

1973. No. 272

[C]

LOCAL GOVERNMENT ETC.**Early Retirement of Officers**

REGULATIONS, DATED 13TH AUGUST 1973, MADE BY THE MINISTRY OF DEVELOPMENT UNDER ARTICLE 3 OF THE SUPERANNUATION (NORTHERN IRELAND) ORDER 1973.

The Ministry of Development, on behalf of the Secretary of State in exercise of the powers conferred by Article 3 of the Superannuation (Northern Ireland) Order 1973(a) and of any other powers enabling it in that behalf hereby makes the following regulations:—

PART I**PRELIMINARY***Citation*

1. These regulations may be cited as the Local Government Etc. (Early Retirement of Officers) Regulations (Northern Ireland) 1973.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them:

“the Order” means the Superannuation (Northern Ireland) Order 1973;

“accrued pension”, in relation to a person duly entitled, means—

- (a) if his relevant superannuation scheme provided benefits in which he had a right to participate, the pension to which he would have become entitled under that scheme in respect of every employment which he ceases to hold on the day immediately before the payment date according to the method of calculation (modified where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any payments in respect of added years which he was in the course of making; and
- (b) in any other case, such portion of the pension (if any) of which he had reasonable expectations as the new authority consider equitable, having regard to any practice of the employing authority, his age, the length of his employment at the date of termination of his employment in consequence of the notice of election and all the other circumstances of the case;

“accrued retiring allowance”, in relation to a person duly entitled, means—

- (a) if his relevant superannuation scheme provided benefits in which he had a right to participate, any lump sum payment to which he would have become entitled under that scheme in respect of every employment which he ceases to hold on the day immediately before the payment date according to the method of calculation (modified

where necessary for the purpose of giving effect to these regulations) prescribed by that scheme if, at the date on which he ceased to be subject to that scheme, he had attained normal retiring age and complied with any requirement of that scheme as to a minimum period of qualifying service or contribution and completed any payments in respect of added years which he was in the course of making; and

- (b) in any other case, such portion of the lump sum payment (if any) of which he had reasonable expectations as the new authority consider equitable, having regard to any practice of the employing authority, his age, the length of his employment at the date of termination of his employment in consequence of the notice of election and all the other circumstances of the case;

“added years”, in relation to a person duly entitled, means any additional years reckonable by virtue of the relevant superannuation scheme or under any similar provision contained in any other enactment or scheme, which have subsequently become reckonable under the relevant superannuation scheme;

“contributing service” and “non-contributing service” have the same meanings as in the relevant superannuation scheme;

“contributory employee”, “local Act contributor” and “local Act scheme” have the same meanings as in the Local Government Superannuation Act 1937(b);

“district council” means the council of a local government district within the meaning of section 1 of the Local Government Act (Northern Ireland) 1972(c);

“employing authority”, in relation to a person to whom these regulations apply, means the existing local authority, or other authority by whom he is employed;

“existing local authority” has the same meaning as in section 131(4) of the Local Government Act (Northern Ireland) 1972;

“Health and Social Services Board” means such a Board established under the Health and Personal Social Services (Northern Ireland) Order 1972(d);

“new authority” in relation to a person to whom these regulations apply means, subject to the provisions of regulations 10(3), 12 and 13, the authority, to whom he has been transferred by an order of transfer or, to whom he would, but for these regulations, be transferred by an order of transfer or in the case of a person who would otherwise have transferred under a scheme made under Article 77 of the Health and Personal Social Services (Northern Ireland) Order 1972 to the Ministry of Health and Social Services, a Health and Social Services Board, the Northern Ireland Central Services Agency for Health and Social Services, or the Northern Ireland Staffs Council for the Health and Social Services, the Ministry of Health and Social Services;

“normal retiring age” means—

- (a) in relation to any person to whom an age of compulsory retirement applies by virtue of the relevant superannuation scheme, or of the conditions of the employment terminated in consequence of the notice of election, that age; and

- (b) in relation to any other person, the age of 65 in the case of a man and 60 in the case of a woman;

(b) 1 Edw. 8 & 1 Geo. 6. c. 68.
(c) 1972. c. 9 (N.I.).

(d) S.I. 1972, No. 1265 (N.I. 14).

"notice of election" means a notice which complies with the provisions of regulation 4(2);

"order of transfer", in relation to a person to whom these regulations apply, means an order or scheme made under the relevant enactment which contains a provision as to the transfer of that person;

"payment date", in relation to any person, means the date on which the sums specified in regulation 5(1), become payable in accordance with the provisions of regulation 5(9);

"pension scheme", in relation to a person duly entitled, means any form of arrangement associated with his employment for the payment of superannuation benefits, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;

"person duly entitled" means a person who is described in regulation 3(1), and gives a notice of election and to whom no notice of objection has been given as described in Article 3(2) of the Order;

"reckonable service" has the same meaning as in Article 2 of the Order;

"relevant compensation provision" has the same meaning as in Article 2 of the Order;

"relevant superannuation scheme" has the same meaning as in Article 2 of the Order;

"relevant enactment" means:—

(a) the Housing Executive Act (Northern Ireland) 1971(e);

(b) the Local Government Act (Northern Ireland) 1972;

(c) the Electricity Supply (Northern Ireland) Order 1972(f);

(d) the Education and Libraries (Northern Ireland) Order 1972(g);

(e) the Health and Personal Social Services (Northern Ireland) Order 1972;

(f) the Fire Services Act (Northern Ireland) 1969(h) (as amended by the Fire Services (Northern Ireland) Order 1973(i);

"the Ministry concerned" has the same meaning as in the Local Government Act (Northern Ireland) 1972;

"scheme authority", in relation to any person, means the authority maintaining the superannuation scheme or account in relation to that person.

