

## 1991 No. 19

## LOCAL GOVERNMENT

**Local Government (Superannuation and Compensation)  
(Amendment) Regulations (Northern Ireland) 1991**

*Made* . . . . . 30th January 1991

*Coming into operation* . . . . . 1st March 1991

The Department of the Environment, in exercise of the powers conferred by Articles 9(1) and (2), 14 and 19(1), (3) and (4) of the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b), 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:

## PART I

## PRELIMINARY

*Citation, commencement and retrospectio*

1.—(1) These regulations may be cited as the Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991 and shall come into operation on 1st March 1991 and shall have effect from 6th April 1988.

(2) The Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1989(c) and these regulations may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1991.

## PART II

## SUPERANNUATION

*Interpretation*

2. In this Part "the principal regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(d).

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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) Article 3(1)

(c) 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 and S.R. 1989 No. 345

(d) S.R. 1981 No. 96 relevant amending regulations are S.R. 1982 No. 58, S.R. 1984 No. 355, S.R. 1985 No. 315, S.R. 1986 No. 294 and S.R. 1989 No. 345

*Definitions in principal regulations*

3. Regulation 2(1) of the principal regulations is amended—
- (a) by inserting after the entry relating to “the Department” the following definition—
 

“ “earnings factors” means the earnings factors referred to in Article 37 of the Pensions Order;”;
  - (b) by substituting for the definition of “officer” the following definition—
 

“ “officer”, subject as provided in paragraph (3) shall be construed in accordance with regulations 11 to 11C;”;
  - (c) by inserting after the entry relating to “the superannuation fund” the following definition—
 

“ “tax year” means the 12 months beginning with 6th April in any year;”.

*Application*

4. Regulation 11 of the principal regulations is amended—
- (a) in paragraph (1) by inserting after the words “shall apply” the words, “subject to regulations 11A to 11C”;
  - (b) subject to regulation 26 by deleting paragraphs (1)(g), (2)(e) and (f) and (2A); and
  - (c) in paragraph (3) by inserting after the words “paragraph (1)” the words “and regulations 11A or 11C”.

*Election to become an officer, etc.*

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

*“Election to become an officer*

**11A.**—(1) Notwithstanding anything in regulation 11 or Part II of schedule 2, a person who was not an officer on 5th April 1988 shall not after that date become an officer unless he makes an election to become such.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person’s employing authority.

(3) Subject to paragraph (4), if a person gives notice of election at least one month before the date on which he commences his employment with the employing authority or such lesser period before that date as the authority allows, the election shall have effect from that date unless the notice specifies otherwise, and in any other case (whether the notice is given before or after the commencement of employment) it shall have effect from the day following the end of the relevant period, or such later date as may be specified in the notice.

(4) In an exempt case, the body to which notice of election is given may give notice to the person electing that he is not to become an officer, and a case is an exempt case for these purposes if that person—

- (a) has attained or would, on or by the date on which he would otherwise become an officer pursuant to the election, have attained the age of 50 years; and
  - (b) was first employed by that body before he attained that age.
- (5) A notice of election shall have effect—
- (a) subject to any subsequent notification under regulation 11B; and
  - (b) both in relation to the employment with the body which is to become the person's employing authority, and in relation to any subsequent employment under which the person may become an officer.

(6) In paragraph (3), "the relevant period" means the period of service to which the person's payment of wages or salary due from the employing authority next after the day on which the notice of election is given relates.

*Notification to cease to be an officer*

**11B.**—(1) An officer may at anytime notify his employing authority in writing that he does not wish to be such for the purposes of these regulations.

(2) Subject to paragraph (3), a person giving a notification under paragraph (1) shall cease to be an officer from the day following the end of the relevant period, or such later date as may be specified in the notification.

(3) In a case where the person was an officer on 5th April 1988 and the notification was given before 6th July 1988 he shall be treated as having ceased to be an officer on 6th April 1988 or such later date as may be specified in the notification.

(4) A person giving a notification under paragraph (1) shall not again become an officer in that or another employment unless he makes an election in accordance with regulation 11C.

(5) Any contributions paid with respect to a period during which a person is to be treated by virtue of a notification under paragraph (1) as not having been an officer shall be returned to him.

(6) In paragraph (2), "the relevant period" means the period of service to which the person's payment of wages or salary due from the employing authority next after the day on which the notification under paragraph (1) is given relates, or the period of 2 months beginning on that day, whichever ends the sooner.

*Subsequent election to become an officer*

**11C.**—(1) A person who would be or become an officer in accordance with these regulations but for a notification under regulation 11B may, notwithstanding the giving of that notification but subject to paragraphs (3) and (4), subsequently elect so to become an officer.

(2) An election under paragraph (1) shall be made by notice given in writing to the body which is to become the person's employing authority.

(3) A person who has made an election under paragraph (1) and who subsequently gives another notification under regulation 11B(1) may, subject to paragraph (4), make no further election under paragraph (1).

