

1968. No. 20

[C]

LOCAL GOVERNMENT SUPERANNUATION

REGULATIONS*, DATED 15TH FEBRUARY 1968, 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 Act:—

Citation and commencement

1. These regulations may be cited as the Local Government Superannuation (Interchange with Scottish Teaching Service) Regulations (Northern Ireland) 1968 and shall come into operation on 16th February 1968.

Interpretation

2.—(1) In these regulations—

“the Act” means the Local Government (Superannuation) Act (Northern Ireland) 1950;

“the Act of 1962” means the Education (Scotland) Act 1962(b);

“the principal regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(c) as amended (d);

“the Teachers Regulations” means the Teachers (Superannuation) (Scotland) Regulations 1957(e) as amended (f);

“contributing service” and “non-contributing service” mean service which is reckonable as contributing or non-contributing service, as the case may be, under the principal regulations;

“teaching service” has the meaning assigned to the expression “first class service” by regulation 5 of the Teachers Regulations and includes periods which are deemed to be, and recorded as, first class service—

(i) under the provisions of regulation 9 of the said regulations (which relates to periods of experience of value to teachers); or

(ii) under the provisions of regulation 12 of the said regulations (which relates to breaks in service);

but does not include any period of teaching service which has been recorded as third class service in consequence of the return of contributions to the teacher unless such period of third class service is again

(a) 1950. c. 10.

(b) 10 & 11 Eliz. 2. c. 47.

(c) S.R. & O. (N.I.) 1962, No. 210.

(d) S.R. & O. (N.I.) 1966, No. 274.

(e) S.I. 1957/356 (1957 I, p. 733).

(f) S.I. 1958/1595 (1958 I, p. 1077), 1963/2111 (1963 III, p. 4685), 1965/1166 (1965 II, p. 3284) and 1966/1229 (1966 III, p. 3295).

*A draft of these Regulations was approved by Resolution of the House of Commons on the 8th day of February 1968 and by Resolution of the Senate on the 13th day of February 1968.

recorded as first class service in consequence of the repayment of the said contributions by the teacher in accordance with the provisions of regulation 50(4) of the said regulations;

“voluntary contributions” means—

- (a) in relation to a person who has become an officer after leaving employment in teaching service, payments (other than payments required by section 105 of the Act of 1962 and completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) made as a condition of being entitled to reckon any period as first class service under the Teachers Regulations;
- (b) in relation to a person who has become employed in teaching service after leaving employment as an officer, payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) of any of the following categories:—
 - (i) additional contributory payments made in accordance with the second schedule to the principal regulations;
 - (ii) any payments made in respect of added years; and
 - (iii) any payments of a similar nature which, having been commenced in a previous employment, were continued in his employment as an officer;

and other expressions have the same meanings as in the principal regulations or the Teachers Regulations, as the case may be.

(2) In these regulations references to any Act of the Parliament of the United Kingdom or to any provision contained in an order, regulation, rule, scheme or other instrument having effect by virtue of such an Act shall be construed as references to that Act or provision as amended, modified, extended, applied or re-enacted by any other such Act or provision.

Reckoning of previous service

3.—(1) Where a person, being a teacher to whom the Teachers Regulations apply, without having received payment of any benefit under the Teachers Regulations other than a return of contributions, has become an officer within the prescribed period (as defined in regulation 4) after ceasing to be employed in teaching service, then, subject to the provisions of these regulations—

- (a) his teaching service shall be reckonable as contributing service under the principal regulations:
Provided that teaching service reckonable only for the purpose of calculating the amount of any allowance or gratuity payable to or in respect of him shall be reckonable only for the like purpose under the principal regulations;
- (b) any period of service which prior to his becoming employed in teaching service was non-contributing service for the purposes of the principal regulations or was reckonable in the same or substantially the same manner as such non-contributing service by virtue of any enactment or scheme shall be reckonable as non-contributing service for the purposes of the principal regulations at double the length at which it was reckonable under the Teachers Regulations; and
- (c) any period which immediately before he ceased to be employed in teaching service was reckonable for the purpose of determining

whether he had served for any minimum period prescribed by the Teachers Regulations as necessary for any benefit to be paid to or in respect of him shall to the same extent be reckonable under the principal regulations for the purpose of determining whether he is entitled to any benefit thereunder.

