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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 33**

Local Government Pension Scheme (Administration)  
Regulations (Northern Ireland) 2009

PART 4

PENSION FUND AND EMPLOYERS' PAYMENTS

**Administration and management**

**25.**—(1) For the purposes of these Regulations and the Benefits Regulations the Committee shall be constituted in accordance with Part 1 of Schedule 3 (constitution of the Committee).

(2) The Committee shall have the powers specified in Part 2 of Schedule 3 (powers of the Committee).

(3) The expenses and allowances payable by the Committee shall be in accordance with Part 3 of Schedule 3 (expenses and allowances payable by the Committee).

**The fund**

**26.** The Committee is responsible for maintaining the fund and any admission agreement fund established under regulation 28 (admission agreement funds).

**Governance policy statement**

**27.**—(1) The Committee must, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out—

- (a) whether the Committee delegates its function or part of its function in relation to maintaining a pension fund to a sub-committee or an officer of the Committee; and
- (b) if it delegates that function or part of that function to a sub-committee or an officer of the Committee—
  - (i) the frequency of any sub-committee meetings;
  - (ii) the terms of reference, structure and operational procedures of the delegation; and
  - (iii) whether the sub-committee includes representatives of employing authorities or members, and if so, whether those representatives have voting rights.

(2) The first such statement must be published before 1st April 2010.

(3) The statement must be revised and published by the Committee following a material change in its policy on any of the matters referred to in paragraph (1).

**Admission agreement funds**

**28.**—(1) Where the Committee has made an admission agreement, it may establish a further pension fund (an “admission agreement fund”) in addition to the fund.

(2) Immediately the Committee establishes an admission agreement fund, it must give the Department written notice that it has done so.

(3) The notice must specify the admission bodies whose employees are eligible for benefits from the admission agreement fund.

(4) Where an admission agreement fund is established—

(a) the liabilities of the fund as respects membership in employment with those specified bodies become liabilities of the admission agreement fund; and

(b) assets of such value as an actuary appointed by the Committee determines to be appropriate must be transferred from the fund to the admission agreement fund.

(5) When valuations under regulation 31 (actuarial valuations and certificates) of both the fund and the admission agreement fund are first obtained after the admission agreement fund is established, the Committee must obtain a transfer statement from the actuary appointed by the Committee.

(6) The transfer statement must specify whether, in the opinion of the actuary, there is a need for further assets to be transferred from the fund to the admission agreement fund and, if so, their value.

(7) Where the transfer statement specifies that assets of a specified value need to be transferred, the Committee must arrange for assets of that value to be transferred as soon as is reasonably practicable.

#### **Accounts and audit**

**29.**—(1) The Committee shall keep accounts of all financial transactions of the fund (including any admission agreement fund it establishes).

(2) The Secretary of the Committee shall prepare the financial statements for the financial year ended the 31st March 2010 and subsequent financial years in accordance with paragraph (4) and shall forward 3 copies of the financial statements duly signed and dated by him to the Department no later than the 30th June after the expiration of the financial year to which the financial statements relate.

(3) The input period for the purposes of section 238 of the Finance Act 2004 is the year ending 31st March 2010 and each year ending 31st March thereafter.

(4) The financial statements shall comprise—

(a) a Foreword;

(b) a Statement of the Committee's Responsibilities;

(c) an Accounting Officer's Statement;

(d) a Fund Account;

(e) a Net Assets Statement, and

shall be prepared in accordance with guidance for the time being issued by the Department of Finance and Personnel.

(5) The financial statements shall give a true and fair view of the Fund Account for the financial year, and the Net Assets Statement as at the end of the financial year.

(6) The financial statements kept by the Committee shall be audited annually by the local government auditor who shall report on the financial statements audited and shall send his report, together with 2 audited copies of the financial statements duly signed and dated by him, to the Department within 14 days after the completion of the audit.

