1978 No. 292

NATIONAL INSURANCE

The National Insurance (Health Services Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1978

Made . . . . . 29*th September* 1978

Coming into operation . . . 1*st December* 1978

The Department(a) of Health and Social Services, in exercise of powers conferred by section 103 of the National Insurance Act (Northern Ireland) 1966(b) (in accordance with which section the Department(a) of Finance had determined the Ministry of Health and Local Government was 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 under section 67 of and Schedule 8 to the Health Services Act (Northern Ireland) 1971(c) and now transferred to it(d) and in exercise of powers conferred by articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(e) 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 National Insurance (Health Services Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1978, and shall come into operation on 1st December 1978.

Interpretation

2. In these regulations—

"the Act of 1909" means the Asylums Officers' Superannuation Act 1909(f);

"the Act of 1959" means the National Insurance Act (Northern Ireland) 1959(g);

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

(a) Formerly Ministry: *see* 1973 c. 36 Sch. 5 para. 8(1)
(b) 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))
(c) 1971 c. 1 (N.I.)
(d) S.R. & O. (N.I.) 1964 No. 205 (p. 937)
(e) S.I. 1972/1073 (N.I. 10)
(f) 1909 c. 48
(g) 1959 c. 21 (N.I.)

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

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

"the principal regulations" means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(i);

"the National Insurance Regulations 1975" means the National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975(j);

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

"graduated contributions" means contributions payable under section 1(1)(*b*) of the Act of 1959, section 4 of the Act of 1966 or the corresponding provisions of the Great Britain Acts or the Isle of Man Act;

"local government service" means employment within the meaning of the Local Government (Superannuation) Regulations (Northern Ireland) 1962(k);

"modification provision" means, in relation to any pension scheme, any provision the effect of which is that pensions under that scheme are to be reduced in connection with the operation of the provisions of the Act of 1966, the Great Britain Acts or the Isle of Man Act, relating to the payment of graduated retirement benefit;

"non-participating employment" has the meaning assigned to it 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;

"optants scheme" means a superannuation scheme (whether or not embodied in any enactment, rules or regulations) which describes the superannuation benefits to which an officer is entitled by reason of his having elected, pursuant to regulation 36 or regulation 38 of the principal regulations or the corresponding provisions of the previous regulations to retain rights corresponding with those which he previously enjoyed under such a scheme, but the expression does not include any superannuation scheme comprised in the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers;

"participating employment", in relation to any period which is reckonable as service for the purposes of the principal regulations, means any employment in which a person was required to pay graduated contributions or would have been required to pay such contributions if the amount paid in any income tax week on account of his remuneration, or which would have been paid but for any suspension of remuneration due to leave of absence, exceeded the amount first mentioned in section 4(1) 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;

(h) 1959 c. 47 & 1965 c. 51

(i) 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)

(j) S.R. 1975 No. 48 (I, p. 217)

(k) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by 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) and S.R. 1977 No. 205

"payment in lieu of contributions" means a payment in lieu of contributions under the Act of 1959, the Act of 1966, the Great Britain Acts or the Isle of Man Act;

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

Modification of the principal regulations, schemes etc.

3. The principal regulations and, so far as it concerns an officer, any optants scheme shall have effect subject to the modifications contained in these regulations.

PART II

MODIFICATION (OR REDUCTION) OF BENEFITS

Reduction of pensions

4.—(1) Subject to the provisions of this regulation, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled under the principal regulations has been in participating employment, as from the date on which the officer becomes entitled to that pension, or if on becoming entitled to the pension he has not yet reached the age of 65 years in the case of a man or 60 years in the case of a woman, as from the date on which he reaches that age, the part of the pension which is attributable to any such period of service shall be reduced in accordance with this Part, and regulation 44 of the principal regulations or the corresponding provision of any optants scheme shall cease to apply in relation to that part of the pension.

(2) The reduction required to be made in accordance with this Part shall not be less than that required to be made under the said regulation 44 or corresponding provision of an optants scheme.

(3) For the purpose of this Part, no account shall be taken of any period of participating employment occurring in an income tax year if no graduated contributions have been paid in respect of all such periods during that year.

(4) Notwithstanding anything in paragraph (3), a period of employment as an officer, at the end of which a payment in lieu of contributions has been made, shall be treated for the purpose of this Part as a period of participating employment.

(5) No account shall be taken of the reduction of any pension under this Part—

(*a*) in calculating the amount of any retiring allowance or death gratuity or of any pension or allowance to or in respect of a widow, child or other dependant, payable under the principal regulations or an optants scheme; or

(*b*) for the purposes of paragraph 1(*a*) of the first Schedule to the principal regulations (which limits the extent to which a pension can be surrendered).

