

Pensions

REGULATIONS,* DATED 18TH MAY, 1950, MADE BY THE MINISTRY OF COMMERCE, WITH THE APPROVAL OF THE MINISTRY OF FINANCE, UNDER SECTION 36 OF THE TRANSPORT ACT (NORTHERN IRELAND), 1948.

1950. No. 114

In exercise of the powers conferred upon it by section 36 of the Transport Act (Northern Ireland), 1948 (a), the Ministry of Commerce, with the approval of the Ministry of Finance, hereby makes the following Regulations :

Short title, commencement, and interpretation.

1.—(1) These Regulations may be cited as the Transferred Undertakings (Pensions of Employees Losing Employment, etc.) Regulations, (Northern Ireland), 1950.

(2) These Regulations shall come into operation on 28th June, 1950, and shall be deemed to have had effect from 30th September, 1948.

(3) In these Regulations, unless the text otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :

“ the Act ” means the Transport Act (Northern Ireland), 1948 ;

“ the Ministry ” means the Ministry of Commerce ;

“ the Authority ” means the Ulster Transport Authority ;

“ accrued pension rights ” has the meaning assigned to it by Regulation 5 of these Regulations ;

“ existing scheme ” has the meaning assigned to it by Regulation 5 of these Regulations ;

“ officer or servant ” means a person employed as an officer or servant by the Authority who became so employed immediately on ceasing to be employed as an officer or servant —

(a) by the Northern Ireland Road Transport Board ;

(b) by the Belfast and County Down Railway Company ; or

(c) by the British Transport Commission in connection with that part of their undertaking situated in Northern Ireland which was operated and managed by the Northern Counties Committee ;

“ relevant event ” means —

(a) in relation to an officer or servant formerly employed as such by the Northern Ireland Road Transport Board, the transfer effected by Part II of the Act ;

(a) 12 Geo. 6 Ch. 16 (N.I.)

* These Regulations were approved in draft in accordance with subsection (3) of Section 71 of the Transport Act (N.I.), 1948, by the Senate and the House of Commons on 27th June, 1950.

- (b) in relation to an officer or servant formerly employed as such by the Belfast and County Down Railway Company, the transfer effected by Part III of the Act ;
- (c) in relation to an officer or servant formerly employed as such by the British Transport Commission, the transfer effected by the arrangement dated 14th December, 1948, made under the provisions of section 65 of the Act between the British Transport Commission and the Authority ;

“ pensionable service ” in relation to a pensionable officer or servant includes any period ranking for benefit under his existing scheme.

(4) The Interpretation Act, 1889, shall apply for the purposes of the interpretation of these Regulations in like manner as it applies, by virtue of the Interpretation Act, 1921 (a), for the purposes of the interpretation of an Act of the Parliament of Northern Ireland.

Continuation of the N.I.R.T.B.'s pension scheme.

2.—(1) The pension scheme established by the Northern Ireland Road Transport Board under section 28 of the Road and Railway Transport Act (Northern Ireland), 1935, (in these Regulations referred to as “ the Board's scheme ”) shall, subject to the modifications thereof provided for in these Regulations, continue in force as respects any officer or servant who was immediately before the relevant event a participant in the Board's scheme.

(2) It shall be a term of the Board's scheme that an officer or servant whose emoluments are diminished in consequence of the relevant event, the cause of such diminution having arisen not later than ten years after the relevant event, may (without prejudice to any other power he may have in that behalf) with the consent of the Authority and the persons administering the scheme, continue his contributions under the Board's scheme and to have contributions paid in respect of him thereunder by reference to the amount of his emoluments before they were first so diminished ; and notwithstanding anything to the contrary therein contained, the Board's scheme and any instrument whatsoever relating thereto or made for the purposes thereof, shall be construed accordingly.

Provisions safeguarding the pensions of persons who continue in other schemes.