(4) Notwithstanding paragraph (3), a person may elect under paragraph (1) whenever he begins a new employment which might fall within regulation 11, provided the notice of election is given to the new employing authority before or within the period of 3 months beginning with the day on which he begins that employment.

(5) Regulation 11A(3) to (6) shall apply to an election under paragraph (1) as it applies to an election under regulation 11A(1)."

*Admission of other persons to participation in superannuation benefits*

6. Regulation 13 of the principal regulations is amended by inserting after paragraph (1) the following paragraph—

"(1A) Without prejudice to paragraph (1), regulations 11A to 11C shall, without further provision, be taken to apply to any employee to whom an agreement relates, and in particular as if references to an officer included references to a person contributing or entitled to contribute to the fund by virtue of the agreement and references to regulation 11 included references to the agreement."

*Effect of notification to cease to be an officer on certain additional payments*

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

*"Effect of notification to cease to be an officer on certain additional payments*

**14A.**—(1) This regulation applies where an officer who—

- (a) has elected under regulations 15(4) or 45, or the corresponding provisions of the previous regulations, to make payments to the fund;
- (b) is making outstanding additional contributory payments in accordance with regulation 38; or
- (c) is making payments by way of additional contributions in pursuance of regulation 43 or the corresponding provision of the previous regulations,

gives notification in accordance with regulation 11B.

(2) In a case mentioned in paragraph (1)(a), no further payments shall be payable from the day on which the person giving the notification ceases to be an officer; and the benefits to which he is entitled in relation to those payments shall be calculated as if the payments had been discontinued under regulations 15(9) or 45(5), as the case may be.

(3) In a case mentioned in paragraph (1)(b), the provisions of paragraph 3 of the second schedule to the 1962 regulations shall apply as if those regulations had not been revoked and the officer had ceased to hold his employment on the day on which he ceased to be an officer.

(4) In a case mentioned in paragraph (1)(c), no further payments shall be payable by the person or the employing authority from the date on

which the person giving the notification ceases to be an officer; and the additional period which he is entitled to reckon as contributing service shall be determined as if the payments had been discontinued under proviso (i) of regulation 43(3).

(5) Paragraph (2) shall not preclude a person who has given notification in accordance with regulation 11B making a further election under regulation 15 or 45 after again becoming an officer.

(6) Paragraph (4) shall not preclude a further consent being given under regulation 43 in respect of a person who has given notification in accordance with regulation 11B after he again becomes an officer.”.

#### *Return of contributions*

8. Subject to regulation 25 regulation 16 of the principal regulations is amended—

- (a) in paragraphs (2), (3), (4)(a) and (10)(b) by substituting for the words “5 years” the words “2 years”;
- (b) in paragraphs (4)(b) and (c) by substituting for the words “5 or more than 5 years” the words “2 or more than 2 years”;
- (c) in paragraph (10)(c) by substituting for the words “5 years” the words “2 years”.

#### *Officer's pension and retiring allowance*

9. Subject to regulation 25 regulation 18 of the principal regulations is amended in paragraphs (1)(b) and (c)—

- (a) in paragraph (1)(b) by substituting for the words “5 years” the words “2 years”;
- (b) in paragraph (1)(c)(i) by substituting for the words “5 years” the words “2 years”.

#### *Entitlement to benefits where a person has given a notification in accordance with regulation 11B*

10. The principal regulations are amended by inserting after regulation 18 the following regulation—

“*Entitlement to benefits where a person has given a notification in accordance with regulation 11B*

18A. Where regulations 18 to 20, 22 and 24 to 29 do not apply to a person because he has ceased to be an officer by virtue of a notification in accordance with regulation 11B, he shall nevertheless, on ceasing to hold his employment under an employing authority and subject to the provisions of regulations 18 to 20, 22 and 24 to 29 be entitled to benefits in relation to his service as if he was an officer.”.

#### *Death gratuity*

11. Regulation 23 of the principal regulations is amended—

- (a) in paragraph (1), by inserting after sub-paragraph (c) the following—  
“or,

- (d) a person dies who at the time of his death was employed by an employing authority and was entitled to reckon at least 2 years' contributing service, but who was not an officer by virtue of a notification under regulation 11B,";
- (b) in paragraph (2)(e), by inserting after the words "paragraph (1)(c)" the words "or (d)";
- (c) in paragraph (4), by substituting for the words "paragraph (1)(a) or (c)" the words "paragraph (1)(a), (c) or (d)"; and
- (d) by inserting after paragraph (7) the following paragraph—
- "(8) Where a person qualifies for a death gratuity under more than one sub-paragraph of paragraph (1), he shall be treated as having qualified under the sub-paragraph which would, in accordance with the preceding paragraphs, result in the highest amount of death gratuity being paid."

