

1961. No. 60

[C]

NATIONAL INSURANCE

Modification of Fire Officers' and Firemen's Pensions Provisions

REGULATIONS, DATED 16TH MARCH, 1961, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SUB-SECTION (4) OF SECTION 66 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946, AS EXTENDED BY SECTION 14 OF THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1959.

Whereas the Ministry of Finance has determined under sub-section (4) of section 66 of the National Insurance Act (Northern Ireland), 1946(a), that the Ministry of Home Affairs is the appropriate department to make regulations under that sub-section modifying a scheme for the provision of pensions and other benefits made under section 10 of the Fire Services (Amendment) Act (Northern Ireland), 1950(b):

Now, therefore, the Ministry of Home Affairs, in exercise of the powers conferred by the said sub-section (4), as extended by section 14 of the National Insurance Act (Northern Ireland), 1959(c), and of all other powers enabling it in that behalf, hereby makes the following Regulations:—

Citation

1. These Regulations may be cited as the National Insurance (Modification of Fire Officers' and Firemen's Pensions Provisions) Regulations (Northern Ireland), 1961.

Awards to which Regulations apply

2. These Regulations shall apply to pensions, gratuities and other awards, other than supplemental pensions, granted to or in respect of members on retirement or dismissal on or after the 3rd April, 1961, under the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955(d).

Allocation, assignment, reduction, suspension and withdrawal

3.—(1) Except for such causes as may be prescribed by regulations made under paragraph (c) of sub-section (1) of section 7 of the National Insurance Act (Northern Ireland), 1959, the secured portion of a pension to which these Regulations apply shall not be capable of being withdrawn or, save as respects any period before pensionable age, suspended.

(2) Without prejudice to the generality of paragraph (1), as respects a pension to which these Regulations apply—

(a) sub-paragraph (2) of paragraph 37 of the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955 (which relates to the cancellation of ill-health and supplemental pensions), shall apply only to the unsecured portion of the pension, but where, but for the provisions of this sub-paragraph, the whole pension would cease, the secured portion shall not be payable in respect of any period before insured pensionable age;

(b) paragraph 39 of the said Schedule (which relates to the taking into account, for the purpose of assessing a pension, of compensation under

(a) 1946 c. 23.

(b) 1950 c. 4.

(c) 1959 c. 21.

(d) S.R. & O. (N.I.) 1955, No. 181.

- the Criminal Injuries (Ireland) Acts) shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
- (c) the provisions of paragraph 41 of the said Schedule (which relates to the withdrawal of a pension during employment by a local authority) shall apply only to the unsecured portion of the pension, and to the secured portion of the pension in respect of any period before insured pensionable age;
 - (d) the provisions of paragraph 42 of the said Schedule (which relates to the temporary or permanent withdrawal of a pension for misconduct) shall apply only to the withdrawal, whether temporary or permanent, of the unsecured portion of the pension, and to the temporary withdrawal of the secured portion of the pension for a period before insured pensionable age or during the imprisonment or detention in legal custody of the pensioner; and the Authority, in determining under the said paragraph 42 whether withdrawal shall be permanent or temporary and affect the pension in whole or in part, may make different determinations in respect of the secured and unsecured portions of the pension;
 - (e) paragraph 46 of the said Schedule (which relates to the assignment of or charge on a pension) shall have effect so that any such assignment of or charge on the pension, made for the family of the pensioner and with the consent of the Authority, shall apply only to the unsecured portion of the pension and to the secured portion of the pension in respect of any period before insured pensionable age;
 - (f) sub-paragraph (1) of paragraph 47 of the said Schedule (which relates to the application of a sum due on account of a pension in satisfaction of certain debts) shall apply only to a sum due on account of the unsecured portion of a pension or due in respect of any period before insured pensionable age on account of the secured portion of the pension;
 - (g) paragraph 54 of the said Schedule (which relates to the allocation of part of a pension) shall have effect so that any such allocation shall not exceed the unsecured portion of the pension;
 - (h) paragraph 3 of Part IIA of Appendix I to the said Schedule (which provides for the payment to an ill-health pensioner who does not resume service on cancellation of his pension of an amount equal to the excess, if any, of his aggregate pension contributions over the payments made to him in respect of the pension) shall have effect as if—
 - (i) the reference therein to the cancellation of an ill-health pension were a reference to the cancellation of the unsecured portion of such a pension, and
 - (ii) the reference therein to the aggregate amount paid to him in respect of the pension were a reference to that amount and the actuarial value of the secured portion of the pension, in so far as it is payable under sub-paragraph (a), determined in accordance with tables prepared by the Authority; and
 - (i) Part III of the said Appendix I (which relates to reductions in ordinary, ill-health and short-service pensions in respect of periods beyond insured pensionable age) shall apply only to the unsecured portion of the pension.

