1991 No. 418

LOCAL GOVERNMENT

Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991

Made . . . . . 10th September 1991

Coming into operation . . 1st November 1991

The Department of the Environment in exercise of the powers conferred by Articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(**a**) and now vested in it(**b**) and Articles 37(7) and (8) of the Social Security Pensions (Northern Ireland) Order 1975(**c**) and of every other power enabling it in that behalf and after consultation with the Association of Local Authorities for Northern Ireland, the district councils, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appear to it to be appropriate, hereby makes the following regulations:

Citation, commencement and retrospection

1.—(1) These regulations may be cited as the Local Government (Superannuation) (Amendment No. 2) Regulations (Northern Ireland) 1991 and shall come into operation on 1st November 1991 and, except as provided in paragraphs (2) and (3), shall have effect from that date.

(2) Regulation 12 shall have effect from 1st January 1985.

(3) Regulation 19 shall have effect from 1st January 1986.

(4) The Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991(**d**) and these regulations may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991.

Interpretation

2. In these regulations "the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(**e**).

(**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) Article 3(1)

(**c**) S.I. 1975/1503 (N.I. 15); Article 37(7) was amended by the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)), Article 18(7), by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)), Schedule 3, paragraph 19(*b*), and by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 3, paragraph 2(1); Article 37(8) was amended by the Social Security (Northern Ireland) Order 1985 Schedule 3, paragraph 8 and a relevant exception to it was prescribed by the Occupational Pension Schemes (Revaluation) Regulations (Northern Ireland) 1985 (S.R. 1985 No. 357), regulation 9, as amended by the Contracting-out (Miscellaneous Amendments) Regulations (Northern Ireland) 1988 (S.R. 1988 No. 108), regulation 2(11)

(**d**) S.R. 1981 No. 96, S.R. 1982 No. 58, S.R. 1984 No. 175, S.R. 1984 No. 355, S.R. 1985 No. 315, S.R. 1986 No. 294, S.R. 1989 No. 345 and S.R. 1991 No. 19

(**e**) S.R. 1981 No. 96; relevant amending regulations are S.R. 1982 No. 58, S.R. 1984 No. 175 and S.R. 1985 No. 315

Definitions in principal regulations

3. Regulation 2(1) of the principal regulations is amended by inserting after the definition of ''injury allowance'' the following definition—

'' ''investment manager'' means a person—

(*a*) who is authorised under the Financial Services Act 1986(**a**) and entitled by virtue of that authorisation to manage the assets of occupational pension schemes; or

(*b*) who—

(i) does not transact investment business (within the meaning of that Act) from a permanent place of business maintained by him in the United Kingdom and whose head office is situated in a member State other than the United Kingdom;

(ii) is recognised by the law of that member State as a national of that or another member State; and

(iii) is for the time being authorised under that law to engage in one or more of the activities falling within Part II of Schedule 1 to that Act, and is not precluded by that law from managing the assets of occupational pension schemes or assets belonging to another person,

and who is reasonably believed by the administering authority to be suitably qualified by his ability in and practical experience of financial matters to make investment decisions on their behalf, but who is not an employee of that authority;''.

Constitution and powers of the Committee

4. Regulation 3 of the principal regulations is amended—

(*a*) in paragraph (2) by inserting after the words ''and hold land, shall'' the words ''subject to paragraphs (2A) to (2F)'';

(*b*) by inserting after paragraph (2) the following paragraphs—

''(2A) The Committee may appoint a sub-committee or an officer employed by the Committee to discharge, with or without restrictions or conditions as the Committee thinks fit, any of the functions assigned to the Committee by regulations 5 and 5A.

(2B) The number of members of a sub-committee appointed under paragraph (2A) and their term of office shall be fixed by the Committee or in the case of an officer his term of office shall be fixed by the Committee.

(2C) A sub-committee appointed under paragraph (2A) shall consist of members of the Committee and may include officers of the Committee appointed under paragraph (6) or (7).

(2D) A sub-committee or an officer appointed under paragraph (2A) shall report to the Committee at each of its meetings setting out all actions taken under such appointment.

