

1984 No. 355

LOCAL GOVERNMENT

**Local Government (Superannuation) (Amendment) (No. 2)
Regulations (Northern Ireland) 1984**

Made 12th October 1984

Coming into operation 1st December 1984

The Department of the Environment in exercise of the powers conferred by Articles 9 and 14(1) 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 of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following regulations:—

Citation, commencement and retrospection

1.—(1) These regulations may be cited as the Local Government (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1984 and shall come into operation on 1st December 1984 and have effect from that date with the exception of regulations 4(a) and (b) and 5, 7 and 8 which shall have effect as from 1st May 1981 and regulation 14 which shall have effect as stated in regulation 93 of the principal regulations.

(2) The Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1984(c) and these regulations may be cited together as the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1984.

Interpretation

2. In these regulations “the principal regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981(d) and other words and expressions have the same meaning as in the principal regulations.

Revocation

3. Regulation 21 of the principal regulations is revoked except in relation to any person who became entitled to an allowance under it before 1st December 1984.

Definitions in principal regulations

4. Regulation 2(1) of the principal regulations is amended—

(a) by substituting for the definition of “associated body” the following definition:

“ “associated body” means—

(i) a body any of whose employees are admitted under regulation 13 to participate in the benefits of the fund;

(a) S.I. 1972/1073 (N.I. 10)

(b) S.R. & O. 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(c) S.R. 1981 No. 96, S.R. 1982 No. 58 and S.R. 1984 No. 175

(d) S.R. 1981 No. 96 to which there are amendments not relevant to these regulations

- (ii) a body designated under the Local Government (Superannuation) Act (Northern Ireland) 1950(a);
 - (iii) a body in respect of any of whose employees an agreement was made under regulation 3 of, or was so deemed to have been made under regulations 4 and 5 of and Schedule 2 to, the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(b) and continued in force by regulation 13(6);”;
- (b) by substituting for the definition of “eligible child” the following definition:
- “ “eligible child” means—
- (a) Where a person has become entitled to a pension whether or not he has become entitled to receive payments in respect of that pension—
 - (i) a legitimate child of a marriage of that person which took place before the date on which that person became entitled to the pension, born before the expiration of one year after the date on which that person became entitled to that pension;
 - (ii) an adopted child of that person, adopted before that person became entitled to the pension; or
 - (iii) a step-child or illegitimate child of that person, an adopted child of the wife of a marriage of that person which took place before that person became entitled to the pension or a child accepted by that person as a member of the family, being a child wholly or mainly dependent on that person both before he becomes entitled to that pension and at the time of his death;
 - (b) where a person dies in an employment in which he is an officer:—
 - (i) a legitimate child of that person, born before the expiration of one year after the date of the death of that person;
 - (ii) an adopted child of that person; or
 - (iii) a step-child or illegitimate child of that person, an adopted child of the wife of a marriage of that person or a child accepted by that person as a member of the family, being a child wholly or mainly dependent on that person at the time of his death;”;
 - (c) by inserting in the definition of “war service” after the words “any person”, the words “except in Part XI where it is to be construed in accordance with regulation 97”.

Admission of other persons to participation in superannuation benefits

5. Regulation 13 of the principal regulations is amended by adding after paragraph (5) the following paragraph:

“(6) Any agreement under regulation 3 of, or which was deemed to have been made under regulations 4 and 5 of and Schedule 2 to, the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975(b) and was in force immediately before 1st May 1981 shall continue in force as if it were an agreement made under this regulation notwithstanding the revocation of those regulations by regulation 84.”.

Payments by officer to avoid reduction of retiring allowance and death gratuity

6.—(1) Regulation 15 of the principal regulations is amended by inserting the following paragraph:

(a) 1950 c. 10 (N.I.)
(b) S.R. 1975 No. 347

“(4A) Where an election is made under regulation 102 any resulting increase in any payment mentioned in paragraphs (3) or (4) is payable from the date which is for the purposes of Schedule 3 the date of the election under the paragraph in question and any resulting increase in any payment mentioned in paragraph (2) shall, unless the Committee allow a longer period, be paid within one month after the notification of the determination or consent or, as the case may be, the date of the election under regulation 102.”.

(2) Where an election is made under regulation 102, any resulting increase in any payment mentioned in regulation 8A(3) or (4) of the 1962 regulations is payable from the date which is for the purposes of the Fourteenth Schedule to those regulations the date of the election under the paragraph in question and any resulting increase in any payment mentioned in paragraph (2) of that regulation shall, unless the Committee allow a longer period, be paid within one month after the notification of the determination or consent or, as the case may be, the date of the election under regulation 102.