Reduction of award other than pension where payment in lieu of contributions falls to be made

4.—(1) Where a payment in lieu of contributions falls to be made in respect of a member's service in the force and—

- (a) a short-service gratuity is payable on his retirement, or
- (b) an ill-health gratuity is so payable and the Authority determines that the provisions of this Regulation shall apply, or
- (c) an amount equal to his aggregate pension contributions in respect of the relevant period of service is payable to him or his dependents on his retirement or dismissal,

the award in question shall be reduced by an amount equal to the amount which could be retained out of the award under sub-section (4) of section 9 of the National Insurance Act (Northern Ireland), 1959, if the award were a refund of payments to which that sub-section applies.

(2) Where a payment in lieu of contributions may fall to be made in respect of a member's service in the force and such an award as is mentioned in paragraph (1) is payable as mentioned therein, the Authority may reduce the amount of the award in question by the amount by which it would be reduced under the said paragraph if the payment in lieu of contributions in fact fell to be made, so however that, if the said payment does not fall to be made within the period of seventy-eight weeks from the date when the person ceases to be a member or within such shorter period as the Authority may determine, then any reduction under this paragraph in the amount of the award shall cease to have effect and the difference between the full and the reduced amounts thereof shall become payable.

(3) Without prejudice to the generality of paragraphs (1) and (2) the provisions of paragraph 7 and of sub-paragraph (4) of paragraph 45 of the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955, and of Part IIA of Appendix I thereto (which provisions relate to the amount and payment of the awards mentioned in the said paragraph (1)) shall have effect subject to the provisions of the said paragraphs (1) and (2).

Abatement of pension in relation to participating service otherwise than as a member

5.—(1) Where a person in receipt of a pension to which these Regulations apply has been in service or employment otherwise than as a member—

- (a) in respect of which he was subject to superannuation arrangements;
- (b) by virtue of which he is entitled to reckon pensionable service for the purposes of the pension; and
- (c) the period of which includes a participating period of relevant employment;

then, for the purpose of abating the pension in relation to that participating period of relevant employment, any provision of the said arrangements in operation when he left the said service the effect of which is that pensions payable thereunder are to be reduced in connection with the operation of the National Insurance Act, 1959(a), or the National Insurance Act (Northern Ireland), 1959, shall apply, subject to the necessary adaptations and modifications, as though the provision were contained in these Regulations and as if—

(a) 7 & 8 El. 2, c. 47.

- (i) the pension were payable under the said arrangements; and
- (ii) any other period of service or employment by virtue of which he is entitled to reckon pensionable service for the purposes of the pension were a period of non-participating employment at the end of which no payment in lieu of contributions falls to be made.

(2) The Authority, in determining any question arising under paragraph (1) and relating to a particular service or employment, shall be entitled to treat as conclusive any relevant certificate issued, with the agreement of the person concerned, by his employer in that service or employment.

(3) Where for the purpose of the superannuation arrangements applicable to such service or employment as is mentioned in paragraph (1) the person concerned was entitled to reckon service by virtue of some previous service or employment, that previous service or employment shall be treated for the purpose of this Regulation as if it were part of the service or employment first mentioned in this paragraph.

(4) Without prejudice to the generality of paragraphs (1), (2) and (3), the provisions of Parts IA and IIA of Appendix I to the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955 (which relates to the calculation of pensions), shall have effect subject to the provisions of the said paragraphs, but the abatement of a pension in accordance with this paragraph shall be without prejudice to the reduction of the pension in accordance with Part III of the said Appendix.

Abatement of pension in relation to participating service as a member

6.—(1) Where a person in receipt of a pension to which these Regulations apply is entitled to reckon as pensionable service for the purpose of the pension a period of employment as a member which is a participating period of relevant employment, then in relation to that period the unsecured portion of the pension shall be reduced in accordance with the provisions of paragraph (2).

(2) Where the unsecured portion of a pension is reduced in accordance with the provisions of this paragraph, the annual rate of that portion of the pension shall be reduced in respect of any period beyond insured pensionable age by the annual rate of the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining such pensionable age, in return for a payment in lieu of contributions in respect of the whole of the period referred to in paragraph (1).

(3) Without prejudice to the generality of paragraphs (1) and (2), the provisions of Parts IA and IIA of Appendix I to the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955 (which relates to the calculation of pensions), shall have effect subject to the provisions of the said paragraphs, but the abatement of a pension in accordance with this Regulation shall be without prejudice to the reduction of the pension in accordance with Part III of the said Appendix.

