1973. No. 242 [C]

LOCAL GOVERNMENT

Superannuation

REGULATIONS, DATED 11TH JULY 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER ARTICLE 9 OF THE SUPERANNUATION (NORTHERN IRELAND) ORDER 1972 AND UNDER SECTION 103 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The Ministry of Development, on behalf of the Secretary of State, in exercise of powers conferred by section 103 of the National Insurance Act (Northern Ireland) 1966(**a**) (having been determined by the Ministry of Finance to be the appropriate department for the purposes of that section to make regulations modifying the scheme for the provision of pensions and other benefits established by regulations made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(**b**)) and in exercise of powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**c**) and of any other powers enabling it in that behalf, after consulting representatives of persons likely to be affected by these regulations, hereby makes the following regulations:—

Citation

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1973.

Interpretation

2. In these regulations—

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

"the compensating authority" means the authority responsible for payment of benefits under Article 3 of the Superannuation (Northern Ireland) Order 1972(**f**);

"district council" means the council of a local government district within the meaning of section 1 of the Local Government Act (Northern Ireland) 1972(**g**);

"the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**h**);

"public body" has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972;

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

(**a**) 1966. c. 6 (N.I.).
(**b**) 1950. c. 10.
(**c**) S.I. 1972, No. 1073 (N.I. 10).
(**d**) S.I. 1972, No. 1263 (N.I. 12).
(**e**) S.I. 1972, No. 1265 (N.I. 14).
(**f**) S.I. 1973, No. 962 (N.I. 13).
(**g**) 1972. c. 9 (N.I.).
(**h**) S.R. & O. (N.I.), 1962, No. 210.

Amendments relating to the reckoning of service

3. In regulation 2(1) of the principal regulations (which defines expressions used in the regulations) the words from " "non-contributing service" " to "regulation 25;" shall be deleted.

4. For regulation 31 of the principal regulations (calculation of service) there shall be substituted:—

"**31.**—(1) In calculating the length of an officer's whole-time service, and in making any other calculation under these regulations (except a calculation under regulation 43)—

(*a*) any of the following periods of service which is not reckonable as contributing service by virtue of regulation 25 shall be reckonable at its full length for the purpose of determining whether any benefit is payable to or in respect of him, and for all other purposes shall reckon as a period of contributing service at half its length—

(i) any period of service which was reckonable before 1st April 1972 as a period of non-contributing service;

(ii) any period of whole-time service during which he did not pay and was not deemed to have paid contributions but excluding a period of employment during which he was absent without leave; and

(iii) any service which is reckonable by virtue of regulation 18 and which was reckonable in an employment referred to in paragraph (3) of that regulation as non-contributing service or as a period of service which would have reckoned for benefits at half the value of the benefits for contributing service or for established service;

(*b*) in order to determine the total contributing service of an officer for all purposes other than a calculation under the fourth schedule all periods of contributing service shall be aggregated, and where two or more periods aggregate to 365 days or more each period of 365 days shall be reckoned as one year, service on 29th February in a leap year being disregarded.

(2) Where a benefit (except a benefit under regulation 43) payable to or in respect of an officer is required to be calculated by reference to years of contributing or non-contributing service, there shall also be payable in respect of any part of a year an amount which bears the same proportion to the amount payable for a year as the number of days in that part bears to 365 days.

(3) Where a pension is payable under regulation 9(1)(*a*)(i) there shall be added to the officer's service a period of contributing service as follows:

(*a*) if his contributing service does not exceed 10 years, either a period equal to such service or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 65 years, whichever is the less;

(*b*) if his contributing service exceeds 10 years, a period equal to whichever is the greater of the following—

(i) the period by which such service is less than 20 years or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 65 years, whichever is the less; or

(ii) 6 years and 243 days or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 60 years, whichever is the less:

Provided that in determining the period by which such service would have been increased if the officer had continued to be employed, no account shall be taken of any provision in these regulations for reckoning any period of service at more than its length."

5. In the proviso to regulation 10(1) of the principal regulations (scales of pension and retiring allowance) the words after "average remuneration" shall be deleted.

6. In regulation 22(1) of the principal regulations (reckoning of certain periods)—

(*a*) for "as if any such period were non-contributing service" there shall be substituted "as if any such period were reckonable as contributing service at half its length only";

(*b*) for "shall be reckonable as service" there shall be substituted "shall be reckonable as contributing service at its full length".

7. In regulation 25 of the principal regulations (reckoning of contributing and non-contributing service)—

(*a*) in paragraph (4) after "the second schedule in order" for the remainder of the sub-paragraph there shall be substituted "that the completed years of any service which is reckonable as contributing service at half length may be reckoned in full";

(*b*) in paragraph (6) the words from "Notwithstanding the provisions of paragraph (5)" shall be deleted.

8. In regulation 37(2) of the principal regulations (separate benefits in the case of certain re-employed pensioners) for the words "number of years of service under these regulations by which those years, together with the years of" there shall be substituted "service under these regulations which, together with the" and for the word "exceed" there shall be substituted "exceeds".

9. In regulation 42(4) of the principal regulations (modification of benefits and obligations) for proviso (ii) there shall be substituted:—

"(ii) for the purpose of calculating the amount of any reduction under this paragraph, where an officer's service is increased by virtue of regulation 31(3), he shall be deemed to have paid reduced contributions under this regulation in respect of that added service;".

