

1978 No. 386

**LOCAL GOVERNMENT****Local Government (Superannuation) (Amendment) Regulations  
(Northern Ireland) 1978***Made* . . . . . 15th December 1978*Coming into operation* . . . . . 9th February 1979

The Department of the Environment in exercise of powers conferred by section 103 of the National Insurance Act (Northern Ireland) 1966(a) (in accordance with which section the Department(b) of Finance had determined the Ministry of Health and Local Government(c) to be the appropriate Ministry for the purposes of that section to make regulations modifying the scheme for the provision of pensions and other benefits established by regulations made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(d)) and by articles 9 and 14 of the Superannuation (Northern Ireland) Order 1972(e) and now vested in it(c) and of all other powers enabling it in that behalf, and after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:

**PART I****PRELIMINARY***Citation, commencement and retrospection*

1. These regulations may be cited as the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1978 and shall come into operation on and shall have effect as from 9th February 1979, with the exception of—

- (a) regulation 15 which shall have effect as from 1st April 1974;
- (b) regulations 18 and 19 which shall have effect as from 5th April 1975; and
- (c) regulation 13 which shall have effect as from 6th March 1978.

*Interpretation*

2. In these regulations—

“the Act of 1966” means the National Insurance Act (Northern Ireland) 1966;

---

(a) 1966 c. 6 (N.I.) (the said section 103 having been continued in force by regulation 3 of S.R. 1975 No. 48 (I, p. 217))  
 (b) Formerly Ministry: see 1973 c. 36 Sch. 5 para. 8(1)  
 (c) See S.R. & O. (N.I.) 1964 No. 205 Art. 2 (p. 937); S.R. & O. (N.I.) 1973 No. 504 Art. 7(1) (II, p. 2992); 1973 c. 36 Sch. 5 para. 8(1); and S.I. 1976/424 (N.I. 6)  
 (d) 1950 c. 10 (N.I.)  
 (e) S.I. 1972/1073 (N.I. 10)

- “employing authority” means a local authority as defined in article 2(2) of the Superannuation (Northern Ireland) Order 1972 or a designated body as defined in regulation 6 of the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(f);
- “equivalent pension benefits” has the meaning assigned to that expression by sections 55(1)(a) and 56(1) of the Act of 1966;
- “the Great Britain Acts” means the National Insurance Acts 1959 and 1965(g);
- “Insurance Measures” means the National Insurance Measures (Northern Ireland) 1966 to 1974;
- “the Isle of Man Act” means the National Insurance (Isle of Man) Act 1961 (an Act of Tynwald);
- “non-participating employment” has the meaning assigned to that expression by section 55 of the Act of 1966 or the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be;
- “the principal regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1962(h);
- and other words and expressions in Part II have the same meaning as in the principal regulations and in Part III as in the National Insurance (Local Government Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1966(i).

## PART II

### AMENDMENT OF THE PRINCIPAL REGULATIONS

#### *Amendment of definitions*

3. Regulation 2 of the principal regulations (Interpretation) shall be amended as follows—

- (a) in paragraph (1), after the definition of “widow’s pension”, there shall be added—
- ““widower’s pension” means a widower’s pension payable under regulation 15D”;
- (b) in paragraph (6)(c) after the words “regulation 26” there shall be inserted the words “, 26A, 26B”.

#### *Leave of absence from duty*

4. The following paragraph shall be substituted for regulation 8(5) of the principal regulations—

“(5) An officer of an employing authority who is on leave of absence from duty, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall—

- (a) for a period of thirty days beginning with the date on which he went on leave of absence; and

(f) S.R. 1975 No. 347 (II, p. 1695)

(g) 1959 c. 47 and 1965 c. 51

(h) S.R. & O. (N.I.) 1962 No. 210 (p. 793) as amended by the following relevant regulations:— S.R. & O. (N.I.) 1966 No. 274 (p. 871); S.R. & O. (N.I.) 1971 No. 108 (p. 539); S.R. & O. (N.I.) 1973 No. 242 (I, p. 1207); S.R. 1974 No. 72 (I, p. 211); S.R. 1975 No. 187 (II, p. 984); S.R. 1975 No. 347 (II, p. 1695); S.R. 1977 No. 205 (II, p. 1159)

(i) S.R. & O. (N.I.) 1966 No. 281 (p. 909)

- (b) if he gives notice in writing for the purpose to that employing authority not later than thirty days after the day before the date on which he went on leave of absence, for the period beginning with the day after the expiration of the period specified in sub-paragraph (a) and ending with the expiration of thirty-six months from the day before the date on which he went on leave of absence, make contributions under this regulation on such remuneration as he would have received during that period in his employment under that employing authority but for that leave of absence from duty.”

