

1982 No. 58

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment)
Regulations (Northern Ireland) 1982

Made 3rd March 1982

Coming into operation 1st April 1982

The Department of the Environment in exercise of the powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b) and of every other power enabling it in that behalf and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1982 and shall come into operation on and have effect from 1st April 1982 except for regulations 4, 6, 9 and 10 which shall have effect as from 1st May 1981.

(2) These regulations and the Local Government (Superannuation) Regulations (Northern Ireland) 1981(c) may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1982.

(3) In these regulations “the principal regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981 and other words and expressions have the same meaning as in the principal regulations.

Actuary's certificates

2. After regulation 9(3) of the principal regulations there shall be added the following paragraph—

“(4) If:—

- (a) the rate specified under paragraph (1)(a) for the first year of a period to which a certificate under this regulation (“the new certificate”) relates (“the new rate”) is less than the rate so specified for the last year of the period (“the preceding period”) to which a preceding certificate under this regulation (“the old certificate”) relates (“the old rate”); and
- (b) the new certificate is obtained more than 6 months before the end of the preceding period;

the old certificate shall, if the actuary and the Committee so agree, have effect for the last year of the preceding period with the substitution of the new rate for the old rate.”

(a) S.I. 1972/1073 (N.I. 10)

(b) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); Northern Ireland Constitution Act 1973 (c. 36) Sch. 5 para. 8(1); S.I. 1976/424 (N.I. 6)

(c) S.R. 1981 No. 96

Return of contributions

3. After regulation 16(10)(c) of the principal regulations there shall be added the following sub-paragraph—

“or

- (d) to a person who is for the time being entitled to be paid, or has been paid, an ill-health retirement grant under regulation 28A.”.

Death gratuity

4. Regulation 23 of the principal regulations shall be amended as follows—

- (a) in paragraph (5) the words “retiring allowance or injury allowance” and the words “or injury allowance” in the second place where they occur are hereby revoked;
- (b) in paragraph (6)—
- (i) the words “retiring allowance, injury allowance or short service gratuity under these regulations or under the previous regulations” and the words “or injury allowance” where they last occur, are hereby revoked;
- (ii) for the words “pension, retiring allowance or injury allowance” there shall be substituted the words “pension and retiring allowance”.

Ill-health retirement grant

5. After regulation 28 of the principal regulations there shall be inserted the following regulation—

“Ill-health retirement grant

28A—(1) This regulation applies to a person—

- (a) who has at any time since 8th December 1980 ceased to hold his employment under an employing authority;
- (b) who when he ceased to hold that employment—
- (i) had completed an aggregate of one or more but less than 5 years’ service; and
- (ii) was incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body;
- (c) who did not cease to hold that employment in consequence of any such offence or misconduct as are mentioned in regulation 16(8);
- (d) who is not apart from this regulation entitled, whether by virtue of his having or not having made any election or otherwise, to any payment out of the fund other than an injury allowance or a return of contributions and has not received any return of contributions; and
- (e) who if a return of contributions (increased under regulation 71 where that regulation applies) were made to him would receive a net amount smaller than that of a grant calculated in accordance with paragraph (2).

(2) A person to whom paragraph (1) applies is entitled to be paid a grant (“an ill-health retirement grant”) of an amount equal to—

- (a) 1/12th of his average remuneration multiplied by the length in years of his contributing service; or
- (b) 3/80ths of his average remuneration multiplied by the length in years of the total period he would have been entitled to reckon as contributing service if—
- (i) he had remained an officer without any break in service until he had attained the age of 65 years; and

- (ii) any payments in respect of added years or additional periods had been completed,

whichever is the lesser amount.

(3) A person—

- (a) who has received before 1st April 1982 a return of contributions; and
(b) to whom paragraph (1) would otherwise have applied;

is, if he repays to the Committee an amount equal to the net amount he received when the return of contributions (as increased under regulation 71 where that regulation applies) was made, entitled to be paid an ill-health retirement grant of the amount specified in paragraph (2).

(4) Paragraph (5) applies—

(a) to a person falling within paragraph (1)(a) to (c) who—

- (i) has ceased to hold his employment after 31st March 1982; or
(ii) has ceased to hold his employment before 1st April 1982 but on 1st April 1982, had not made any election that he was entitled to make under regulation 16; and

(b) to a person falling within paragraph (3).

(5) Where this paragraph applies to a person the Committee shall notify him in writing, as soon as is reasonably practicable, of the amount of the ill-health retirement grant to which he would be entitled if he—

- (a) remained or became a person to whom paragraph (1) applies; or
(b) paid the amount specified in paragraph (3).”

Method of calculating service, contributing service and non-contributing service

6. Regulation 40 of the principal regulations shall be amended as follows—

- (a) in paragraph (1) for the words “regulations 47 and 50 apply” there shall be substituted the words “regulation 47 applies”; and
(b) in paragraph (2) the words “or 50” are hereby revoked.

Further provision as to average remuneration

7. After regulation 41 of the principal regulations there shall be inserted the following regulation—

“Further provision as to average remuneration

41A—(1) This regulation applies to a person who has at any time after 31st March 1978 ceased to hold an employment under an employing authority and who is affected by a staging agreement.

