1973. No. 32 **[C]**

Superannuation (Teachers and Teachers' Families) (Amendment) Regulations (Northern Ireland) 1973

REGULATIONS, DATED THE 12TH DAY OF FEBRUARY 1973, MADE BY THE MINISTRY OF EDUCATION, WITH THE CONSENT OF THE MINISTRY OF FINANCE UNDER ARTICLE 11 OF THE SUPERANNUATION (NORTHERN IRELAND) ORDER 1972 AND UNDER SECTION 61 AND SECTION 103 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

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SCHEDULES

SCHEDULE 1—Non-reckonable service counting towards entitlement to allowances

SCHEDULE 2—Modification of Family Benefits Scheme

The Ministry of Education on behalf of the Secretary of State, in exercise of the powers conferred upon it by Article 11 of the Superannuation (Northern Ireland) Order 1972(**a**) and all other powers enabling it in that behalf; and after consultation with representatives of local education authorities and of teachers and with such representatives of other persons likely to be affected as required by Article 11(5) of the said Order, and with the consent of the Ministry of Finance, hereby makes the following Regulations, except regulation 19; and having made the consultations required by section 61(3) of the National Insurance Act (Northern Ireland) 1966(**b**) and having been determined by the Ministry of Finance to be the appropriate department under section 103(1) of that Act, in exercise of the powers conferred upon it by those sections and of all other powers enabling it in that behalf hereby makes regulation 19—

PART I

GENERAL

Citation, construction and commencement

1.—(1) These Regulations may be cited as the Superannuation (Teachers and Teachers' Families) (Amendment) Regulations (Northern Ireland) 1973.

(2)(*a*) Part II of these Regulations shall be construed as one with the Teachers' Superannuation Regulations (Northern Ireland) 1972(**c**) and shall be included among the regulations which may be cited under that title.

(*b*) Part III of these Regulations shall be construed as one with the Teachers' Superannuation (Family Benefits) Rules (Northern Ireland) 1972(**d**) and shall be included among the regulations which may be cited under that title.

(*c*) These Regulations shall come into operation on 12th February 1973 and except as otherwise expressly provided shall have effect from 1st April 1972.

(**a**) S.I. 1972, No. 1073 (N.I. 10).
(**b**) 1966. c. 6 (N.I.).
(**c**) S.R. & O. (N.I.) 1972, No. 319.
(**d**) S.R. & O. (N.I.) 1972, No. 82.

Saving for existing rights

2.—(1) No provision made by these Regulations shall apply to any person to whom at any time from 1st April 1972 to 11th February 1973 (both dates inclusive) any allowance or other benefit under either regulations specified in paragraph 2(*a*) or 2(*b*) of regulation 1 was or is being paid, or became or may become payable if:—

(*a*) he is placed by that provision in a worse position than he would have been if it had not applied in relation to that allowance or benefit; and

(*b*) that provision relates to an allowance or other benefit paid or payable to or in respect of a teacher who ceased to be employed in reckonable service before 12th February 1973 or in respect of a teacher who died before that date; and

(*c*) that person elects that that provision shall not apply to him.

(2) An election under this regulation shall be made in writing and delivered to the Ministry within three months of the day on which the right to the allowance or benefit in question accrues.

Transitory provision

3. Where any provision of these Regulations requires something to be done within a period of time beginning with the day upon which a specified event occurs, then if that event occurred before 12th February 1973 the reference in that regulation to the day upon which the event occurred shall be construed as a reference to 12th February 1973.

PART II

TEACHERS' SUPERANNUATION

Interpretation of Part II

4. In this Part of these Regulations any reference to a regulation not otherwise identified is to be construed as a reference to the appropriate regulation of the Teachers Superannuation Regulations (Northern Ireland) 1972.

External service

5.—(1) In regulation 5—

(*a*) paragraph (2) shall cease to have effect and is hereby revoked; and

(*b*) for paragraph (3) there shall be substituted the following—

> "(3) For the purpose of calculating the average salary of a teacher under regulation 66 reckonable service shall be deemed to include any service of that teacher which is external service and, unless the teacher otherwise elects or has received payment of superannuation allowances under regulation 35(1)(*a*) or 35(1)(*b*) service of the kinds specified in paragraphs 1 and 2 of Schedule 1 to the Superannuation (Teachers and Teachers' Families) (Amendment) Regulations (Northern Ireland) 1972."

