1976 No. 46

HEALTH SERVICES SUPERANNUATION

The Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976

Made . . . . . 11*th February* 1976

Coming into operation . . . 25*th March* 1976

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 Finance, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976 and shall come into operation on 25th March 1976.

Interpretation

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

Amendments relating to the purchase of an unreduced retiring allowance

3.—(1) After regulation 22B of the principal regulations there shall be added:

"*Purchase of unreduced retiring allowance*

22C.—(1) Where either proviso (*a*) or (*b*) to regulation 8(3) applies to the calculation of an officer's retiring allowance, he may elect within 12 months of—

(*a*) the date of coming into operation of the Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976 if he is then an officer, or

---

(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)
(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) S.R. & O. (N.I.) 1962 No. 237 (p. 961)

(*b*) the date on first becoming an officer thereafter if he is not then an officer, or

(*c*) making a nomination under regulation 13D,

to make payment in accordance with the provisions of the tenth schedule in respect of either the whole or any part of his contributing service before 25th March 1972, or in the case of a male officer such earlier date when he became a widower or was divorced or judicially separated from his wife, so that the retiring allowance to which he may become entitled in respect of such contributing service shall, on completion of such payment be a sum equal to three times the annual amount of his pension (as calculated under regulations 8 and 56) in respect of that service and for the purpose of calculating the payment required under this regulation any period of service which reckons at greater than its actual length by virtue of regulation 43 shall reckon at that greater length:

Provided that—

(i) a male officer who marries after the date of coming into operation of the Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976 and whose retiring allowance thereby falls to be calculated in accordance with proviso (*a*) to regulation 8(3) may elect under this paragraph within 12 months of the first date on which he is an officer after so marrying;

(ii) the time limit of 12 months may be extended to such longer period as the Department may in any particular case allow, in which event the Department may vary the provisions of the tenth schedule in such manner as it considers to be appropriate;

(iii) an officer shall not be permitted to elect under this regulation during a period when he is on leave of absence from duty on account of sickness or without pay or on reduced pay;

(iv) an officer shall not be permitted to elect under this regulation in respect of any service before 25th March 1972 for which he became entitled to receive a retiring allowance before 4th July 1974; and

(v) if an officer whose remuneration is calculated under paragraph 5(3)(*a*) or 5(4)(*a*) of the tenth schedule ceases to be an officer in the period therein mentioned (otherwise than by virtue of regulation 17(1)) his election under this regulation shall be cancelled.

(2) Where any payments in accordance with paragraph (1) remain to be made by an officer and at least one payment has been made by him—

(*a*) in the event of his becoming entitled to a pension under regulation 7(1)(*a*)(i) or dying whilst an officer, he shall, for the purposes of the said paragraph (1), be deemed to have completed the remaining payments;

(*b*) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (*a*), the provisions of the said paragraph (1) shall apply only to that proportion of the contributing service in respect of which he was making the said payments as the amount paid bears to the total amount due to be paid, except that if within 3 months of so ceasing to be an officer he pays the balance of the total amount due to be paid, the provisions of the said paragraph (1) shall apply to the contributing service in respect of which he elected to make the said payments, so, however, that the balance of the total amount due to be paid shall be reduced by the amount added under paragraph 4 of the tenth schedule in respect of the period between the date on which he so ceased to be an officer and the date on which the final payment was due; or

(*c*) if sub-paragraph (*b*) has applied to him and he again becomes an officer within 3 months (any period during which regulation 17 applied to him being disregarded) in circumstances in which his previous service is reckonable, he may within 3 months of so becoming an officer or within such longer period as the Department may in any particular case allow, make those payments that he would have made had he not ceased to be an officer and on making such payments his election under this regulation shall continue to have effect.

(3) In calculating the amount by which a death gratuity shall be reduced under the provisions of regulation 12(3)(*a*) or (*b*) or regulation 12(4), as the case may be, no account shall be taken of that part of the officer's contributing service before 25th March 1972 in respect of which payment under paragraph (1) has been completed or deemed to have been completed.".

(2) In the principal regulations—

(*a*) in regulation 2(7)(*c*) (interpretation) after "22B" there shall be inserted "22C";

(*b*) in regulation 8(3) (scales of pension and retiring allowance)—

(i) in proviso (*a*) after "25th March 1972" where it occurs in the second place there shall be inserted "(other than service in respect of which payment under regulation 22C(1) has been completed or deemed to have been completed)";

(ii) in proviso (*b*) after "judicial separation" there shall be inserted "(other than service in respect of which payment under regulation 22C(1) has been completed or deemed to have been completed)";

(*c*) in regulation 12(3) (death gratuity) after "payable under these regulations" there shall be inserted "and subject to the provisions of regulation 22C(3)";

(*d*) Schedule A to these regulations shall be included as the tenth schedule to the principal regulations.

(3) In regulation 20 of the Health Services (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1974(g) in paragraph (1) after "of these regulations," where it occurs in the second place there shall be inserted "or within such longer period as the Department may in any particular case allow,".

