1986 No. 80

LOCAL GOVERNMENT

Local Government (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1986

Made . . . . . *27th March 1986*

Coming into operation . . . *15th May 1986*

The Department of the Environment, in exercise of powers conferred by Article 19 of the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b), and of every other power enabling it in that behalf, hereby makes the following regulations:—

PART I

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Local Government (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1986 and shall come into operation on 15th May 1986.

(2) In these regulations "the principal regulations" means the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983(c).

PART II

COMPENSATION IN CERTAIN CASES OF REDUNDANCY

Interpretation

2. In this Part "the 1965 Act" means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(d).

Persons to whom Part II applies

3.—(1) Subject to paragraph (2), this Part applies to any person who is entitled to a redundancy payment under the 1965 Act and who, on or after 15th May 1986 ceases to hold his employment with an authority specified in Schedule 1 to the principal regulations.

(2) This Part does not apply to—

(*a*) a person who immediately before ceasing to hold his employment was employed by the University of Ulster unless immediately before 1st October 1984 he was employed by the Governors of the Ulster Polytechnic and was entitled to participate in the benefits provided by the Local Government (Superannuation) Regulations (Northern Ireland) 1981(e); or

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(a) S.I. 1972/1073 (N.I. 10)
(b) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)
(c) S.R. 1983 No. 30
(d) 1965 c. 19 (N.I.). Relevant amendments are made by S.I. 1976/1043 (N.I. 16) Article 82(1) and Schedule 5 Part II paragraphs 13, 37, 38, 39 and 40, S.R. 1985 No. 38 Article 2 and the Schedule
(e) S.R. 1981 No. 96 to which there are amendments not relevant to these regulations

(*b*) a person ceasing to hold an employment in which he was a person in relation to whom regulations may be made under Article 11 of the Superannuation (Northern Ireland) Order 1972 (superannuation of teachers).

Compensation

4. The authority by whom a person to whom this Part applies has ceased to be employed may pay him compensation which does not exceed the difference between—

(*a*) the redundancy payment to which he is entitled under Part II of the 1965 Act; and

(*b*) the redundancy payment to which he would have been so entitled if paragraph 5(4) of Schedule 3 to the 1965 Act(a) (weekly pay in excess of specified limit to be disregarded in calculating redundancy payment) had been repealed.

PART III

AMENDMENT OF PRINCIPAL REGULATIONS

Definitions in principal regulations

5. Regulation 2 of the principal regulations is amended by substituting for the definition of "redundancy payment" the following definition:

" "redundancy payment" shall be construed in accordance with regulation 2A;".

Meaning of "redundancy payment"

6. The principal regulations are amended by inserting after regulation 2 the following regulation—

"*Meaning of "redundancy payment"*

2A.—(1) Subject to paragraph (2), "redundancy payment" means the aggregate of:

(*a*) the redundancy payment to which a beneficiary is entitled under section 11 of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 ("the 1965 Act"); and

(*b*) any compensation paid to him under Part II of the Local Government (Compensation for Redundancy and Premature Retirement) Regulations (Northern Ireland) 1986 ("the 1986 regulations"),

in respect of the cessation of his former employment.

(2) Where the definition in regulation 2 of "excepted payment" falls to be applied for the purposes of paragraph 7 of Schedule 2 (previous entitlement on termination of an employment before the material date), the reference in that definition to a redundancy payment is to be treated as a reference to the aggregate of the redundancy payment to which the beneficiary became entitled under section 11 of the 1965 Act in respect of the termination of the relevant employment, and—

(*a*) where the termination occurred before 15th May 1986, any amount paid to him in respect of it in pursuance of a contract or arrangement and calculated by reference to—

(i) the payment under section 11 of the 1965 Act,

(ii) a period of continuous employment or employments (subject to a maximum period of 20 years), and

(a) Inserted by S.I. 1976/1043 (N.I. 16) Article 82(1) and Schedule 5 Part II paragraph 39

(iii) his remuneration in the relevant employment, or

(*b*) where the termination occurred after 14th May 1986, any compensation paid to him in respect of it under Part II of the 1986 regulations or any corresponding provision in other regulations made under Article 19 of the Superannuation (Northern Ireland) Order 1972 which applies to persons in relation to whom regulations may be made under Article 9 or 11 of that Order.".

Persons to whom the regulations apply

7. Regulation 3 of the principal regulations is amended—

(*a*) by substituting for the words "Subject to the provisions of" the words "—(1) Subject to the provisions of paragraph (2) and";

(*b*) by deleting in (*c*)(iii) the words from "and any period" to "occupational pension"; and

(*c*) by inserting after (*c*)(iv) " the following paragraph:

"(2) In their application to officers employed before the material date by the University of Ulster or the Northern Ireland Fishery Harbour Authority these regulations shall have effect subject to the modifications set out in Schedule 5.".

Additional service

8. Regulation 4(*a*) of the principal regulations is amended by deleting the words from "and any period" to "occupational pension".

Lump sum compensation and annual compensation

9. Regulation 5 of the principal regulations is amended by inserting after paragraph (3) the following paragraphs:

"(3A) Where—

(*a*) immediately before the material date a beneficiary is entitled to an occupational pension, and

(*b*) the aggregate of his reckonable service, any period in respect of which he is entitled to the occupational pension, and any additional service exceeds 40 years, and

(*c*) the aggregate of the annual rates for the time being of his pension under the Superannuation Regulations, of the occupational pension if in payment, and of the annual compensation payable under paragraph (3) would exceed the relevant amount specified in paragraph (3C),

the basic rate of the annual compensation shall be reduced so that the relevant amount is not exceeded.

(3B) For the purposes of paragraph (3A)—

(*a*) the annual rates at any time of the annual compensation and of any other official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971(a) ("the 1971 Act") are their annual rates as increased under that Act,

(*b*) the annual rate at any time of an occupational pension which is not such an official pension is its annual rate as increased under any contract, scheme or other arrangement, and

(*c*) the basic rate of the annual compensation is its basic rate for the purposes of the 1971 Act.

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

(3C) The relevant amount mentioned in paragraph (3A) is 50 per cent. of (A + B), where—

A is the amount of the beneficiary's average remuneration within the meaning of regulation 41 of the Superannuation Regulations, and

B is any amount by which A would have been increased if it had been the annual rate of an official pension within the meaning of the Act of 1971 beginning on and payable from the day after the material date.".

Amendment of Schedule 1 to the principal regulations

10. Schedule 1 to the principal regulations is amended—

(*a*) by substituting for "(*h*) the Governors of the Ulster Polytechnic" the words "(*h*) the University of Ulster";

(*b*) by substituting a semi-colon for the full stop after the word "Ireland" in item (*k*); and

(*c*) by inserting after item (*k*) the words "(1) the Northern Ireland Fishery Harbour Authority".

Previous entitlements

11. Paragraph 2 of Schedule 3 to the principal regulations is amended by deleting the words from "but" to the end of the paragraph.

Modification in certain cases

12. The principal regulations are amended by inserting after Schedule 4 the following:

SCHEDULE 5 Regulation 3(2)

MODIFICATION OF APPLICATION IN CERTAIN CASES

1. In regulation 2(1), at the end of the definition of "employing authority" delete the semi-colon and insert:

"except that in the case of the University of Ulster these regulations apply only to a person who was employed immediately before 1st October 1984 by the Governors of the Ulster Polytechnic;"

2. In regulations 4, 5, 8 and 11 for the words "the date upon which these regulations come into operation" (wherever occurring) and in regulation 10 for the words "the date on which these regulations come into operation", substitute "15th May 1986".

Sealed with the Official Seal of the Department of the Environment on 27th March 1986.

(L.S.) *N. Hamilton*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision for compensation in certain cases of redundancy, and amend the Local Government (Compensation for Premature Retirement) Regulations 1982 ("the principal regulations").

Part II authorises the payment to redundant local government employees, and to staff in certain related employments who may become entitled to redundancy payments under the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965, of compensation not exceeding the difference between the amount payable under that Act and the amount that would have been so payable but for the limit imposed by the Act on the amount of weekly pay to be taken into account in calculating the payment.

Part III contains amendments to the principal regulations.

(1) The definition of "redundancy payment" is replaced by a definition which takes account of Part II (regulations 5 and 6, with a consequential amendment in regulation 11).

(2) The application of the principal regulations is amended by regulations 7(*a*) and (*c*), 10 and 12 to extend to employees of the University of Ulster who were formerly employed by the Governors of the Ulster Polytechnic and of the Northern Ireland Fishery Harbour Authority who are pensionable under the Local Government (Superannuation) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 96).

(3) The principal regulations limited the maximum period of "additional service" on which compensation may be based so that the period, together with any period in respect of which a person was entitled to a pension under the Local Government (Superannuation) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 96) and any other occupational pension, did not exceed 40 years. As amended by regulation 7(*b*), 8 and 9, they will instead limit annual compensation in cases where there is an entitlement to an occupational pension and total service taken into account exceeds 40 years. In such cases the aggregate rate at any time of pensions and compensation and any statutory or other increases in them must not exceed 50 per cent. of final salary, notionally increased as if it had been an official pension within the meaning of the Pensions (Increase) Act (Northern Ireland) 1971.