Abatement of pension where secured portion of ill-health pension is also payable

7.—(1) Where a person in receipt of the secured portion of an ill-health pension the unsecured portion of which has been cancelled is also in receipt of some other pension to which these Regulations apply, and is entitled to reckon for the purpose of that other pension the period of pensionable service

which was reckonable for the purpose of the ill-health pension, then the annual rate of the unsecured portion of that other pension shall be reduced by the annual rate of the secured portion of the ill-health pension.

(2) Without prejudice to the generality of paragraph (1), the provisions of Parts IA and IIA of Appendix I to the Schedule to the Fire Service (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955 (which relate to the calculation of pensions), shall have effect subject to the provisions of the said paragraph.

Interpretation

8.—(1) In these Regulations any reference to the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955, or to a paragraph of, or an Appendix to, that Schedule is a reference to the Schedule to the Royal Ulster Constabulary Pensions Order, 1949(a), as applied by the Order first mentioned in this paragraph and set out in the Schedule thereto, or, as the case may require, to a paragraph of, or to an Appendix to, the Schedule to the Royal Ulster Constabulary Pensions Order, 1949, as applied and set out as aforesaid.

(2) In these Regulations the following expressions shall have the meaning respectively which they have for the purposes of the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland), 1955:—

“aggregate pension contributions in respect of the relevant period of service”;

“the Authority”;

“ill-health gratuity”;

“ill-health pension”;

“member”;

“pensionable service”;

“short service gratuity”;

“supplemental pension”.

(3) In these Regulations the following expressions shall have the meanings respectively which they have for the purposes of the National Insurance Act (Northern Ireland), 1959:—

“employed contributor’s employment”;

“graduated retirement benefit”;

“non-participating employment”;

“payment in lieu of contributions”.

(4) In these Regulations any reference to insured pensionable age is a reference to the age of 65 years, in the case of a man, or 60 years, in the case of a woman.

(5) In these Regulations any reference to a participating period of relevant employment is a reference to a period of employed contributor’s employment after the 5th April, 1961, and before insured pensionable age other than—

(a) service in the armed forces of the Crown; and

(b) non-participating employment at the end of which no payment in lieu of contributions falls to be made;

(a) S.R. & O. (N.I.) 1949, No. 211.

and for the purposes of this paragraph a period of employed contributor's employment or of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(6) In these Regulations any reference to the secured portion of a pension is a reference to the portion of the pension which equals the graduated retirement benefit which would be payable to the pensioner, on the assumption that he retired from regular employment on attaining insured pensionable age, in return for a payment in lieu of contributions in respect of the whole of any period of non-participating employment by virtue of which he is entitled to reckon pensionable service for the purpose of the pension, being a period of non-participating employment at the end of which no payment in lieu of contributions in fact fell to be made; and any reference to the unsecured portion of a pension shall be construed accordingly.

For the purposes of this paragraph a period of non-participating employment shall be treated as continuing during periods of holiday, temporary incapacity for work and similar temporary interruptions.

(7) For the purposes of these Regulations, the annual rate of graduated retirement benefit shall be determined as if there were fifty-two weeks and one-sixth of a week in each year.

Sealed with the Official Seal of the Ministry of Home Affairs for Northern Ireland this 16th day of March, nineteen hundred and sixty-one, in the presence of

(L.S.)

William Duff,
Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations modify, in connection with the operation of the National Insurance Act (Northern Ireland), 1959, the provisions of the Order made in 1955 under section 10 of the Fire Services (Amendment) Act (Northern Ireland), 1950, applying the provisions of the Royal Ulster Constabulary Pensions Orders to the fire officers and firemen employed by the Northern Ireland Fire Authority in a whole-time capacity; by virtue of Regulation 2 the Regulations apply to awards, other than supplemental pensions, granted under the 1955 Order on a person ceasing to be a fire officer or fireman on or after 3rd April, 1961.

By virtue of section 6 (2) of the Act of 1959 an employment may not be contracted out of the graduated National Insurance scheme unless persons in that employment qualify for equivalent pension benefits. The conditions to be satisfied if a retirement pension under an occupational pension scheme is to be treated as an equivalent pension benefit are set out in section 7 (1); the pension, or part thereof, must (subject to retirement) start not later than insured pensionable age (paragraph (a)), must be payable for life unless terminated or suspended for prescribed causes (paragraph (b) and (c)) and must be payable at not less than a specified rate (paragraph (d)). Regulation 3 secures that these conditions shall be specified in relation to a fire service