Amount of retiring allowance

7. Regulation 20 of the principal regulations is amended by inserting the following paragraph:

“(3A) No reduction shall be made under proviso (b) to paragraph (2) in the case of a female pensionable employee participating as provided in regulation 28 in the benefits provided by these regulations who has not given any notification under regulation 28.”.

Pensions of widowers, etc.

8. The following regulation shall be substituted for regulation 28 of the principal regulations—

“Pensions of widowers, etc.

28. A female officer who either—

(a) has a husband who is permanently incapacitated by reason of ill-health or infirmity of mind or body and who is wholly or mainly dependent on her, and notifies the Committee in writing that she wishes to have the provisions of this regulation applied to her, or

(b) has no husband but has an eligible child or eligible children,

shall participate in the benefits provided by these regulations as if reference in this Part to a male officer or male person included a reference to her and as if any reference to the wife or widow of such a person included a reference to her husband or her widower:

Provided that if, after this regulation has become applicable to her, she marries or re-marries, the subsequent marriage and:—

- (i) the legitimate children of the subsequent marriage;
- (ii) any adopted child of hers, adopted after re-marriage;
- (iii) any legitimate child of hers, born after the expiration of one year after the date of the death of her husband at the time of the notification under paragraph (a);
- (iv) any step-child of hers, being a child of an earlier marriage of her husband by the subsequent marriage; and
- (v) any adopted child of her husband by the subsequent marriage,

shall be left out of account for all purposes of this Part 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 and she gives a notification, or as the case may be a further notification, under paragraph (a).”.

Limitation on service reckonable at age 60

9. Regulation 36 of the principal regulations is amended by adding the following paragraph:

“(3) For the purposes of paragraph (1), a period which a person is entitled to reckon as contributing service by virtue of regulation 101(1)(a) shall be treated as contributing service before attaining the age of 60 years.”.

Reckoning of contributing service

10. Regulation 39(1) of the principal regulations is amended by inserting in sub-paragraph (e) after the words “by virtue of”, the words “Part XI (war service) or”.

Reduction of added years reckonable on payment as contributing service

11. The principal regulations are amended by inserting after regulation 43 the following regulation:

“Reduction of added years reckonable on payment as contributing service

43A.—(1) This regulation applies where—

(a) a consent—

(i) has been given under regulation 43, or

(ii) was given under the corresponding provision of the previous regulations,

(b) the person in respect of whom the consent was given is a person in relation to whom regulation 98 applies,

(c) the notice of election under regulation 98 was given within the period of six months beginning on 1st December 1984, or in the case of a deceased person (within the meaning of Part XI) who died during that period, within the period of twelve months beginning on the date of his death, and

(d) apart from this regulation some of the person's contributing service would, or would if payments under regulation 43 were to continue up to the age specified in regulation 43(3)(a) or (b), be left out of account in accordance with regulation 36 or would exceed 45 years.

(2) Where this regulation applies the consent shall be deemed always to have related not to the original number of added years but instead to the longest additional period that would not entail any such leaving out of account of contributing service as is mentioned in paragraph (1)(d) or would not entail total contributing service exceeding 45 years; and payments made and any remaining to be made are to be adjusted accordingly.”.

Reduction of pension

12. Regulation 53 of the principal regulations is amended by inserting after paragraph (1) the following paragraph:

“(1A) A person in relation to whom regulation 98 applies shall not on that account be treated for the purposes of this regulation as having paid reduced contributions in relation to any service.”.

Determination of questions

13. Regulation 83 of the principal regulations is amended by inserting after the words “officer or person” the words “or the rights of any other person under Part XI”.

Injury allowances, etc., and war service

14. The principal regulations are amended by inserting after Part IX. the following Parts—

“PART X

INJURY ALLOWANCES ETC.

Interpretation

85. In this Part—

“benefits” means any allowance or lump sum payable under this Part;

“relevant body” has the meaning given by regulation 91: and

“relevant employment” has the meaning given by regulation 86(2).

Persons to whom Part X applies

86.—(1) Subject to paragraph (4) this Part applies to a person employed in a relevant employment if he—

(a) sustains an injury, or

(b) contracts a disease,

as a result of anything he was required to do in carrying out his work.

(2) Relevant employment is employment, otherwise than as any fire officer or fireman such as is referred to in the Fire Services Act (Northern Ireland) 1969(a) or as an employee pensionable under the superannuation scheme provided in regulations for the time being in force under Article 11 of the Order or as an employee of Citybus Limited or Ulsterbus Limited—

(a) with a body specified in Schedule 18; or

(b) as an officer with any associated body not specified in Schedule 18.

(3) A person is to be treated for the purposes of paragraph (1) as having sustained an injury as mentioned in that paragraph if—

(a) he sustains the injury while travelling as a passenger by a vehicle with the express or implied permission of his employer to or from his place of work; and

(b) at the time of the injury the vehicle was being operated, otherwise than in the course of a public transport service, by or on behalf of his employer or pursuant to arrangements made by his employer.

