1979 No. 56

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1979

Made . . . . . *2nd March* 1979

Coming into operation . . . *30th March* 1979

The Department of the Environment in exercise of powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**), and now vested in it(**b**), and of all other powers 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 retrospection

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1979, and shall come into operation on 30th March 1979 and shall have effect as from that date with the exception of regulations 7 and 11 which shall have effect as from 26th July 1976.

Interpretation

2. In these regulations—

"the Committee" means the Northern Ireland Local Government Officers' Superannuation Committee;

"contributions equivalent premium" has the meaning assigned to that expression by article 44(1) of the Social Security Pensions (Northern Ireland) Order 1975(**c**);

"employing authority" means a local authority as defined in Article 2(2) of the Order or a designated body as defined in regulation 6 of the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(**d**);

"the Order" means the Superannuation (Northern Ireland) Order 1972;

"the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(**e**);

(a) S.I. 1972/1073 (N.I. 10)
(b) S.R. & O. (N.I.) 1973 No. 504 art. 7(1) (II, p. 2992); 1973 c. 36 Sch. 5 para. 8(1) and S.I. 1976/424 (N.I. 6)
(c) S.I. 1975/1503 (N.I. 15)
(d) S.R. 1975 No. 347 (II, p. 1695)
(e) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by the following relevant regulations—S.R. & O. (N.I.) 1966 No. 274 (p. 871); S.R. & O. (N.I.) 1968 No. 153 (p. 588); S.R. & O. (N.I.) 1971 No. 108 (p. 539); S.R. & O. (N.I.) 1973 No. 216 (I, p. 1108); S.R. & O. (N.I.) 1973 No. 242 (I, p. 1207); S.R. 1974 No. 72 (I, p. 211); S.R. 1975 No. 187 (II, p.984); S.R. 1975 No. 347 (II, p. 1695); S.R. 1977 No. 205 (II, p. 1159); S.R. 1978 No. 386; S.R. 1979 No. 23

"statutory scheme" has the meaning assigned to that expression by regulation 2 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1977(f);

and other words and expressions have the same meaning as in the principal regulations.

Amendment of definition in principal regulations

3. In regulation 2(1) of the principal regulations (Interpretation) at the end of the definition of "remuneration" there shall be added the following proviso—

"Provided that where the officer in his employment under an employing authority belongs to a class or description of officer in relation to which an agreement entered into by that authority under regulation 32A is in force, then in respect of the period during which that agreement remains in force and the officer in his employment under that authority remains an officer of that class or description, the amount determined in relation to him in accordance with the method specified in the agreement as the amount representing the whole of his remuneration or, as the case may be, such part of his remuneration as is specified in the agreement, shall be deemed for the purpose of these regulations to be his remuneration or, as the case may be, such part of his remuneration as is so specified;".

Provisions as to contributions equivalent premiums

4. After regulation 6 of the principal regulations there shall be added the following regulation—

"*Provisions as to contributions equivalent premiums*

6A. Where a contributions equivalent premium is paid in respect of any officer the Committee shall be entitled to charge to the superannuation fund a sum not exceeding the amount of that premium, less the amount (if any) which the Committee could recover or retain under article 48 of the Social Security Pensions (Northern Ireland) Order 1975 in respect of that premium.".

Contributions

5. In regulation 8(2) of the principal regulations (Contributions) after the words "regulation 2", there shall be inserted the words ", in paragraph 5A of regulation 2".

Officer's pension and retiring allowance

6. At the end of regulation 9(1A) of the principal regulations (Officer's pension and retiring allowance) there shall be added the following—

"For the purposes of this paragraph an officer who, on ceasing to hold an employment, became entitled to a benefit under paragraph (1)(*c*) and to whom in respect of his so ceasing a return of contributions is made under these regulations, shall be treated as ceasing to hold that employment on the day immediately before the date on which the return of contributions is made and as not being entitled in respect of his so ceasing to a benefit under paragraph (1)(*c*).".