#### *Widow's pension*

12. Subject to regulation 25 regulation 24 of the principal regulations is amended in paragraphs (1)(b)(i) and (2)(b) and (c) by substituting for the words "5 years" the words "2 years".

#### *Child's pension*

13. Subject to regulation 25 regulation 25 of the principal regulations is amended in paragraph (1)(b) by substituting for the words "5 years" the words "2 years".

#### *Widow's limited pension*

14. Subject to regulation 25 regulation 26 of the principal regulations is amended in paragraph (1) by substituting for the words "5 years" the words "2 years".

#### *Child's limited pension*

15. Subject to regulation 25 regulation 27 of the principal regulations is amended in paragraph (1) by substituting for the words "5 years" the words "2 years".

#### *Ill-health retirement grant*

16. Subject to regulation 25 regulation 28A of the principal regulations is amended in paragraph (1)(b)(i) by substituting for the words "one or more but less than 5 years" the words "at least one but less than 2 years".

#### *Method of calculating service, contributing service and non-contributing service*

17. Regulation 40(3) of the principal regulations is amended by substituting for the words "there shall be added to the officer's service a period of contributing service—" the words "and, where the officer has not given a notification under regulation 11B, or, having given such a notification, has again by the date of cessation of employment become an officer by virtue of regulation 11C, and the total service he is entitled to

reckon is not less than 5 years, there shall be added to his service a period of contributing service—”.

*Meaning of average remuneration*

18. Regulation 41 of the principal regulations is amended by inserting after the words “whichever is the earlier” the words “or, if on that date the person was not an officer by virtue of a notification under regulation 11B, the date on which he ceased to be such under that notification.”.

*Further additional contributions*

19. The principal regulations are amended by inserting after regulation 45 the following regulation—

*“Further additional contributions*

45A.—(1) An officer may at any time elect to pay contributions under this regulation in addition to those provided for in regulations 14, 15, 38, 43 and 45.

(2) Schedule 10A shall apply in relation to such an election and in relation to contributions payable under this regulation.

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

*Guaranteed minimum pension for certain officers and their widows or widowers*

20. Regulation 57 of the principal regulations is amended—

(a) by inserting at the end of the heading the words “or widowers”;

(b) in paragraph (2)(b) by substituting for the words “a male officer” the words “the officer is a man and” and for the words “and leaves” the word “leaving”;

(c) by inserting after paragraph (2)(b) the following—

“(c) if the officer is a woman and dies at any time leaving a widower, the weekly rate of the widower’s pension shall, during any such period as is prescribed under Article 38(7A) of the Pensions Order(a), be not less than half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year beginning 6th April 1988 and subsequent tax years.”;

(d) in paragraph (3) by inserting after the words “no widow’s pension is payable to his widow” the words “or, in the case of a female officer on whose death no widower’s pension is payable to her widower”;

(e) in paragraph (3)(b) by substituting for the words “and leaves” the word “leaving”;

(f) by inserting after paragraph (3)(b) the following—

“(c) in the case of a female officer, if she dies at any time leaving a widower, he shall during any such period as is prescribed under

(a) S.I. 1975/1503 (N.I. 15) Article 38(7A) was inserted by the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), Article 11(3)

Article 38(7A) of the Pensions Order, be entitled to a pension at a weekly rate equal to half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year beginning 6th April 1988 and subsequent tax years.”; and

(g) by inserting after paragraph (4) the following paragraph—

“(4A) The guaranteed minimum pensions referred to in paragraphs (2), (3) and (4) shall, insofar as they are attributable to earnings factors in the tax years from (and including) 1988/89, be increased in accordance with the requirements of Article 39A of the Pensions Order(a) and to the extent of any orders made thereunder.”.

#### *Allowances for pensioners*

**21.** Regulation 89(1) of the principal regulations is amended by inserting after the words “relevant body may” the words “(if there is such a shortfall as is mentioned in paragraph (2)(a))”.

#### *Rights and payments to be taken into account in determining amount of benefit*

**22.—**(1) Regulation 92(c) of the principal regulations is amended by omitting the words from “out of any fund” where those words first occur to “transferred”.

(2) The amendment made by paragraph (1) shall only apply in cases where the person ceased to hold the employment concerned, suffered the reduction in his remuneration or died (as the case may be) on or after 6th April 1988.

#### *Application*

**23.—**(1) Part I of schedule 2 to the principal regulations is amended by inserting after paragraph 2 the following paragraph—

“3. A person giving notice under paragraph 1(b) need not, before becoming an officer, make a further election under regulation 11A.”.