(**a**) 1986 c. 60

(2E) The Committee may revoke any appointment made under paragraph (2A) or any restriction or condition imposed under paragraph (2A) or anything fixed under paragraph (2B).

(2F) Any arrangements made by the Committee for the discharge of the functions specified in regulations 5 and 5A by a sub-committee or officer shall not prevent the Committee from exercising those functions.''.

Use and investment of fund's moneys

5. Regulation 5A of the principal regulations is amended—

(*a*) in paragraph (1) by substituting for the words ''paragraphs (2) to (4)'' the words ''paragraphs (2) to (4A)'';

(*b*) by inserting after paragraph (1) the following paragraph—

''(1A) For the purpose of this regulation and of regulation 5(1), investment includes any contract which by virtue of section 45 of the Finance Act 1984(**a**) (extension of pension schemes' tax exemptions to dealings in financial futures and traded options) is to be regarded as an investment for the purposes of the enactments referred to in that section.'';

(*c*) in paragraph (2) by substituting for sub-paragraph (*b*)(iii) the following sub-paragraph—

''(iii) a deposit with the Bank of England, an institution authorised under Part I of the Banking Act 1987(**b**) or a person for the time being specified in Schedule 2 to that Act,

so as to result in more than 5% of the value at the time of all investments of fund moneys being represented by a single holding, or more than 20% of that value being represented by investments in units or other shares of the investments subject to the trusts of unit trust schemes managed by any one body, or'';

(*d*) in paragraph (2)(*d*), by substituting for the words ''paragraph 13 or 14 of Schedule 1 to the Banking Act 1979'' the words ''paragraph 12 or 13 of Schedule 2 to the Banking Act 1987'';

(*e*) by substituting for paragraph (3)(*b*) the following sub-paragraph—

''(*b*) deposited with the Bank of England, an institution authorised under Part I of the Banking Act 1987 or a person for the time being specified in paragraph 1 to 11 of Schedule 2 to that Act''.

(*f*) by substituting for paragraph 4 the following paragraphs—

''(3A) The Committee, subject to paragraph (3B), may appoint one or more investment managers to manage and invest fund moneys on their behalf.

(3B) The Committee shall not make an appointment under paragraph (3A) unless—

(**a**) 1984 c. 43
(**b**) 1987 c. 22

(*a*) they have considered the value of the fund moneys to be managed by the investment manager or, as the case may be, by each of the investment managers to be appointed and are satisfied that it will not be excessive, having regard to proper advice, to the desirability of securing diversification of the management of the fund, and to the value of the assets of the fund; and

(*b*) the terms of the appointment—

(i) provide for the appointment to be terminable by not more than one month's notice given by the Committee;

(ii) require the investment manager to provide the Committee at least once every 3 months with a report setting out the action he has taken under the appointment;

(iii) require the investment manager to comply with such instructions as the Committee, or a sub-committee or officer when exercising authority under regulation 3(2A), may give;

(iv) require the investment manager to have regard to the need for diversification of investments of fund moneys, and to the suitability of investments of any description of investment which he proposes to make and of any investment proposed as an investment of that description;

(v) prohibit the investment manager from making investments which would contravene paragraph (2).

(3C) Where the Committee have made an appointment under paragraph (3A) they shall, at least once every 3 months, review the investments made by the investment manager and from time to time consider the desirability of continuing or terminating the appointment.

(4) In the discharge of their functions under this regulation the Committee shall have regard—

(*a*) to the need for diversification of investments of fund moneys; and

(*b*) to the suitability of investments of any description of investment which they propose to make and of any investment proposed as an investment of that description, and

(*c*) to proper advice, obtained at reasonable intervals.

(4A) Where the Committee appoint an investment manager under paragraph (3A) they shall have regard—

(*a*) in determining the terms of the appointment, to proper advice, and

(*b*) in exercising their functions under paragraph (3C)—

(i) to the need for diversification of investments of fund moneys,

(ii) to the suitability of investments of any description of investment which the investment manager has made and of any investment made as an investment of that description, and

(iii) to proper advice.'';

(*g*) in paragraph (6) in the definition of ''single holding'', by substituting the following sub-paragraphs for sub-paragraph (*a*)—

''(*a*) in securities of, or in loans to or deposits with, any one body, other than investments in unit trust schemes, or

(*aa*) in units or other shares of the investments subject to the trusts of any one unit trust scheme; or''.

