of paragraph (4) of regulation 48 there shall be added the following provision:—

"(5) Where a teacher's entitlement to benefit by virtue of paragraph (1)(*a*)(iii) is extinguished by the payment of a contributions equivalent premium, he shall be treated for the purposes of these regulations as never having been so entitled.".

Application of regulation 48 in certain cases of premature retirement

8. In sub-paragraph (*b*) of paragraph (3) of regulation 48A of the principal regulations (Application of regulation 48 in certain cases of premature retirement) for the words "sub-paragraph (*c*)" there shall be substituted the words "sub-paragraphs (*a*)(iii) and (*c*)".

Amount of annual allowance

9.—(1) After paragraph (2) of regulation 49 of the principal regulations (Amount of annual allowance) there shall be inserted the following provision:—

"(2A) In calculating an annual allowance payable to a teacher by virtue only of regulation 48(1)(*a*)(iii) no account shall be taken of any reckonable service before 6th April 1978 which is not continuous with reckonable service on or after that date.".

(2) At the end of paragraph (6) of regulation 49 there shall be added the following provision:—

"(7) Where, in the case of a teacher employed in reckonable service after 5th April 1978, the weekly rate of his allowance, calculated as aforesaid, would be less than the weekly rate of the aggregate of—

(*a*) his guaranteed minimum allowance, and

(*b*) where his reckonable service includes a period of such service after 2nd April 1961 which was non-participating employ-

ment (within the meaning of the National Insurance Act (Northern Ireland) 1966(**h**)), the benefit required in respect of that period to constitute equivalent pension benefits for the purposes of that Act,

then the preceding provisions of this regulation shall not apply but the annual allowance payable to him shall be payable at the last-mentioned weekly rate.".

Duration of annual allowance

10. At the end of paragraph (1) of regulation 50 of the principal regulations (Duration of annual allowance) there shall be inserted the following:—

"Provided that, where the allowance does not begin to accrue as aforesaid before the teacher attains the age of compulsory retirement in the case of a man, or of 65, in the case of a woman, so much thereof as constitutes his guaranteed minimum allowance shall begin to accrue on the day that he attains that age.".

Amount of additional allowance

11. After paragraph (3) of regulation 51 of the principal regulations (Amount of additional allowance) there shall be inserted the following provision:—

"(3A) In calculating an additional allowance payable to a teacher by virtue only of regulation 48(1)(*a*)(iii) no account shall be taken of any reckonable service before 6th April 1978 which is not continuous with reckonable service on or after that date.".

Short service gratuities

12.—(1) For sub-paragraph (*a*) of paragraph (1) of regulation 52 of the principal regulations (Short service gratuities) there shall be substituted the following provision:—

"(*a*) is not entitled to any allowances by virtue of regulation 48 other than allowances the aggregate value of which is less than the amount first mentioned in paragraph (2); and".

(2) For paragraph (2) of the said regulation 52 there shall be substituted the following provisions:—

"(2) A short service gratuity shall be of an amount calculated by multiplying one-twelfth of the teacher's salary by the number of years of his reckonable service except that there shall be deducted therefrom the amount which is the aggregate value of any allowances to which he is entitled by virtue of regulation 48.

(2A) For the purposes of this regulation the aggregate value of an annual allowance and an additional allowance shall be the aggregate of the actuarial value of the annual allowance and the amount of the additional allowance.".

Interpretation of section B

13. After paragraph (*c*) of regulation 57 of the principal regulations (Interpretation of section B) there shall be added the following provision:—

(**h**) 1966 c. 6 (N.I.)

"(*d*) in the case of a teacher who has not been employed in reckonable service after 5th April 1978, the references to his widow do not include references to a woman whom he married after the day on which he was last employed in reckonable service.".

Entitlement to long term pension

14.—(1) In paragraph (1) of regulation 59 of the principal regulations (Entitlement to long term pension) for the words "any teacher who was employed in reckonable service on or after 1st April 1972 and whose service to which this regulation applies amounts to at least five years" there shall be substituted the words "any such teacher as is mentioned in paragraph (2)".

(2) For paragraph (2) of the said regulation 59 there shall be substituted the following provisions:—

"(2) The teacher referred to in paragraph (1) is a teacher who was employed in reckonable service on or after 1st April 1972 where—

(*a*) his reckonable service on or after that date, when aggregated with any such service before that date in respect of which he elected to pay contributions under any previous provision relating to family benefits, amounted to at least five years, or

(*b*) his reckonable service includes service on or after 6th April 1978 in respect of which a contributions equivalent premium is not paid by the Department in pursuance of Article 44 of the Social Security Pensions (Northern Ireland) Order 1975.

(3) Where a person's entitlement to benefit under this regulation by virtue of paragraph (2)(*b*) is extinguished by the payment of a contributions equivalent premium, he shall be treated for the purposes of these regulations as never having been so entitled.".

Amount of pension for widow or adult nominated beneficiary

15.—(1) At the beginning of paragraph (2) of regulation 61 of the principal regulations (Amount of pension for widow or adult nominated beneficiary) there shall be inserted the words "Save as provided in paragraph (4A),".

(2) After paragraph (4) of the said regulation 61 there shall be inserted the following provision:—

"(4A) In the case of the widow of a teacher (employed in reckonable service after 5th April 1978) where they married after the day on which he was last employed in reckonable service, the reckonable service of the teacher counting for benefit for the purposes of this regulation is his reckonable service after 5th April 1978.".

(3) At the end of the said regulation 61 there shall be added the following provision:—

"(6) Where, in the case of a teacher employed in reckonable service after 5th April 1978, the weekly rate of his widow's pension, calculated as aforesaid, would be less than the weekly rate of her guaranteed minimum pension, then the preceding provisions of this regulation shall not apply but the pension payable to his widow shall be payable at the last-mentioned weekly rate.".

Amount of child's pension

16.—(1) At the beginning of paragraph (1) of regulation 62 of the principal regulations (Amount of child's pension) there shall be inserted the words "Subject to paragraph (6),".