*Officer's pension and retiring allowance*

5. Regulation 9 of the principal regulations shall be amended as follows—

(a) for paragraph (1)(c) there shall be substituted—

“(c) he is not entitled to a benefit under sub-paragraph (a) or (b) and either he has completed in aggregate not less than five years’ service or, by reason of his not being such an officer or person as is referred to in regulation 33(10), he is not a person who is entitled on so ceasing to a return of contributions under that regulation; or”;

(b) the following paragraph shall be inserted after paragraph (1)—

“(1A) Subject to the provisions of these regulations an officer of an employing authority shall, on ceasing to be employed by them, be entitled to receive from the Committee in relation to that employment an annual pension if—

(a) he is not entitled to a benefit under paragraph (1);

(b) the whole or some part of the service he has completed was service in a non-participating employment;

(c) a period of his service in a non-participating employment came to an end by reason of the repeal of section 55(1) of the Act of 1966 or by reason of the provisions of regulation 2(2) of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960(j) as modified by regulation 10(2)(a) or 10(2)(b) of the National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975(k); and

(d) at some time during the settlement period (within the meaning of regulation 2 of the last-mentioned regulations) he became, and has remained assured of equivalent pension benefits.”

*Deferment of pension, etc., rights*

6. In regulation 9A of the principal regulations—

(a) in sub-paragraph (a)(iv) the words “three months” shall be substituted for the words “one month”;

(b) in sub-paragraph (a)(iii) and (iv) and in sub-paragraph (b)(iv) the words “that regulation” shall be substituted for the words “this regulation”.

*Scales of pension and retiring allowance*

7. The following paragraph shall be inserted after regulation 10(5) of the principal regulations—

(j) S.R. & O. (N.I.) 1960 No. 181 (p. 645)

(k) S.R. 1975 No. 48 (I, p. 217)

“(5A) Notwithstanding any provision in these regulations, where an officer becomes entitled to an annual pension by virtue of regulation 9(1A), that pension shall be payable in respect of any period of completed service in a non-participating employment and shall be the rate of equivalent pension benefits applicable to him in respect of that period and the officer shall be entitled to receive payments in respect of such pension when he has retired and has attained the age of 65 years in the case of a man or 60 years in the case of a woman.”.

#### *Widow's pension*

8. The following regulation shall be substituted for regulation 15 of the principal regulations—

#### *“Widow's pension*

15.—(1) The widow of a person who dies and who—

- (a) was entitled at the time of his death to receive payments in respect of a pension under these regulations or the 1950 regulations; or
- (b) was at the time of his death employed in employment in which he was as officer and had completed not less than five years' service; or
- (c) was entitled at the time of his death to a pension, but was not entitled at that time to receive payments in respect of that pension,

shall be entitled to receive from the Committee an annual widow's pension:

Provided that a widow shall not be entitled to receive a widow's pension—

- (i) by virtue of sub-paragraph (a) or (c), if the marriage took place on or after the date on which her husband became entitled to the pension; or
  - (ii) by virtue of sub-paragraph (a) or (b), if her husband before ceasing to be employed, or, if he died while still an officer, before dying, had reached the age of sixty-five years or, not having reached the said age, would have been entitled to a
  - (iii) if at the date on which her husband became entitled to a pension under these regulations or the 1950 regulations, or at pension on ceasing to be employed and had completed forty years' contributing service, or forty years' contributing service and non-contributing service, the non-contributing service being reckoned at half its length, and the marriage took place on or after the date on which he reached the said age or would have been so entitled as aforesaid; or the date of his death, the husband and wife were judicially separated; or
  - (iv) by virtue of sub-paragraph (a) or (c), if her husband became entitled to the pension by virtue of regulation 9(1A).
- (2) Subject to the provisions of paragraphs (3) and (4) the amount of the widow's pension shall be as follows—
- (a) in the case of the widow of an officer, one half of the pension which would have been payable to the officer had he become entitled to a pension under regulation 9(1)(b)(i) on the day of his death;
  - (b) in the case of the widow of a person who was entitled at the time of his death to receive payments in respect of a pension, one half of such pension; and

- (c) in the case of the widow of a person who was entitled at the time of his death to a pension, but was not entitled at that time to receive payments in respect of that pension, one half of the pension to which he would have been entitled if he had been at the time of his death a person who had attained the age of sixty-five years:

Provided that—

- (i) if any such pension as is mentioned in sub-paragraphs (a), (b) or (c) would have been increased under regulation 10(6), no account shall be taken of the increase; or
  - (ii) if any such pension as is mentioned in sub-paragraphs (a) or (c) would have been reduced under the provisions of regulation 42, no account shall be taken of the reduction and the pension shall be deemed to be the pension that would have been payable but for any surrender of part thereof under regulation 13; and
  - (iii) any such pension as is mentioned in sub-paragraph (b) shall be deemed to be the pension that would have been payable but for any reductions under the provisions of regulations 10(5), 35 or 42 or regulation 29 of the 1950 regulations and any surrender of part thereof under regulation 13.
- (3) For the first three months immediately following the death of a person mentioned in paragraph (1)(a) or (b) and subject to the provisos thereto, a widow's pension shall be payable if, at the date of his death—
- (a) he was a person mentioned in paragraph (1)(a) and he was not an officer at the date of his death, at the rate at which his pension was payable at the date of his death, without having regard to any reduction or suspension by reason of the operation of regulation 35; or
  - (b) he was a person mentioned in paragraph (1)(a) and he was an officer at the date of his death, at the aggregate of his rate of remuneration at the date of his death and the rate at which his pension was being paid at that date, having regard to any reduction of suspension by reason of the operation of regulation 35; or
  - (c) he was a person mentioned in paragraph (1)(b), not being a person mentioned in paragraph (1)(a), at the rate of his remuneration at the date of his death, so, however, that in the case of an officer whose remuneration was suspended by reason of his absence from duty he shall be deemed to be a person mentioned in paragraph (1)(a) who had become entitled to a pension under regulation 9 (1)(b)(i) on the date of his death:

Provided that—

- (i) a widow's pension shall not be payable at any of the rates mentioned in paragraph (2) whilst a widow's pension is payable at any of the rates mentioned in this paragraph; and
  - (ii) where the remuneration of an officer who was absent from duty by reason of illness or injury was reduced only by his having become entitled to benefit under the National Insurance Acts (Northern Ireland) 1966 to 1972, it shall, for the purposes of sub-paragraph (b) and (c) of this paragraph, be deemed not to have been so reduced.
- (4) During the period that a widow's pension is payable at any of the rates specified in paragraph (3) a child's allowance shall not be payable under regulation 15A in respect of any child dependent upon the widow.

- (5) A widow's pension shall not be payable to a widow—
- (a) if she re-marries, in respect of any period after re-marriage;
  - (b) if on the day of the death of her husband she is then cohabiting with another man as his wife, in respect of any period after that day; or
  - (c) if after that day she commences to cohabit with a man as his wife, in respect of any period after so cohabiting:

Provided that if at any time after her re-marriage she has again become a widow or that marriage has been dissolved or the cohabitation has been terminated, the Committee may, in their discretion, bring the widow's pension into payment from that time."

#### *Child's allowance*

9. In the provisos to regulation 15A(1) of the principal regulations—

- (a) the words "regulation 15(3)" shall be substituted for the words "regulation 15(3A)" in proviso (a); and
- (b) the following proviso shall be inserted after proviso (b)—

"(c) a child's short-term allowance or a child's allowance shall not be payable by virtue of sub-paragraph (a) or (c) if the deceased person became entitled to the annual pension by virtue of regulation 9(1A)."

#### *Additional regulation relating to widower's pension*

10. After regulation 15C of the principal regulations there shall be added the following regulation—

##### *"Widower's pension*

**15D.** A female officer, whose husband is permanently incapacitated by reason of ill-health or infirmity of mind or body and is wholly or mainly dependent on her, who notifies the Committee in writing that she wishes to have the provisions of this regulation applied to her, shall participate in the benefits provided by these regulations as if any reference in these regulations to a married male officer included a reference to her and as if any reference to a widow, her husband, a widow's pension, a widow's limited pension or a man as his wife, included a reference to a widower, his wife, a widower's pension, a widower's limited pension or a woman as her husband:

Provided that if, after giving a notification under paragraph (b), she re-marries, the subsequent marriage shall be left out of account for all the purposes of these regulations unless her husband by the subsequent marriage is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her."

#### *Intervals in service due to illness or injury*

11. The following paragraph shall be substituted for regulation 19(1) of the principal regulations—

"(1) Notwithstanding anything in these regulations, an officer whose remuneration is suspended owing to leave of absence from duty on account of illness or injury shall be deemed to have ceased his employment as an officer from the date on which his remuneration was so suspended except for the purposes of regulations 9, 11, 13(1), 14(1)(a), 14(1)(c), 15(1)(b), 15(2)(a), 15A, 15B, 15C, 15D and 39."

*Limitation of service consequent on recovery or retention by employing authority of certain sums from the superannuation fund*

12. The following regulation shall be inserted after regulation 24 of the principal regulations—

*“Limitation of service consequent on recovery or retention by employing authority of certain sums from the superannuation fund*

24A. For the purposes of calculating the amount of any benefit under these regulations in the case of an officer in respect of whom any recovery or retention is made under regulation 48B no account shall be taken of so much of his service as equals such a period as would result in the actuarial value, at the time of such recovery or retention, of the rights referred to in paragraph (1)(b) of that regulation, being reduced by the amount so recovered or retained.”

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

13. In regulation 31(3) of the principal regulations—

- (a) in sub-paragraphs (a) and (b) the words “other than any years or any additional period reckonable as service under regulations 26, 26A or 26B, or any years added under any provision of a local scheme corresponding to regulation 26” shall be inserted after the words “contributing service”;
- (b) for sub-sub-paragraph (b)(ii) there shall be substituted the following—  
“(ii) 6 years and 243 days or, if less, the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 65 years or would have completed 40 years’ service, whichever would have first occurred:”;
- (c) in the proviso the full stop shall be deleted and there shall be added the words “and that in the case of an existing officer sub-sub-paragraph (ii) shall have effect as if for the words “65 years” to the end there were substituted the words “60 years”.”

*Return of contributions*

14. The following regulation shall be substituted for regulation 33 of the principal regulations—

*“Return of contributions*

33.—(1)(a) In this regulation the provisions of paragraph (2) shall apply subject to the provisions of paragraphs (7) to (10) in relation to a person who is an excepted officer, the provisions of paragraphs (3) to (5) shall apply subject to the provisions of paragraphs (7) to (10) in relation to a person who is not an excepted officer and the provisions of paragraph (6) shall apply in relation to any person whether or not he is an excepted officer:

Provided that the person—

- (i) has completed less than five years’ service; or
- (ii) has completed not less than five years’ service and elects not earlier than one month after the date on which he ceases to be employed or, as the case may be, ceases to be an officer, that the provisions of whichever of paragraphs (2), (3) or (4) is appropriate in his case shall apply by notice given to the Committee in writing within twelve months after the date on which he so ceases to be employed or, as the case may be, ceases to be an officer.