(2) Subject to regulation 26 Part II of schedule 2 to the principal regulations is amended—

(a) in paragraph 1(1), by substituting for the words “(2) to (6)” the words “(2) to (5)”, and by substituting for the words “elected to become a part-time officer” the words “made an election under regulations 11A or 11C”;

(b) in paragraph 1(3), by substituting for the words “sub-paragraph (1)” the words “regulations 11A or 11C or notification under regulation 11B”;

(c) by omitting paragraphs 1(6), 3 and 5;



- (d) in paragraph 1(7), by substituting for the words “in all the employments” to the end the words “in all the qualifying part-time employments of a person in relation to which an election under regulations 11A or 11C (or under paragraph 1(1) before its amendment by the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1991) has effect fall below 15, the person shall continue to be an officer unless he gives a notification under regulation 11B; but having given such a notification, a subsequent election to become an officer under regulation 11C shall not come into effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of officer in regulation 11(1)).”;
- (e) in paragraph 2, by substituting for the words “elects to cease to be one” the words “gives a notification under regulation 11B, but having given such a notification, a subsequent election to become an officer under regulation 11C shall not come into effect unless he is in respect of it in a qualifying part-time employment (or falls within some other description of officer in regulation 11(1))”; and
- (f) in paragraph 4(c), by inserting after the words “paragraph 1(1)” the words “before its amendment by the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1991”.

*Additional schedule*

24. The principal regulations are amended by inserting after schedule 10 the following schedule—

“SCHEDULE 10A

Regulation 45A

*Further additional contributions*

1.—(1) An election to pay contributions under regulation 45A shall be made by notice given in writing to the officer’s employing authority, and shall specify—

- (a) the amount of the additional contributions which are to be paid, expressed either as a percentage of his remuneration or as a sum payable at the times mentioned in sub-paragraph (2); and
- (b) the proportion (if any) of the contributions which he wishes to be used to provide benefits payable in the event of death.

(2) The additional contributions shall be payable on the officer’s usual pay day, and for that purpose shall be deductible by the employing authority, or be otherwise recoverable by the Committee under regulation 14(6).

2. With respect to any election under paragraph 1—

- (a) the Committee may require, before any contributions are first made pursuant to the notice given under paragraph 1(1), that (until discontinued) the amount of the additional contributions payable in any tax year shall be not less than the amount specified in

regulation 2(8) of the Pension Schemes (Voluntary Contributions Requirements and Voluntary and Compulsory Membership) Regulations (Northern Ireland) 1987(a);

- (b) the amount of the additional contributions payable in any tax year shall, when aggregated with the amount of any other contributions payable under these regulations, not exceed the amount allowed to be deducted under section 21(4) of the Finance Act 1970(b) as specified in or under subsection (4A) of that section;
- (c) subject to paragraphs (a) and (b), the officer may at any time elect by notice given in writing to his employing authority to vary his additional contributions (both as to the amount and as to the proportion of those he is to continue to pay which are to be used to provide benefits payable on death) or to discontinue those contributions; and
- (d) no additional contributions shall be payable with respect to periods during which the person contributing is not an officer under these regulations, or (subject to paragraph 6) with respect to any period after he ceases to be employed by the employing authority to which notice was given under paragraph 1(1).

3.—(1) Where a notice under paragraph 1(1) or 2(c) specifies that all or part of the additional contributions are to be used to provide benefits payable in the event of death, the Committee shall make arrangements for the provision of those benefits under a pension policy with respect to which the Committee are to make payments to the insurance company with which the policy is entered into of the same amounts as the contributions to be so used within one month of the day on which they are payable by the officer under paragraph 1(2).

(2) The policy shall make provision for the matters mentioned in paragraph 2, and for the arrangements mentioned in paragraph 6 in the event of a change of employment by the officer.

4.—(1) The Committee shall invest any additional contributions which are not to be used to provide benefits payable in the event of death with a relevant body.

(2) Subject to sub-paragraph (3) and paragraph 6, upon the officer ceasing to be employed by the employing authority to which notice was given under paragraph 1(1), the Committee shall as soon as reasonably practicable apply the accumulated amount of the contributions invested as mentioned in sub-paragraph (1) to the provision of additional pension benefits under a pension policy.

(3) If the officer dies before such a policy is entered into, the accumulated amount shall be payable to his personal representatives.

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(a) S.R. 1987 No. 286

(b) 1970 c. 24; section 21(4) was amended and section 21(4A) was inserted by the Finance (No. 2) Act 1987 (c. 51), Schedule 3, paragraph 4(1)

5.—(1) As soon as an employing authority receive a notice under paragraph 1(1) or 2(c) they shall forward it to the Committee.

(2) The Committee shall give effect to a notice under paragraph 1(1) or 2(c) as soon as reasonably practicable, and in any event—

(a) in the case of a notice under paragraph 1(1), so that the officer may begin to pay his additional contributions under paragraph 1(2) within 6 months of him giving that notice, and

(b) in the case of a notice under paragraph 2(c), so that the officer may pay his contributions at the varied amount or proportions, or cease to pay his contributions (as the case may be), within 3 months of him giving that notice.