Loss of employment through permanent incapacity

87.—(1) If as a result of an incapacity which is likely to be permanent caused by the injury or disease a person to whom this Part applies ceases to be employed in a relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted), he shall be entitled to an annual allowance.

(2) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(3) The relevant body may suspend or discontinue the allowance if the person becomes capable of working again.

(4) The allowance is not to be paid at a rate which exceeds 85 per cent of the person's annual rate of remuneration in respect of the employment when he ceased to be employed.

(a) 1969 c. 13 (N.I.) to which there are amendments not relevant to these regulations

(5) In ascertaining for the purposes of paragraph (4) a person's annual rate of remuneration in respect of the employment when he ceased to be employed—

- (a) the annual rate of any fluctuating element of his remuneration is to be estimated by reference to an average taken over a representative period;
- (b) the annual rate of any benefit in kind included in his remuneration is to be the estimated annual value of the benefit in kind at the date on which he ceased to be employed;
- (c) if at that date he had no remuneration or his remuneration was reduced because of absence from duty, the annual rate is to be taken to be the annual rate which would have applied if he had not been absent;
- (d) if at that date he was entitled to an allowance under regulation 88 by reason of a reduction in his remuneration, whether as a result of the same or of some other injury or disease, the annual rate is to be taken to be the annual rate which would have applied if his remuneration had not been reduced;
- (e) if his remuneration is retrospectively altered as a result of a pay award, the annual rate of his remuneration is to be based on the retrospective pay award; and
- (f) if his remuneration is not calculated by reference to an annual rate but by reference to some other rate, the annual rate is to be derived from the applicable rate at the date on which he ceased to be employed.

(6) In determining the amount of the allowance the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation 92.

Reduction in remuneration

88.—(1) If as a result of the injury or disease a person to whom this Part applies suffers a reduction in his remuneration while he is employed in relevant employment (whether or not it is the same employment as that in which the injury or disease was sustained or contracted) and regulation 87 does not apply, he shall be entitled to an allowance while the reduction continues.

(2) A person's remuneration is to be treated for the purposes of paragraph (1) as reduced if at any time it is lower than it would have been but for the injury or disease.

(3) The allowance is to be paid by the relevant body and is to be of such amount as the body may from time to time determine.

(4) The amount of the allowance together with the person's remuneration in the relevant employment, is not in any year to exceed the remuneration he would have been paid if he had not sustained or contracted the injury or disease.

(5) In determining the amount of an allowance under this regulation the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation 92.

Allowances for pensioners

89.—(1) If on ceasing to be employed in a relevant employment a person becomes entitled under regulation 18 to receive payments in respect of an annual pension and—

- (a) immediately before ceasing to be so employed he was entitled to an allowance under regulation 88; and
- (b) on ceasing to be so employed he does not become entitled to an allowance under regulation 87; and

(c) proviso (iv) to regulation 41 does not apply, the relevant body may pay him an allowance under this regulation.

(2) An allowance under this regulation—

(a) is not in any year to exceed the amount by which the annual rate of the retirement pension falls short of what it would have been if the amount of the allowance paid under regulation 88 during his final year (within the meaning of regulation 41) had been part of his remuneration in the relevant employment; and

(b) continues for such period as the relevant body may determine.

Death benefits

90.—(1) If a person to whom this Part applies dies as a result of the injury or disease—

(a) if he leaves a widow who qualifies under paragraph (2) she shall be entitled to an annual allowance or lump sum, and

(b) if he leaves a dependant, the dependant shall be eligible for an annual allowance or lump sum.

(2) A widow qualifies for an annual allowance or lump sum unless—

(a) her marriage to the person in question took place after he ceased to be employed in relevant employment and he was not subsequently employed in such employment; or

(b) at the date of death she was judicially separated or cohabiting with another man as his wife.

(3) The allowance or lump sum is to be paid by the relevant body and is to be of such amount as the body may from time to time determine or, as the case may be, may determine.

(4) In determining the amount of any allowance or lump sum the relevant body is to have regard to all the circumstances of the case, including the matters specified in regulation 92.

(5) An allowance to a widow shall cease if she remarries or cohabits with another man as his wife, but if she again becomes a widow or the marriage is dissolved or the cohabitation ceases the relevant body may restore the allowance for such period as they may determine.

(6) An allowance to a dependant shall continue for such period as the relevant body may determine.

(7) This regulation shall apply with necessary modifications to a widower who at the date of his wife's death is permanently incapacitated by reason of ill-health or infirmity of mind or body and wholly or mainly dependent on her.

The relevant body

91.—(1) The relevant body for the purposes of this Part is—

(a) the body by whom the person in question was employed immediately before he first qualifies for any benefit under this Part; or

(b) if he dies without qualifying for any benefit under this Part, the body which last employed him in a relevant employment before his death; or

(c) if the body specified in sub-paragraph (a) or (b) has ceased to exist, the body to which he would have been transferred if he had continued in the employment in question.

(2) Any question arising under paragraph (1)(c) as to the identity of the body to which the person would have been transferred shall be determined by the Department and such determination shall be final.

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

92. In determining the amount of any benefit under this Part the relevant body is to have regard to—

- (a) any right to benefit under section 14 or Chapters IV or V of Part II of the Social Security (Northern Ireland) Act 1975(a) or corresponding provisions of earlier enactments;
- (b) any other statutory right to benefit or compensation;
- (c) any right to receive superannuation benefit (whether payable under an enactment or otherwise) out of any fund to which any body which employed him in relevant employment has made any contributions in respect of him or out of any fund to which assets of any such fund were transferred; and
- (d) any damages recovered and any sum received by virtue of a contract of insurance.

Retrospective Effect

93.—(1) Subject to the following provisions of this regulation, this Part applies even if the injury or disease was sustained or contracted before 1st December 1984.

(2) Regulation 87, 88, 89 or 90, as the case may be, does not apply if the relevant event occurred before 1st December 1982 but, subject to the following provisions of this regulation, does apply if the relevant event occurred on or after that date and before 1st December 1984.

(3) For regulation 87 and 89 the relevant event is the cessation of the employment, for regulation 88 it is the reduction of remuneration and for regulation 90 it is the death of the employee.

(4) If adequate provision has already been made for the person in question under regulation 21, this Part does not apply to him.

(5) If regulation 87, 88, 89 or 90 applies in any case by virtue of paragraph (2) and paragraph (4) does not apply, the relevant body shall decide what benefit, if any, is to be granted in accordance with the applicable regulation for any past or future period but in making that decision they shall take into account any allowance to which the person is or was entitled under regulation 21.

Finance

94.—(1) Benefits under this Part are not to be met out of the superannuation fund.

(2) Where—

- (a) an allowance under regulation 21 is payable in addition to any benefit under this Part; and
- (b) the relevant body are the employing authority for the purposes of regulation 21(5) (repayment to superannuation fund),

the allowance shall be treated for the purposes of paragraph (1) as a benefit under this Part.

Notice of decision

95. The relevant body shall give notice in writing of any decision relating to any benefit under this Part to the person affected and shall inform him about his rights under regulation 83.

PART XI

WAR SERVICE

*Interpretation***96.** In this Part—

“deceased person” means a person with war service who died after 31st March 1978 and in relation to whom the conditions specified in regulation 98(2) to (8) were or are deemed to have been satisfied when he died;

“excess remuneration” means, in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer’s former employment in those forces;

“non-effective pay” includes naval, military and air force pensions, retired pay and gratuities (other than war gratuities to which section 23 of the Finance (No. 2) Act 1945(a), which exempted war gratuities from income tax, applies and gratuities paid to former members of the Palestine Police Force);

“occupational pension scheme” means any scheme or arrangement comprised in one or more instruments or agreements and having, or being capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category; and

“public service scheme” means an occupational pension scheme—

(a) which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department, and

(b) which includes provisions for any such whole-time service as is described in regulation 97(1) rendered before becoming entitled to participate in the scheme, to be reckonable as service in respect of which benefits are payable under the scheme;

and references to war service are to be construed in accordance with regulation 97.

War service

97.—(1) For the purposes of this Part, a person’s war service is, subject to paragraph (2), the period of his whole-time service at any time after 2nd September 1939 and before 30th June 1950, while 18 years old, or older, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women’s services specified in Schedule 19.

(2) A person’s war service does not include—

(a) any period in respect of which any non-effective pay or excess remuneration has been received by him and not refunded,

(b) any period that was, or falls to be treated as having been, reckonable by him as non-contributing or contributing service for the purposes of the 1950 regulations or the Belfast Corporation Superannuation Scheme,

- (c) any period that has at any time been taken into account (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme, or
- (d) any period that is or has at any time been capable of being taken into account otherwise than under this Part (whether at its full length or otherwise) for the purpose of calculating any benefit under any occupational pension scheme.

Election as to war service

98.—(1) A person with war service in relation to whom the conditions specified in paragraphs (2) to (8) are satisfied, or the personal representatives of a deceased person, may by notice given in accordance with regulation 100 elect that this regulation shall apply in relation to him.

(2) One at least of the following must be the case:

- (a) he became before 1st July 1950 an officer entitled to participate in the benefits provided by the 1950 regulations or under the Belfast Corporation Superannuation Scheme, or
- (b) a period beginning before 1st July 1950 was, or falls to be treated as having been, reckonable by him otherwise than by virtue of interchange rules as service, or
- (c) he was on 30th June 1950 undergoing a full-time course of training for, and subsequently obtained, the Royal Sanitary Institute's Diploma in Public Health Inspection, and not later than 6 months after completing the course of training he became entitled as mentioned in sub-paragraph (a) or, as the case may be, a period began which was reckonable, or falls to have been reckonable, as mentioned in sub-paragraph (b).

(3) He must on 1st April 1978 have been—

- (a) an officer entitled to participate in the benefits provided by the 1962 regulations, or
- (b) entitled to receive payments in respect of a pension under the previous regulations, or,
- (c) entitled to a pension under regulation 9(1)(c) of the 1962 regulations, or
- (d) a person to whom regulation 35 of the 1962 regulations or regulation 22 of the 1950 regulations or the corresponding provisions of the Belfast Corporation Superannuation Scheme applied, or
- (e) entitled to superannuation benefits under any Local Act.

(4) Except where paragraph (2)(c) is the case, there must not since the date specified in paragraph (9), have been a continuous period of 12 months or more throughout which none of the following was the case:

- (a) he was entitled as mentioned in paragraph (2)(a), or
- (b) the period mentioned in paragraph (2)(b) was running, or
- (c) he was undergoing such a course of training as is mentioned in paragraph (2)(c), or
- (d) he was entitled as mentioned in paragraph (3), or
- (e) he was an officer entitled to participate in the benefits provided by these regulations or the Belfast Corporation Superannuation Scheme made on 4th August 1964, or
- (f) he was entitled to receive payments in respect of an annual pension under these regulations, or
- (g) he was entitled to a pension under regulation 18(1)(c), or

(h) he was a person to whom regulation 30 or the corresponding provisions of the previous regulations applied.

(5) Where paragraph (2)(c) is the case, paragraph (4) applies—

(a) with the substitution for the date specified in paragraph (9) of the date (being a date later than 30th June 1950) on which he became entitled as mentioned in paragraph (2)(a) or, as the case may be, a period began which was reckonable or falls to be treated as reckonable, as mentioned in paragraph (2)(b), and

(b) with the substitution for the reference in paragraph (4)(b) to the period mentioned in paragraph (2)(b) of a reference to such a period as is mentioned in sub-paragraph (a).

(6) If he is a person to whom proviso (a) of regulation 18 of the 1962 regulations or regulation 15(2) and (4) of the 1950 regulations or the corresponding provisions of the Belfast Corporation Superannuation Scheme applied in respect of any service after the end of his war service, he must have repaid to the Committee the sum or amount there mentioned.

(7) If he is an officer entitled to participate in the benefits provided by these regulations, he must not be entitled to reckon more than 45 years as contributing service, disregarding the contributing service before attaining the age of 60 years beyond a total of 40 years.

(8) If he has become entitled to receive payment in respect of a pension under these regulations or the previous regulations (including a pension which is for the time being subject to reduction or suspension under regulation 30), no more than 45 years' service must have been taken into account in calculating the amount of that pension.

(9) The date mentioned in paragraph (4) is the date before 1st July 1950 and after the end of his war service when, as the case may be—

(a) he became entitled as mentioned in paragraph (2)(a), or

(b) the period mentioned in paragraph 2(b) began.

Modified application of regulation 98 in certain cases

99.—(1) In this regulation—

“public health services employment” has the meaning given by regulation 2(1) of the Health Services (Superannuation) (War Service, etc.) Regulations (Northern Ireland) 1978(a), and “service” means service or employment with any employer.

(2) In the case of a person—

(a) who was not before 1st July 1950 in public health services employment,

(b) who after the date specified in regulation 98(9) ceased to be employed as an officer and became entitled to participate in the benefits of another public service scheme, and

(c) who again became employed as an officer not more than 12 months after ceasing to be entitled as mentioned in sub-paragraph (b) and became entitled in that employment to reckon as service, a period at least equal in length to the whole of his service from the date specified in regulation 98(9),

the period between his ceasing to be and again becoming employed as an officer shall be deemed not to be such a period as is mentioned in regulation 98(4).

Notice of election

100.—(1) Notice of an election under regulation 98 is to be given in writing to the Committee.

(2) The person giving notice under regulation 98—

(a) is to give the Committee, in writing—

(i) all information in his possession, and

(ii) if the Committee notify him in writing that they so require, any further information specified by them that he can reasonably be expected to obtain,

concerning the war service of the person to whom the notice relates, -and

(b) may—

(i) in that notice, or

(ii) at any time before he receives a notification of a decision or determination that the conditions specified in regulation 98(2) to (8) are satisfied in relation to the person to whom that notice relates, by a further notice in writing to the Committee,

elect that regulation 101 shall apply with the substitution, in paragraph 1(a) or (6) as the case may be, for "47 per cent." (or for any reduced percentage substituted under paragraph (7)) of any specified lesser percentage; and

(c) whether or not he has so elected may, at any time before he receives such a notification withdraw the notice given under regulation 98.

Contributing service and benefits

101.—(1) Subject to regulation 100(2)(b) and paragraphs (2), (4), (7) and (9), a person in relation to whom regulation 98 applies is entitled, or as the case may be, shall be deemed to have been entitled—

(a) in the case of a person entitled on the relevant date—

(i) to participate in the benefits provided by these regulations; or

(ii) to a pension under these regulations,
to reckon as contributing service a period equal to 47 per cent. of his war service; or

(b) in the case of a person who became entitled to receive a pension under the previous regulations, to receive in respect of the service in respect of which that pension is payable the additional benefits specified in paragraph (5).

(2) Where the person was entitled on the relevant date to a pension under these regulations—

(a) his entitlement under paragraph (1)(a) and to any resulting increase in the rate of his pension shall be taken to have arisen on the date he ceased to hold his employment; and

(b) if regulation 20(6) or the corresponding provision of the previous regulations applied to a person before—

(i) any increase by virtue of paragraph (1) in the amount of any benefit is not subject to reduction under regulation 20(6) or the corresponding provision of the previous regulations; and

(ii) the period that he is entitled by paragraph (1) to reckon as reckonable service is not to be taken into account in calculating the reduction of any benefit falling to be reduced under regulation 20(6) or the corresponding provision of the previous regulations.

(3) The relevant date for the purposes of paragraphs (1) and (2) is the date of the election under regulation 98, except in the case of a deceased employee where it is the date of his death.

(4) Any period which a person is, or is deemed to be, entitled to reckon as contributing service by virtue of paragraph (1) shall for the purposes of provisos (a) and (b) to regulation 20(2) and of regulations 20(3) and 23(2)(b) or (4) and of the corresponding provisions of the previous regulations, be deemed to be contributing service before, as the case may be—

(a) 1st April 1972; or

(b) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved.

(5) The additional benefits mentioned in paragraph 1(b) are—

(a) an additional pension payable from—

(i) 1st April 1978, or

(ii) the date on which he ceased to hold his employment, whichever is the later date; and

(b) if the person has received or is entitled to receive payment of a retiring allowance, an additional lump sum,

calculated in accordance with paragraph (6).

(6) Subject to paragraph 100(2)(b) and paragraph (9)—

(a) the annual rate of an additional pension; and

(b) the amount of an additional lump sum,

specified in paragraph (5) is the amount by which the annual rate of the corresponding original pension or, as the case may be, the amount of the corresponding original retiring allowance would have been increased if a period equal to 47 per cent. of the person's war service had been service, or a period, of a kind which (however described) counted in full in calculation of the original pension.

(7) Where—

(a) before the date of notification or determination that he is entitled to reckon a period as contributing service by virtue of paragraph (1) a person in relation to whom regulation 98 applies has been credited with an additional period of service under—

(i) any provision made by an enactment or instrument for compensation for loss of employment or loss or diminution of emoluments or for early retirement in lieu of such compensation; or

(ii) regulation 23(2)(a)(i) or 40(3) or the corresponding provisions of the previous regulations,

(“the enhancement provision”), and

(b) $A + B + C$ exceeds 40 years, where

A is the period which would but for this paragraph be reckonable as contributing service by virtue of paragraph (1),

B is the remainder of his contributing service, and

C is the additional period of service with which he has been credited under the enhancement provision,

the period which is reckonable by him as contributing service by virtue of paragraph (1) is the total of $40 - (B + C)$ and the amount, if any, by which $(A + B + C) - 40$ exceeds C; except that where the enhancement provision is comprised in regulations made under Article 3 of the Superannuation (Northern Ireland)

Order 1973(a) "45" is to be substituted for "40" wherever the latter figure occurs in this paragraph.

(8) Where a person dies who was entitled or deemed to be entitled to any additional benefit specified in paragraph (5) and there is payable in respect of him under the previous regulations any benefit similar to a widow's pension, child's pension or death gratuity payable under Part III ("the death benefit"), the person entitled to receive the death benefit is entitled to receive, in respect of the service in respect of which the death benefit is payable, a corresponding additional benefit at any rate, or, as the case may be, of any amount by which the death would have been increased if a period equal to 47 per cent. of the deceased person's war service had been service, or a period, which (however described) counted in full in ascertaining to the death benefit and its rate or amount.