Periodical valuation of the fund

6. Regulation 8 of the principal regulations is amended—

(*a*) in paragraph (1)(*a*) by substituting for the words ''31st March 1979'' the words ''31st March 1992'';

(*b*) in paragraph (1)(*b*) by substituting for the word ''fifth'' the word ''third'';

(*c*) in paragraph (2) by substituting for the words ''21 months'' the words ''12 months''; and

(*d*) in paragraph (3) by substituting for the words ''9 months'' the words ''6 months''.

Actuary's certificates

7. Regulation 9 of the principal regulations is amended—

(*a*) by substituting for paragraph (2) the following paragraph—

''(2) The period referred to in paragraph (1) is the period of 3 years beginning with 1st April in the year following.''; and

(*b*) by deleting paragraph (4).

Combined benefits in the case of certain re-employed pensioners

8. Regulation 31 of the principal regulations is amended in paragraph (2) by substituting for the words from ''Provided that'' to the end, the following—

''Provided that if in conjunction with the pension mentioned in paragraph (1) the person was entitled to a retiring allowance (''the first allowance'')—

(*a*) if he has not received the first allowance before becoming entitled as mentioned in this paragraph, he ceases to be entitled to it;

(*b*) if he has received the first allowance and the amount of that allowance equals or exceeds the amount of the retiring allowance to which, apart from this sub-paragraph, he would be entitled under this paragraph (''the second allowance'')—

(i) the second allowance shall not be payable under this paragraph; and

(ii) any other benefits payable to or in respect of the person under this paragraph shall be reduced in such manner as the Committee may determine to be necessary for the purpose of recovering the amount (if any) by which the first allowance exceeds the second allowance;

(*c*) if he has received the first allowance and the amount of the second allowance exceeds the amount of the first allowance, the second allowance shall be reduced by the amount of the first allowance.''.

Interest on late payment of certain benefits

9. The principal regulations are amended by inserting after regulation 33 the following regulation—

''*Interest on late payment of certain benefits*

33A.—(1) Where all or part of—

(*a*) a retiring allowance,

(*b*) an ill-health retirement grant payable under regulation 28A, or

(*c*) a death gratuity,

is not paid within one month after the due date, the Committee shall pay to the person to whom the allowance or grant is payable interest, calculated at the standard rate on a day-to-day basis from the due date to the date of payment and compounded with 3 monthly rests on the amount remaining unpaid.

(2) For the purposes of this regulation the due date is—

(*a*) in the case of a retiring allowance which becomes payable by virtue of a notice in writing under regulation 19(1)(*a*)(iv) or (2)(*b*) given on or after the date on which the allowance by virtue of that notice became payable, the date one month after that notice was given;

(*b*) in the case of a part of a retiring allowance which becomes payable by virtue of payments or contributions made after the date on which the remainder of the allowance became payable, the date one month after that increase in contributions was paid;

(*c*) in the case of a retiring allowance or part of a retiring allowance which becomes payable by virtue of contributions made following the determination of any question under regulation 83, the date on which that allowance or part of an allowance would have become payable had those contributions been made at the first opportunity which these regulations would otherwise have provided;

(*d*) in all other cases in which a retiring allowance or part of a retiring allowance becomes payable, the date on which that allowance or part of an allowance becomes payable;

(*e*) in the case of an ill-health retirement grant which becomes payable, the day after the person who is entitled to the ill-health retirement grant ceased to hold his employment;

(*f*) in the case of a death gratuity the date on which—

(i) probate or letters of administration are produced to the Committee, or

(ii) the Committee become satisfied that the gratuity may be paid as provided in regulation 76.''.

Increase in certain benefits already payable

10. The principal regulations are amended by inserting after regulation 33A the following regulation—

"*Increase in certain benefits already payable*

33B.—(1) This regulation applies where a person has become entitled, under regulation 46C, to reckon an additional period as whole time contributing service by virtue of a lump sum payment having been made in accordance with regulation 46A(20).