(3) The benefits under a pension policy entered into under paragraph 3(1) or 4(2) shall be money purchase benefits the value of which is reasonable having regard to the amount of the contributions paid and which (subject to that) are of a similar class as the benefits which are payable under Part III of these regulations and payable in similar circumstances to those in which such benefits are payable, save that there need be no requirement in the policy that the officer should be able to reckon any particular length of service in order for the benefits to be payable.

(4) Before entering into such a policy, the Committee shall consult the officer and shall give effect, so far as is practicable and subject to sub-paragraph (3), to his wishes with respect to the benefits to be provided under it.

6.—(1) If, after ceasing to be employed by the employing authority to which notice was given under paragraph 1(1), the officer within one month and one day of the cessation enters a new employment in which he is also an officer and was making payments of additional contributions up to the date of cessation, he may elect by notice given in writing to his new employing authority before or within one month of beginning the new employment that his election to pay contributions under regulation 45A should continue to have effect.

(2) In the event of an election under sub-paragraph (1)—

(a) as soon as the new employing authority receive the notice of election they shall forward it to the Committee in relation to the new employment;

(b) no payment of additional contributions shall be made with respect to the period (if any) between the two employments, but subject to that the officer shall, with effect from the pay day next after the day notice was given under sub-paragraph (1), make payments of additional contributions in his new employment under his notice under paragraph 1(1) as from time to time varied (or subsequently discontinued) under paragraph 2(c);

(c) the Committee shall continue to invest all additional contributions paid by him not specified to be used to provide benefits payable in the event of death in the manner mentioned in paragraph 4(1) and

apply any continuing additional contributions which are so specified towards the pension policy mentioned in paragraph 3(1);

- (d) paragraphs 4(2) and 6 shall have effect in relation to a cessation of the new employment as if the new employment were the one in relation to which notice was given under paragraph 1(1).

7. Paragraph 2(d) shall not preclude an officer who has again become employed by an employing authority (and has not elected under paragraph 6(1)) making a fresh election by notice under paragraph 1(2) in relation to his new employment.

8.—(1) If the benefits payable to a person in consequence of the payment of contributions under regulation 45A, when aggregated with the other benefits payable to him under these regulations, exceed the maximum benefits payable if the occupational pension scheme or schemes represented by these regulations were to expect to continue to qualify as exempt approved schemes for the purposes of Chapter II of Part II of the Finance Act 1970(a), the benefits payable under Part III shall be reduced so far as is necessary to secure that those maximum benefits are not exceeded.

(2) Before reducing any benefits under sub-paragraph (1), the Committee shall consult the Commissioners of Inland Revenue.

9.—(1) Regulations 5 (management of the fund) and 16 (return of contributions) do not apply to contributions payable under (or interest on late payments which relate to contributions under) regulation 45A.

(2) The making of contributions under regulation 45A and any rights or liabilities arising under a pension policy entered into under paragraphs 3(1) or 4(2), shall be left out of account in calculating the amount of a transfer value payable under Part VII, and regulations 78 to 80 (forfeiture etc.) and 83 (determination of questions) do not apply in relation to benefits under such a policy.

10. In this schedule—

“insurance company” means—

- (a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982(b) to carry on long term business and acting through a branch or agency in the United Kingdom, or
- (b) a society registered as a friendly society under the Friendly Societies Act 1974(c) or the Friendly Societies Act (Northern Ireland) 1970(d);

(a) See the definition of “exempt approved scheme” in section 21(1) of the Finance Act 1970

(b) 1982 c. 50

(c) 1974 c. 46

(d) 1970 c. 31 (N.I.)

“money purchase benefits” has the same meaning as in the Social Security (Northern Ireland) Order 1986(a);

“pension policy” means a contract entered into on behalf of the officer by the Committee with an insurance company for the payment by the company of pension benefits to the intended recipients of those benefits which are in addition to those payable under Part III; and

“relevant body” means—

(a) a person for the time being operating a scheme which is an approved scheme for the purposes of Chapter II of Part II of the Finance Act 1970, and which provides benefits in relation to people who have paid contributions to it which are in addition to those provided in relation to those people under an occupational pension scheme, or

(b) a building society within the meaning of the Building Societies Act 1986(b).”.

#### *Miscellaneous*

25. The amendments made by regulations 8, 9 and 12 to 16 shall only apply in cases where the person ceased to hold the employment concerned or (with respect to regulations 24(1)(b)(i), 25(1)(b), 26(1) and 27(1) of the principal regulations) the death concerned occurred, on or after 6th April 1988.

#### *Transitional provisions*

26. Notwithstanding the amendments made by regulations 4(b) and 23(2), any election made or notification given before 6th April 1988 to become, or to cease to be, an officer pursuant to the provisions referred to in those regulations shall have effect as if those amendments had not been made; and in particular—

(a) if a person had elected before 6th April 1988 to become an officer under one of those provisions, but that election had not before that date come into effect, no further election under 11A of the principal regulations shall be required, and

(b) if a person had elected before 6th April 1988 to cease to be an officer under one of those provisions, and after so ceasing subsequently becomes employed in another employment in which he may become such, regulation 11A(1) of the principal regulations shall apply as if on 5th April 1988 he was not an officer whether or not his election had effect by that date.