(7) The Department on receipt of the local government auditor's report and the audited copies of the financial statements shall send a copy of such report and financial statements to the Secretary of the Committee who shall—

- (a) lay such copy of the report and financial statements before the next meeting of the Committee; and
  - (b) forward a copy of such report and financial statements to each employing authority.
- (8) The local government auditor may require—
- (a) the production before him of all documents and financial records of the Committee which he thinks necessary for the purpose of the audit;
  - (b) any person holding or accountable for any such documents or financial records to appear before him at the audit or any adjournment thereof; and
  - (c) any such person to make and sign a declaration as to the correctness of the documents or financial records.
- (9) The Committee shall annually at such time as the Department may direct make to it a report of its proceedings during the preceding year, and the Department shall lay a copy of such a report before the Northern Ireland Assembly.

### **Funding strategy statement**

- 30.**—(1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out its funding strategy.
- (2) In preparing and maintaining the statement Committee shall have regard to—
- (a) the guidance set out in the document published in March 2004 by Chartered Institute of Public Finance and Accountancy (“CIPFA”) and called “CIPFA Pensions Panel guidance on Preparing and Maintaining a Funding Strategy Statement (Guidance note issue No. 6)”; and
  - (b) the statement of investment principles published by the Committee under regulation 10 (statement of investment principles) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000<sup>(1)</sup>.
- (3) The first such statement shall be published before 1st April 2010.
- (4) The statement shall be revised and published by the Committee following, and in accordance with, any—
- (a) material change in its policy on the matters set out in the statement; and
  - (b) material change to the statement of investment principles under regulation 10(4) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000.

### **Actuarial valuations and certificates**

- 31.**—(1) The Committee must obtain—
- (a) an actuarial valuation of the assets and liabilities of the fund (including any admission agreement funds) as at 31st March 2010 and in every third year afterwards;
  - (b) a report by an actuary in respect of the valuation; and
  - (c) a rates and adjustments certificate prepared by an actuary.
- (2) Each of those documents must be obtained before the first anniversary of the date (“the valuation date”) as at which the valuation is made or such later date as the Department may agree.

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(1) [S.R. 2000 No. 178](#); regulation 10 was amended by [S.R. 2003 No. 433](#).

(3) A report under paragraph (1)(b) must contain a statement of the demographic assumptions used in making the valuation and the statement must show how the assumptions relate to the events which have actually occurred in relation to members of the Scheme since the last valuation.

(4) A rates and adjustments is a certificate specifying—

- (a) the common rate of employer's contribution;
- (b) any individual adjustments; and
- (c) the total contribution rate payable,

for each year of the period of 3 years beginning with 1st April in the year following that in which the valuation date falls.

(5) The common rate of employer's contribution is the amount which, in the actuary's opinion, should be paid to the fund by all bodies whose employees contribute to it so as to secure its solvency, expressed as a percentage of the pay of their employees who are active members.

(6) The actuary must have regard to—

- (a) the existing and prospective liabilities of the fund arising from circumstances common to all those bodies;
- (b) the desirability of maintaining as nearly constant a common rate of employer's contribution as possible; and
- (c) the current version of the Committee's funding strategy statement mentioned in regulation 30 (funding strategy statement).

(7) An individual adjustment is any percentage or amount by which, in the actuary's opinion, contributions at the common rate should, in the case of a particular body, be increased or reduced by reason of any circumstances peculiar to that body.

(8) A rates and adjustments certificate must contain a statement of the assumptions on which the certificate is given as respects—

- (a) the number of members who will become entitled to payment of pensions under the provisions of the Scheme; and
- (b) the amount of liabilities arising in respect of such members,

during the period covered by the certificate.

(9) The Committee must provide the actuary preparing a valuation or a rates and adjustments certificate with the consolidated revenue account of the fund and such other information as he requests.

