1973. No. 101 **[C]**

HEALTH SERVICES SUPERANNUATION

REGULATIONS, DATED 30TH MARCH 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES WITH THE CONSENT OF THE MINISTRY OF FINANCE UNDER ARTICLES 12 AND 14 OF THE SUPERANNUATION (NORTHERN IRELAND) ORDER 1972.

The Ministry of Health and Social Services, on behalf of the Secretary of State and in exercise of the powers conferred on it by Articles 12 and 14 of the Superannuation (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 consent of the Ministry 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) 1973 and shall come into operation on 1st April 1973.

Interpretation

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

Amendments relating to part-time employment

3. In regulation 2(1) of the principal regulations (which defines expressions used therein)—

(*a*) after the definition of "the Act" there shall be inserted the following definitions—

" "the Act of 1971" means the Health Services Act (Northern Ireland) 1971;"(**c**);

(*b*) after the definition of "transfer value" there shall be inserted the following definition—

" "transferred officer" means, subject to paragraph (5), a person who became an officer on transfer under the Act to the employment of an employing authority, or who became an officer in consequence of the acquisition of premises under section 74 of the Act of 1971;"

(*c*) in the definition of "mental health officer"—

(i) for the words "means an officer" there shall be substituted "means a whole-time officer", and

(ii) after the words "such persons" there shall be inserted "and any medical officer who devotes substantially the whole of his time to the provision at such a hospital of specialist services to such persons pursuant to section 25 of the Act of 1971, and, if the Ministry in a particular case consents, any other officer who, having been a mental health officer, without a break in his

(**a**) S.I. 1972, No. 1073 (N.I. 10).
(**b**) S.R. & O. (N.I.) 1962, No. 237.
(**c**) 1971. c. 1. (N.I).

service and without having become entitled to any benefit under these regulations subsequently becomes employed in a part-time capacity in any employment as aforesaid,".

4. In regulation 4(1) of the principal regulations (application of the regulations) for sub-paragraph (*c*) to the end of the paragraph there shall be substituted—

"(*c*) any other whole-time officer who was transferred under the Act or entered employment of an employing authority in consequence of the acquisition of premises under section 74 of the Act of 1971, and immediately before either of those events had reasonable expectations of superannuation benefits on retirement and since either of those events has remained an officer without a continuous break of 12 months or more other than a period to which regulation 17(2) applies;

(*d*) any other whole-time officer who at any time since attaining the age of eighteen years has been in the employment of that or any other employing authority as such whole-time officer for a continuous period of two years or for an aggregate period of two years without having had before the expiration of that aggregate period a break of more than one month at any one time;

(*e*) any part-time officer who is employed as a medical officer or dental officer; and

(*f*) any other part-time officer who satisfies the requirements of schedule 8:

Provided that—

(i) for the purposes of sub-paragraph (*d*) of this paragraph, account shall be taken of the employment of a transferred officer which he held at the time of transfer, and of any other employment before transfer in which, had he continued to hold it, he would have been transferred as if such employment had been employment under an employing authority;

(ii) where, on the termination of the employment of an officer of an employing authority, a payment is made in lieu of leave not taken by the officer, his employment as an officer in the employment of that authority shall for the purposes of these regulations be deemed to have continued for a period equal to such leave, and such payment shall be deemed to be his remuneration for that period; and

(iii) a whole-time officer of an employing authority, other than a practitioner, shall not in addition be an officer by virtue of sub-paragraph (*e*) or (*f*) of this paragraph; and the term "officer" shall be construed accordingly."

5. In regulation 16 of the principal regulations (reckoning of previous periods of employment), for paragraph (2) there shall be substituted—

"(2) If a person has become an officer on or before completion of the period of two years of employment required under regulation 4(1)(*d*) or under any provision in the previous regulations there shall be reckonable as service in relation to the employment in which he became such an officer any previous period of employment under an employing authority which was included in such period of two years and which was prior to the employment in which he became such an officer."