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(a) S.I. 1986/1888 (N.I. 18)

(b) 1986 c. 53

## PART III

## COMPENSATION

*Interpretation*

27. In this Part “the 1983 Regulations” means the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983(a).

*Definitions in the 1983 Regulations*

28. Regulation 2(1) of the 1983 Regulations is amended—

- (a) by substituting for the words from “ “associated body” ” to “ “service” ” the words “ “associated body” and “remuneration” ”;
- (b) by inserting after the definitions of “associated body” and “remuneration” the following definition—

“ “average remuneration” in relation to a person means the remuneration which is, or if there has been a relevant disqualification, which but for that disqualification and on the relevant assumptions would be, that person’s average remuneration under the Superannuation Regulations;”;
- (c) in the definition of “former employment”, by omitting the words from “and paragraphs” to the end;
- (d) in the definition of “new employment”, by substituting for the words “and paragraphs (4) to (6)” the words “and paragraph (6)”, and by substituting for the words “as if” to the end of the definition the words “as it applies for the purposes of that regulation”;
- (e) by substituting for the definition of “occupational pension”—

“ “occupational pension” in relation to a person means a pension to which he has become entitled, whether payable immediately or in the future, being—

  - (a) a pension associated with any employment which is payable under an enactment (not being for these purposes an enactment comprised in the Social Security (Northern Ireland) Act 1975(b) or the Superannuation Regulations), contract, scheme or other arrangement, including a pension under a personal pension scheme in relation to which the Department of Health and Social Services has paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986(c), or
  - (b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the Superannuation Regulations or arising with respect to such a pension as is mentioned in paragraph (a) above,

(a) S.R. 1983 No. 30, amended by S.R. 1986 No. 80

(b) 1975 c. 15

(c) S.I. 1986/1888 (N.I. 18)

and not being a pension which is a lump sum;”;

- (f) by inserting after the definition of “occupational pension” the following definition—

“ “officer” means an officer within the meaning of the Superannuation Regulations or a person who the employing authority are satisfied would be such or be treated as such but for a relevant disqualification;” and

- (g) by inserting after the definition of “redundancy payment” the following definitions—

“ “the relevant assumptions” are the assumptions that—

- (a) during the period of special service a beneficiary was an officer within the meaning of the Superannuation Regulations;
- (b) a beneficiary’s service for the purposes of those regulations included any periods of special service which do not consist of periods of unpaid leave or other unpaid absence from duty; and
- (c) for the purposes of regulation 40(3) of those regulations, no notification had been given under regulation 11B;

“relevant disqualification” in relation to a person means—

- (a) the requirement in regulation 11(1)(b) or (e) of or paragraph 1(4) of Part II of schedule 2 to the Superannuation Regulations that a manual worker should have completed an appropriate 12 months’ continuous employment before he may become an officer,
- (b) the failure of a medical examination required under regulation 11(3) of those regulations,
- (c) the making of an election, or the absence of an election with respect to any period (as the case may be) under regulation 11(2A) of or Part II of schedule 2 to the Superannuation Regulations before the omission or amendment of those provisions by the Local Government (Superannuation and Compensation) (Amendment) Regulations (Northern Ireland) 1991,
- (d) the absence of an election under regulation 11A of the Superannuation Regulations with respect to any period,
- (e) the giving of a notification under regulation 11B of those regulations,
- (f) the absence of a notification under paragraph 1(b) of Part I of schedule 2 to those regulations with respect to any period, or
- (g) the making of an election, or the absence of an election with respect to any period (as the case may be) under regulation 15(b) of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989(a),

in consequence of one or more of which (either individually or accumulatively) that person has not become, has ceased to be or has not been treated as being an officer within the meaning of the Superannuation Regulations;

“service” means any period of service within the meaning of the Superannuation Regulations together with any period of special service not being special service consisting of periods of unpaid leave or other unpaid absence from duty;

“special service” means any period of employment with respect to which the employing authority is satisfied that the person concerned would have been or been treated as being an officer within the meaning of the Superannuation Regulations but for a relevant disqualification, except that, in relation to any employment ending before he began his former employment, it only includes such periods as are continuous with the former employment; and a period of employment is continuous with the former employment for this purpose if in the interval between its ending and the former employment beginning there have been no breaks in employment with an employing authority for periods of greater than one month and one day;”.

*Persons to whom the 1983 Regulations apply*

29. Regulation 3(1)(a) of the 1983 Regulations is amended by inserting after the words “the Superannuation Regulations” the words “or it is satisfied that, but for a relevant disqualification and on the relevant assumptions, it would have so certified”.

