1973. No. 361 **[C]**

HEALTH AND PERSONAL SOCIAL SERVICES

Compensation

REGULATIONS, DATED 27TH SEPTEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES WITH THE APPROVAL OF THE MINISTRY OF FINANCE UNDER ARTICLE 78 OF THE HEALTH AND PERSONAL SOCIAL SERVICES (NORTHERN IRELAND) ORDER 1972.

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The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred on it by Article 78 of the Health and Personal Social Services (Northern Ireland) Order 1972(a) and of every other power enabling it in that behalf after consulting representatives of persons likely to be affected by these regulations, and with the approval of the Ministry of Finance hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Health and Personal Social Services (Compensation) Regulations (Northern Ireland) 1973 and shall come into operation on 1st October 1973.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"accrued pension", in relation to a pensionable officer who has suffered loss of employment, means, if his last relevant pension scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making;

"accrued retiring allowance", in relation to a pensionable officer who has suffered loss of employment, means, if his last relevant pension scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any additional contributory payments or payments in respect of added years which he was in the course of making;

"accrued incapacity pension" and "accrued incapacity retiring allowance" have the same respective meanings as "accrued pension" and "accrued retiring allowance" except that the reference to a person's attaining normal retiring age shall be construed as a reference to his becoming incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"additional contributory payments" has the same meaning as in the Health Services (Superannuation) Regulations (Northern Ireland) 1962(b);

(a) S.I. 1972, No. 1265 (N.I. 14). (b) S.R. & O. (N.I.) 1962, No. 237.

"compensation question" means a question arising under these regulations—

(*a*) as to a person's entitlement to compensation for loss of employment or for loss or diminution of emoluments; or

(*b*) as to the manner of a person's employment or the comparability of his duties;

"emoluments" means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and also the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime which are not a usual incident of his employment, or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him for the purposes of his employment.

Provided that—

(*a*) where fees or other variable payments were paid to an officer as part of his emoluments during any period immediately preceding the loss or diminution, the amount in respect of fees or other variable payments to be included in the annual rate of emoluments shall be the annual average of the fees or other payments paid to him during the period of five years immediately preceding the loss or diminution, or such other period as the Ministry may think reasonable in the circumstances;

(*b*) for the purposes of these regulations the annual rate of emoluments in relation to any employment which has been lost or the emoluments whereof have been lost or diminished shall be calculated as follows:

(i) in the case of emoluments payable monthly, the emoluments payable in respect of the last complete month immediately preceding the loss or diminution multiplied by twelve; and

(ii) in the case of emoluments payable weekly, the emoluments payable in respect of the last complete week immediately preceding the loss or diminution multiplied by fifty-two;

"employing authority" means the Ministry or an employing authority within the meaning of the regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972(c), or a health or welfare authority;

"health authority" means a health authority as defined in Article 2 of the Order;

"last relevant pension scheme", in relation to a pensionable officer, means a pension scheme to which he was subject immediately before suffering loss of employment or loss or diminution of emoluments;

"long-term compensation" means compensation payable in accordance with the provisions of Part IV of these regulations for loss of employment or loss or diminution of emoluments;

"material date" in relation to any person who has suffered loss of employment or loss or diminution of emoluments means the date on which the scheme or schemes made under Article 77 of the Order, to which such loss was attributable, was or were made or such other date or dates as may be specified in the scheme or schemes in relation to him for all or any of the purposes of these regulations;

(c) S.I. 1972, No. 1073 (N.I. 10).

"minimum pensionable age" means, in relation to a pensionable officer, the earliest age at which, under his last relevant pension scheme, he could have become entitled to receive payment of a pension, other than a pension payable in consequence of his redundancy or his incapacity to discharge efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"Ministry" means the Ministry of Health and Social Services;

"Normal retiring age" means—

(*a*) in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of the conditions of the employment which he has lost or the employment in which the emoluments have been diminished, that age; and

(*b*) in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female;

"officer" includes the holder of any place, situation or employment;

"payments in respect of added years" in relation to a pensionable officer means any payment made under regulation 27 of the Health Services (Superannuation) Regulations (Northern Ireland) 1962;

"pensionable officer", in relation to a person who has suffered loss of employment or loss or diminution of emoluments, means a person who immediately before such loss or diminution was subject to a pension scheme;

"pension scheme", in relation to a pensionable officer, means any form of arrangement associated with his employment for the payment of superannuation benefits, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise, other than benefits payable under any Act relating to National Insurance;

"reckonable service", in relation to a person, means any period of whole-time or part-time employment in any relevant employment and includes any period of war service undertaken on his ceasing to hold such employment;

"relevant employment" means employment—

(*a*) under the Crown, or in the service of an employing authority;

(*b*) preceding either of the foregoing employments which was reckonable for the purposes of the last relevant pension scheme; or

(*c*) such other employment as the Ministry may, in the case of any named officer, approve;

"resettlement compensation" means compensation payable in accordance with Part III of these regulations for loss of employment;

"retirement compensation" means compensation payable in accordance with the provisions of regulations 17, 18 or 19;

"tribunal" means a tribunal established under section 13 of the Industrial Training Act (Northern Ireland) 1964(**d**);

"war service" means war service within the meaning of the Local Government Staffs (War Service) Act (Northern Ireland) 1939(**e**) if such service immediately followed a period of relevant employment and was undertaken either compulsorily or with the permission of the employer in that employment;

"welfare authority" means a welfare authority as defined in Article 2 of the Order.

(**d**) 1964. c. 18 (N.I.). (**e**) 2 & 3 Geo. 6 c. 27 (N.I.).