(9) The total of the additional benefit under paragraph (6) or (8) and the corresponding original benefit must not exceed the greatest original benefit that could have been paid if—

- (a) the period equal to 47 per cent. of the person's war service had been a period of service before he attained the age of 60 years, and
- (b) no more than—
 - (i) 40 years' service before attaining that age, and
 - (ii) 45 years' service in all

had been capable of counting in the calculation of the original benefit.

(10) In calculating a period equal to a percentage of a person's war service for any of the purposes of this regulation, the war service is to be counted as a number of days, arrived at by—

- (a) multiplying the number of complete years of war service, if any, by 365, and
- (b) counting any part of the war service that does not amount to a number of complete years at its actual length in days,

rounding up any fraction of a day resulting from the calculation to the nearest whole day.

Revision of certain elections

102.—(1) Subject to paragraph (2), where—

- (a) notice of an election under regulation 15(2), (3) or (4) of these regulations or regulation 14 of the Local Government (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1979(b) or regulation 8A(2), (3) and (4) of the 1962 regulations has been given by or in respect of a person in relation to whom regulation 98 applies, and
- (b) the service specified in that notice was the whole of his reckonable service before, as the case may be—
 - (i) 1st April 1972, or
 - (ii) any earlier date on which he became a widower or was judicially separated from his wife or on which his marriage was dissolved,

he or his personal representatives may elect that the period which he is or is deemed to be entitled to reckon as contributing service by virtue of regulation 101(1) is to be treated as having been included in the service specified in that notice.

(a) S.I. 1973/962 (N.I. 13)

(b) S.R. 1979 No. 214 as extended by reg. 9 of S.R. 1980 No. 265

(2) An election under paragraph (1)—

- (a) may not be made unless the notice of election under regulation 98 was given within the period of 6 months beginning on 1st December 1984 or in the case of a deceased employee who died during that period, within the period of 12 months beginning on the date of his death; and
- (b) must, unless they allow a longer period, be made by giving notice in writing to the Committee within 3 months after the date of notification of a decision by the Committee or as the case may be a determination by the county court under regulation 83 that the person is or is deemed to be entitled to reckon such a period as is mentioned in paragraph (1)."

*Existing officers***15.** Schedule 11 of the principal regulations is amended—

(a) by inserting after paragraph 3 the following paragraph—

"3A. For the purposes of paragraph 3, any period reckonable as service by virtue of regulation 101(1) shall be deemed to be contributing service prior to 1st April 1950"; and

(b) by inserting after paragraph 7 the following paragraphs—

- 8. Regulation 98(7) shall have effect as if after the word "disregarding" there were inserted the words " , except in the case of existing officers to whom paragraph 1 of Schedule 11 applies, ".
- 9. Regulation 101(9)(b)(i) shall not apply.

Additional Schedules

16. The principal regulations are amended by adding after Schedule 17 the following Schedules:

"SCHEDULE 18**Regulation 86(2)(a)***Bodies to certain of whose employees Part X applies*

- (a) A district council;
- (b) the Northern Ireland Local Government Officers' Superannuation Committee;
- (c) the Northern Ireland Housing Executive;
- (d) an Education and Library Board;
- (e) the Fire Authority for Northern Ireland;
- (f) the Local Government Staff Commission;
- (g) the Staff Commission for Education and Library Boards;
- (h) the governing body of a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1972(a);
- (i) the Management Board of a training school set up under the provision of section 138 of the Children and Young Persons Act (Northern Ireland) 1968(b);
- (j) the Probation Board for Northern Ireland.

(a) S.I. 1972/1263 (N.I. 12) as amended by Art. 8(1) of S.I. 1978/1040 (N.I. 10)

(b) 1968 c. 34 (N.I.) as substituted by Part I of Sch. 16 to S.I. 1972/1265 (N.I. 14)

SCHEDULE 19

Regulation 97(1)

WOMEN'S SERVICES

1. Member of Queen's Alexandra's Royal Naval Nursing Service or any reserve thereof.
2. Member of the Women's Royal Naval Service.
3. Woman medical or dental practitioner serving in the Royal Navy or any Naval reserve.
4. Member of Queen's Alexandra's Imperial Military Nursing Service or any reserve thereof or of Queen Alexandra's Royal Army Nursing Corps or any reserve thereof.
5. Member of the Territorial Army Nursing Service or any reserve thereof.
6. Member of the Auxiliary Territorial Service.
7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.
8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.
9. Member of the Women's Auxiliary Air Force.
10. Woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.
11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council."

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 12th October 1984.

(L.S.)

N. Hamilton

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Local Government (Superannuation) Regulations (Northern Ireland) 1981 ("the principal regulations"). The main changes are set out in regulation 14 which adds Parts X (injury benefits) and XI (war service) to the principal regulations.

Regulation 3 revokes regulation 21 (injury benefits) of the principal regulations except as regards any allowance already payable under it.