(2) The holder of an office, appointment, place, situation or employment shall, for the purposes of these regulations, be regarded as an officer employed in that office, appointment, place, situation or employment and the expression "officer" and "employment" shall be construed accordingly.

PART II

ENTITLEMENT TO BENEFIT

Persons to whom the regulations apply

3.—(1) These regulations shall apply to any person who fulfils each of the following conditions—

(a) he is, or has been, the holder of any such office or is or has been in any such employment specified in paragraph (4);

(e) 1971. c. 5 (N.I.).

(f) S.I. 1972, No. 1072 (N.I. 9).

(g) S.I. 1972, No. 1263 (N.I. 12).

(h) 1969. c. 13 (N.I.).

(i) S.I. 1973, No. 601 (N.I. 9).

- (b) he entered that employment in such circumstances that his appointment was or would but for the reorganisation effected by the relevant enactment have been permanent;
- (c) he would, if he did not become a person duly entitled, be a person to whom an order of transfer would apply;
- (d) he attains or has attained the age of fifty on or before 30th September 1973;
- (e) he will not attain normal retiring age on or before 30th September 1973;
- (f) he has or will have five years' reckonable service to his credit on or before 30th September 1973;
- (g) on or before the payment date he gives to the new authority an undertaking that an amount equal to any sum received by him by way of return of superannuation contributions (including interest) after termination of the employment in consequence of the notice of election will immediately be paid—
 - (i) to the scheme authority if the provisions of his relevant superannuation scheme enable him to be credited with benefit attributable to such sum; or
 - (ii) to the new authority if the provisions of his relevant superannuation scheme do not enable him to be credited with benefit attributable to such sum;
- (h) he is alive on the payment date;
- (i) subject to the following provisions of this regulation he does not before the date which would otherwise be the payment date, accept an offer of employment by—
 - (i) a district council; or
 - (ii) a Health and Social Services Board; or
 - (iii) the Northern Ireland Central Services Agency for the Health and Social Services; or
 - (iv) the Northern Ireland Staffs Council for the Health and Social Services; or
 - (v) an Education and Library Board; or
 - (vi) the Northern Ireland Housing Executive; or
 - (vii) the Northern Ireland Electricity Service; or
 - (viii) the Fire Authority for Northern Ireland; or
 - (ix) the Northern Ireland Transport Holding Company; or
 - (x) a Northern Ireland Government Department; or
 - (xi) any local authority association in Northern Ireland;
- (j) in the case of a person in the employment of an existing local authority, except a person engaged wholly or mainly for health or welfare purposes, he does not before the date which would otherwise be the payment date, accept an offer of employment by any authority or body not mentioned in sub-paragraph (i) for the purposes of local government in Great Britain including an offer of employment with a water undertaking, fire authority, development corporation, or local authority association in which employment he is regarded as a chief officer or a deputy chief officer;
- (k) in the case of a person in the employment of any body mentioned in Article 74 of the Health and Personal Social Services (Northern Ireland) Order 1972, or in the employment of an existing local authority and who is wholly or mainly engaged for health or welfare

purposes, he does not before the date which would otherwise be the payment date, accept an offer of employment by any authority or body providing health services in Great Britain, where such offer of employment relates to a post specified for similar purposes in corresponding National Health Service regulations, or a post in local government in which he is regarded as a chief officer or deputy chief officer in personal social services.

(2) Where any person who between 1st October 1972 and the date these regulations came into operation accepted an offer of employment as specified in paragraph (1)(i), wishes to avail himself of the benefits of these regulations he shall serve a notice of election in accordance with regulation 4.

(3) Where any person serves a notice of election in accordance with paragraph (2) an order of transfer shall not apply to that person.

(4) For the purpose of Article 3 of the Order, the prescribed offices are as specified in Schedule 2 and shall include such other offices as may be agreed by the Ministry concerned as being appropriate offices and employments.

(5) Paragraphs 1(i)-(k) inclusive shall not apply to a person who—

(i) accepts an offer of a temporary or an acting appointment with any authority or body described in those sub-paragraphs which appointment terminates on or before 30th September 1973; and

(ii) does not accept or take up on or before 1st October 1973 an appointment specified in those sub-paragraphs.

(6) Notwithstanding anything contained in paragraph 1(c) these regulations shall apply to—

(i) the Secretary of the Association of Local Authorities of Northern Ireland; and

(ii) any person transferred by an order of transfer before 1st October 1973 and who has not at the date on which he serves a notice of election under regulation 4 received a statement in writing of his new terms and conditions of employment.

Conditions for entitlement

4.—(1) A person to whom these regulations apply may elect that Article 3 of the Order shall, and the relevant compensation provision shall not, apply to him by notice given before 31st August 1973 in the manner prescribed in paragraph (2).

(2) The notice shall be given to the employing authority in the form set out in Schedule 1 or a form substantially to the like effect, and a copy shall be sent to the new authority.

(3) A notice of election shall have effect only for the purposes of these regulations and shall not otherwise have any legal consequences as respects the person duly entitled or his employing authority.

PART III

BENEFIT UNDER THE REGULATIONS

Factors governing payment of benefit

5.—(1) A person duly entitled shall, subject to the provisions of these regulations, with effect from the payment date be entitled—