- (b) In this regulation the word "contribution" has the meaning assigned to it by regulation 2(6) but only in so far as any sums included in that definition—
- (i) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he is required under these or the previous regulations to pay; and
  - (ii) are attributable to service which might have been reckoned under these regulations in relation to the employment he has ceased to hold or in which he has ceased to be an officer or has died; and
  - (iii) are not attributable to any earlier period of service in respect of which a pension, retiring allowance, injury allowance, or short service gratuity has been paid.
- (c) In this regulation references to cessation of employment by reason of resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct shall be deemed to include reference to a cessation of employment when such an offence or such misconduct is committed after notice to terminate that employment has been given.
- (d) For the purposes of this regulation a person shall not be regarded as entitled to an injury allowance if by reason of the provisions of paragraph (4) of regulation 11 no sum is for the time being receivable by him on account thereof.
- (2)(a) An officer who before becoming entitled to a pension other than an annual pension under regulation 9(1A), retiring allowance or injury allowance ceases to be employed by an employing authority and a person who, though not ceasing to be employed, ceases to be an officer to whom these regulations apply; and
- (b) who does not within one month after ceasing to be so employed or, as the case may be, ceasing to be an officer to whom these regulations apply, enter further employment with any employing authority and within the said period of one month becomes in that further employment an officer,

shall be entitled to receive from the Committee a return of his contributions together with compound interest thereon:

Provided that—

- (i) If an officer ceases to be employed by reason of his resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct, being such an offence or such misconduct committed by him in connection with the performance of the duties of his employment or otherwise in relation to his employment there shall be no right to a return of contributions but the Committee may, if they think fit, return to him or pay to his spouse or any dependant of his a sum equal to the whole or a part of his contributions, with interest; and
- (ii) if any of the contributions were made under an enactment or scheme in the benefits of which the person participated before becoming an officer and the officer has ceased to be employed in circumstances in which under that enactment or scheme these contributions would not have been returnable, or would have been returnable or might have been returned without interest, no interest shall be calculated on the contributions so made up to the date on which he became an officer.



(3) The following persons shall be entitled to receive from the Committee a sum equal to the amount of their contributions together with compound interest thereon—

- (a) an officer who, before becoming entitled to a pension, other than an annual pension under regulation 9(1A), retiring allowance or injury allowance, ceases to be employed by an employing authority for any reason other than his voluntary resignation or his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct; and
- (b) a person who though not ceasing to be employed, ceases (otherwise than at his own request) to be an officer:

Provided that if any of the contributions were made under an enactment or scheme in the benefits of which the person participated before becoming an officer, and the officer has ceased to be employed in circumstances in which under that enactment or scheme these contributions would not have been returnable, or would have been returnable or might have been returned without interest, no interest shall be calculated on contributions so made up to the date on which he became an officer.

(4) The following persons shall be entitled to receive from the Committee a sum equal to the amount of their contributions—

- (a) an officer who, before becoming entitled to a pension, other than an annual pension under regulation 9(1A), retiring allowance or an injury allowance, ceases to be employed by an employing authority by reason of his voluntary resignation or his resignation or dismissal in consequence of inefficiency or an offence of a fraudulent character or misconduct, not being such an offence or grave misconduct in connection with his employment; and
- (b) a person who, though not ceasing to be employed, ceases at his own request to be an officer to whom these regulations apply.

(5) If an officer ceases to be employed by an employing authority by reason of his resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct, being such an offence or such misconduct in connection with his employment and is not entitled to a pension other than an annual pension under regulation 9(1A), retiring allowance or injury allowance, the Committee may, if they think fit, return to him or pay to his spouse or any dependant a sum equal to the whole or a part of his contributions:

Provided that in the case of an officer who ceases to be employed in the circumstances mentioned in regulation 9(1)(c) the power of the Committee under this paragraph shall apply only in respect of any contributions relating to a period of service in respect of which they have given a direction as to forfeiture under regulation 48.

(6) If a person dies who, at the time of his death, was entitled to an injury allowance but to no other benefit under these regulations then, unless the Committee grant a gratuity or annual allowance to that person's widow in accordance with regulation 11(3) or a benefit becomes payable in respect of him under the provisions of regulation 15, his personal representatives shall be entitled to receive from the Committee the amount of his contributions, together with compound interest thereon, less the amount which that person has received in respect of the said allowance.

(7) Notwithstanding anything in the foregoing provisions of this regulation, no contributions or sum equal to the amount of contributions or part thereof shall be returned by the Committee—

- (a) to a person who, having ceased to be employed by an employing authority in the circumstances mentioned in regulation 9(1)(c) and before giving a notice under proviso (ii) to paragraph (1)(a), again becomes an officer and gives notice under regulation 9A(e); or
- (b) in the case of a person who has completed not less than five years' service after 5th April 1975, in respect of any period of service after that date; or
- (c) in the case of a person whose period of service commenced before 6th April 1975 and amounts to not less than five years, in respect of any period of service after 5th April 1975 of less than 5 years, unless a payment under this regulation is being or has been made in respect of the period of service before 6th April 1975.

