1978 No. 324

HEALTH SERVICES SUPERANNUATION

The Health Services (Superannuation) (War Service, etc.) Regulations (Northern Ireland) 1978

Made . . . . . *25th October* 1978
Coming into operation . . . *15th December* 1978

The Department(a) of Health and Social Services, in exercise of the powers conferred by articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(b) and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to it to be appropriate, and with the consent of the Department of the Civil Service for Northern Ireland(c), hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Health Services (Superannuation) (War Service, etc.) Regulations (Northern Ireland) 1978 and shall come into operation on 15th December 1978.

Interpretation

2.—(1) In these regulations—

"the principal regulations" means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(d), as amended(e);

"additional contributing service" means service an officer is able to reckon by virtue of Part II for the purposes of calculating any benefits payable by the Department under the principal regulations;

"excess remuneration" means in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer's former employment in those forces;

"non-effective pay" includes naval, military and air force pensions, retired pay, and gratuities (other than war gratuities, to which section 23 of the Finance (No. 2) Act 1945(f), which exempted war gratuities from income tax, applied);

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(b) S.I. 1972/1073 (N.I. 10)
(c) Formerly Ministry of Finance: *see* S.R. 1976 No. 281 (II, p. 1339)
(d) S.R. & O. (N.I.) 1962 No. 237 (p. 961)
(e) S.R. & O. (N.I.) 1967 No. 55 (p. 108), S.R. & O. (N.I.) 1971 No. 352 (p. 1601), S.R. & O. (N.I.) 1972 No. 343 (p. 1694), S.R. & O. (N.I.) 1973 No. 101 (I, p. 424), S.R. & O. (N.I.) 1973 No. 201 (I, p. 1032), S.R. & O. (N.I.) 1973 No. 360 (II, p. 2014), S.R. 1974 No. 93 (I, p. 302), S.R. 1974 No. 248 (II, p. 1179), S.R. 1974 No. 327 (II, p. 1493) and S.R. 1976 No. 46 (I, p. 245)
(f) 1945 9 & 10 Geo. 6 c. 13

"pension" includes any continuing payment payable by the Department under regulations 36, 38 and 39 of the principal regulations;

"public health services employment" means—

(*a*) employment in Northern Ireland, England and Wales, Scotland or the Isle of Man which reckoned for the purpose of calculating the amount of any pension under the appropriate Health Services superannuation scheme;

(*b*) pensionable employment in a hospital directly administered by a Government Department;

(*c*) employment by a local health authority or school health authority which reckoned for the purpose of calculating the amount of any pension under a public service pension scheme; or

(*d*) pensionable employment in a medical school, being in London a medical or dental school or a post-graduate institute and elsewhere a department within a school of medicine or dentistry of a university;

"war service" means such service over the age of 18 as is mentioned in section 1 of the Superannuation Act (Northern Ireland) 1947(g) at any time between 3rd September 1939 and 30th June 1950 (both dates inclusive) but does not include any such war service in respect of which an officer has received, and has not refunded, non-effective pay or excess remuneration;

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

(2) A reference in this Part or in Part II to an officer shall be construed to include a reference to—

(*a*) a practitioner to whom, by virtue of regulation 52 of the principal regulations, those regulations apply as if he were an officer;

(*b*) a person who has become entitled to a pension under the principal regulations or the previous regulations in respect of his employment as an officer;

(*c*) a person to whom the provisions of regulation 71 of the principal regulations apply; and

(*d*) a person to whom regulation 17(1) of the principal regulations applies.

PART II

WAR SERVICE

Reckoning war service as contributing service under the principal regulations

3.—(1) Subject to regulation 4, an officer described in paragraph (2) may, on application to the Department, reckon in respect of his war service a period of additional contributing service equal to one-half the length of that war service, or such part thereof as is needed after applying the provisions of regulation 9 to comply with regulation 5(1), for the purpose of calculating benefits payable to or in respect of him by the Department under the principal regulations.

(2) Paragraph (1) shall apply to an officer who, after war service, entered public health services employment before July 1950, or on completion of such course of training as the Department may allow, being either—

(g) 1947 c. 18 (N.I.)

(*a*) a course in respect of which grants were paid to him under the Ministry of Labour and National Service Further Education and Training Scheme; or

(*b*) some other university course or training course in which he was engaged in the academic year preceding 30th June 1950.