(2) Where this regulation applies—

(*a*) the additional period shall be treated as having been reckonable at the time when the person ceased to be an officer; and

(*b*) the person shall be entitled to receive, within one month after making the lump sum payment, a sum equal to the additional amount he would have received if any benefits already paid to him had been calculated by reference to the increased contributing service.".

Additional payments in respect of previous part-time service

11. The principal regulations are amended by inserting after regulation 46 the following regulations—

"*Additional payments in respect of previous part-time service*

46A.—(1) In this regulation—

"eligible person" shall be construed in accordance with paragraphs (2) and (3);

"employing authority", in relation to a person who has ceased to be an officer, means the body which was his employer when he was last an officer.

(2) Subject to paragraphs (3) and (4) an eligible person is a person who became entitled by virtue of regulation 40(4)(**a**) to reckon a period of employment as service, or who would have been so entitled if that regulation and Part II of Schedule 2 had come into operation on 1st April 1986, and if the words "or 5"(**b**) had been inserted after the words "paragraph 1(1)" in regulation 40(4)(*a*).

(3) To enable a person to whom paragraph 5 of Part II of Schedule 2 applied to be treated as if regulation 40(4) applied to him for the purposes of paragraph (2), paragraph 5 shall be deemed to have continued in operation until 1st October 1990.

(4) In paragraphs (2), (9) and (16)(*a*) service means service for determining whether any benefit is payable to or in respect of the officer under these regulations.

(5) A person is not an eligible person if—

(**a**) Regulation 40(4) was inserted by S.R. 1989 No. 345, regulation 8

(**b**) Part II of Schedule 2 was inserted by S.R. 1989 No. 345, regulation 12. Paragraph 5 of that Part was deleted with effect from 6th April 1988 by S.R. 1991 No. 19, regulation 23

(*a*) he has ceased to be in the employment of an employing authority and on ceasing to hold such employment, was not entitled to any benefits under regulation 18(1)(**a**); or

(*b*) he has ceased to be an officer by virtue of a notification under regulation 11B(**b**) unless he again becomes an officer before 1st May 1992.

(6) An eligible person may, or if he has died, his widow or widower may by notice given in accordance with paragraph (8) elect to make payment to the fund in order that the eligible person may become entitled under regulation 46C to reckon an additional period as whole time contributing service.

(7) As soon as is reasonably practicable after 1st November 1991, and in any event within 12 months after that date, an eligible person's employing authority shall notify him or his widow in writing of the right of election under paragraph (6) and of the requirements of paragraph (8) as to notice.

(8) A notice of election—

(*a*) shall be given in writing to the eligible persons's employing authority not later than 6 months after he or his widow or widower has received a notification under paragraph (7);

(*b*) shall specify the length of the period which the eligible person or his widow or widower wishes to be taken into account for the purpose of reckoning an additional period of whole time contributing service under regulation 46C;

(*c*) shall be irrevocable but, subject to paragraph (9), an eligible person or his widow or widower may by further notice given in accordance with sub-paragraph (*a*) increase the period specified under sub-paragraph (*b*).

(9) The length of the period specified under paragraph (8) shall not exceed the length of the period of service which the eligible person became entitled (or, in the circumstances described in paragraph (2), would have become entitled) to reckon as service before 1st April 1986 by virtue of regulation 40(4).

(10) Subject to paragraph (11), the amount payable by an eligible person or his widow or widower pursuant to an election under paragraph (6) shall be a capital sum calculated in accordance with Part I of Schedule 9A.

(11) The employing authority may, in respect of an eligible person, agree to pay a proportion, not exceeding one half, of the sum referred to in paragraph (10), in which case the amount payable by that person or his widow or widower shall be reduced accordingly.

(12) As soon as is reasonably practicable after receiving a notice of election, the employing authority shall send it to the Committee together with a written statement of the proportion (if any) of the sum referred to in paragraph (10) that they have agreed to pay.