10. In proviso (iii) to regulation 51(2) of the principal regulations (approved employment) for the words "number of years" where they first appear there shall be substituted "period of service", and thereafter, wherever they appear there shall be substituted "period".

11. In the second schedule of the principal regulations (additional contributory payments)—

(*a*) in paragraph 1 for "The sum payable by an officer who desires to reckon any period of non-contributing service as contributing service" there shall be substituted "The sum payable by an officer in order that any completed year of service which is reckonable as contributing service at half length may be reckoned in full";

(*b*) in paragraph 6—

(i) in sub-paragraph (3) after "Such total amount is the sum payable by the officer" for the remainder of the sub-paragraph there shall be substituted "in order that one year of the service which he is entitled to reckon on the material date at half length may be reckoned in full";

(ii) in sub-paragraph (4) for "to reckon as contributing service more than one year of the non-contributing service which he is entitled to reckon at the material date" there shall be substituted "that more than one year of the service which he is entitled to reckon on the material date at half length may be reckoned in full";

(iii) in sub-paragraph (5) the word "non-contributing" shall be deleted.

Amendments relating to the meaning of average remuneration

12. In regulation 32 of the principal regulations (meaning of average remuneration) for the words from the beginning of the regulation to the words "provided that" there shall be substituted:—

"**32.** For the purposes of these regulations, the average remuneration of a person in relation to his employment as an officer of an employing authority means his remuneration in respect of his final year of such employment, and of any other employment, war service or national service reckonable as contributing service in relation to that employment, ending on—

(*a*) the date on which he ceased to hold his employment as an officer; or

(*b*) in the case of an existing officer not being a woman who is a nurse, physiotherapist, midwife or health visitor, who before attaining the age of sixty-five years has completed forty-five years' service, as calculated under regulation 31(1), the day preceding the date on which he attained the said age; or

(*c*) in the case of an officer other than such an officer as is mentioned in paragraph (*b*), the date on which he became an officer mentioned in paragraph (2) of regulation 8,

whichever is the earlier and such a final year shall, if a particular case so requires be computed by aggregating periods of employment so as to constitute a period of one year so, however, that if his employment or service as aforesaid was for less than one year his average remuneration shall be deemed to be the amount he received increased by the proportion which 365 bears to the number of days of his employment or service: provided that—

(i) if the annual amount of remuneration of an officer in either of the two consecutive years immediately preceding the final year is higher than his remuneration in his final year, then the remuneration in whichever of such earlier years was the higher shall be deemed to be the amount of remuneration for the final year;

(ii) if his employment was for less than three years and his remuneration in the year immediately preceding his final year was higher than his remuneration in his final year, then such higher remuneration shall be deemed to be the amount of remuneration for the final year;

(iii) if for the purposes of calculating any benefit under these regulations account is required to be taken of any fees or other variable emoluments payable to an officer, the amount thereof shall be taken to be the annual average of such payments during the period of three years ending on the date on which such officer ceased to hold his employment, or if more favourable, such longer period as does not exceed five years."

Provisos (i), (ii), (iii), (iv) and (v) shall be renumbered (iv), (v), (vi), (vii), and (viii) and proviso (vi) shall be deleted.

Amendments to the minimum qualifying period of service

13. For regulation 9 of the principal regulations (officer's pension and retiring allowance) there shall be substituted:—

(*a*) "**9.**—(1) An officer of an employing authority shall be entitled, on ceasing to be employed by them, to receive from the Committee—

(*a*) an annual pension, if either—

(i) he has completed five years' service and is incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body; or

(ii) he has attained the age of 65 years and completed five years' service; or

(iii) he has attained the age of 60 years and completed twenty-five years' service; or

(iv) he has attained the age of 60 years and has completed ten years' service; provided that he was an officer immediately before the date on which these regulations came into operation; or

(v) he has attained the age of 50 years on or before 30th September 1973 and has retired prematurely under the provisions of Article 3 of the Superannuation (Northern Ireland) Order 1973.

(*b*) a lump sum retiring allowance if he satisfies sub-paragraph (*a*), or has attained the age of sixty years and completed five years' service and was an officer immediately before the date on which these regulations came into operation.

(2) Where a pension under paragraph (1)(*a*)(v) and a lump sum retiring allowance under paragraph (1)(*b*) are payable the compensating authority shall pay to the Committee such an amount as may be actuarially determined which represents the cost to the Committee of paying such pension and lump sum retiring allowance before the officer would be entitled to the payment of such benefits under paragraph (1)(*a*)(i) to (iv) and paragraph (1)(*b*)."

(*b*) in regulation 15(1)(*b*) of the principal regulations (widow's pension) for the word "ten" there shall be substituted "five";

(*c*) in regulation 15A(2)(*a*) of the principal regulations (child's allowance) for the word "ten" there shall be substituted "five";

(*d*) in regulation 40 of the principal regulations (holders of joint appointments) for the word "ten" there shall be substituted "five".

14. Regulation 14 of the principal regulations (death gratuity) shall be amended as follows:—

(*a*) the existing regulation 14(1) shall be numbered regulation 14 and the existing regulation 14(2) shall be deleted;

(*b*) in sub-paragraph (*a*) the words "and at the date of his death he had completed five years service" shall be deleted;

(*c*) in sub-paragraph (*b*) the words "after completing five years service" shall be deleted.

Rate of widow's pension for the first three months immediately following an officer's death

15. In regulation 15 of the principal regulations (widow's pension)—