### **Supply of copies of valuations, certificates, etc.**

**32.—**(1) The Committee must send copies of any valuation, report, certificate or revised certificate obtained under regulation 31 (actuarial valuations and certificates) or 33 (special circumstances where revised actuarial valuations and certificates must be obtained) to—

- (a) the Department;
- (b) each body with employees who contribute to the fund in question; and
- (c) any other body which is or may become liable to make payments to that fund.

(2) The Committee must also send to the Department—

- (a) a copy of the consolidated revenue account with which the actuary was provided under regulation 31(9); and
- (b) a summary of the assets of the fund at the valuation date (unless such summary is contained in the report under regulation 31(1)(b)).

### **Special circumstances where revised actuarial valuations and certificates must be obtained**

**33.**—(1) When obtaining a transfer statement under regulation 28(5) (admission agreement funds), the Committee must also obtain from the actuary a rates and adjustments certificate for the admission agreement fund for each remaining year of the period covered by the most recent such certificate for the fund.

(2) Where an admission agreement ceases to have effect, the Committee must obtain—

- (a) an actuarial valuation on an appropriate basis determined by the fund’s actuary as agreed with the Committee as at the date on which that agreement ceases to have effect, of the liabilities of the fund in respect of current and former employees of the admission body which is party to that admission agreement (“the outgoing admission body”);
- (b) a revision of any rates and adjustments certificate provided under regulation 31(4) (actuarial valuations and certificates), showing the revised contributions due from or surplus due to the outgoing admission body; and
- (c) such revised contributions due to the fund or surplus due to the outgoing admission body from the fund will be paid as a lump sum within one month of the date of the rates and adjustments certificate or such longer period as the Committee and the outgoing admission agreement body agree.

(3) Where, for any reason, it is not possible to obtain the revised contributions from the outgoing admission body or from an insurer or any person providing an indemnity or bond on behalf of that body, the Committee may obtain a further revision of any rates and adjustments certificate for the fund, showing—

- (a) in the case where that outgoing admission body is a transferee admission body within regulation 5(2)(a) or 5(2)(b) (employees of transferee admission bodies), the revised contributions due from the body which is the employing authority in relation to that outgoing admission body; and
- (b) in any other case, the revised contributions due from each employing authority which contributes to the fund.

(4) The Committee may obtain from an actuary a certificate specifying, in the case of an admission body, the percentage or amount by which, in the actuary’s opinion,—

- (a) the contribution at the common rate should be adjusted; or
- (b) any prior individual adjustment should be increased or reduced,

with a view to providing that the value of the assets of the fund in respect of current and former employees of that admission body is neither materially more nor materially less than the anticipated liabilities of the fund in respect of those employees at the date that the admission agreement is to end.

(5) Paragraph (6) applies where—

- (a) the Committee agrees with an employing authority under regulation 35(4) (employer’s payment following decision to increase membership or award additional pension); or
- (b) it appears to the Committee that the amount of liabilities arising or likely to arise in respect of members in employment with an employing authority differs from the amount specified in, or likely as a result of, the assumptions stated for that employing authority in the actuary’s report by virtue of regulation 31(1).

(6) The Committee must obtain a revision of the rates and adjustments certificate affected, showing the resulting changes as respects that employing authority.

**Employer's contributions**

**34.**—(1) An employing authority must contribute to the fund, or as the case may be, an admission agreement fund, in each year covered by a rates and adjustments certificate under regulation 31 (actuarial valuations and certificates) or 33 (special circumstances where revised actuarial valuations and certificates must be obtained) the amount appropriate for that employing authority as calculated in accordance with the certificate and paragraph (4).

(2) During each of those years an employing authority must make payments to the fund or admission agreement fund, on account of the amount required for the whole year.

(3) Those payments on account must—

- (a) be paid at the end of the intervals determined under regulation 37 (payments by employing authorities to the Committee); and
- (b) equal the appropriate proportion of the whole amount due under paragraph (1) for the year in question.