(**a**) Regulation 18 was amended by S.R. 1991 No. 19, regulation 9
(**b**) Regulation 11B was inserted by S.R. 1991 No. 19, regulation 5

(13) As soon as is reasonably practicable thereafter, the Committee shall calculate the sum referred to in paragraph (10), and shall send to the employing authority and the eligible person or his widow or widower a statement of that sum and of the amount payable by each of them and, when appropriate, the frequency and amount of any instalments to be paid in accordance with paragraph (16).

(14) Subject to paragraph (15), the employing authority shall pay to the Committee, not later than one month (or such longer period as the authority and the Committee may agree) after receiving the statement referred to in paragraph (13), the amount shown therein as payable by them, and regulation 14(8) shall apply to an amount payable under this paragraph as it applies to sums payable under regulation 14(7).

(15) The employing authority and the Committee may agree that paragraph (14) shall not apply, in which case the amount payable by the employing authority shall be recoverable under regulation 14(1)(*c*) in the 3 year period following the next periodical valuation of the fund under regulation 8.

(16) Where the eligible person is an officer, the amount payable by him under paragraph (10) shall, subject to paragraphs (17) and (18), be paid by instalments of equal amounts at such intervals as the Committee may agree over a period—

(*a*) equal in length to the period of service specified in the notice of election under paragraph (8) or such longer period as the Committee may agree; or

(*b*) until his 65th birthday;

which ever is the lesser period, and the first such instalment shall be paid not later than 2 months after service of the statement under paragraph (13).

(17) Instalments paid under paragraph (16) shall not in any year exceed such amount as, when added to all other payments made by the eligible person in that year under regulations 14, 15, 38, 43, 44, 45 and 45A is equal to the limit specified in paragraph 21 of Schedule 6 to the Finance Act 1989(**a**).

(18) Where by virtue of paragraph (17) the amount payable under paragraph (10) cannot be paid in full by the eligible person's 65th birthday, the amount outstanding on that birthday shall be paid in full to the Committee in a single payment made not later than 3 months after that birthday.

(19) The provisions of regulation 14(6) shall apply in relation to any instalments payable by an officer under this regulation as they apply in relation to contributions payable by an officer under regulation 14(1).

(20) Where the eligible person has ceased to be an officer on the date of service of the statement under paragraph (13) or dies before he has paid any instalments under paragraph (16), the amount payable by him or his widow or widower under paragraph (10) shall be paid in full to the Committee in a single payment made not later than 3 months after that date.

(**a**) 1989 c. 26

(21) Payment in accordance with paragraph (16) may be discontinued if the eligible person satisfies the Committee that its continuance would cause financial hardship.

Discontinuance of periodical payments in certain cases

46B.—(1) This regulation applies to an officer who has elected under regulation 45 to make additional contributions and who, before he has completed payment of those contributions makes an election under regulation 46A.

(2) An officer to whom this regulation applies may, within 3 months after receiving the statement referred to in regulation 46A(13), give notice in writing to the Committee that he does not intend to complete payment of additional contributions under regulation 45.

(3) Where an officer gives notice under paragraph (2), paragraphs 3(*b*) and 4 of Schedule 10 shall apply as if payment of additional contributions had been discontinued under regulation 45(5).

Increase of contributing service of part-time employees

46C.—(1) A person who has made, or whose widow or widower has made one or more payments under regulation 46A (16) or (20) is entitled to reckon as whole time contributing service an additional period calculated in accordance with Part II of Schedule 9A.

(2) In respect of a person who is entitled to reckon service after 5th April 1988 as contributing service under regulation 39, the additional period shall be treated as contributing service after that date. In any other case it shall be treated as service reckonable as contributing service before 6th April 1988.

(3) Additional periods which a person becomes entitled to reckon as contributing service by virtue of this regulation shall not be reckonable as service for the purpose of determining whether any benefit is payable to, or in respect of, the officer under these regulations.".

Pensions Order payments

12. The principal regulations are amended by inserting after regulation 64 the following regulation—

"*Pensions Order payments*

64A.—(1) Any increase in a pension which is required by virtue of Articles 43A to 43C (protection of pensions) of the Pensions Order(**a**) shall be paid out of the fund.