Regulation 4 amends some of the definitions in regulation 2(1) of the principal regulations. The new definition of "associated body" makes it clear that it includes bodies admitted under earlier legislation to the benefits of the Northern Ireland Local Government Officers' Superannuation Fund. The definition of "eligible child" is amended so that the dependency test will not apply to a legitimate or adopted child. These definitions are retrospective to 1st May 1981.

Regulation 5 continues in force the designations made under the Local Government (Superannuation) Act 1950 and the agreements made, or deemed to be made under the Local Government (Superannuation) (Prescribed Persons) Regulations (Northern Ireland) 1975 to admit various bodies to participate in the benefits of the Northern Ireland Local Government Officers' Superannuation Fund.

Regulation 6 specifies the time limit for any increase in payments as a result of an election under regulation 102.

Regulation 7 provides that in the case of a single female officer with dependent children there will be no reduction in the retiring allowance under regulation 20 of the principal regulations.

Regulation 8 substitutes a new regulation 28 for the existing provision in the principal regulations to restore the right to pensions for the children of a deceased female officer who was single. It will not be necessary for such an officer to notify the Northern Ireland Local Government Officers' Superannuation Committee in order for this provision to apply to her. Regulations 7 and 8 are retrospective to 1st May 1981.

Part X (which replaces regulation 21 of the principal regulations) deals with work related injuries or diseases leading to loss of employment or reduced remuneration. It does not apply to teachers or firemen but applies to all other employees of district councils and the employing authorities listed in Schedule 18. Apart from Citybus Limited and Ulsterbus Limited, Part X applies to pensionable employees of the other bodies admitted to the Northern Ireland Local Government Superannuation Scheme. The maximum allowance which may be paid in cases of loss of employment due to work related injury or disease is increased to 85% of remuneration (new regulation 87). The circumstances in which an allowance is to be paid are extended to include employees who continue in employment but with reduced remuneration after sustaining the injury or contracting the disease (new regulation 88) and certain pensioners who would not otherwise be entitled to any allowance (new regulation 89). New regulation 90 makes provision for death benefits. Subject to the specified limits, the amounts of all benefits under Part X are discretionary, but other rights and payments are to be taken into account in determining them (new regulation 92). The provisions of Part X apply where the event giving rise to an entitlement occurred on or after 1st December 1982 (new regulation 93). Benefits under Part X are payable by the employer and not out of the superannuation fund (new regulation 94).

Part XI provides that a person who fulfils certain conditions may count a period equal in length to 47 per cent. of his war service (as defined in new regulation 97) in the calculation of his retirement benefits.

The main conditions (new regulations 98 and 99) are—

- (a) He must have entered employment pensionable under the local government scheme before July 1950 or have been engaged at that time in a full-time course of training or a diploma in Public Health Inspection and entered such employment within 6 months of successfully completing the course.
- (b) He must, on 1st April 1978, have been in pensionable employment or entitled to a pension.
- (c) He must not, after first qualifying under (a) above, have had a break in service of 12 months or more unless the break was for the purpose of taking the training course mentioned above or was reckonable as service under another public service pension scheme in respect of which a transfer value was paid to the local government scheme.

If an election is made in accordance with new regulation 100 in respect of a person with war service who satisfies the conditions, entitlements to additional benefits arise under new regulation 101. The entitlement arises from the date the employment ceased or from 1st April 1978, whichever is later (new regulation 101(2)(a) and (5)). A formula for the calculation of war service credit in cases where service is increased on redundancy is provided in new regulation 101(7). In cases where the basic entitlement to benefit has arisen by virtue of earlier legislation, new regulation 101(8) provides for additional death benefits by reference to war service. Where basic retirement or death benefits result from an entitlement under the principal regulations, their enhancement by reference to war service is restricted by the maximum periods of contributing service already prescribed by those regulations. Where the basic benefits result from rights acquired under the previous regulations, new regulation 101(9) similarly restricts the amount of additional war service benefits.

New regulation 102 provides that a person who has elected to make payments to purchase an unreduced retiring allowance may in certain circumstances elect that the additional period of service awarded by reference to war service is to be included in his original election. Regulation 7 lays down that any resulting increase in payment is due within one month unless the Committee allows a longer period.

Regulation 11 inserts a new regulation 43A which provides that where a person is buying or has bought additional service in accordance with regulation 43 of the principal regulations and the further service awarded by reference to Part XI would take his total contributing service beyond the prescribed maxima, the terms of the purchase arrangement are to be adjusted accordingly.

The remaining regulations make minor and consequential amendments to the principal regulations.

Article 14(1) of the Superannuation (Northern Ireland) Order 1972 confers express power to make regulations retrospective in effect. These regulations are to a large extent retrospective but do not adversely affect rights in relation to former employees.