(2) A person who has ceased to hold an employment as mentioned in paragraph (1) is affected by a staging agreement if—

(a) there has been an agreement or award—

- (i) which, whether before or after he ceased to hold his employment, gave rise to rights enforceable by every member of a class or description of employees to which he belonged at a material time;
(ii) which, whether or not it entitled him to any interim increase, entitled him, or would if he had not ceased to hold his employment have entitled him, in that employment to the payment of remuneration from a specified date at an increased rate (“the final rate”) which was either specified in or to be determined by a method or in a manner specified in the agreement or award; and

- (iii) under the terms of which either the final rate or any interim increase became payable on or before 1st January 1980;
- (b) but for considerations of economy the final rate would have been made payable from a date ("the relevant date") earlier than the date mentioned in sub-paragraph (a)(ii); and
- (c) his remuneration at a material time was less than it would have been if the final rate had become payable from the relevant date.

(3) Subject to paragraph (4), where this regulation applies to a person the amount of any remuneration that is material for the purposes of regulation 41 shall for those purposes be taken to be what it would have been if the final rate had become payable from the relevant date.

(4) Paragraph (3) does not apply to the calculation of a person's average remuneration for the purposes of regulations 24(3)(c), 25(3)(b), 26 and 27.

(5) For the purposes of this regulation:—

- (a) a material time is a time material for the purpose of calculating the person's average remuneration under regulation 41; and
- (b) a class or description of employees may include persons who neither are nor are deemed to be employees under an employing authority."

Application to special classes

8. For regulation 50 of the principal regulations (Application to female nurses, physiotherapists, midwives and health visitors) there shall be substituted—

"50. In their application to a female officer who for the whole of the last 5 years of her service has been employed as a practising nurse, physiotherapist, midwife or health visitor, these regulations shall have effect subject to the modifications set out in Part II of Schedule 11."

Reduction of pension in consequence of payment of reduced contributions under the previous regulations

9. Regulation 53 of the principal regulations shall be amended as follows—

- (a) in sub-paragraph (2)(a) the words "the Belfast Corporation Superannuation Scheme or" in each place where they occur and the words "a person subject to the Belfast Corporation Superannuation Scheme" are hereby revoked;
- (b) in sub-paragraphs (2)(b), (c) and (d) the words "a person subject to the Belfast Corporation Superannuation Scheme" are hereby revoked;
- (c) in sub-paragraphs (8)(a) and (b) the words "a person subject to the Belfast Corporation Superannuation Scheme" are hereby revoked.

Modification to the regulations in their application to special cases

10. Part I of Schedule 11 to the principal regulations (Existing Officers) shall be amended as follows—

(a) for paragraph 3 there shall be substituted—

"3. In the case of an existing officer who elected under regulation 23 of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme to avail himself of the benefits of those regulations or that Scheme the amount of any retiring allowance payable to him under regulation 20 shall be increased by ½% in respect of each year of contributing service and ¼% in respect of each year of non-contributing service reckonable in respect of any period prior to 1st April 1950:

Provided that—

- (i) where the whole of the retiring allowance payable to the officer in respect of any such period as is mentioned in this paragraph falls to be reduced in accordance with proviso (a) or (b) to regulation 20(2), 1½% shall be substituted for ½% in respect of each year of contributing service and ¾% shall be substituted for ¼% in respect of each year of non-contributing service; and
 - (ii) where part only of the retiring allowance falls to be reduced in the manner aforesaid the amount of the retiring allowance shall be increased by a sum equal to the sum by which the retiring allowance would have been increased if the whole of that allowance had been reduced in the manner aforesaid.”;
- (b) after paragraph 6 there shall be added the following paragraph—
- “7. In this Part non-contributing service shall be calculated by deducting from an officer’s service all completed years of his contributing service and if his non-contributing service as so calculated includes a fraction of a year that fraction shall, if it amounts to or exceeds 6 months, be treated as a year and in any other case shall be disregarded.”.
- (c) Paragraph 5 is hereby revoked.

Right to opt out

11. No provision of these regulations shall apply to any person to whom at any time before 1st May 1981 any benefit (including a return of contributions and any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or may become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and
- (b) that provision relates to a benefit paid or payable in respect of a person who—
 - (i) ceased before 1st April 1982 to hold an employment in respect of which he was an officer; or
 - (ii) died before that date while still in such an employment; and
- (c) the first-mentioned person, by notice in writing given to the Committee within 3 months after 1st April 1982, elects that that provision shall not apply to him.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 3rd March 1982.

(L.S.)

J. G. W. McComish

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Local Government (Superannuation) Regulations (Northern Ireland) 1981 (the principal regulations). The main changes are—

- (a) where the 5-yearly actuary's certificate as to employers' contributions has been obtained more than 6 months before the beginning of a 5-year period and specifies a lower rate for the first year of that period than was specified for the last year of the preceding period, the lower rate may be substituted as the rate for that last year (regulation 2);
- (b) employees who have left the employment of an employing authority because of ill-health with less than the length of service needed for an early retirement pension are in some circumstances entitled to a new lump sum grant (regulations 3 and 5);
- (c) employees who after 31st March 1978 have left the employment of an employing authority during the currency of a "staged" or deferred pay award are entitled to have certain of their pension benefits calculated or re-calculated on the basis of notional average remuneration (regulation 7);
- (d) female nurses and others entitled to retire at age 55 are now required to serve the whole of the last 5 years of their service in practising their respective professions in order to qualify for early retirement benefits (regulation 8);
- (e) a number of minor defects appearing in the principal regulations are corrected (regulations 4, 6, 9 and 10).

Under the powers conferred by Article 14 of the Superannuation (Northern Ireland) Order 1972, some of the regulations are framed so as to have effect as from a date earlier than the date on which the regulations were made. Where as a result of such retrospection the rights of former employees could be adversely affected, provision is made for the relevant provision not to apply (regulation 11).