*Lump sum compensation and annual compensation*

30. Regulation 5 of the 1983 Regulations is amended—

- (a) in paragraph (2), by inserting after the words “beneficiary is entitled” the words “(or, as mentioned in paragraph (4), would be entitled)”, and by inserting after the words “be increased” in sub-paragraph (a) the words “on the relevant assumptions”;
- (b) in paragraph (3)(a) by inserting after the words “be increased” the words “on the relevant assumptions”;
- (c) in paragraph (3B), by inserting after sub-paragraph (c)—
  - “(d) “service” has the same meaning as in the Superannuation Regulations, and
  - (e) as respects an occupational pension which is a pension under a personal pension scheme in relation to which the Department of Health and Social Services has paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986 or is a pension derived from the payment of a transfer value calculated by reference to rights arising with respect to such a pension, the reference to “any period in respect of which he is entitled to the occupational pension” shall be construed as a reference to the period of employment by reference to which the Department of Health and Social Services has paid the contributions and



(without prejudice to the generality of that expression in other cases) any period of employment in relation to which a transfer value has been paid into the personal pension scheme.”;

(d) in paragraph (3C)—

- (i) by omitting the words “within the meaning of regulation 41 of the Superannuation Regulations”; and
- (ii) by substituting for the words “beginning on and payable from” the words “beginning, and first qualifying for increases under that Act, on”.

(e) in paragraph (4), by inserting after the words “those regulations” the words “, or (except in relation to paragraph (3A)(c) above) to which but for a relevant disqualification he would be so entitled on the relevant assumptions and on the further assumption that, if the employing authority might have certified under regulation 18(3)(a) of those regulations, it had done so”.

#### *Allocation of part of annual compensation*

**31.** Regulation 6 of the 1983 Regulations is amended by inserting after paragraph (4) the following paragraph—

“(5) Where regulation 22 of the Superannuation Regulations does not apply to a beneficiary in consequence of a relevant disqualification, paragraph (1) shall have effect as if he had been allowed as mentioned in that paragraph, and in such a case the annual compensation which he is entitled to surrender in accordance with paragraph (2) shall be such part as he may specify in the notice required under paragraph (1).”.

#### *Entitlement to widow's short-term compensation and long-term compensation*

**32.** Regulation 7(1) of the 1983 Regulations is amended by substituting for the words from “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”.

#### *Amount of widow's short-term compensation and long-term compensation*

**33.** Regulation 8(2)(b) of the 1983 Regulations is amended by inserting after the words “to reckon” the words “on the relevant assumptions”.

#### *Entitlement to children's short-term compensation and long-term compensation*

**34.** Regulation 9 of the 1983 Regulations is amended by substituting for the words from “(but for” to “pension scheme)” where they occur in paragraphs (1) and (2) the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”.

*Amount of children's short-term compensation and long-term compensation*

35. Regulation 10 of the 1983 Regulations is amended—

- (a) in paragraph (3)(b), by inserting after the words “to reckon” the words “on the relevant assumptions”; and
- (b) in paragraph (5), by substituting for the words “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”.

*Widower's compensation*

36. Regulation 11 of the 1983 Regulations is amended by inserting after paragraph (1) the following paragraph—

“(1A) Where a female beneficiary is not an officer under the Superannuation Regulations by virtue of a relevant disqualification, and the circumstances have arisen such that she would have been able to give notice under regulation 28 of those regulations if she were an officer, she shall be treated for the purposes of this regulation as having given that notice.”.

*Cessation of new employment*

37. Regulation 15(2) of the 1983 Regulations is amended by inserting after the words “becomes entitled” the words “(or but for a relevant disqualification and on the relevant assumptions would become entitled)”, and by inserting after the words “cessation of his new employment” the words “and on the relevant assumptions”.

*Payment of compensation*

38. Regulation 18(1) of the 1983 Regulations is amended by substituting for the words from “(but for” to “pension scheme)” the words “but for a relevant disqualification with respect to the beneficiary (and on the relevant assumptions) or for the transfer of benefits to another pension scheme”.

*Paying authority*

39. Regulation 19 of the 1983 Regulations is amended by substituting for paragraph (2) the following paragraph—

“(2) The Northern Ireland Local Government Officers' Superannuation Committee, which under the Superannuation Regulations is required to maintain a superannuation fund with respect to whose benefits a beneficiary is participating (or but for a relevant disqualification and on the relevant assumptions would be participating) may agree with the employing authority to pay any compensation arising in respect of that beneficiary on their behalf and to recover the amount thereof from them immediately or at such intervals as may be agreed.”.

*Adjustment on account of new employment*

40. Schedule 4 to the 1983 Regulations is amended—

- (a) in paragraph 3—

- (i) by substituting for sub-paragraph (a)(ii) the following—  
“(ii) an occupational pension;” and
- (ii) by inserting after sub-paragraph (c) the following—  
“; and
- (d) in calculating the annual rate of remuneration of a former, concurrent or new employment, regulation 30(3) to (6) of the Superannuation Regulations shall apply on the relevant assumptions as if a former or concurrent employment was a former employment, and a new employment was a new employment within the meaning of that regulation.”; and
- (b) in paragraph 6(1) by inserting after the words “becomes entitled” the words “(or but for a relevant disqualification and on the relevant assumptions would become entitled)”.