5.—(1) Where a pension would, apart from these regulations, be subject to reduction in accordance with regulation 44 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall, subject to paragraph (2), be reduced—

(*a*) for each year of such employment which is reckonable as contributing service otherwise than as a practitioner, by a sum equal to one two-hundred-and-fortieth of so much of the retiring remuneration as does not exceed—

(i) in respect of any such year prior to 6th January 1964, £780 per annum; or

(ii) in respect of any such year on or after 6th January 1964, £936 per annum,

and by a proportionate part of such sum for any part of such year; and

(*b*) for each year ending 31st March or part of such year of such employment which is reckonable as contributing service as a practitioner, by a sum equal to one-half per cent of so much of his remuneration—

(i) in respect of any year or part of a year prior to 1st April 1964 as does not exceed £780 per annum; or

(ii) in respect of any year or part of a year on or after 1st April 1964 as does not exceed £936 per annum.

Provided that—

(*a*) where a mental health officer is entitled by virtue of regulation 43 of the principal regulations to reckon any year of contributing service as such an officer as if it were two years, so much of the pension is attributable to any additional year so reckonable shall, in lieu of such reduction as aforesaid, be reduced by the sum of £1.70 in respect of each year;

(*b*) where any employment described in sub-paragraph (*a*) is reckonable as contributing service at half its length by virtue of regulation 28(1) of the principal regulations, for the reference in the said sub-paragraph (*a*) to one two-hundred-and-fortieth there shall be substituted a reference to one four-hundred-and-eightieth;

(*c*) in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been made such reduction as aforesaid shall be calculated as if the person's remuneration or retiring remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions.

(2) If the last period of contributing service before 6th April 1975 of an officer, other than an officer who is a registered medical or dental practitioner, was non-participating employment in respect of which no payment in lieu of contributions has been made, no account shall be taken for the purpose of this regulation of any retiring remuneration—

(*a*) in respect of any period of participating employment prior to 6th January 1964, in excess of £650 per annum in the case of a man, and £575 per annum in the case of a woman; and

(*b*) in respect of any period of participating employment on or after 6th January 1964, in excess of £730 per annum in the case of a man and £680 per annum in the case of a woman,

but in the application of this paragraph to a person who became an officer before 1st January 1974 after having been employed in local government service in which employment the last period was non-participating employment for which no payment in lieu of contributions has been made, the following sub-paragraphs shall be substituted for sub-paragraphs (*a*) and (*b*) aforesaid in respect of any participating employment in that employment—

"(*a*) in respect of any period of participating employment prior to 6th January 1964, in excess of £676 per annum in the case of a man, and £624 per annum in the case of a woman; and

(*b*) in respect of any period of participating employment on or after 6th January 1964, in excess of £754 per annum in the case of a man and £702 per annum in the case of a woman.".

(3) For the purpose of this regulation, "retiring remuneration" means in relation to an officer other than a practitioner his average remuneration calculated in accordance with regulation 29(1) of the principal regulations except proviso (*f*) thereto, or where the pension was calculated under an optants scheme, the average remuneration on which his pension is based uprated by the same factor used to uprate his pension in accordance with regulation 36(4)(*d*)(ii) of the principal regulations.

Reduction of pensions payable to certain classes of officer

6. Where a pension would, apart from these regulations, be subject to reduction under regulation 44(3)(*a*), (*b*), (*c*) or (*d*) of the principal regulations, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with the said sub-paragraph (*a*), (*b*), (*c*) or (*d*), as the case may be, and shall be further reduced in accordance with regulation 5 but shall be increased by the sum of £1.70 for each year of contributing service and by a proportionate amount of that sum in respect of any part year of contributing service comprised in that period:

Provided that where a pension is payable to a mental health officer who is entitled by virtue of regulation 43 of the principal regulations to reckon any year of contributing service as such an officer as if it were two years, so much of the pension to which this paragraph applies as is attributable to any additional year so reckonable shall be reduced solely in accordance with the said sub-paragraph (*a*), (*b*), (*c*) or (*d*), as the case may be.

Pensions not subject to reduction under regulation 44 of the principal regulations or corresponding provisions of an optants scheme

7. Where a pension is not subject to reduction in accordance with regulation 44(3) of the principal regulations or the corresponding provision of any optants scheme, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with regulation 5 but shall be increased by the sum of £1.70 for each year of contributing service and a proportionate amount in respect of any part year of contributing service comprised in that period.

Pensions payable to optants

8.—(1) Where a pension is payable under the terms of the Act of 1909 as applied to him by virtue of his having elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under that Act, so much of the pension as is attributable to any period of participating employment shall be reduced in the like manner as is provided in regulation 7.

(2) Where a pension falls to be calculated in accordance with the provisions of an optants scheme, other than the Act of 1909, so much of any pension payable to him as is attributable to any period of participating employment shall be reduced by a sum of £1.30 per annum for every unit, ascertained in accordance with section 35(2) and (3) of the Act of 1966, of graduated contributions paid or treated by virtue of section 57 of that Act as having been paid by him during such period of participating employment and,