Amendments relating to widower's pension

4.—(1) After regulation 13C of the principal regulations there shall be added:

"*Widower's pension*

13D. A female officer whose husband is permanently incapable by reason of physical or mental infirmity of earning his own living may, by a notice in writing submitted to the Department after the date of coming into operation of the Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976, nominate her husband to receive benefits under this regulation on the grounds that he is wholly or mainly dependent on her and if the Department is satisfied that the officer's

(g) S.R. 1974 No. 327

husband is so dependent on her it shall accept the nomination so that on the death of the officer the nominee shall be entitled to receive from the Department an annual widower's pension in accordance with the provisions of regulation 13 or a limited pension in accordance with the provisions of regulation 13B, as the case may be, as if references in those regulations to a widow, her husband or a widow's pension included references to a widower, his wife or a widower's pension, and as if the references in regulation 13(4)(*b*) to she and to a man as his wife included references to he and a woman as her husband.".

(2) In the principal regulations—

(*a*) in regulation 2(1) (definitions) after the definition of "widow's pension" there shall be added:

"'"widower's pension" means a widower's pension payable under regulation 13D.";

(*b*) in proviso (*a*) to regulation 8(3) (scales of pension and retiring allowance) in sub-paragraph (ii) for "paragraph (7)" there shall be substituted "paragraph (7), or" and after sub-paragraph (ii) there shall be inserted the following sub-paragraph:

"(iii) an officer who has made a nomination under regulation 13D,";

(*c*) in regulation 12 (death gratuity) the existing paragraph (4) shall be renumbered (5) and after paragraph (3) there shall be inserted the following paragraph:

"(4) Where a widower's pension is payable under these regulations, the amount of the death gratuity payable under this regulation shall be calculated as if any reference in this regulation to a widow or a widow's pension included a reference to a widower or widower's pension.";

(*d*) in regulation 13B(2) (pensions of limited duration) for "regulation 13C" there shall be substituted "regulations 13C and 13D";

(*e*) in regulation 13C(1) (pensions of limited duration) for "regulation 13B" there shall be substituted "regulation 13B or 13D";

(*f*) in regulation 17(1) (intervals in service due to illness or injury) after "regulations 13A, 13B, 13C," there shall be inserted "13D,";

(*g*) in regulation 71(2)(*c*) (approved employment)—

(i) after "widow's" there shall be inserted "or widower's"; and

(ii) for "and 13C" there shall be substituted ", 13C and 13D";

(*h*) in the proviso to paragraph 1 of the seventh schedule (child's allowance) after "widow's" there shall be inserted "or widower's".

Amendments relating to deferred benefits

5.—(1) For regulation 7 of the principal regulations (officer's pension and retiring allowance) there shall be substituted:

"**7.**—(1) On ceasing to be an officer, a person shall be entitled to receive from the Department—

(*a*) an annual pension if—

(i) he has completed 5 years' service and is permanently incapable of discharging efficiently the duties of his employment by reason of physical or mental infirmity; or

(ii) he has attained the age of 60 years and completed 5 years' service; or

(iii) he has attained the age of 55 years and completed 5 years' service and the condition prescribed in paragraph (4) is applicable in his case; or

(iv) he has completed 5 years' service or he is a person to whom regulation 30(4) applies, and in either case he has not, within 12 months and without first having become entitled to receive payment of such annual pension, again become an officer; or

(v) he has attained the age of 50 years and has completed 5 years' service and has become entitled to benefits under regulations made under the Superannuation (Northern Ireland) Order 1973(h); or

(vi) he has completed 5 years' service and the conditions prescribed in paragraph (5) are applicable in his case; and

(*b*) a lump sum retiring allowance if he satisfies the requirements of sub-paragraph (*a*):

Provided that—

(i) a person who satisfied the requirements of sub-paragraphs (*a*)(iv) or (vi) shall not on that account become entitled to receive payment of such benefit until he also satisfies the requirements of paragraph (2); and

(ii) for the purposes of this regulation, an officer who satisfied the requirements of sub-paragraph (*a*)(vi) shall be deemed to have ceased to be an officer on the date he suffered a reduction in remuneration in the circumstances mentioned in paragraph (5).

(2) A person who satisfied the requirements of sub-paragraph (*a*)(iv) or (vi) of paragraph (1) shall satisfy the requirements of this paragraph—

(*a*) when, not then being an officer, he attains the age of 60 years or, in the case of a person to whom the condition of paragraph (4) is applicable, the earliest age at which he would have been entitled to receive a pension under paragraph (1)(*a*)(ii); or

(*b*) if he is an officer when he attains the age specified in sub-paragraph (*a*), on ceasing thereafter to be an officer; or

(*c*) if he satisfies the Department that he is permanently incapable by reason of physical or mental infirmity of engaging in regular employment; or

(*d*) on subsequently becoming entitled to receive some other benefit under paragraph (1):

Provided that—

(i) subject to proviso (iii), a person shall not be able to satisfy the requirements of this paragraph if there have been returned to him his contributions for any service to which the benefit in question related or any concurrent or subsequent service;

(ii) in the case of a person to whom regulation 36 applies, for the reference in sub-paragraph (*a*) to the age of 60 years there shall be substituted a reference to age 60 or such later age at which he would have become entitled to receive a pension under these regulations on ceasing to be such an officer; and

(h) S.I. 1973/962 (N.I. 13)