3. Where —

- (a) any officer or servant was immediately before the relevant event a participant in a pension scheme other than the Board's scheme ; and
- (b) he continues after the relevant event to be a participant in such scheme ; and
- (c) his emoluments are diminished in consequence of the relevant event, the cause of such diminution having arisen not later than ten years after the relevant event ; and
- (d) he suffers any diminution of pension rights by reason only of such diminution of emoluments ;

the Authority shall, within three months of the date of that diminution

(a) 12 Geo. 5, Ch. 4 (N.I.)

of emoluments, subject to the provisions of this Regulation, make such arrangements as may be necessary to ensure to that officer or servant pension rights which together with his pension rights (as diminished) under the scheme are equivalent to his pension rights under the scheme before such diminution of emoluments.

The existence of the duty of the Authority under this Regulation towards any such officer or servant as aforesaid shall be conditional upon his making, from the date of the diminution of his emoluments, contributions to the Authority of an amount equal to the difference between the amount of his contributions to the scheme before the diminution of his emoluments, and the amount of such contributions after such diminution.

4. The following Regulations shall apply to every officer or servant who loses his employment as an officer or servant in consequence of the relevant event, the cause of such loss of employment having arisen not later than ten years after the relevant event ; and hereafter in these Regulations any such officer as aforesaid is referred to as an officer to whom these Regulations apply.

Application of Regulations relating to pension rights of persons who lose their employment.

5.—(1) For the purposes of this Regulation and the following Regulations, the expression “ existing scheme ” —

Definition of pension rights to be ensured to persons who lose their employment.

- (a) in relation to any officer or servant to whom these Regulations apply who immediately before the relevant event was a participant in the Board's scheme, means that scheme ; and
- (b) in relation to any officer or servant to whom these regulations apply who immediately before the relevant event was a participant in a pension scheme other than the Board's scheme, means that other scheme.

(2) For the purposes aforesaid, the expression “ accrued pension rights ” in relation to an officer or servant to whom these Regulations apply means, subject to the provisions of this Regulation, any right or expectation under customary practice to the payment on or after his reaching normal maximum retiring age or on or after the happening of any other contingency (which expression includes the exercise of any right to receive a pension before reaching normal maximum retiring age) carrying entitlement to pension under his existing scheme —

- (a) if the existing scheme is such a scheme as is referred to in sub-paragraph (a) of paragraph (3) of this Regulation, of the pension which would have been payable to or in respect of him by virtue of any premiums paid by or in respect of him under the scheme up to the date on which he loses his employment as an officer or servant ; or
- (b) if the existing scheme is such a scheme as is referred to in sub-paragraph (b) of paragraph (3) of this Regulation, being a scheme in which the pension rights are related by some

specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated at such fraction or fractions of his pensionable emoluments in respect of each year or part of a year of his pensionable service under the scheme as would have been applicable in that scheme in the calculation of the pension, if he had at the date when he loses his employment as an officer or servant reached normal maximum retiring age, or as the case may be, had the other contingency then happened, and there had been no requirement of the scheme as to a minimum qualifying period of service ; or

(c) if the existing scheme is such a scheme as is referred to in sub-paragraph (b) of paragraph (3) of this Regulation, being a scheme in which the pension rights are not related in some specific proportion to pensionable service and pensionable emoluments, of a pension payable to or in respect of him calculated on reaching normal maximum retiring age, or as the case may be, on the happening of the other contingency, as follows :—

(i) on reaching normal maximum retiring age, the pension which would have been payable under the scheme had he continued to be a participant in the scheme until that age without increase of emoluments, but reduced in the proportion which the number of years of pensionable service under the scheme before he loses his employment as an officer or servant bears to the number of years of pensionable service which he would have rendered had he continued to be a participant in the scheme until normal maximum retiring age ; or

(ii) on the happening of the other contingency, the pension which would have been payable under the scheme if the contingency had happened at the time when he loses his employment as an officer or servant with the corresponding emoluments and length of service and there had been no requirement of the scheme as to a minimum qualifying period of service :

Provided that for the purpose of ascertaining the amount of any pension which would have been payable to or in respect of any officer or servant under a scheme, no regard shall be had to any increase of pension rights given in connection with any provision made by the Act or in anticipation of the making of any such provision otherwise than in the ordinary course and nothing in sub-paragraphs (b) and (c) of this paragraph shall be taken to confer any right to payments of pension on account of temporary periods of incapacity which exceed in total amount or total period of payment the maximum amount or period laid down in the relevant scheme.

