1973. No. 295 **[C]**

LOCAL GOVERNMENT

Compensation

REGULATIONS, DATED 31ST AUGUST 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER SECTION 137 OF THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 WITH THE APPROVAL OF THE MINISTRY OF FINANCE.

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The Ministry of Development, on behalf of the Secretary of State and in exercise of the powers conferred upon it by section 137 of the Local Government Act (Northern Ireland) 1972(a) and of all other powers enabling it in that behalf and with the approval of the Ministry of Finance hereby makes the following regulations:—

PART I

PRELIMINARY

Citation

1. These regulations may be cited as the Local Government (Compensation) Regulations (Northern Ireland) 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 Act" means the Local Government Act (Northern Ireland) 1972;

"accrued pension", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) 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; and

(*b*) in any other case, such portion of the pension (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case;

"accrued retiring allowance", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) 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; and

(a) 1972. c. 9 (N.I.).

(*b*) in any other case, such portion of the lump sum payment (if any) of which he had reasonable expectations as the compensating authority consider equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case;

"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;

"added years" means any additional years reckonable by virtue of regulation 26 of the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**b**) and includes any additional years which, having been granted thereunder or under any similar provision contained in any other enactment or scheme, have subsequently become reckonable under or by virtue of any enactment by an officer in relation to any such employment as is mentioned in paragraph (3) of regulation 18 of the said Regulations;

"additional contributory payments" means any payment made for the purposes of regulation 22, paragraphs (3) and (4) of regulation 25 and regulations 27 and 28 of the Local Government (Superannuation) Regulations (Northern Ireland) 1962;

"area board" means an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1972(**c**) or a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**d**);

"compensating authority", except as provided in Part VIII, means—

(*a*) in the case of any person or class of persons who suffers loss of employment or loss or diminution of emoluments which is attributable to the provisions of any Order under the Act, the authority to whose employment the person or class of persons was transferred by the Order; and

(*b*) in any other case, such authority or other body as the Ministry may determine;

"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;

"contributory employee", "contributing service", "non-contributing service", "local Act contributor" and "local Act scheme" have the same meaning as in the Local Government Superannuation Act 1937(**e**);

"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 accommodation or other allowances in kind appertaining to his employment, but does not include payments for overtime which are

(**b**) S.R. & O. (N.I.) 1962, No. 210.
(**c**) S.I. 1972, No. 1263 (N.I. 12).
(**d**) S.I. 1972, No. 1265 (N.I. 14).
(**e**) 1 Edw. 8 & 1 Geo. 6 c. 68.

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; and

(*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 compensating authority 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 average of the emoluments payable in respect of the last 12 complete weeks immediately preceding the loss or diminution multiplied by fifty-two and one-seventh;

"existing local authority" has the meaning given in section 131(4) of the Act;

"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 for loss of employment or loss or diminution of emoluments;

"material date", except as provided in Part VIII, in relation to any person who has suffered loss of employment or loss or diminution of emoluments, means the date on which the Order made under section 134 of the Act to which such loss or diminution was attributable was made or such other date or dates as may be specified in the Order in relation to him for all or any of the purposes of these regulations;

"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 the termination of his employment in the interests of efficiency or his incapacity to discharge efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"normal retiring age" means, in the case of a pensionable officer to whom an age of compulsory retirement applied by virtue of any enactment to which he was subject in the employment which he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and in any other case, the age of sixty-five if the officer is a male, or sixty if the officer is a female;