(8) The Committee shall not make any payment under this regulation to such a person as is mentioned in proviso (i) to paragraph (1)(a) before the expiration of a year from the date on which that person ceases to be employed or ceases to be an officer to whom these regulations apply or until a claim for payment made not earlier than one month after the date on which he ceases to be employed as mentioned in paragraph 2(a), 3(a) or 4(a) has been made to them, whichever event first occurs.

(9) Where the Committee are charged to income tax on any repayment of contributions (with or without interest) under this regulation, they shall be entitled to deduct from the repayment an amount equal to that tax.

(10) Where an officer or a person would, apart from this paragraph, be entitled to receive under this regulation a return of his contributions and any of these contributions were paid in respect of remuneration exceeding £5,000 in any income tax year, or were paid under some other superannuation scheme in which he was subject, on leaving, to a provision corresponding to this paragraph, he shall not be entitled to receive any payment under this regulation."

#### *Reduction of pension or injury allowance in certain cases*

15.—(a) The amendments to regulation 35 of the principal regulations made by regulation 10 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1975(1) shall be deemed to have effect as from 1st April 1974 and always to have had effect as from that date.

(b) In paragraph 3E of the said regulation 35 for the words "15th August 1975" there shall be substituted the words "1st April 1974".

#### *Combined benefits in the case of certain re-employed pensioners*

16. The following paragraph shall be substituted for regulation 36(1) of the principal regulations—

"(1) Where a person who has become entitled to a pension (other than an annual pension falling to be reduced under regulation 10(5) or an annual pension to which he has become entitled by virtue of regulation 9(1A)), retiring allowance or injury allowance under these regulations or the 1950 regulations not being a reduced benefit awarded under regulation 51(2)(b), has again become an officer and at the time of becoming such officer was not an officer mentioned in regulation 8(4), he may, unless the provisions of regulation 37 have been applied in respect of his previous service as an officer, if within three months from the date on which he

ceases to be an officer he so elects, as from that date be entitled to benefits in accordance with the following provisions of this regulation in lieu of any pension or injury allowance to which he has become entitled as aforesaid and of any benefits to which he might otherwise be entitled under these regulations in respect of his service as such officer.”.

*Additional regulations relating to transfer of certain sums from the superannuation fund and the recovery or retention by the employing authority of certain sums from the superannuation fund.*

17. The following regulations shall be inserted after regulation 48 of the principal regulations—

*“Transfer of certain sums from the superannuation fund*

48A.—(1) If an officer of an employing authority (not being an officer employed by the Committee) is dismissed or resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or grave misconduct, being such an offence or such misconduct in connection with his employment, then if the employing authority have suffered direct financial loss by reason of the offence or misconduct they shall be entitled to recover from the Committee—

(a) in the case of an officer who ceases to be employed in the circumstances mentioned in regulation 9(1)(a), (b), (c) or (d), a sum not exceeding the lesser of the following amounts—

(i) the whole, or any part, of the officer's contributions, being contributions not returned to him or paid to his spouse or any dependant of his under regulation 33, and being contributions relating to any period or periods of previous service in respect of which the Committee have directed, under regulation 48, that the whole of any benefit which would apart from that regulation have been payable to or in respect of him, shall be forfeited; and

(ii) the amount of the direct financial loss suffered by the employing authority in consequence of the offence or misconduct;

(b) in the case of any other officer, a sum not exceeding the lesser of the following amounts—

(i) the whole, or any part, of the officer's contributions not returned to him or paid to his spouse or any dependant of his under regulation 33; and

(ii) the amount of the direct financial loss suffered by the employing authority in consequence of the offence or misconduct:

Provided that:

(i) where a payment in lieu of contributions has been made or is due in respect of an officer, the Committee shall not under this paragraph be required to pay to the employing authority so much of the officer's contributions as amounts to one-half of such payment in lieu of contributions; and

(ii) where the Committee have paid to an employing authority a sum under this paragraph, the employing authority shall, if the Committee are thereafter required to pay a transfer value in respect of an officer to whom the payment of such sum relates, on demand by the Committee repay to the Committee a sum equal to the said sum paid to the employing authority.

(2) If an officer employed by the Committee is dismissed or resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or grave misconduct, being such an offence or such misconduct in connection with his employment, then if the Committee have suffered direct financial loss by reason of the offence or misconduct they may retain the lesser of the amounts specified in sub-sub-paragraphs (i) and (ii) of whichever of paragraphs (1)(a) or (1)(b) would be appropriate in the circumstances of the case.

*Recovery or retention by employing authority of certain sums from the superannuation fund*

**48B.**—(1) If an officer of an employing authority is dismissed or resigns or otherwise ceases to hold his employment in consequence of a criminal, negligent or fraudulent act or omission on his part, being such an act or omission arising in connection with his employment, then if the officer has incurred some monetary obligation to his employing authority arising out of such act or omission, that authority shall be entitled to recover from the Committee or, if the officer was employed by the Committee the Committee shall be entitled to retain a sum which (subject to any different agreement in writing between the employing authority and the officer) shall not exceed the lesser of the following amounts—

- (a) the amount of the monetary obligation; or
- (b) the actuarial value at the time of such recovery or retention of all rights enjoyed by or in respect of the officer with respect to his previous service under these regulations, and being rights enjoyed in respect of a period of service or in respect of contributions or other payments made by him as a contributory employee or a local Act contributor.

(2) The Committee shall give to the officer not less than three months' previous notice of the amount to be recovered or retained under paragraph (1).

(3) The officer shall be entitled to a certificate from the Committee showing the amount recovered or retained under paragraph (1), the manner in which it is calculated and the effect of such recovery or retention upon his benefits or prospective benefits.

(4) In the event of any dispute as to the amount to be recovered or retained under paragraph (1), the employing authority shall not be entitled to such recovery or retention except after the monetary obligation referred to in that paragraph has become enforceable under an order of a competent court or the award of an arbitrator."

### PART III

#### AMENDMENT OF MODIFICATION PROVISIONS

*Amendment of National Insurance (Local Government Superannuation Scheme and Non-Participation) Regulations (Northern Ireland) 1966*

**18.** The National Insurance (Local Government Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1966(m) shall be amended as follows—

(1) In regulation 2 (Interpretation)—

(a) in paragraph (1)—

(i) the expressions “flat-rate contributions” and “maximum graduated remuneration” shall be deleted; and

(ii) the following definition shall be substituted for the definition of the expression “participating employment”—

““participating employment”, in relation to any period which is reckonable as service for the purposes of the principal regulations, means any employment in which a person was required to pay graduated contributions, or would have been required to pay such contributions if the amount paid in any income tax week on account of his remuneration, or which would have been paid but for any suspension of remuneration due to leave of absence, exceeded the amount first mentioned in section 4(1) of the Act of 1966, or the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be;”;

(b) paragraphs (1A), (3) and (3A) shall be deleted.

(2) For regulation 14 there shall be substituted—

*“Reduction of pensions”*

14.—(1) Subject to the provisions of this regulation, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled under the principal regulations has been in participating employment, as from the date on which the officer becomes entitled to that pension, or if on becoming entitled to the pension he has not yet reached the age of 65 years in the case of a man or 60 years in the case of a woman, as from the date on which he reaches that age, the part of the pension which is attributable to any such period of service shall be reduced in accordance with this part, and regulation 42 of the principal regulations shall cease to apply in relation to that part of the pension.

(2) The reduction required to be made in accordance with this part shall not be less than that required to be made under the said regulation 42.

(3) For the purposes of this part, no account shall be taken of any period of participating employment occurring in an income tax year if no graduated contributions have been paid in respect of all such periods during that year.

(4) Notwithstanding anything in paragraph (3), a period of employment as an officer, at the end of which a payment in lieu of contributions has been made, shall be treated for the purpose of this part as a period of participating employment.

(5) If an officer is making or has made payments under regulation 26 of the principal regulations with a view to the reckoning of added years, and those payments have been subject to reduction in accordance with regulations made under section 103 of the Act of 1966, the period in respect of which those payments have been made and have been so subject to reduction shall be treated for the purposes of these regulations as a period of service in participating employment in respect of which graduated contributions have been paid, and the part of any pension to which the person subsequently becomes entitled which is attributable to that period shall be reduced in accordance with this part.

(6) No account shall be taken of the reduction of any pension under this part—

- (a) in calculating the amount of any retiring allowance or death gratuity or of any pension or allowance to or in respect of a widow, child or other dependant, payable under the principal regulations; or
- (b) for the purposes of paragraph 1(a) of the first schedule to the principal regulations (which limits the extent to which a pension can be surrendered)."

(3) For regulation 15 there shall be substituted—

"15.—(1) Where a pension would, apart from these regulations, be subject to reduction in accordance with regulation 42 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall, subject to paragraph (2), be reduced—

- (a) for each year of such employment which is reckonable as contributing service, by a sum equal to one two-hundred-and-fortieth of so much of the average remuneration as does not exceed—

- (i) in respect of any such year prior to 6th January 1964, £780 per annum; or

- (ii) in respect of any such year on or after 6th January 1964, £936 per annum;

and by a proportionate part of such sum for any part of such year; and

- (b) for each year of such employment which is reckonable as non-contributing service in calculating the amount of the pension, by a sum equal to one four-hundred-and-eightieth of so much of the average remuneration as aforesaid:

Provided that in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been made such reduction as aforesaid shall be calculated as if the person's remuneration or average remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions.

(2) If the last period of contributing service before 6th April 1975 of an officer was non-participating employment in respect of which no payment in lieu of contributions has been made, no account shall be taken for the purpose of this regulation of any average remuneration—

- (a) in respect of any period of participating employment prior to 6th January 1964, in excess of £676 per annum in the case of a man, and £624 per annum in the case of a woman; and

- (b) in respect of any period of participating employment on or after 6th January 1964, in excess of £754 per annum in the case of a man and £702 per annum in the case of a woman."

(4) In regulation 16 (Reduction of pensions payable to certain classes of officer)—

- (a) the words "payable to an officer" shall be deleted; and

- (b) for the words "one pound fourteen shillings" and "seventeen shillings" there shall be substituted the words "£1.70" and "eighty-five pence" respectively.

(5) In regulation 18 (Pensions not subject to reduction in connection with the making of flat-rate contributions)—

- (a) the words "payable to an officer" shall be deleted; and

- (b) for the words "one pound fourteen shillings" and "seventeen shillings" there shall be substituted the words "£1.70" and "eighty-five pence" respectively.

(6) For regulation 19 there shall be substituted—

*“Reduction of pension in respect of other reckonable employment*

19.—(1) Where, before 1st January 1974, a person became an officer after having been employed in other employment (in this regulation referred to as “his former employment”) and any contributing service reckonable by him in his former employment included any period of participating employment or non-participating employment at the end of which a payment in lieu of contributions has been made, so much of a pension payable to him as is attributable to any such period shall, in lieu of any reduction for which this part provides, be reduced—

- (a) if a modification provision was applicable to him immediately before he ceased his former employment in the like manner as if he had continued that employment and retired from it on the day he ceased to be an officer; or
- (b) if no modification provision was applicable to him at that time and the transfer value payable in respect of that employment had been adjusted to take account of a payment in lieu of contributions, by the amount of the graduated retirement benefit payable under the Act of 1966, the Great Britain Acts or the Isle of Man Act, as the case may be, in respect of the payment in lieu of contributions.

(2) Where in respect of any period of non-participating employment which has become reckonable for the purpose of the principal regulations by a person who became an officer before 1st January 1974, equivalent pension benefits have been assured for the purposes of the Act of 1959, the Act of 1966, the Great Britain Acts or the Isle of Man Act, as the case may be, there shall, for the purpose of these regulations, be deemed to have been made a payment in lieu of contributions of such amount as would otherwise have fallen to be paid in respect of such employment.

(3) Where an officer, other than an officer to whom regulation 19A applies, has made payments under regulations 27, 28 or 29 of the principal regulations and such payments were reduced in accordance with any modification provision of the scheme to which he was subject in his former employment, the part of any pension to which he becomes entitled which is attributable to those payments shall be reduced as if it had been attributable to a period of his former employment.”

(7) For regulation 20 there shall be substituted—

*“Reduction of death gratuities*

20.—(1) Where an officer dies without having become entitled to a pension, and a death gratuity is payable under regulation 14 of the principal regulations, then if a payment in lieu of contributions is required to be made, or such a payment has previously been made in respect of him, the death gratuity shall be reduced by a sum amounting to half of the payment in lieu of contributions or half of the aggregate of such payments if more than one has been made and the Committee shall pay to any employing authority by whom such a payment in lieu as aforesaid has been made a sum representing the amount by which the death gratuity has been reduced under this regulation in respect of such a payment in lieu as aforesaid made by that authority.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this regulation—

- (a) if the payment was made on the termination of any period of employment which is not reckonable as service for the purposes of the principal regulations; or

- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960<sup>(n)</sup>, or any corresponding regulation in Great Britain or the Isle of Man.”

(8) For regulation 21 there shall be substituted—

“*Adjustments following payments in lieu of contributions*

21.—(1) Subject to the provisions of this regulation, where an officer leaves employment in circumstances—

- (a) to which regulation 6 of the National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975<sup>(o)</sup> does not apply; and

- (b) in which returned contributions are due and a payment in lieu of contributions has previously been made in respect of him in circumstances in which returned contributions were not due, those returned contributions shall be reduced by a sum equal to the amount, or the aggregate of the amounts, by which under section 59(5) of the Act of 1966 (which defines an employer’s rights against an insured person in respect of payments in lieu of contributions) they could have been reduced if returned at the time when the previous payment in lieu of contributions was made.

(2) Paragraph (1) shall also apply for the reduction of returned contributions where a payment in lieu of contributions has been made under the Act of 1966, or under the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be, in respect of any period of former employment which is reckonable as service as an officer if—

- (a) that payment in lieu was made in circumstances not involving the return of any superannuation contributions made by him in that employment; and

- (b) the transfer value payable in respect of that employment has been adjusted to take account of that payment in lieu;

and where no superannuation contributions were payable in that employment, any amount returnable in respect of contributions deemed to have been made therein shall be reduced by a sum equal to one half of that payment in lieu.

(3) No payment in lieu of contributions shall be taken into account for the purposes of paragraphs (1) and (2)—

- (a) on more than one occasion; or

- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960, or any corresponding regulation in Great Britain or the Isle of Man.

(4) Where the employment of an officer comes to an end in circumstances to which regulation 6 of the National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975 applies, the amount of returned contributions to which he is entitled shall be reduced by any amount which, under section 59 of the Act of 1966 as modified by the said regulation 6, the person who has made or is liable to make a payment in lieu of contributions in respect of such officer (or would be so liable had the officer not been assured of equivalent pension benefits) is entitled either to recover from the person liable for the returned contributions or to retain out of the returned contributions.

<sup>(n)</sup> S.R. & O. (N.I.) 1960 No. 181 (p. 645)

<sup>(o)</sup> S.R. 1975 No. 48 (I, p. 217)



(5) Where returned contributions are due in the circumstances mentioned in paragraph (1) or paragraph (4) on the cessation of two or more concurrently held employments, the reduction required by that paragraph shall be made in relation to such one only of the employments as is determined by the Committee.

(6) Where returned contributions are reduced under paragraph (1) or under section 59(5) of the Act of 1966 or the said section 59(5) as modified by regulation 6 of the National Insurance (Non-participation—Transitional Provisions) (Northern Ireland) Regulations 1975 or under any corresponding provision of the Great Britain Acts or the Isle of Man Act, any sum so deducted shall not form part of any amount payable to or in respect of him, either as returned contributions or as a benefit ascertained by reference to the amount of the contributions paid by him, on the occasion of any later cessation of his employment.