In relation to an officer or servant to whom these Regulations apply who had the right or expectation under customary practice of continuing in that employment beyond the normal maximum retiring age, these Regulations shall have effect as though the references therein to "normal maximum retiring age" were references to the minimum age at which the officer or servant could have been required to retire if he had not lost his employment as an officer or servant in consequence of the relevant event, or, if there is no such age, his actual age at the time when he could have been required to retire if he had not lost his employment as aforesaid.

(3) The existing scheme referred to —

(a) in sub-paragraph (a) of the last preceding paragraph is a scheme which provides for pensions by means of contracts or policies made or effected with an assurance company carrying on life assurance business within the meaning of the Assurance Companies Act, 1909 (a), (including contracts or policies made or effected with such a company for the purpose of implementing any form of private superannuation fund);

(b) in sub-paragraphs (b) and (c) of the last preceding paragraph is a scheme which provides for pensions by means other than those specified in sub-paragraph (a) of this paragraph.

6.—(1) In respect of any officer or servant to whom these Regulations apply, being an officer or servant whose existing scheme is the Board's scheme, the Authority shall make such arrangements with the persons administering the Board's scheme as shall ensure to that officer or servant his pension rights.

Duty of Authority to ensure accrued pension rights to persons in the Board's scheme.

(2) Notwithstanding anything to the contrary in the Board's scheme or in any instrument whatsoever relating thereto or made for the purposes thereof, the persons administering the Board's scheme shall be authorised to make such arrangements (including the disposal of any funds held for the purposes of the scheme) as are referred to in the preceding paragraph and the Board's scheme, and any such instrument shall be construed accordingly as though provision was duly made in the Board's scheme for any arrangements so made.

7. If, in the case of any officer or servant to whom these Regulations apply, being an officer or servant whose existing scheme is a scheme other than the Board's scheme, the pension rights ensured to him on the loss of his employment are of less value than his accrued pension rights (as defined for the purposes of these Regulations) the Authority shall, within three months of the date of his loss of employment make such arrangements as may be necessary to ensure to him such additional pension rights as together with the first mentioned pension rights will

Duty of Authority as respects persons in other schemes.

(a) 9 Edw. 7, Ch. 49.

be equivalent, as near as may be, to his accrued pension rights (as defined as aforesaid).

Supplementary powers of the Authority.

8. Without prejudice to the obligations of the Authority under the foregoing provisions of these Regulations, the Authority shall be authorised to establish and administer a pension fund, or to make arrangements with an assurance company carrying on life assurance business within the meaning of the Assurance Companies Act, 1909, for the purpose of meeting those obligations. The said fund, if established, shall consist of moneys provided by the Authority whether out of the sums transferred to them under the provisions of Regulations 3 and 9 of these Regulations or otherwise and shall be applied solely for the purpose of meeting the said obligations and discharging the costs of administration.

Provisions as to contributions returned under existing schemes.

9. Where an officer or servant to whom these Regulations apply —

(a) has received after the date from which these Regulations have effect and before the date on which these Regulations come into operation ; or

(b) receives after the last-mentioned date ;

any payment under his existing scheme by way of a return of contributions and interest paid by him, with or without interest thereon, the pension rights to be ensured to him in accordance with Regulations 6 or 7 of these Regulations shall be reduced by reason of that payment in such manner as may be provided by the arrangements made by the Authority under that Regulation :

Provided that if an officer or servant shall, within three months of the date on which he receives such payment as aforesaid, or, where he received such payment before the date on which these Regulations come into operation, within three months of the last-mentioned date, pay to the Authority the aggregate amount of all such payments received by him, this Regulation shall not apply.

Sealed with the Official Seal of the Ministry of Commerce for Northern Ireland, this 18th day of May, 1950, in the presence of

(L.S.)

Arthur Acheson Farrell,
Assistant Secretary.

These Regulations have been approved by the Ministry of Finance. In witness whereof the Official Seal of the Ministry of Finance for Northern Ireland has been affixed hereto this 18th day of May, 1950, in the presence of

(L.S.)

John I. Cook,
Second Secretary.