6. In regulation 21 of the principal regulations (reckoning of qualifying service) after paragraph (2) there shall be added—

"(3) A person who has become an officer by virtue of regulation 4(1)(*f*) shall be entitled to reckon for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating any such benefit, every period of employment which satisfies all of the following requirements, that is to say that it was a period of employment—

(i) after he attained the age of eighteen years;

(ii) under any body which is or is deemed to be an employing authority under these or the previous regulations or any corresponding regulations in England or Scotland;

(iii) for not less than half of such hours in any period as would have constituted whole-time employment in his case;

(iv) which was followed, within not more than three months, by other employment to which this paragraph applies or by employment which is reckonable as contributing service; and

(v) which is not and has not been reckonable as contributing service under these or the previous regulations or any corresponding regulations in England or Scotland;

and the proviso to paragraph (1) shall apply to a person to whom this paragraph applies.".

7. Schedule A to these regulations shall be included as the eighth schedule to the principal regulations.

Income tax on contributions refunded

8. In regulation 30 of the principal regulations (return of contributions)—

(*a*) for paragraph (1)(*a*) there shall be substituted—

"(1)(*a*) In this regulation, the provisions of paragraph (2) shall apply subject to the provisions of paragraphs (8) and (9) in relation to a person who is an excepted officer, the provisions of paragraphs (3) to (5) shall apply subject to the provisions of paragraphs (8) and (9) in relation to a person who is not an excepted officer, and the provisions of paragraph (7) shall apply in relation to any person whether or not he is an excepted officer.";

(*b*) for paragraph (1)(*b*)(i) there shall be substituted—

"(i) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he is required under these or the previous regulations to pay, and";

(*c*) after paragraph (7) there shall be added the following paragraphs—

"(8) Where the Ministry is charged to income tax on any amount paid under this regulation, the sum payable by it under this regulation shall be reduced by an amount equal to that tax.

(9) Where an officer would, apart from this paragraph, be entitled to receive under this regulation a return of his contributions and any of those contributions were paid in respect of remuneration exceeding £5,000 in any financial year, or were paid under some other superannuation scheme in which he was subject, on leaving, to a provision corresponding to this paragraph, he shall not be entitled to receive any payment under this regulation, but in lieu

thereof shall be entitled on attaining the age of 60 years (or if he is then an officer on ceasing after that age to be an officer) to the benefits to which he would be entitled under regulation 7(1)(*a*)(ii) if he satisfied the requirements of that provision.".

9. Where any provision of the principal regulations enables a person to pay or repay an amount equal to any sum paid to him by way of return of contributions together with an amount equal to any income tax which was deducted from his contributions in respect of such payment, the requirement to repay an amount equal to such income tax shall not require the person to repay an amount equal to any reduction of the payment under regulation 30(8) of the principal regulations.

Amendments relating to actuarial investigation

10. In regulation 51 of the principal regulations (accounts and actuarial investigations) for paragraph (4) there shall be substituted the following paragraph—

"(4) As at the expiration of every period of 5 years after 31st March 1969 there shall, unless the Ministry of Finance otherwise determines, be an actuarial investigation by the Government Actuary of the assets and liabilities of the Ministry in respect of the benefits provided by the Ministry under these regulations, and the Government Actuary shall submit to the Ministry and to the Ministry of Finance a report of every such investigation.".

Amendments relating to reduction of pension or injury allowance

11. In regulation 32 of the principal regulations (reduction of pension or injury allowance)—

(*a*) for the words from the beginning of paragraph (1) to and including the words "payable out of public funds, then" there shall be substituted—

"(1) Where a person who has become entitled to a pension or injury allowance under these regulations or the previous regulations—

(*a*) continues in or enters the employment of an employing authority as defined in regulation 2(1) of these regulations, in regulation 2(1) of the National Health Service (Superannuation) Regulations 1961(**d**), or in regulation 2(2) of the National Health Service (Superannuation) (Scotland) Regulations 1961(**e**), but not including employment with an employer with whom an agreement has been made under Article 12(9) of the Superannuation (Northern Ireland) Order 1972 or in respect of whom a direction has been made under Article 12(6) of that Order; or

(*b*) continues in or enters any other employment in which he participates in the benefits provided under these regulations, the National Health Service (Superannuation) Regulations, 1961, or the National Health Service (Superannuation) (Scotland) Regulations 1961,

then, until he attains the age of 70 years,";

(*b*) in paragraph (2) for the words "the remuneration of which will be payable out of public funds" there shall be substituted the words "to which paragraph (1) of this regulation applies".

(**d**) S.I. 1961, No. 1441 (II, p. 2824). (**e**) S.I. 1961, No. 1398 (II, p. 2697).