(**a**) Articles 43A to 43C were inserted by the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) Schedule 4, were modified by the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1984 (S.R. 1984 No. 444), and were further amended by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Article 8 and Schedule 3, paragraph 3

(2) Any payment which the Committee are required to make as a result of a person's taking a right to a cash equivalent under Schedule 1A to the Pensions Order(**a**) shall be made out of the fund.''.

Right to reckon service

13. Regulation 70(1)(*b*) of the principal regulations is amended by substituting for the words after ''in respect of him'' the words ''all the service to which the transfer value relates''.

Revaluation of guaranteed minimum in certain cases

14. The principal regulations are amended by inserting after regulation 73 the following regulation—

''*Revaluation of guaranteed minimum in certain cases*

73A.—(1) This regulation applies where a person has ceased to be an officer and the guaranteed minimum in relation to his pension is appropriately secured within the meaning of Article 53C of the Pensions Order(**b**).

(2) The earnings factors of such a person shall be determined for the purposes of Article 37(2) of the Pensions Order by reference to the last order under Article 23 of that Order to come into force before the end of the tax year in which he ceased to be an officer and without reference to the last such order to come into force before the end of the final relevant year.

(3) The weekly equivalent mentioned in Article 37(2) of the Pensions Order is to be increased in accordance with any additional requirements for the time being prescribed for the purposes of Article 47(1)(*b*) (exclusion from liability to pay a limited revaluation premium) of that Order.

(4) In this regulation, ''relevant year'' has the meaning given by Article 37(9) of the Pensions Order.''.

Recovery or retention of certain sums where as a consequence of an officer's fraudulent act or grave misconduct an employing authority have suffered a financial loss

15. Regulation 79 of the principal regulations is amended in paragraph (1)(*b*) by inserting after the words ''in the case of any other officer'' the words ''who has completed less than 2 years' service''.

Recovery or retention of certain sums where as a consequence of an officer's criminal, negligent or fraudulent act or omission he has incurred a monetary obligation to his employing authority

16. Regulation 80(1) of the principal regulations is amended by inserting after the words ''arising out of such act or omission'' the words ''and is entitled to benefits under regulation 18(1)''.

(**a**) Schedule 1A was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 1, paragraph 3

(**b**) Article 53C was inserted by S.I. 1985/1209 (N.I. 16) Schedule 1, paragraph 2, and amended by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Schedule 9, paragraph 17

Pensions Order premiums

17. The principal regulations are amended by substituting for regulation 81 the following regulation—

"*Pensions Order premiums*

81.—(1) Where a contributions equivalent premium is paid in respect of any officer the Committee shall be entitled to charge to the 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 Pensions Order in respect of that premium.

(2) Where such a contributions equivalent premium is refunded under regulation 23(3)(*c*) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1985(**a**), the Committee shall credit to the fund a sum equal to the amount of the premium.

(3) Where a transfer premium under Article 46A(**b**) or a limited revaluation premium under Article 47 of the Pensions Order is paid in respect of any officer the Committee shall be entitled to charge to the fund a sum not exceeding the amount of that premium.".

Payment for additional contributing service of part-time employees

18. The principal regulations are amended by inserting after Schedule 9 the following Schedule—

Regulations 46A and 46C

"SCHEDULE 9A

Payment for additional contributing service of part-time employees

PART I Regulation 46A (10)

AMOUNT TO BE PAID FOR ADDITIONAL PERIOD

1. The amount payable by an eligible person or his widow or widower under regulation 46A (10) is—

$$\frac{(6 \times A \times B) + (12 \times A \times C)}{100}$$

where—

A is the annual rate of the eligible person's remuneration on the relevant date;

B is the lesser of—

(*a*) the length, expressed in complete years and any fraction of a year of his service before 1st April 1978, and

(*b*) the length of the period specified in the notice of election under regulation 46A(8); and

(**a**) S.R. 1985 No. 259

(**b**) Article 46A was inserted by the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)), Schedule 1, paragraph 1

C is the length, expressed in complete years and any fraction of a year, by which the period specified in the notice of election exceeds B.