4. An officer shall not be entitled to make application under regulation 3—

(*a*) unless either—

(i) his employment since the date of his first entry into public health services employment after war service is reckonable as contributing service under the principal regulations (not being contributing service which is reckonable in consequence of additional contributory payments or payments for added years under regulation 22A(2) of the principal regulations or as a result of his having received and not repaid a return of his superannuation contributions); or

(ii) on his first entry into public health services employment after war service he became subject to a pension scheme providing benefits under a policy of insurance, and after leaving that employment, or any subsequent public health services employment in which he was subject to a pension scheme providing benefits under a policy of insurance, he entered public health services employment which reckons as contributing service under the principal regulations (not being contributing service which is reckonable in consequence of additional contributory payments or payments for added years under regulation 22A(2) of the principal regulations or as a result of his having received and not repaid a return of his superannuation contributions) without a break of 12 months or more between consecutive periods of any such employment; or

(*b*) for war service which, apart from these regulations, already falls to be taken into account in the calculation of any pension under the principal regulations or which he had reckoned or has previously had an opportunity to reckon under another scheme for the provision of retirement benefits.

Further provisions relating to the reckoning of additional contributing service

5.—(1) Subject to paragraph (2), the amount of additional contributing service which an officer may reckon shall, when aggregated with contributing service already reckonable by him, not exceed such limits as are specified in regulation 23 of the principal regulations.

(2) Where an officer's contributing service is increased under regulation 28(3) or 61 of the principal regulations, such increase shall be applied after having regard to additional contributing service he may reckon.

6. Additional contributing service shall not reckon as mental health officer service for the purposes of regulation 43(1) of the principal regulations.

7. The remuneration during any period of additional contributing service shall be deemed to have been at an annual rate ascertained by reference to the contributions deemed to have been payable by an officer for the purposes of regulation 8, and any additional contributing service shall be treated as service otherwise than as a practitioner and shall be aggregated with any other service otherwise than as a practitioner for the purposes of regulations 58 and 59 of the principal regulations.

Defraying the cost of reckoning additional contributing service

8.—(1) Subject to the remaining paragraphs, contributions for the period of an officer's war service shall be deemed to have been payable at an annual rate equal to the amount of the contributions paid by him in the first year of employment after 4th July 1948 in which he contributed to a superannuation scheme and which reckons as contributing service under the principal regulations (other than contributing service reckonable at half-length by virtue of regulation 28(1)(*a*) of the principal regulations) and there shall be deducted from benefits payable to or in respect of him under the principal regulations, other than a return of his contributions, an amount equal to the aggregate of—

(*a*) a sum equal to one-half of the contributions deemed to have been payable as aforementioned for the period of his war service reckonable as additional contributing service; and

(*b*) compound interest on that sum at the rate of 3½ per cent. per annum with yearly rests from 1st July 1950 until the relevant date as provided in paragraph (4).

(2) A deduction under paragraph (1) shall be made in the order specified in sub-paragraphs (*a*) to (*c*) as follows—

(*a*) where the officer has made an application under regulation 3—

(i) from the retiring allowance,

(ii) from the pension, and

(iii) from the death gratuity (if any),

so, however, that where the officer dies before becoming entitled to receive payment of a retiring allowance, the deduction shall be made from the death gratuity;

(*b*) where some other person has made an application as provided in regulation 11—

(i) from any payment of death gratuity,

(ii) from any additional pension in respect of the officer,

(iii) from the widow's pension or child's allowance, and

(iv) from any further benefit payable under regulation 13(5) of the principal regulations;

(*c*) in any case where a transfer payment is payable under the principal regulations, from the accrued retiring allowance and any outstanding balance shall be recovered from the resulting transfer payment.

(3) In the case of an officer who was in part-time employment in any part of the first year of employment mentioned in paragraph (1), the contributions deemed by that paragraph to have been payable shall be the amount that would have been payable on remuneration which the Department determines would have been payable in respect of comparable whole-time employment.

(4) The relevant date is—

(*a*) in the case of a person who on 17th July 1975 was entitled to a pension, 17th July 1975; or

(*b*) in the case of an officer who became or becomes a member of another superannuation scheme on or after 17th July 1975 and a transfer payment under the principal regulations is paid or becomes payable to that scheme in respect of him, the date of his ceasing to be an officer; or

(*c*) in any other case, the day preceding that on which the person became or becomes entitled to a pension: