1971. No. 108 **[C]**

LOCAL GOVERNMENT SUPERANNUATION

REGULATIONS*, DATED 1ST APRIL 1971, MADE BY THE MINISTRY OF DEVELOPMENT, UNDER SECTION 2 OF THE LOCAL GOVERNMENT (SUPERANNUATION) ACT (NORTHERN IRELAND) 1950.

The Ministry of Development in exercise of the powers conferred on it by section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(**a**), and of all other powers enabling it in that behalf, hereby makes the following regulations in the terms of a draft which has been approved by the Ministry of Finance in accordance with section 7(2) of the said Act:—

PART I

Citation, commencement and interpretation

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1971 and Part I shall come into operation on 1st April 1971 and Part II shall be deemed to have come into operation on 1st April 1950.

2. In these regulations "the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**b**).

Amendments relating to Widow's Pension

3.—(1) The following provisions of this regulation shall have effect in order to enable an officer to elect on retirement, or his widow to elect on his death before retirement, for the payment of a widow's pension at a higher rate by surrendering their rights to retiring allowance and death gratuity.

(2) At the end of regulation 9 of the principal regulations (which relates to officer's pension and retiring allowance) there shall be added the following proviso:—

> "Provided that no retiring allowance shall be payable to a married male officer in respect of whose death a widow's pension may become payable and who on his retirement elects not to receive such an allowance with a view to the payment of widow's pension at the higher rate provided for in regulation 15(3A), but any increase in the retiring allowance which would apart from this proviso have been paid under regulation 43 shall be payable under that regulation as if this proviso had not been made."

(3) Regulation 14 of the principal regulations (which relates to death gratuities) shall be amended as follows:—

(*a*) The existing regulation 14 shall be numbered paragraph (1) and for the words "then the Committee shall pay to his personal representatives" there shall be substituted the words "then, except as provided in paragraph (2), the Committee shall pay to his widow if they were not judicially separated at the time of his death, or otherwise to his personal representatives".

(a) 1950. c. 10. (b) S.R. & O. (N.I.) 1962, No. 210.

*A draft of these Regulations was approved by Resolution of the Senate on the 23rd day of March 1971 and by Resolution of the House of Commons on the 1st day of April 1971.

(*b*) There shall be added the following paragraph:—

"(2) No death gratuity shall be payable under this regulation in any case where a widow's pension is payable at the higher rate provided for in regulation 15(3A) unless the capital value of the widow's pension and any child's allowance is less than the amount of the death gratuity which would have been payable had no widow's pension or child's allowance been payable, in which case there shall be paid a sum equal to the difference between such capital value and such amount.".

(4) At the beginning of regulation 15(3) of the principal regulations (which relates to widow's pension) there shall be inserted the words "Subject to the provisions of paragraph (3A)".

(5) After regulation 15(3) of the principal regulations there shall be inserted the following paragraph:—

"(3A) Where—

(*a*) a married male officer has elected on retirement on or after 1st April 1971 not to receive a retiring allowance, or

(*b*) on the death on or after 1st April 1971 in the circumstances mentioned in regulation 14(1)(*a*) or (*b*) of a married male officer or former officer in respect of whose death a widow's pension is payable, his widow has, within three months of the date of his death or within such longer period as the Committee may in any particular case allow, elected to receive the benefits provided by this paragraph,

the amount of the widow's pension shall be as stated in the last foregoing paragraph except that for the words "one-third" in each case where they appear in that paragraph there shall be substituted the words "one-half"."

(6) In regulation 33(6) of the principal regulations (which relates to the return of contributions) after the words "death gratuity" there shall be inserted the words "or widow's pension".

Child's allowance

4.—(1) The following regulation shall be included after regulation 15 of the principal regulations and Schedule A to these regulations shall be included as the ninth schedule to the principal regulations:—

"Child's allowance

15A.—(1) Subject to and in accordance with the ninth schedule, an allowance (in these regulations referred to as "a child's allowance") shall be payable to or for the benefit of any child to whom this regulation applies.

(2) This regulation applies to any child—

(*a*) who is a child of a person who dies on or after 1st April 1971 in the circumstances mentioned in regulation 14(1)(*a*) or (*b*), or who has become entitled to a pension after that date and has since died, being in either case a person who has completed not less than ten years service, and

(*b*) who has not attained the age of sixteen years or, if sixteen years of age or over, as to whom the Committee are satisfied that he is continuing to receive full time education, and

(*c*) who was dependent on the person mentioned in sub-paragraph (*a*).

(3) If any child's allowance has ceased to be payable and no widow's pension has been payable under these regulations or the 1950 regulations, and if the aggregate amount of the payments by way of child's allowance

or to the officer, his widow or his personal representative by way of pension, retiring allowance, injury allowance, short service gratuity or death gratuity under these regulations or the 1950 regulations, and of any sum which would have been so paid by way of pension or injury allowance but for any surrender thereof, is less than the amount of the death gratuity which would have been payable under these regulations in respect of the death of the officer if no child's allowance had been payable in respect thereof, there shall be paid to or among such persons as the Committee may determine a sum equal to the deficiency.

(4) For the purposes of this regulation "child" includes step-child, adopted child or illegitimate child but does not include any child adopted, or who became a step-child, after the date when the parent in respect of whose death the allowance is payable last ceased to be an officer, or any child born more than a year after that date; "eligible child" means a child to whom this regulation applies and "parent" shall be construed accordingly.".

(2) In regulation 14(1) of the principal regulations (which relates to death gratuities)—

(*a*) after the words "paragraph (*b*)" there shall be inserted the words "or where a child's allowance is payable under regulation 15A";

(*b*) in proviso (i) after the words "the capital value of the widow's pension" there shall be inserted the words "and of any child's allowance" and for the words "apart from this proviso" there shall be substituted the words "had no widow's pension or child's allowance been payable";

(*c*) after proviso (i) there shall be inserted the following proviso:—

"(ii) in the case of a person in respect of whose death a child's allowance but no widow's pension is payable, if the capital value of the child's allowance is less than the amount of the death gratuity which would have been payable had no child's allowance been payable, the death gratuity shall be a sum equal to the difference between such capital value and such amount or a sum equal to the death gratuity which would have been payable apart from this proviso, whichever of the two sums is the greater;"

and provisos (ii) and (iii) shall be renumbered (iii) and (iv) respectively.

(3) For regulation 15(5) of the principal regulations there shall be substituted the following paragraph:—

"(5) If a widow to whom a widow's pension is payable under these regulations or the 1950 regulations has remarried or died and any child's allowance has ceased to be payable, and if the aggregate amount of the payments by way of child's allowance or made to the husband, his widow or his personal representative by way of pension, widow's pension, retiring allowance, injury allowance, short service gratuity or death gratuity under these regulations or the 1950 regulations, and of any sum which would have been so paid by way of pension or injury allowance but for any surrender thereof, is less than the amount of the death gratuity which would have been payable under these regulations or the 1950 regulations in respect of the death of the husband if no widow's pension or child's allowance had been payable in respect thereof, there shall be paid to or among such persons as the Committee may determine a sum equal to the deficiency.".

(4) In regulation 51(2)(*c*) of the principal regulations (which relates to approved employment) after the words "widow's pension" there shall be inserted the words ", child's allowance".

Miscellaneous amendments

5. Regulation 2(1) of the principal regulations (which defines expressions used in the regulations) shall be amended as follows:—

(*a*) In the definition of "national service" for the words "service of a description specified in the First Schedule to" there shall be substituted the words "service which is relevant service within the meaning of".

(*b*) In the definition of "service" after the words "paragraph (2) of regulation 8" there shall be added the words "or in respect of which the Committee have paid the contributions authorised or required by any pension scheme referred to in regulation 39;".

6. Regulation 8(2) of the principal regulations (which relates to contributions) shall be amended as follows:—

(*a*) In sub-paragraph (*c*) for the words "forty-five years service, counting contributing service at its full length and non-contributing service at half its actual length" there shall be substituted the words "forty-five years contributing service or forty-five years contributing and non-contributing service, counting the non-contributing service at half its length".

(*b*) In proviso (i) to sub-paragraph (*d*) the words "who before becoming an officer was entitled to a pension or injury allowance payable out of public funds otherwise than under the National Insurance Acts (Northern Ireland) 1946,(c) or" shall be omitted.

7. In the proviso to regulation 10 (which relates to the scales of pension and retiring allowance) the words "the smaller of three thousand pounds or" shall be omitted.

8. For regulation 11(3) of the principal regulations (which relates to injury allowances) there shall be substituted the following paragraph:—

"(3) If a person to whom paragraph (1) applies dies, the Committee may grant to his widow or to any dependant of his, such gratuity or such annual allowance as the Committee may from time to time consider reasonable, having regard to all the circumstances of the case.".

9. In regulation 15 of the principal regulations (which relates to widow's pension)—

(*a*) in paragraph (1) the words "or injury allowance" in sub-paragraph (*a*), the words "or allowance" in proviso (i), and the words "or injury allowance" in proviso (iii) shall be omitted, and

(*b*) in paragraph (3)(*b*) the words "or injury allowance" and "or allowance" shall be omitted.

10. In regulation 18(1) of the principal regulations (which relates to reckoning as service of previous periods of employment) in proviso (*a*) the words "unless in his former employment he was an established civil servant" shall be omitted.

11. In regulation 19(1) of the principal regulations (which relates to intervals in service due to illness or injury) for the words "paragraph (*b*) of regulation 14" there shall be substituted the words "paragraphs (*a*) and (*b*) of regulation 14(1)" and after the words "regulation 15" there shall be inserted the words ", regulations 15A and 39".

(c) 1946. c. 21 & 23.

12. In regulation 20 of the principal regulations (which deals with breaks between employments) for the words from the beginning of paragraph (*b*) to the end of the regulation there shall be substituted the following:—

"(*b*) where a person left employment as an officer and entered (whether or not after a period spent on national service) an approved course of study or training, no account shall be taken of any period spent by him on that course of study or training, and if on the completion of such a course he became engaged in national service, he shall be deemed to have left his employment as an officer at the time when he completed the course;

(*c*) where a person left any such employment as is mentioned in regulation 18(3), other than employment as an officer, the period of twelve months or six months as the case may be, may be extended by such period as the Committee, with the consent of the body administering the superannuation scheme associated with his former employment, may in any particular case allow.".

13. In regulation 25(1) of the principal regulations (which relates to the reckoning of service)—

(*a*) in provisos (iv) and (v) after the words "sub-paragraph (*d*)(vi)" there shall be inserted the words "or (*d*)(vii)" and the words "local Act" where they occur shall be deleted;

(*b*) in proviso (vi) for the words "or (*d*)(vi)" there shall be substituted the words ", (*d*)(vi) or (*d*)(vii).".

14. At the end of regulation 28 of the principal regulations (which relates to the continuation of additional contributory payments) there shall be added the following paragraph:—

"(3) Subject to any necessary modifications, this regulation shall apply in relation to any person who becomes an officer after leaving employment referred to in sub-paragraph (*e*)(iv) of regulation 18(3) as if the superannuation scheme to which he was subject in that employment was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.".

15. At the end of regulation 29 of the principal regulations (which relates to continuation of payments for added years) there shall be added the following paragraph:—

"(4) Subject to any necessary modifications, this regulation shall apply in relation to added years reckonable by any person who becomes an officer after leaving employment referred to in sub-paragraph (*e*)(iv) of regulation 18(3) as if the superannuation scheme to which he was subject in that employment was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.".

16. In regulation 31 of the principal regulations (which relates to the calculation of service) for the words "For the purpose of making any calculation under these regulations (except a calculation under the second schedule, the third schedule or the fourth schedule) in respect of an officer's service—" there shall be substituted the words "For the purpose of calculating the length of an officer's contributing service or non-contributing service, and for the purpose of making any other calculation under these regulations (except a calculation under the second schedule, the third schedule or the fourth schedule) in respect of such service—".