2. In paragraph 1—

(*a*) the annual rate of remuneration shall be ascertained in accordance with paragraph (*a*)(i) to (v) in the definition of C in Part II of Schedule 14 and if regulation 14(4) applies as if his remuneration had not been reduced;

(*b*) "the relevant date" means—

(i) 31st March 1986 or, if earlier, the day before the eligible person first became an officer, or

(ii) if on that date he was not employed by an employing authority, the last date before that date on which he was in such an employment.

PART II Regulation 46C

CALCULATION OF ADDITIONAL PERIOD

3. Where payment of the sum payable under regulation 46A(10) has been completed, the eligible person is entitled under regulation 46C to reckon as whole time contributing service an additional period calculated in accordance with the formula—

$$\frac{D}{E} \times F$$

where—

D is the person's contractual hours of employment as at the relevant date (within the meaning of paragraph 2);

E is the contractual hours of a comparable whole time employment as at that date; and

F is the additional period specified in the notice of election under regulation 46A(8).

4. A person who discontinues payment under regulation 46A(21) shall be entitled to reckon under regulation 46C as whole time contributing service an additional period calculated as—

$$\frac{L}{M} \times N$$

where—

L is the total amount paid by way of instalments under regulation 46A(16);

M is the total sum payable by him under regulation 46A(10); and

N is the length of the period of whole time contributing service which the person would have been entitled to reckon under regulation 46C if payment had been completed.

5. Paragraphs 6 to 8 apply where a person has begun to make payments under regulation 46A(16) but ceases to be an officer before he has completed payment of the sum payable by him under regulation 46A(10).

6. An officer who dies, or ceases to hold his employment by reason of permanent ill-health or infirmity of mind or body, shall be treated as having completed payment of that sum.

7. Subject to paragraph 8, a person who ceases to be an officer for any other reason shall be entitled to reckon under regulation 46C as whole time contributing service an additional period calculated as—

$$\frac{X}{Y} \times Z$$

where—

X is the total amount paid by way of instalments;

Y is the total sum payable by him under regulation 46A(10); and

Z is the length of the period of whole time contributing service which the person would have been entitled to reckon under regulation 46C if payment had been completed.

8. A person to whom paragraph 7 applies by reason of his ceasing to be employed by an employing authority may, within one month after the date on which he ceases to be an officer, pay to the Committee the capital sum equal to the total of the instalments remaining unpaid, and he shall then be treated as having completed payment.".

Calculation of transfer values

19. Schedule 14 to the principal regulations is amended by substituting for paragraph 1(1)(*d*) the following paragraph—

"(*d*) in the case of a person in relation to whom, when he ceases to be employed as an officer—

(i) a contributions equivalent premium is paid under Article 44 of the Pensions Order,

(ii) a limited revaluation premium is paid under Article 47 of that Order otherwise than by the scheme managers of his approved non-local government scheme, or

(iii) a transfer premium under Article 46A of that Order,

a sum equal to the amount of that premium or premiums,".

Transitional

20.—(1) Regulation 73A of the principal regulations (inserted by regulation 14) applies where the person ceased to be an officer at any time after 31st December 1985.

(2) Regulations 79(1) and 80(1) of the principal regulations apply as amended by regulations 15 and 16 only where the cessation of employment occurs after 5th April 1988.

(3) In regulation 81 of the principal regulations, as substituted by regulation 17, paragraph (2) applies where a contributions equivalent premium was refunded at any time after 5th April 1978 and paragraph (3) applies where the premium was paid at any time after 31st December 1985.

Right to opt out

21. No provision of these regulations shall apply to any person to whom at any time before 1st November 1991 any benefit (including a return of contributions or any pension payable to a widow or any dependant by virtue of a surrender) was or is being paid or became or may become payable if—

(*a*) he is placed by that provision in a worse position than he would have been 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 1st November 1991 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 1st November 1991, elects that the provision shall not apply to him.

Sealed with the Official Seal of the Department of the Environment on 10th September 1991.

(L.S.) *J. McCormick*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Local Government (Superannuation) Regulations (Northern Ireland) 1981 ("the principal regulations") as follows—

(*a*) Regulation 4(*b*) amends regulation 3 of the principal regulations to enable the Northern Ireland Local Government Officers' Superannuation Committee ("the Committee"), subject to any limitations imposed by the Committee itself, to appoint sub-committees or officers to discharge functions exercisable by the Committee. Consequential amendments are contained in regulations 3 and 4(*a*).