(2) In consequence of paragraph (1)

(*a*) in regulation 37 (duration of annual superannuation allowances) for the words "class A or class B external service" there shall be substituted the words "in such service as is specified in regulation 5(3)";

(*b*) in Schedule 2 there shall be omitted the reference in Part I to class A external service and the whole of Part II (class B external service) and Part III (class C external service);

(*c*) sub-paragraphs (*e*), (*f*) and (*g*) of regulation 42(1) (when contributions repayable) of the Teachers' Superannuation (Family Benefits) Rules (Northern Ireland) 1972 shall be revoked; and

(*d*) any reference to external service of any class and any reference to approved external service in any regulation or rule relating to the superannuation of teachers shall be construed as a reference to external service within the meaning of regulation 5 as amended by this regulation.

Qualifying service

6. Regulation 6 shall cease to have effect and is hereby revoked.

Exclusion from reckonable service

7. At the end of regulation 13 there shall be added as a new paragraph—

"(*d*) having on or after 1st April 1972 entered reckonable service for the first time at the age of fifty-five or over without having previously been employed in external service, he so elects by notice in writing to the Ministry within three months of his becoming so employed."

Repayment of repaid contributions

8. In paragraph (1) of regulation 24 for the words "any 1923 Act Scheme, section 10 of the Act of 1950, section 16 of the Act of 1956 or regulation 29 or" there shall be substituted the word "regulation" and after that paragraph there shall be inserted as a new paragraph—

"(1A) Paragraph (1) shall apply to a teacher to whom contributions have been repaid before 1st June 1973 under any 1923 Act Scheme, section 10 of the Act of 1950, section 16 of the Act of 1956 or regulation 29 if but only if those contributions have not previously been repaid to the Ministry under this regulation, or under any provision superseded by this regulation which authorises the repayment of repaid contributions, after being repaid to the teacher under any of the provisions mentioned above; and except as provided above paragraph (1) shall not apply to a teacher to whom contributions have been repaid under any of those provisions."

Repayment on cessation of employment

9. For regulation 29 there shall be substituted the following—

"*Repayment on cessation of employment*

29.—(1) Subject to paragraph (2) a teacher shall be entitled to be repaid by the Ministry a sum equal to the balance of his contributions computed as at the date of repayment, reduced in respect of any repayment after 5th April 1973 by a sum equal to the tax chargeable on that repayment under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970 (charge to tax on repayment of employees contributions), if before attaining the age of compulsory retirement he has ceased or ceases to be employed in reckonable or external service; and

(*a*) he neither

(i) is qualified for any allowance or gratuity under these Regulations; nor

(ii) has been employed since 31st March 1972 in periods of reckonable service, or of reckonable service and external service, amounting in the aggregate to five years; and

(*b*) (i) he continues not to be employed in reckonable service or external service for a continuous period amounting to three months, or such shorter period as the Ministry may in the circumstances of the particular case direct; and

(ii) that period is not a period of absence to which regulation 10 applies.

(2) Paragraph (1) shall not apply to a teacher whose salary in any year has exceeded the annual rate of £5,000; but any such teacher shall, if he has attained the age of sixty and would apart from this paragraph be entitled to be repaid any sum under that paragraph, be entitled to be paid by the Ministry an annuity equal to the amount determined by the Government Actuary as the actuarial equivalent of the balance of his contributions."

Repayment at age of compulsory retirement

10. For regulation 30 there shall be substituted the following—

"*Repayment at age of compulsory retirement*

30.—(1) Subject to paragraph (2) a teacher who was at any time employed in reckonable service who has attained the age of compulsory retirement and was then not qualified for any allowance or gratuity under these Regulations shall be entitled to be repaid by the Ministry a sum equal to the balance of his contributions computed as at the date on which he attained or attains that age, reduced in respect of any repayment after 5th April 1973 by a sum equal to the tax chargeable on that repayment under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970.

(2) Paragraph (1) shall not apply to a teacher whose salary in any year has exceeded the annual rate of £5,000; but any such teacher shall, if he has attained the age of compulsory retirement and would apart from this paragraph be entitled to be repaid any sum under that paragraph, be entitled to be paid by the Ministry an annuity equal to the amount determined by the Government Actuary as the actuarial equivalent of the balance of his contributions."

Repayment to pensioners after further service

11. At the end of regulation 34 there shall be deleted everything after the word "together" and the following shall be substituted—

"if that service was for three hundred and sixty-five days or more, with compound interest thereon calculated at three per cent per annum with yearly rests, reduced (in either case) in respect of any repayment after 5th April 1973 by a sum equal to the tax chargeable on that repayment under paragraph 2 of Part II of Schedule 5 to the Finance Act 1970."

Qualifications for superannuation allowances

12.—(1) For regulation 35 (qualifications for superannuation allowances) there shall be substituted the following—

"*Qualifications for superannuation allowances*

35.—(1) Subject as provided in this Part, an annual superannuation allowance and an additional superannuation allowance by way of lump sum payment, each of the amounts specified in this Part shall be paid by the Ministry to a teacher who—