(4) An employer's contribution for any year is the common percentage for that year of the pay on which contributions have, during that year, been paid to the fund or admission agreement fund, under regulation 14 (contributions during child-related leave), 15 (contributions during reserve forces service leave), 17 (contributions during absences with permission) of these Regulations or 3 (contributions payable by active members) of the Benefits Regulations by employees who are active members, increased or reduced by any individual adjustment specified for that employer for that year in the rates and adjustments certificate.

(5) The common percentage is the common rate of employer's contribution specified in that certificate, expressed as a percentage.

(6) Where an employee—

- (a) is treated under regulation 14(4) as if he had paid contributions; or
- (b) has paid contributions during a period of maternity, paternity or adoption absence (within the meaning of that regulation),

the pay on which the common percentage is calculated is the pay the employee would have received if he had not been absent.

**Employer's payment following resolution to increase membership or award additional pension**

**35.**—(1) This regulation applies where an employing authority makes a resolution under—

- (a) regulation 12 of the Benefits Regulations (which confers power to increase the membership of a member by an additional period); or
- (b) regulation 13 of those Regulations (which confers power to award additional pension).

(2) Unless paragraph (4) applies, the employing authority must pay the appropriate sum for the person to whom the resolution relates to the fund or admission agreement fund before the expiry of the relevant period.

(3) The appropriate sum for a person is such sum as is shown as appropriate in guidance issued by the Government Actuary.

(4) This paragraph applies where the Committee and the employing authority agree before the expiry of the relevant period that the employing authority will pay increased contributions under regulation 34 (employer's contributions) or an amount to meet the cost of the increase in membership or the additional pension.

(5) Any extra charge on the fund or admission agreement fund resulting from the resolution must be repaid to the fund by the employing authority concerned but only so far as not paid under paragraphs (2) or (4).

(6) In the case of a resolution under regulation 12 of the Benefits Regulations, the additional period in question may only be counted as a period of membership if one of the conditions in paragraph (8) is met.

(7) In the case of a resolution under regulation 13 of those Regulations, a person is only entitled to the additional pension awarded if one of the conditions in paragraph (8) is met.

(8) The conditions are that either—

- (a) the employing authority makes the payment required by paragraph (2) within the relevant period; or
- (b) paragraph (4) applies.

(9) The relevant period is—

- (a) the period of one month beginning with the date of the resolution; or
- (b) such longer period as the employing authority and the Committee agree.

(10) If neither of the conditions in paragraph (8) is met, the resolution ceases to have effect.

### **Employer's further payments**

**36.**—(1) Any extra charge on the fund or an admission agreement fund resulting from a member becoming entitled to benefits calculated under regulation 20(2)(b), 20(3)(b) (early leavers: ill-health) or 31 (early payment of pension: ill-health) of the Benefits Regulations must be repaid to the fund or an admission agreement fund by the employing authority concerned.

(2) The Committee may require the employing authority concerned to make additional payments to the fund or an admission agreement fund in respect of any extra charge on the fund or admission agreement fund resulting from retirement benefits becoming immediately payable to a member under—

- (a) regulation 18 (flexible retirement);
- (b) regulation 19 (early leavers: business efficiency and redundancy); or
- (c) regulation 30 (choice of early payment of pension),

of the Benefits Regulations, including the cost, as calculated by the fund's actuary, incurred by the fund or an admission agreement fund as a result of a waiver of or determination not to apply such reduction as provided for in regulation 18(3) or 30(5) of those Regulations.

(3) Any additional payments that are due under paragraphs (1) and (2) shall be made, if the Committee agrees, by—

- (a) a single payment of an amount determined by the Committee on the advice of an actuary appointed by it; or
- (b) instalments, each of an amount determined by the Committee on the advice of an actuary appointed by it, covering a period not exceeding 5 years, or such longer period as the Committee may allow, the first and subsequent instalments becoming payable as agreed between the Committee and the employing authority.

