
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

**Local Government Pension Scheme
Regulations (Northern Ireland) 2002**

PART II

PRIMARY PROVISIONS

CHAPTER IV

BENEFITS

Preliminary

Other final pay periods

23.—(1) Where the whole or part of a member's pay consists of fluctuating emoluments, his final pay period for them is not the period specified in regulation 22(2) but –

- (a) the period of three years ending with the last day he was an active member; or
- (b) any other period he may with the consent of his employing authority elect, being a period of not less than three nor more than five years –
 - (i) ending with a day which is that last day or of which that last day is the anniversary, and
 - (ii) falling within the period of 13 years ending with that last day.

(2) But if he was only entitled to receive fluctuating emoluments during part of the period mentioned in paragraph (1)(a), that part is substituted for the period referred to in that paragraph.

(3) If a member has been absent from work during any part of the year specified in regulation 22(2), his final pay period is the last 365 days he is entitled to count as a period of active membership.

(4) A member to whom paragraph (5) applies may elect that instead of his final pay period being determined under regulation 22(2) or paragraph (1), (2) or (3), it should instead be –

- (a) as respects so much of his pay as does not consist of fluctuating emoluments, a year ending with a day –
 - (i) falling within the period of three years ending with the last day he was an active member, and
 - (ii) of which that last day is the anniversary; and
- (b) as respects so much of his pay as consists of fluctuating emoluments, that period of three years.

(5) This paragraph applies to a member whose pay in the period which he would elect as his final pay period if he made an election under paragraph (4) is higher than his pay in a final pay period determined under regulation 22(2) or paragraph (1), (2) or (3).

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(6) Where paragraph (1) or (2) applies or a member elects for the period specified in paragraph (4) (b), as respects so much of his pay as consists of fluctuating emoluments his final pay is the annual average of his fluctuating emoluments during his final pay period.

(7) An election under this regulation by a member must be made by notice in writing given to the Committee before the expiry of the period of one month, or such longer period as the Committee may allow, beginning with the day he is notified of his entitlement to a benefit.

(8) Where a member has died without having made an election under this regulation, the Committee may make an election on his behalf (whether or not the period within which he could have elected has expired).