- (2) Paragraph (1) shall not apply to such a person as aforesaid unless—
- (a) the Committee receive from the Secretary of State in respect of such teaching service a transfer value calculated in accordance with the rules for the time being in force for that purpose under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(g);
 - (b) within three months after the date on which he becomes an officer, or within six months after the date of the coming into operation of these regulations, whichever period last expires, or within such longer period as the Committee may in any particular case allow, he notifies the Committee, in writing, that he desires these regulations to apply to him, furnishes them with particulars of any national service in which he has been engaged since he last ceased to be employed in teaching service and pays to them an amount equal to any sum received by him by way of a return of contributions, other than voluntary contributions, on or after last ceasing to be employed in teaching service, together with an amount equal to any income tax which was deducted from his contributions in respect of such return; and
 - (c) in the case of a person who ceased to be employed in teaching service or became an officer before the date of the coming into operation of these regulations—
 - (i) he ceased to hold his former employment not earlier than 1st April 1950;
 - (ii) the Secretary of State agrees to the payment of a transfer value; and
 - (iii) in the case of a person who is not an officer at the date of the coming into operation of these regulations the Committee agree that this regulation shall apply to him.

(3) For the purposes of these regulations a person shall not be deemed to have ceased to be employed in teaching service if he ceased to be employed in employment which is treated as teaching service solely for the purpose of determining whether that person had served for the minimum period required by the Teachers Regulations as a condition of any benefit to be paid to or in respect of him.

Definition of "the prescribed period"

4.—(1) Subject as hereinafter provided, "the prescribed period" means—

- (a) in the case of a person who immediately after ceasing to be employed in teaching service or, as the case may be, ceasing to be employed as an officer, became engaged in national service, six months after the termination of his national service; and
- (b) in the case of any other person, twelve months after leaving such employment as aforesaid.

(2) Subject as hereinafter provided—

- (a) in reckoning the said period of twelve months or, as the case may be, the said period of six months mentioned in paragraphs (1)(a) and (1)(b)

- no account shall be taken of any period spent by the person on a course of study or training which he entered after leaving his former employment;
- (b) if the person ceased to be employed in teaching service or, as the case may be, ceased to be employed as an officer in order to enter a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of paragraph (1) to have left his former employment at the time when he completed the said course of study or training; and
- (c) if a person ceased to be employed in teaching service or, as the case may be, ceased to be employed as an officer, and entered (whether or not after a period spent on national service) an employment approved by the Secretary of State for the purpose of this provision, or an employment approved by the Committee under regulation 51 of the principal regulations, then if the Secretary of State and the Committee both agree, he shall be deemed for the purposes of paragraph (1) to have left his former employment on the termination of the approved employment.
- (3) Paragraph (2) shall not apply—
- (a) to a person who in his new employment is in teaching service unless—
- (i) before leaving his former employment (or, if between leaving that employment and entering the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the Committee of his intention to enter the said course of study or training; and
- (ii) the Secretary of State is satisfied that by reason of his having undertaken the said course of study or training the person is better fitted for the duties of his new employment;
- (b) to a person who in his new employment is an officer unless the Committee are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment.

Continuation of voluntary contributions

5.—(1) Where any person to whom regulation 3 has become applicable was, at the time when he ceased to be employed in teaching service, in the course of making voluntary contributions and he notifies the Committee in writing within three months after becoming an officer, or within such longer period as the Committee may in any particular case allow, that he elects to make payments in pursuance of this regulation and pays forthwith to the Committee an amount equal to any sum paid to him by way of return of any such voluntary contributions as aforesaid on or after last ceasing to be employed in teaching service together with an amount equal to any income tax which was deducted from those voluntary contributions in respect of such return then he shall be liable to pay the outstanding voluntary contributions to the Committee in the manner in which they would have been payable if he had remained in teaching service.