(*b*) Regulation 5 amends regulation 5A of the principal regulations—

(i) to enable the Committee to apply fund moneys to dealings in financial futures and traded options;

(ii) to replace references to the Banking Act 1979 (c.37) in paragraphs (2) and (3) with references to the Banking Act 1987 (c.22); and

(iii) to revise the rules governing the investment of superannuation fund moneys—

Paragraph (2) is amended to permit up to 20% of the value of the fund to be invested in unit trust schemes managed by any one person, but the existing 5% limit on any individual unit trust scheme is retained.

New paragraph (3A) expressly authorises the Committee to appoint investment managers to invest fund moneys on their behalf. Provided that the appointment satisfies the conditions set out in paragraph (3B) and the Committee complies with the requirements specified in paragraph (3C) and (4A).

(*c*) Regulation 6 reduces from 5 years to 3 years the interval between valuations of the superannuation fund and regulation 8 makes associated amendments.

(*d*) Regulation 7 amends regulation 9 of the principal regulations to reduce from 2 years to 1 year the interval between the date of valuation and the introduction of the resulting revised employers contribution rate. Consequentially paragraph (4) of regulation 9 is deleted.

(*e*) Regulation 8 amends the proviso to paragraph (2) of regulation 31 of the principal regulations to make its application conditional on a person being entitled to a retiring allowance rather than being in receipt of it.

(*f*) Regulation 9 adds a new regulation 33A to the principal regulations which provides that interest is to be paid where payment of a lump sum is delayed.

(*g*) Regulations 10, 11 and 18 enable certain part-time employees and former part-time employees to purchase additional reckonable service in order to increase the benefits payable to them under the principal regulations. Part-time employees first became eligible to elect to be

officers by virtue of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989 (S.R. 1989/345). An election could be made retrospectively to have effect from 1st April 1986. Regulations 10, 11 and 18 apply to a person who made such an election and also to a "term-time employee" (one who worked for fewer than 45 weeks per year) who elected before 1st October 1990 to become an officer.

Regulation 10 inserts new regulation 33B to the principal regulations which prescribes how a person who has ceased to be an officer is to be treated.

Regulation 11 inserts new regulations 46A, 46B and 46C to the principal regulations. Regulation 46A sets out the procedure for electing to purchase additional contributing service and for payment. Employing authorities may meet up to half the cost. Regulation 46B allows a person who is already paying additional contributions to purchase additional service to discontinue them. Regulation 46C confers the entitlement to reckon an additional period.

Regulation 18 inserts a new Schedule 9A into the principal regulations which provides for the calculation of the sum to be paid by a person purchasing additional service and the length of additional service with which he will be credited.

(*h*) Regulation 12 makes payable out of the superannuation fund any increase in a pension required under Articles 43A to 43C of the Social Security Pensions (Northern Ireland) Order 1975 ("the Pensions Order") and any cash equivalent (of accrued benefits) by a person leaving local government employment.

(*i*) Regulation 13 clarifies what service becomes reckonable by virtue of regulation 70(1)(*b*) of the principal regulations on the receipt of a transfer value.

(*j*) Regulation 14 provides that where a cash equivalent is used under the Pensions Order to purchase one or more annuities, the person's guaranteed minimum under that Order is to be revalued in accordance with the fixed rate method.

(*k*) Regulations 15 and 16 clarify the circumstances in which superannuation fund money may be applied to make good losses sustained by employing authorities through the fault of former employees.

(*l*) Regulation 17 adds transfer premiums and limited revaluation premiums to the premiums payable under the Pensions Order which may be met from the superannuation fund and regulation 19 makes a consequential amendment to Part I of Schedule 14 to the principal regulations.

(*m*) Regulation 20 contains transitional provisions.

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express power to make regulations retrospective in effect. These regulations are to a certain extent retrospective but, where rights in relation to ex-employees could be adversely affected, provision is made to opt out (regulation 21).