(f) S.R. 1977 No. 205 (II, p. 1159)

Death gratuity

7. In regulation 14 of the principal regulations (Death gratuity)—

(*a*) in paragraph (1)(*b*) for the words from "(other than a person who became entitled thereto by virtue of regulation 9(1)(*c*))" there shall be substituted the words "and at the time of his death was entitled to receive payments in respect of that pension";

(*b*) in paragraph (2)—

(i) in sub-paragraph (*a*), for the expression "(*b*)(ii)" there shall be substituted the words "such a person as is mentioned in paragraph (1)(*b*)(ii) if he became entitled to the pension mentioned in that paragraph other than by virtue of regulation 9(1)(*c*)";

(ii) after sub-paragraph (*a*) there shall be inserted the following sub-paragraph—

"(*aa*) in respect of such a person as is mentioned in paragraph (1)(*b*)(ii) who became entitled to the pension mentioned in that paragraph by virtue of regulation 9(1)(*c*), whichever is the greater of the following—

(i) the aggregate amount ascertained by multiplying three eightieths of his average remuneration by the length in years of his contributing service by reference to which that pension was calculated and three one-hundred and sixtieths of such remuneration by the length in years of his non-contributing service by reference to which that pension was calculated, less—

(A) where a pension under regulation 15 is payable in respect of his death to his widow, the aggregate amount ascertained by multiplying two eightieths of his average remuneration by the length in years of his contributing service (if any) and two one-hundred and sixtieths of such remuneration by the length of his non-contributing service (if any) before 1st April 1972; and

(B) an amount equal to the aggregate amount of any payments made to him in respect of that pension and the retiring allowance mentioned in paragraph (1)(*b*)(ii); or

(ii) an amount calculated in accordance with the formula $\frac{T}{H} \times A$ where—

T is the length in years of his service;

H is the length in years of the service which he would have been entitled to reckon if he had remained in the employment in relation to which he became entitled to that pension until the earliest age at which he would, under regulation 9(1)(*a*), (*b*)(ii) or (*d*), have become entitled to receive a pension; and

A is the amount of his average remuneration, less—

(i) where a pension under regulation 15 is payable in respect of his death to his widow, the amount ascertained by multiplying two eightieths of his average remuneration by the length in years of his contributing service (if any) and two one-hundred and sixtieths of such remuneration by the length of his non-contributing service (if any) before 1st April 1972; and

(ii) an amount equal to the aggregate amount of any payments made to him in respect of that pension and the retiring allowance mentioned in paragraph (1)(*b*)(ii);"; and

(iii) in sub-paragraph (*b*) after the words "paragraph (1)(*b*)(i)" there shall be inserted the words "other than a person who became entitled thereto by virtue of regulation 9(1)(*c*) or (*e*)"; and

(iv) after sub-paragraph (*b*) there shall be added the following sub-paragraph—

"(*bb*) in respect of such a person as is mentioned in paragraph (1)(*b*)(i) who became entitled to the retirement pension mentioned in that paragraph by virtue of regulation 9(1)(*c*) or (*e*), an amount calculated in accordance with the formula $\frac{T}{H} \times A$ where—

T is the length in years of his service;

H is the length in years of the service which he would have been entitled to reckon if he had remained in the employment in relation to which he became entitled to that pension until the earliest age at which he would, under regulation 9(1)(*a*), (*b*)(ii) or (*d*), have become entitled to receive a pension; and

A is an amount equal to five times the rate of that pension, less an amount equal to the aggregate amount of any payments made to him in respect of that pension;";

(*c*) after paragraph (2) there shall be inserted the following paragraph—

"(2A) For the purposes of paragraph (2)(*aa*) and (*bb*), a person who became entitled to a pension by virtue of regulation 9(1)(*c*) shall be treated as such a person as is mentioned in paragraph (1)(*b*)(ii), and shall not be treated as such a person as is mentioned in paragraph (1)(*b*)(i), if the service by reference to which the pension would have been calculated if he had remained in the employment in relation to which he became entitled to that pension until the earliest age at which he would, under regulation 9(1)(*a*), (*b*)(ii) or (*d*), have become entitled to receive a pension, amounts in aggregate to not less than 10 years.";

(*d*) in paragraph (3), for the words "paragraph (1)(*a*), (*b*)(ii) or (*c*)" there shall be substituted the words "paragraph (1)(*a*) or (*c*) or such a person as is mentioned in paragraph (1)(*b*)(ii) who became entitled to the pension mentioned in that paragraph other than by virtue of regulation 9(1)(*c*)";

(*e*) for paragraph (5) there shall be substituted the following paragraphs—

"(5) In the case of such a person as is mentioned in paragraph (1)(*b*)(i), who dies after becoming entitled to a pension, retiring allowance or injury allowance other than by virtue of regulation 9(1)(*c*) or (*e*), the amount of the death gratuity calculated under the preceding provisions of this regulation shall be reduced by an amount equal to the aggregate amount of any payments made to him in respect of the pension mentioned in that paragraph and, if the person had surrendered a part of that pension, by an amount equal to the amount which would have been paid in respect thereof but for the surrender.

(6) In the case of such a person as is mentioned in paragraph (1)(*b*)(ii), who dies after becoming entitled to a pension, retiring allowance or injury allowance other than by virtue of regulation (9)(1)(*c*), the amount of the death gratuity calculated under the preceding provisions of this regulation shall be reduced by an amount equal to the aggregate amount of any payments made to him in respect of the pension and retiring allowance mentioned in that paragraph and, if the person had surrendered a part of that pension, by an amount equal to the amount which would have been paid in respect thereof but for the surrender.".

Power to compound certain small pensions

8. For regulation 16 of the principal regulations (Power to compound small annual benefits) there shall be substituted the following regulation—

"Power to compound certain small pensions

16.—(1) This paragraph applies where—

(*a*) an officer has become entitled to a pension and has attained the age of 65 years in the case of a man or 60 years in the case of a woman; and

(*b*) the aggregate of the annual rates of—

(i) that pension;

(ii) any other retirement pension to which he has become entitled; and

(iii) any increase payable under the Pensions (Increase) Act (Northern Ireland) 1971(**g**) in respect of any retirement pension to which he has become entitled,

does not exceed £39.

(2) Where paragraph (1) applies the Committee may discharge their liability in respect of—

(*a*) any pension to which the officer has become entitled; and

(*b*) if the officer is a married male officer, any widow's pension which, in the event of his dying leaving a widow, would be payable to her in respect of his service; and

(*c*) any child's allowance which, in the event of the officer dying leaving an eligible child would be payable to or for the benefit of that child in respect of his service,

by payment to the officer of a lump sum of such amount as represents the capital value of the aforesaid pensions and allowance calculated in accordance with tables prepared by the Government Actuary.

(3) For the purposes of paragraphs (1) and (2), an officer shall not be treated as having become entitled to a pension in relation to any employment—

(*a*) in which he ceases to be employed in the circumstances mentioned in regulation 9(1)(*c*); or

(*b*) in relation to which he satisfies the requirements of regulation 9(1)(*e*),

until the date (if any) on which he becomes entitled to receive payments in respect of that pension.

(g) 1971 c. 35 (N.I.)

(4) This paragraph applies where—

(*a*) a widow's pension under regulation 15(2) is payable to a widow; and

(*b*) the aggregate of the annual rates of—

(i) that pension;

(ii) any other widow's long-term pension payable to her, and

(iii) any increase payable under the Pensions (Increase) Act (Northern Ireland) 1971 in respect of any widow's long-term pension payable to her,

does not exceed £52.

(5) Where paragraph (4) applies, the Committee may discharge their liability in respect of any widow's long-term pension payable to the widow by payment to her of a lump sum of such amount as represents the capital value of the pension, calculated in accordance with the tables mentioned in paragraph (2).

(6) This paragraph applies where—

(*a*) a child's allowance is payable to or for the benefit of an eligible child; and

(*b*) the aggregate of the annual amounts of—

(i) that allowance;

(ii) any other long-term allowance payable to or for the benefit of that child; and

(iii) any increase payable under the Pensions (Increase) Act (Northern Ireland) 1971 in respect of any child's long-term allowance so payable,

does not exceed £52.

(7) Where paragraph (6) applies, the Committee may discharge their liability in respect of any child's allowance payable to or for the benefit of the eligible child by payment of a lump sum of such amount as represents the capital value of the allowance, calculated in accordance with the tables mentioned in paragraph (2).".

Meaning of average remuneration

9. In regulation 32 of the principal regulations (Meaning of average remuneration) after proviso (ix) there shall be inserted the following proviso—

"(x) in the case of an officer whose remuneration, or part of whose remuneration, throughout the whole or part of his final year was an amount determined in accordance with the method specified in an agreement under regulation 32A, then, if the amount of his average remuneration is less than the amount it would have been if—

(i) the agreement had not been in force; and

(ii) his average remuneration had been determined by reference to so much of his remuneration (if any), other than payments for overtime and payments by way of bonus, in the final year as exceeds one and a half times the lower earnings limit within the meaning of the Social Security (Northern Ireland) Act 1975(**h**) in force when he ceases to hold the employment and does not exceed the upper earnings limit within the meaning of the said Act in force as aforesaid,

(**h**) 1975 c. 15

it shall be increased by the difference between it and the last-mentioned amount and in the application of the definition of "remuneration" in regulation 2(1) to the word "remuneration", in the second place in which the word occurs in (ii) above, that definition shall have effect as if the proviso thereto were omitted".

Power to agree notional remuneration

10. After regulation 32 of the principal regulations there shall be added the following regulation—

"*Power to agree notional remuneration*

32A—(1) An employing authority may from time to time enter into an agreement with the bodies or persons representative of any class or description of officer of that authority specifying the method by which an amount representing the whole of the remuneration of a member of that class or, as the case may be, an officer of that description or such part of his remuneration as is specified in the agreement shall, in respect of the period during which the agreement remains in force, be determined.

(2) An employing authority who have entered into an agreement under paragraph (1) shall send a written notification of that fact to every officer of theirs who is a member of a class or, as the case may be, an officer of a description, to which the agreement relates.

(3) The notification required by paragraph (2)—

(*a*) shall be sent—

(i) in the case of a person in the employment of the employing authority on the date on which the agreement was entered into, as soon as is reasonably practicable after that date; and

(ii) in the case of a person entering the employment of the authority after that date, within 3 months after he has entered that employment; and

(*b*) shall include a conspicuous statement directing the attention of the officer to the place where he may obtain information about details of the agreement.".

Separate benefits in the case of certain re-employed pensioners

11. For regulation 37 of the principal regulations (Separate benefits in the case of certain re-employed pensioners) there shall be substituted—

"**37.**—(1) Where a person who has become entitled to a pension under these regulations (in this regulation referred to as a "first pension") has since becoming entitled to the first pension entered further employment in which he is entitled to participate in the superannuation benefits provided by these regulations (in this regulation referred to as "further employment"), then on ceasing such further employment, unless he is a person to whom regulation 36 applies, the service in respect of which the first pension was granted shall be reckonable for the purpose of determining whether he is entitled to receive any benefit under these regulations and for the purposes of regulation 24, but for no other purpose.

(2) In the calculation of any benefit payable to or in respect of such a person under these regulations account shall not be taken of any service which, together with the service in respect of which the first pension was granted, exceeds forty-five years:

Provided that—

(*a*) where under these regulations a number of years (or part-years) were added to the person's service in calculating the amount of the first pension, the number of years (or part-years) so added shall be taken into account for the purposes of this paragraph;

(*b*) where under paragraph (3) of regulation 31 a period of contributing service was added to the person's service in calculating the amount of the first pension, then on his ceasing to be employed that paragraph shall not apply; and

(*c*) where in calculating the amount of the first pension a period of contributing service was not added under paragraph (3) of regulation 31 and the person ceases to be employed in the circumstances mentioned in regulation 9(1)(*b*)(i), paragraph (3)(*b*) of regulation 31 in its application to him shall have effect as if for sub-sub-paragraph (ii) there were substituted the words "(ii) 6 years and 243 days:".

(3) Where a person to whom this regulation applies dies—

(*a*) regulation 14(2)(*a*)(ii) shall not apply to the death gratuity payable in relation to the further employment; and

(*b*) if he became entitled to the first pension or to the pension in relation to the further employment by virtue of regulation 9(1)(*c*) or (*e*), then—

(i) if the aggregate of the amounts specified in paragraph (4) equals or exceeds the amount specified in paragraph (5), title to death gratuity shall not arise under regulation 14 in relation to the further employment;

(ii) if (i) does not apply and the aggregate of the amounts specified in paragraph (4), together with the amount of the death gratuity payable under regulation 14 in relation to the further employment exceeds the amount specified in paragraph (5), the amount of the death gratuity as calculated under that regulation shall be reduced by the amount of the excess.