(2) Where a person has elected to make payments in pursuance of this regulation the period in respect of which such payments are made shall be reckonable as a period of contributing service.

Provided that where the period in respect of which such payments were being made would not have been reckonable under the Teachers Regulations

for the purpose of determining whether the person had served for any minimum period prescribed thereunder as necessary for any benefit to be paid to or in respect of him that period shall not be reckonable as service under the principal regulations for the purpose of determining whether he is entitled to any benefit thereunder.

National Insurance modification

6.—(1) The modifications for which regulation 42 of the principal regulations provides shall not apply to any person to whom regulation 3 of these regulations has become applicable if the National Insurance modifications under the Teachers Regulations did not apply in his case at the date when he ceased to be employed in teaching service.

(2) Regulation 42 of the principal regulations shall apply to any other person (not being a person referred to in paragraph (1)) to whom regulation 3 of these regulations has become applicable as if any service which he has become entitled to reckon by virtue of these regulations, being service of which account would have been taken under regulation 42 of the Teachers Regulations for the purpose of calculating the amount of the reduction of any benefit to which the person might have become entitled under the Teachers Regulations had he continued to be subject thereto, were contributing service rendered on or after 1st April 1950.

(3) Where in the case of a person to whom paragraph (2) applies any benefit to which he might have become entitled under the Teachers Regulations would have been modified under regulation 42(1)(b) of, and the fourth schedule to, those regulations by reference to the table in the said schedule and to his age at a given date, regulation 42 of the principal regulations shall have effect as if any provision therein modifying superannuation benefits by reference to a table and to the age of a person at a given date applied in his case, except that the reference to his age at that date shall be construed as a reference to his age at the date which was relevant for the purposes of the aforesaid regulation 42(1)(b).

Return of contributions

7. Where a person to whom regulation 3 applies ceases to be an officer or dies in circumstances in which under the principal regulations there is payable to or in respect of him an amount by way of a return of contributions or a benefit which falls to be calculated by reference to any such amount, then regulation 2(6) of those regulations shall have effect as if—

- (a) the payments referred to in sub-paragraph (c) thereof included such payments as are referred to in regulation 5(2) of these regulations; and
- (b) the sums referred to in sub-paragraph (d) thereof included any sums contributed or treated as having been contributed by him under the Teachers Regulations which would have been returnable thereunder at the time he last ceased to be employed in teaching service (other than such voluntary contributions as are referred to in regulation 5 which have not been continued in pursuance of that regulation).

Transfer values payable by the Committee

8.—(1) Where a person without having become entitled to any benefit under the principal regulations other than a return of contributions has become employed in teaching service within the prescribed period (as defined in regulation 4) after ceasing to be an officer then there shall be payable by the Committee to the Secretary of State a transfer value in accordance

with the third schedule to the principal regulations less an amount equal to any sum which the Committee may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value:

Provided that the Committee may withhold the payment of a transfer value in respect of a person, who, on or after leaving the employment of an employing authority, forfeits all claim in respect of his previous service to any superannuation benefits by virtue of a direction of the Committee in that behalf under regulation 48 of the principal regulations.

(2) Paragraph (1) shall not apply in relation to any person—

(a) unless within three months after becoming employed in teaching service or within six months after the date of the coming into operation of these regulations, whichever period last expires, or within such longer period as the Secretary of State may in any particular case allow, he notifies the Secretary of State, in writing, that he desires these regulations to apply to him, furnishes him with particulars of any national service in which he has been engaged since he ceased to be an officer and pays to him an amount equal to any sum paid to him by way of a return of contributions, other than voluntary contributions, on or after his ceasing to be an officer, together with an amount equal to any income tax which was deducted from his contributions in respect of such return;

(b) who ceased to be an officer or became employed in teaching service before the date of the coming into operation of these regulations, unless—

(i) the Committee agree to the payment of a transfer value; and

(ii) in the case of a person who is not employed in teaching service at the date of the coming into operation of these regulations, the Secretary of State agrees that this regulation shall apply to him.