### **Payments by employing authorities to the Committee**

**37.**—(1) Every employing authority must pay to the Committee on or before such dates falling at intervals of not more than 12 months as the Committee may determine—

- (a) all amounts from time to time deducted from the pay of its employees under these Regulations or the Benefits Regulations;
  - (b) any amount it has received by deduction or otherwise under regulation 14(5) (contributions during child-related leave), 16 (contributions during trade dispute absence), 17 (contributions during absences with permission) or 21 (additional voluntary contributions and shared cost additional voluntary contributions) during the interval;
  - (c) any extra charge payable under regulation 35 (employer's payment following resolution to increase membership or award additional pension) or 36 (employer's further payments) of which it has been notified by the Committee during the interval; and
  - (d) a contribution towards the cost of the administration of the fund, which shall include any amount specified in a notice given in accordance with regulation 38 (additional costs arising from employing authority's level of performance).
- (2) But—
- (a) an employing authority must pay the amounts mentioned in paragraph (1)(a), not later than the time required under Article 49(8) of the Pensions Order(2); and
  - (b) paragraph (1)(d) does not apply where the cost of the administration of the fund is paid out of the fund under regulation 5(4) (management of the fund) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(3).
- (3) Every payment under paragraph (1)(a) must be accompanied by a statement showing—
- (a) the name, pay and band (as set out in column 1 of the table in regulation 3(2) of the Benefits Regulations) of each employing authority's employees who is an active member;
  - (b) which employees are paying contributions under regulation 19(1) (payment of additional regular contributions) or 21(1) (additional voluntary contributions and shared cost additional voluntary contributions); and
  - (c) the amounts which represent deductions in each of the pay bands from the pay of each of the employees and the periods covered by the deductions, distinguishing amounts representing deductions for voluntary contributions.
- (4) The Committee may direct that the information mentioned in paragraph (3) shall be given to it instead in such form and at such intervals (not exceeding 12 months) as it specifies in the direction.
- (5) If the annual amount payable under paragraph (1)(d) cannot be settled by agreement, it must be determined by the Department.
- (6) Paragraphs (1) and (3) do not apply to the Committee.

#### **Additional costs arising from employing authority's level of performance**

**38.**—(1) This regulation applies where, in the opinion of the Committee, it has incurred additional costs which should be recovered from an employing authority because of that employing authority's level of performance in carrying out its functions under the Scheme.

- (2) The Committee may give written notice to the employing authority stating—
- (a) the Committee's reasons for forming the opinion mentioned in paragraph (1);
  - (b) the Committee's opinion that the employing authority's contribution under regulation 37(1)(d) should include an amount specified in the notice in respect of the additional costs attributable to that employing authority's level of performance;
  - (c) the basis on which the specified amount is calculated; and

(2) S.I. 1995/3213 (N.I. 22).

(3) S.R. 2000 No. 178; relevant amending Regulations are S.R. 2001 No. 62.



- (d) where the Committee has prepared a pension administration strategy under regulation 61 (pension administration strategy), the provisions of the strategy which are relevant to the decision to give the notice and to the matters in sub-paragraph (a), (b) or (c).

### **Interest**

**39.**—(1) The Committee may require an employing authority from which payment of any amount due under regulations 34 to 37 (employers' contributions or payments) is overdue to pay interest on that amount.

(2) The date on which any amount due under regulations 34 to 36 is overdue is the date 10 days from the date specified by the Committee for payment.

(3) The date on which any amount due under regulation 37 (payments by employing authorities to the Committee) (other than an extra charge payable under regulation 34 or 35 and referred to in regulation 37(1)(c)) is overdue is the day after the date when that payment is due.

(4) Interest due under paragraph (1) or payable to a person under regulation 40(5) (deduction and recovery of a member's contributions), 41(2) (rights to return of contributions) or 46 (interest on late payment of certain benefits) must be calculated at 1% above base rate on a day to day basis from the due date to the date of payment and compounded with 3-monthly rests.