*Transitional provision*

**41.** The amendments made by this Part shall only apply to cases where the employment by reference to whose cessation additional periods of service might fall to be credited under the 1983 Regulations ceases to be held on or after 6th April 1988.

Sealed with the Official Seal of the Department of the Environment on  
30th January 1991.

(L.S.)

*J. McCormick*

Assistant Secretary

*(This note is not part of the Regulations.)*

Part II of these regulations amends the Local Government (Superannuation) Regulations (Northern Ireland) 1981 (the principal regulations). Part III is concerned primarily with related amendments to the Local Government (Compensation for Premature Retirement) Regulations (Northern Ireland) 1983 (the 1983 Regulations).

Regulation 3 amends regulation 2(1) of the principal regulations to bring the definition of "officer" within the provisions of new regulations 11A to 11C and inserts 2 new definitions relevant to regulation 14.

Regulation 5 inserts new regulations 11A, 11B and 11C into the principal regulations, providing that a person who was not an officer under those regulations on 5th April 1988 should not subsequently become one unless he so elects (new regulation 11A); and giving a person who at any time was an officer the opportunity to opt out of, and a person who opted out the opportunity to opt back into the Northern Ireland Local Government Officers' Superannuation Scheme (new regulations 11B and 11C). Regulation 4 makes consequential and transitional provision made necessary by the new right to opt out (which replaces in particular certain existing rights of election available to part-time and other employees (regulation 23(2) also refers)), as do regulations 6 (in relation to employees of associated bodies), 7 (in relation to payments of additional contributions), 10 (in relation to entitlement to benefits where a person has opted out), 11 (in relation to death gratuity), 17 (in relation to the granting of additional years' service with respect to those who have retired through ill-health), 18 (in relation to the calculation of average remuneration where a person has opted out), 21 and 22 (in relation to injury allowances) and 23(1) (in relation to elections by manual workers).

Regulations 8, 9 and 12 to 16 provide that an officer should be entitled to preserved benefits under the principal regulations (rather than receive a return of contributions) where he has accumulated 2 years' service, instead of 5 years' as at present. These amendments apply in all cases where the cessation of employment or death in service, as the case may be, occurred on or after 6th April 1988 (regulation 25).

Regulations 19 and 24, by inserting into the principal regulations a new regulation 45A and a new schedule 10A respectively, permit an officer to elect to make voluntary contributions under the Local Government Superannuation Scheme up to certain limits which are in addition to those provided for by other provisions of the principal regulations. The additional contributions are to be used by the Committee to provide money purchase benefits under pension policies entered into by the Committee (paragraphs 1-5 of the new schedule).

The new schedule makes provision for, amongst other matters, changes of employment by the officer (paragraph 6), the making of fresh elections

(paragraph 7) and the limitation of benefits under Part III of the principal regulations in certain cases (paragraph 8).

Regulation 20 implements two provisions of Article 11 of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))—

- (i) that widowers, in addition to widows, shall be entitled to a guaranteed minimum pension; and
- (ii) that a part of a guaranteed minimum pension which is attributable to earnings factors for the tax years 1988/89 onwards shall be increased in accordance with Article 39A of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)).

Regulation 26 is transitional.

Regulations 27 to 40, in Part III, amend the 1983 Regulations. The 1983 Regulations allow employers of those who are pensionable under the principal regulations, and who have ceased their employment through redundancy or in the interests of the efficiency of their employing authorities, to compensate them in certain cases (in the form of additions to superannuation benefits) by the award of additional years of service. Without amendment of the 1983 Regulations, those who have opted out of (or not opted into) the Local Government Superannuation Scheme as mentioned above would no longer be eligible for compensation. The amendments made by Part III place such people in a position similar to that in which they would have been were they not to have opted out, or failed to opt in.

At the same time the opportunity has been taken to deal with another excluded case, namely those who have not been admitted to the Local Government Superannuation Scheme for medical reasons; and to allow service to count in the establishment of eligibility under the 1983 Regulations which might otherwise have been excluded because the employee concerned was a manual worker or was a part-time employee who had not elected to join the scheme. Amendments to the provisions dealing with the calculation of compensation are also made in consequence of the introduction of personal pension arrangements under Part II of the Social Security (Northern Ireland) Order 1986.

Regulation 41 makes transitional provision. It provides that the amendments made by Part III should only apply to those who left their employment on or after 6th April 1988.

Articles 14 and 19 of the Superannuation (Northern Ireland) Order 1972 confer express power to make regulations retrospective in effect. These regulations are retrospective but do not adversely affect rights in relation to former employees or their widows or dependents.