(3) Where in the case of a person to whom paragraph (1) applies, the employing authority by whom he was previously employed exercise a discretion under regulation 26(8) of the principal regulations to add a number of years to his service then the service reckonable immediately before he left his employment as an officer shall be deemed for the purposes of these regulations to have been correspondingly increased.

(4) For the purposes of this regulation the third schedule to the principal regulations shall be read with such modifications as are necessary and, in particular, with the following modifications to part I:—

(a) in the definition of “age” in paragraph 1 after the words “as the case may be;” insert the following words:—

“in relation to a person to whom regulation 8(1) of the Local Government Superannuation (Interchange with Scottish Teaching Service) Regulations (Northern Ireland) 1968 applies and who ceased to be an officer more than twelve months before the date of the coming into operation of those regulations, means his age at that date; in relation to a person to whom regulations 4(2) and 8(1) of those regulations apply, means his age at the date on which he becomes employed in teaching service;”

(b) in proviso (b) to paragraph 2 for the words “such voluntary contributions as are referred to in sub-paragraph (a), (b) or (d) of paragraph (2) of regulation 30” substitute the following words:—

“such payments as are referred to in paragraph (b)(iii) of the definition of ‘voluntary contributions’ in regulation 2(1) of the

Local Government Superannuation (Interchange with Scottish Teaching Service) Regulations (Northern Ireland) 1968 being payments of a similar nature to those referred to in paragraph (b)(i) of that definition"; and

- (c) in proviso (c) to paragraph 2 for the words "or regulation 29 or such voluntary contributions as are referred to in sub-paragraph (c) of paragraph (2) of regulation 30" and in paragraph 4(7)(a) for the words "under regulation 29 or under sub-paragraph (c) of paragraph (2) of regulation 30", respectively, substitute the following words:—

"or such payments as are referred to in paragraph (b)(iii) of the definition of 'voluntary contributions' in regulation 2(1) of the Local Government Superannuation (Interchange with Scottish Teaching Service) Regulations (Northern Ireland) 1968, being payments of a similar nature to those referred to in paragraph (b)(ii) of that definition."

(5) Notwithstanding paragraph (1) of this regulation, regulation 17 of the principal regulations shall have effect for the purposes of this regulation as it has effect for the purposes of the principal regulations.

Contributions not returnable

9. Notwithstanding anything in the principal regulations no payment shall be made thereunder by way of a return of contributions, other than voluntary contributions, to any person in relation to whom regulation 8 has become applicable.

Determination of questions

10. The provisions of the principal regulations which relate to the determination of questions arising under those regulations shall apply in relation to a person who becomes an officer in circumstances in which these regulations apply.

Sealed with the Official Seal of the Ministry of Development for Northern Ireland this 15th day of February 1968.

(L.S.)

W. F. Stout,
Secretary.

EXPLANATORY NOTE

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

These regulations form part of an arrangement for interchange of superannuation rights between the Northern Ireland Local Government service and the teaching service in Scotland.

The regulations provide that—

- (a) if a person employed in the teaching service transfers within a prescribed period (generally twelve months) to employment superannuable under the Local Government (Superannuation) Regulations (Northern Ireland) 1962 and gives notice that he wishes the regulations to be applied in his case any prior teaching service in respect of which an appropriate transfer value is received shall be reckonable for superannuation purposes in relation to his new employment; and
- (b) if a person transfers to teaching service within a prescribed period (generally twelve months) from employment superannuable under the Local Government (Superannuation) Regulations (Northern Ireland) 1962 and gives notice that he wishes the regulations to be applied in his case a transfer value shall be paid by the Northern Ireland Local Government Officers' Superannuation Committee in order to secure rights for him in his new scheme in respect of the superannuable service already rendered by him.

The regulations have limited retrospective effect but this will operate only at the request of the person concerned and with the agreement of the authority responsible for the payment of a transfer value.