1978 No. 301

HEALTH SERVICES SUPERANNUATION

The Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1978

Made . . . . . *5th October* 1978

Coming into operation . . . *6th October* 1978

The Department of Health and Social Services, in exercise of the powers conferred by articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) 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, hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1978 and shall come into operation on 6th October 1978.

Interpretation

2. In these regulations "the principal regulations" means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(**b**), and other words and expressions used have the same meaning as in the principal regulations.

PART II

AMENDMENTS TO FULFIL CONTRACTING-OUT REQUIREMENTS OF THE SOCIAL SECURITY PENSIONS (NORTHERN IRELAND) ORDER 1975

3. In regulation 2 of the principal regulations (interpretation)—

(*a*) in paragraph (1)—

(i) after the definition of "the Order" there shall be inserted—

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

(**a**) S.I. 1972/1073 (N.I.10)

(**b**) S.R. & O. (N.I.) 1962 No. 237 (p. 961) as amended by 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)

(**c**) S.I. 1975/1503 (N.I. 15)

(iv) where an officer has received payment of a retiring allowance, a widow's pension shall not be payable in respect of any part of his service before 25th March 1972 in respect of which his retiring allowance was calculated at the rate of three times the annual amount of his pension unless either—

(*a*) the Department has accepted repayment to such extent and in such manner as it considers appropriate in order to recover the difference between the retiring allowance so paid and that which would have been paid on the basis that a widow's pension might become payable, or

(*b*) a corresponding adjustment falls to be made under the proviso to regulation 33(2);

(v) the amount of a widow's pension shall, notwithstanding regulation 23, be not less than the following amounts in respect of her husband's contributing service on or after 6th April 1978, namely—

(*a*) in the case of service otherwise than as a practitioner, an amount equal to 1/160th of his average remuneration in respect of each year of service, and

(*b*) in the case of service as a practitioner, an amount equal to 0.7 per cent. of his total uprated remuneration in respect of such service,

so, however, that any contributing service added under regulation 28(3) or 61(2) shall be disregarded;

(vi) during the period that a pension of limited duration is payable under regulation 13B a widow's pension shall not be payable at any of the rates specified in this paragraph.

(4) For the first 3 months 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 32;

(*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 or suspension by reason of the operation of regulation 32;

(*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:

Provided that—

(i) a widow's pension shall not be payable at any of the rates mentioned in paragraph (3) or in the case of a person to whom regulation 36 applied, a relevant provision, whilst a widow's pension is payable at any of the rates mentioned in this paragraph;

(ii) no account shall be taken of any reduction or suspension of the remuneration of an officer who was on leave of absence from duty at the time of his death;

(iii) for the purposes of this paragraph the remuneration of a practitioner shall be taken as the rate of his remuneration during

the quarter immediately before his death or, if his remuneration during that quarter was reduced or suspended because of his illness or injury or that of any partner of his, at the rate set out in regulation 55(3);

(iv) this paragraph shall not apply to any case in which a greater amount would be payable under these regulations apart from this paragraph;

(v) a widow's pension shall not be payable at any of the rates mentioned in this paragraph if the widow has become entitled to receive a pension of limited duration under regulation 13B.

(5) During the period that a widow's pension is payable at any of the rates specified in paragraph (4) a child's allowance shall not be payable under regulation 13A in respect of any child dependant upon the widow.

(6) A widow's pension shall not be payable to a widow—

(*a*) if she re-marries, in respect of any period after her re-marriage, so, however, that in the event of the termination of her re-marriage, the Department may restore her widow's pension in whole or in part if it is satisfied that she would otherwise suffer hardship and if it does so it may take account of any deficiency payment already made under paragraph (7); or

(*b*) in respect of any period during which she and a man to whom she is not married are living together as man and wife.

(7) If on the death of any person a widow's pension becomes payable and the death gratuity is thereby less than it would have been had no widow's pension been payable, then if on the death or re-marriage of the widow the amount paid by way of widow's pension is less than the difference between the amount of the death gratuity and the amount that the death gratuity would have been had no widow's pension become payable, there shall be paid to or among such persons as the Department may determine an amount equal to the difference.".

7. In regulation 13B(2) of the principal regulations (pensions of limited duration) for proviso (i) there shall be substituted—

"(i) a limited pension shall not be payable to a widow if at the date of her husband's death they were judicially separated or if she would not be entitled to a widow's pension by virtue of the provisions of regulation 13(6).".

8. In regulation 13D of the principal regulations (widower's pension) for "regulation 13(4)(*b*)" there shall be substituted "regulation 13(6)(*b*)".

9. For regulation 14 of the principal regulations (power to compound small benefits) there shall be substituted—

"Power to compound small benefits

14.—(1) Subject to paragraph (2), where the annual sum payable to any person is less than £39, the Department may discharge its liability in respect of that annual sum and in respect of any death gratuity which might otherwise become payable on that person's death by the payment of a lump sum representing the capital value of that annual sum and that death gratuity.