
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 353

Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002

Special provisions about rights relating to old membership

Continuity of elections within regulation 9(1)

12.—(1) An active member who has given or is deemed to have given a notice which ceases to have effect under regulation 9(1) must be informed by the Committee in writing that it proposes to treat the notice—

- (a) as having been given under the corresponding provision of the 2002 Regulations; but
- (b) as if the notice related only—
 - (i) to so much of the amount remaining to be paid in pursuance of the notice as has not been paid before the commencement date, and
 - (ii) to so much of the period as respects which he gave the notice as he may not count by virtue of regulation 9(4); and
- (c) as enabling the member to make additional contributions at the protected rate.

(2) Where a member is so informed, the notice is to be so treated as from the commencement date unless the member (or, in a case where the member has died, his personal representative) has informed the Committee in writing before the expiry of the period of three months beginning with that date (or such longer period as it may allow) that he does not wish it to be so treated.

(3) Any election by a member to whom regulation 3(1) applies which—

- (a) was made or had effect as if made under regulation C24 of the 2000 Regulations (additional voluntary contributions); and
- (b) was in effect immediately before the commencement date,

shall continue to have effect as if it had been made under the 2002 Regulations.

(4) The protected rate is the rate at which the member was making payments by virtue of the notice immediately before the commencement date, expressed as a percentage of his remuneration at that time.

Continuity of rights within regulation 10(1)

13.—(1) Regulation 12 applies in relation to a right which ceases to have effect under regulation 10(1)(a) as if—

- (a) that right arose under a notice which ceases to have effect by virtue of regulation 9(1); and
- (b) the corresponding provision of the 2002 Regulations was regulation 57,

(but see the following provisions).

(2) If the right arose under regulation 38 of the 1981 Regulations and immediately before the commencement date the member had the right to make any payments by lump sum payable by

instalments, then for regulation 12 the protected rate is the rate at which he was paying instalments immediately before the commencement date, expressed as a percentage of his remuneration at that time.

(3) Regulation 57(5) of the 2002 Regulations does not apply where regulation 57 applies by virtue of paragraph (1), and instead the Committee must calculate the amounts of the additional contributions by reference to the preferential rate.

(4) The preferential rate is the rate at which the member was making payments (including payments by instalments of a lump sum) by virtue of paragraph 1(3) of Schedule C5 to the 2000 Regulations immediately before the commencement date, expressed as a percentage of his remuneration at that time.

Temporary right to pay off liabilities under regulation 13 by capital payment

14.—(1) A member to whom regulation 12 applies by virtue of regulation 13(1), may make an election to make a capital payment in full satisfaction of his liabilities in respect of any period for which he remains liable to make any payment by virtue of regulation 13(1).

(2) Such an election may only be made by notice in writing to the Committee before the end of the period of six months beginning with the commencement date.

(3) When the Committee receives such an election it must notify the member of the amount of the capital payment required.

(4) But if that capital payment, when aggregated with the member's total contributions (as mentioned in regulation 15(2) of the 2002 Regulations) payable in the tax year in which he makes the election, would exceed the maximum amount so payable by him, such an election is ineffective.

(5) Where following a payment under such an election any body's liabilities in respect of the member under regulation L6 of the 2000 Regulations continue by virtue of regulation 17(3), then, despite that regulation, he is entitled to count a period of membership of the same length as if all payments to be made in respect of that period under regulation L6 of the 2000 Regulations had been made.

Equivalent pension benefits

15.—(1) This paragraph applies where—

- (a) when a member left his local government employment he was not entitled in relation to that employment to a retirement pension under regulation 26, 28, 29 or 33 of the 2002 Regulations (or any corresponding provision of any earlier Regulations) and he receives a return of contributions;
- (b) the whole or some part of his period of membership was in service in a non-participating employment or in service which relates to employment with a non-local government employer in a non-participating employment;
- (c) a period of his service in a non-participating employment came to an end by reason—
 - (i) of the repeal of section 55(1) of the National Insurance Act (Northern Ireland) 1966⁽¹⁾, or
 - (ii) of the provisions of regulation 2(2) of the National Insurance (Non-Participation Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960⁽²⁾ (as modified by regulation 10(2)(a) or (b) of the National Insurance (Non-

(1) 1966 c. 6 (N.I.); section 55(1) was repealed by the Social Security Act 1973 (c. 38), section 100(2)(b), Schedule 28

(2) S.R. & O. (N.I.) 1960 No. 181

participation Transitional Provisions) (Northern Ireland) Regulations 1975 (“the 1975 Regulations”)(3); and

(d) at some time during the settlement period (within the meaning of regulation 2 of the 1975 Regulations) he became, and has remained, assured of equivalent pension benefits.

(2) Where paragraph (1) applies, the member is entitled under the 2002 Regulations in relation to that employment to an annual retirement pension payable at the rate of the equivalent pension benefits applicable to him in respect of any period of membership—

- (a) in service in a non-participating employment; or
- (b) which relates to service with a non-local government employer in a non-participating employment.

(3) That pension is payable from the first date on which he—

- (a) has attained state pensionable age; and
- (b) is no longer in any local government employment.

(4) Where a pension is payable under paragraph (2) to a member who attains state pensionable age for a period of service in a non-participating employment, which counts for the purpose of calculating any benefits payable to the member (other than excepted service), no relevant provision shall apply so as to reduce the pension below the minimum rate of equivalent pension benefits applicable for that period of service under the Insurance Act.

(5) A relevant provision is a provision of the 2002 Regulations for the surrender, assignment, reduction, termination or suspension of a pension.

(6) Paragraph (4) does not apply to any relevant provision for the reduction, termination or suspension of a pension, which is used for a purpose prescribed by regulations made, or deemed to have been made, under section 56(1)(c) of the National Insurance Act (Northern Ireland) 1966 (equivalent pension benefits).

(7) For these Regulations and the 2002 Regulations, a member to whom paragraph (1) applies shall be treated as having ceased to hold the employment for which he receives a return of contributions on the day before the date of receipt.

(8) Entitlement to a pension under paragraph (2) must be disregarded—

- (a) for regulations 19(4), (6) and (8), 31, 37(1), 41(5), 44, 47(5), 48(7) and 88(1)(a) of the 2002 Regulations; and
- (b) for determining whether a person is at any time a pensioner member or a deferred member.

(9) For this regulation a member may count the excess period referred to in regulation 127(1) of the 2002 Regulations (service not matched by period credited on transfer into the Scheme).

(10) In this regulation—

“non-participating employment” has the same meaning as in section 55 of the Insurance Act or the corresponding provision of the Great Britain Acts or the Isle of Man Act.

“excepted service”, in relation to any person, is any earlier period of such service as is mentioned in paragraph (4), being service in respect of which—

- (a) a payment in lieu of contributions has been made; or
- (b) equivalent pension benefits satisfying the requirements of the Insurance Act have already been assured to him.

(3) [S.R. 1975 No. 48](#) as amended by the National Insurance (Non participation – Transfer of Functions) (Transitional) Regulations (Northern Ireland) 1983 ([S.R. 1983 No. 15](#))

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