(4) The amounts specified in this paragraph shall be—

(*a*) the amount of the death gratuity payable in relation to the employment in relation to which the person became entitled to the first pension as calculated under regulation 14 and as increased by virtue of the Pensions (Increase) Act (Northern Ireland) 1971;

(*b*) the aggregate amount of any payments made to the person in respect of the first pension, including any increase paid under the said Act of 1971;

(*c*) the amount of the retiring allowance to which the person became entitled in conjunction with the first pension, including as aforesaid;

(*d*) the aggregate amount of any payments made to the person in respect of the pension to which he became entitled in relation to the further employment, including as aforesaid; and

(*e*) the amount of the retiring allowance to which the person became entitled in conjunction with the pension mentioned in sub-paragraph (*d*), including as aforesaid.

(5) The amount specified in this paragraph shall be whichever is the greater of the following—

(*a*) the aggregate of the amount of the average remuneration by reference to which the first pension was calculated and the amount (if any) by

which an annual pension of an amount equal to that average remuneration would have been increased under the Pensions (Increase) Act (Northern Ireland) 1971 in respect of the period ending with the last date on which he held the further employment if the person were in receipt of such a pension and that pension were specified in Part II of Schedule 2 to that Act and were one which began for the purposes of the said Act on the day immediately following the day on which the person ceased to hold the employment in relation to which he became entitled to the first pension and the person had on the day on which he so ceased attained the age of 55 years; or

(*b*) the amount of the average remuneration by reference to which the pension to which the person became entitled in relation to the further employment was calculated.

(6) Where a person has become entitled to two or more first pensions, in relation to death gratuity in relation to a further employment after the first further employment, this regulation shall have effect as if—

(*a*) in paragraphs (2) and (3) for the words "the first pension" there were substituted the words "a first pension";

(*b*) in paragraph (4)—

(i) in sub-paragraph (*a*), for the words "the amount of the death gratuity" there were substituted the words "the aggregate amount of the death gratuities" and for the word "pension" there were substituted the word "pensions"; and

(ii) in sub-paragraph (*b*), for the word "pension" there were substituted the word "pensions"; and

(iii) in sub-paragraph (*c*), for the words "the amount of the retiring allowance" there were substituted the words "the aggregate amount of the retiring allowances" and for the word "pension" there were substituted the word "pensions"; and

(*c*) in paragraph (5)(*a*), before the word "aggregate" there were inserted the word "greatest" and for the word "the", in the fourth place where it occurs, there were substituted the word "a".".

Reduction of pension

12. In regulation 42(1)(*b*) of the principal regulations (Modification of benefits and obligations under these regulations in connection with the National Insurance Act (Northern Ireland) 1946) after the word "regulations" there shall be inserted the words "other than a person to whom when an officer proviso (x) to regulation 32 applied".

Determination of questions

13. The provisions of regulation 53 of the principal regulations (Determination of questions) shall apply in relation to rights and liabilities under these regulations as they apply in relation to rights and liabilities under the principal regulations.

Right to opt out

14. No provision of these regulations shall apply to any person to whom at any time before 30th March 1979 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 30th March 1979 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 30th March 1979, elects that that provision shall not apply to him.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 2nd March 1979.

(L.S.) *J. A. D. Higgins*
Senior Assistant Secretary

EXPLANATORY NOTE

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

These regulations further amend the Local Government (Superannuation) Regulations (Northern Ireland) 1962.

The main changes and additions are—

(1) The introduction of a power to make standard remuneration agreements for superannuation purposes (regulations 3, 9 and 10).

(2) The introduction of death gratuities in respect of persons dying while entitled to receive payment of deferred retirement benefits (regulations 7 and 11).

(3) The cost of payment of any contributions equivalent premium under the Social Security Pensions (Northern Ireland) Order 1975 is to be borne by the superannuation fund (regulation 4).

(4) The size of small annual benefits which may be compounded is enlarged (regulation 8).

Minor amendments are made by regulations 5, 6 and 12 and regulation 13 provides for questions concerning a person's rights and liabilities under the regulations to be determined as they would be under the existing regulations.

Retrospective application is authorised in the case of regulations 7 and 11 by article 14 of the Superannuation (Northern Ireland) Order 1972 and provision is made for opting out if a person is thereby placed in a worse position (regulation 14).