(7) In this regulation "returned contributions" means an amount payable under regulation 33 of the principal regulations to or in respect of an officer by way of a return of contributions."

(9) For regulation 22 there shall be substituted—

*"Reckoning of service for the purposes of the modification of pension*

**22.** The amount of the reduction of any pension under regulation 42 of the principal regulations or under these regulations shall be calculated by reference to the years and any part of a year of service, the reduction for such part of a year being an amount which bears the same proportion to the amount for a year as the number of days in that part bears to 365 days."

(10) For regulation 25 there shall be substituted—

*"Employments to be treated for certain purposes as employments under a single employer*

**25.** All employments in which a person's service qualifies him for retirement benefits under the principal regulations shall be treated for the purposes of Part III of the Act of 1966 and of any regulations made thereunder as employments under a single employer different from the employer in any other employment."

(11) For regulation 26 there shall be substituted—

*"Limitation of surrender, assignment, etc., of pensions*

**26.** No provision in the principal regulations—

(a) for the surrender or assignment of a pension; or

(b) for the reduction, termination or suspension of a pension where the provision is invoked for any cause other than one prescribed by regulations made under section 56(1)(c) of the Act of 1966 shall apply so as to reduce a pension payable in respect of any period of service to an officer who attains the age of sixty-five years in the case of a man, or sixty years in the case of a woman, below the minimum rate of equivalent pension benefits applicable in respect of that period under the Insurance Measures; and for this purpose "service" means service in a non-participating employment which is reckonable by an officer for the purpose of calculating the amount of any benefit payable to him, except any earlier period of such service in respect of which—

(i) a payment in lieu of contributions has been made; or

(ii) equivalent pension benefits satisfying the requirements of the Act of 1966 have already been assured to him."

*Revocation of modification provisions*

19.—(1) Regulations 5, 6, 7, 8, 9, 10, 11, 17, 23 and 24 of the National Insurance (Local Government Superannuation Scheme—Modification and Non-participation) Regulations (Northern Ireland) 1966, are hereby revoked.

(2) The National Insurance (Local Government Superannuation Scheme—Modification and Non-participation) (Amendment) Regulations (Northern Ireland) 1969(p), are hereby revoked.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 15th December 1978.

(L.S.)

*J. A. D. Higgins*

Senior Assistant Secretary

## EXPLANATORY NOTE

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

These regulations amend certain provisions relating to the superannuation of persons engaged in local government.

The main changes are—

- (1) A provision enabling an officer to continue payment of contributions whilst on leave of absence without pay or with reduced pay to cover absences of up to 36 months (regulation 4).
- (2) Pensions required by the National Insurance Act (Northern Ireland) 1966 for periods of employment which were non-participating under that Act are provided for persons who would not otherwise be entitled on retirement to a pension under the existing superannuation provisions (regulations 5 and 7).
- (3) A pension is provided for the widower of a female officer who has given due notification that her husband is permanently incapacitated through ill-health and is wholly or mainly dependent on her and that she wishes the provision to be applied in her case (regulation 10).
- (4) The amendment of the provision for the increase of service on ill-health retirement to make it clear that purchased service is excluded from such enhancement (regulation 13).
- (5) The provisions relating to return of contributions are amended so that they comply with the requirements of Schedule 3 to the Social Security Pensions (Northern Ireland) Order 1975. This and previous amendments are now consolidated in a substituted provision (regulation 14).
- (6) A provision to give earlier effect to the existing provision whereby abatement of pensions on re-entering employment as an officer is restricted to employment in which the officer is subject to the local government superannuation regulations (regulation 15).
- (7) A provision introducing a time limit of three months within which a re-employed officer may elect to receive combined benefits in respect of his aggregated service (regulation 16).
- (8) New provisions are introduced so that—
  - (a) where an officer is dismissed or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character, or grave misconduct, in connection with his employment, the whole or part of his contributions not exceeding the amount of the direct financial loss suffered by the employing authority as a result of the offence or the misconduct, may be transferred to the employing authority; and
  - (b) where an officer has been dismissed or resigned or otherwise ceases to hold his employment in consequence of a criminal, negligent or fraudulent act or omission on his part, the employing authority is empowered to recover from the Superannuation Committee a sum, subject to specified limits, in respect of a monetary obligation incurred by the officer to the employing authority and arising from that act or omission (regulation 17).

- (9) The provisions relating to the modification of benefits under the local government superannuation regulations in connection with the payment of graduated benefit under the National Insurance Act (Northern Ireland) 1966 are amended to take account of the consequential effects of the repeal of Part III of that Act (regulations 18 and 19).
- (10) A consolidation of the provisions relating to widow's pension. The consolidation includes a new provision to preclude entitlement where the husband was in receipt of equivalent pension benefits (regulation 8).

The remaining regulations are of a consequential nature. Under the powers conferred by article 14 of the Superannuation (Northern Ireland) Order 1972 regulation 15 is brought into force as from 1st April 1974, regulations 18 and 19 are brought into force as from 6th April 1975 and regulation 13 is brought into force as from 6th March 1978.