### **Deduction and recovery of a member's contributions**

**40.**—(1) An employing authority may deduct from a person's pay any contributions payable by him under the Scheme.

(2) Sums payable under regulation 15(2) or 15(5)(b) (contributions during reserve forces service leave) may be deducted by the member's former employer from any payment made to him under Part 5 of the Reserve and Auxiliary Forces (Protection Civil of Interests) (Northern Ireland) Order 1953(4), to the extent that they are payable in respect of the same period.

(3) The Committee may recover any contributions or sum remaining due and not deducted under paragraph (1) or (2)—

- (a) as a simple contract debt in a court of competent jurisdiction; or
- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under the Scheme.

(4) But the sums mentioned in paragraph (2) are only recoverable under paragraph (3) if unpaid for 12 months after the person ceases to perform relevant reserve forces service.

(5) If—

- (a) an employing authority deducts any amount in error from a person's pay or any other sum due to him; and
- (b) the amount has not been repaid to him before the expiry of the period of one month beginning with the date of deduction,

the appropriate body must pay him interest on that amount; and the due date for the calculation of interest under regulation 39(4) (interest) is the date of deduction.

(6) Where the employee's contributions have been paid into the fund or an admission agreement fund, the repayment and interest must be made out of that fund or the admission agreement fund.

(7) The "appropriate body" for the purpose of paragraph (5) is—

- (a) the Committee where the employee's contributions have been paid into the fund or an admission agreement fund; and

- (b) the person's employing authority where the employee's contributions have not yet been paid into the fund or an admission agreement fund.

### **Rights to return of contributions**

**41.—**(1) If a member with less than 3 months' membership ceases to be employed by an employing authority or to be an active member without becoming entitled to a retirement pension, he is entitled to be repaid his contributions from the fund or admission agreement fund.

(2) If repayment of contributions has not been made before the expiry of the period of one year beginning with the date when active membership ceases, the person is entitled to interest on the repayment which should have been made, calculated as provided in regulation 39(4) (interest), the due date being the date when active membership ceased.

(3) A person who is entitled to a repayment of contributions under paragraph (1) may waive his entitlement for any period and, if he becomes an active member again before the expiry of that period, he shall cease to be so entitled (but without prejudice to any entitlement arising later under that paragraph in respect of those contributions).

(4) A person who continues as an active member in another employment he held concurrently with the employment in which he has ceased to be an active member may elect for an amount equal to the repayment to be treated as contributions to the Scheme as respects his membership in that concurrent employment, entitling him to a period of membership equal to the period of membership in the employment which has ceased, as reduced under regulation 7(3) (calculation of length of periods of membership) the Benefits Regulations if the employment which has ceased was part-time, multiplied by the fraction—

$$\frac{\text{whole-time rate of pensionable pay of the employment which has ceased}}{\text{whole-time rate of pensionable pay of the employment which is continuing}}$$

where the rate of pensionable pay in each case is the annual rate of pensionable pay on the last day of the employment in the employment that has ceased.

(5) A person who elects under paragraph (4) ceases to be entitled to that repayment (but without prejudice to any entitlement arising later in respect of the concurrent employment).

### **Exclusion of rights to return of contributions**

**42.—**(1) A person is not entitled to a repayment under regulation 41 (rights to return of contributions) if—

- (a) he becomes a member again within one month and one day;
- (b) he left his employment because of—
  - (i) an offence of a fraudulent character; or
  - (ii) grave misconduct,
 in connection with his employment; or
- (c) regulation 75(2) (rights to payment out of the fund) applies.

(2) But where paragraph (1)(b) applies the employing authority may direct the payment out of the fund or admission agreement fund to him or, in a case of an offence of a fraudulent character, to him or to his spouse, civil partner, nominated cohabiting partner or any dependant of his, of a sum equal to all or part of his contributions.

(3) A person is not entitled to a repayment under regulation 41(1), if a transfer value has been credited to the fund or admission agreement fund for him.

(4) A person ceases to be entitled to such a repayment under regulation 41(1) if he returns to local government employment before receiving it.