
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 188

**The Local Government Pension Scheme
Regulations (Northern Ireland) 2014**

PART 2

ADMINISTRATION

DECISIONS

First instance decisions

79. For regulations 79 to 89 (decisions), a reference to the employing authority of a prospective member is a reference to the body that would be the prospective member's employer, if that prospective member were to become an active member in the employment by virtue of which the prospective member would be eligible to join the Scheme.

First instance decisions - general

80.—(1) Any question concerning the rights or liabilities under the Scheme of any person, other than an employing authority, shall be decided in the first instance by the person specified in this regulation.

(2) Subject to regulation 81 (first instance decisions: ill-health) the Committee shall decide any question concerning—

- (a) a person's previous service or employment;
- (b) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the National Insurance Act (Northern Ireland) 1966⁽¹⁾ in respect of any period of non-participating employment;
- (c) the crediting of additional pension under regulation 18 (additional pension contributions); and
- (d) the amount of any benefit or return of contributions that a person is or may become entitled to out of the pension fund.

(3) The employing authority shall decide any question regarding any other matter relating to a person's rights or liabilities under the Scheme.

(4) The questions specified in paragraphs (2) and (3) shall be decided as soon as is reasonably practicable.

(5) Any question as to whether a person is entitled to a benefit under the Scheme shall be decided by the Committee.

(6) Where a person is or may become entitled to benefit payable out of the pension fund, the Committee shall decide the amount of the benefit.

⁽¹⁾ 1966 c.6 (N.I.)

(7) The decision under paragraph (5) shall be made as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee and that under paragraph (6) as soon as is reasonably practicable after the occurrence of the event by virtue of which the entitlement arises or may arise.

(8) In this regulation—

- (a) “benefit” includes a return of contributions and a benefit specified in regulation F6(11) or (14) of the Local Government (Superannuation) Regulations (Northern Ireland) 1992(2), Part N (pension sharing) of the Local Government Pension Scheme Regulations (Northern Ireland) 2000(3) and Part VI (pension sharing) of the 2002 Regulations; and
- (b) “employing authority” includes a body that is an employing authority of a prospective member.

First instance determinations: ill-health

81.—(1) Where the Committee is considering whether a person who has ceased to hold a local government employment is entitled to a benefit under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or regulation 37 (early payment of retirement pension on ill-health grounds: deferred members), it shall refer for decision to the IRMP, who is qualified in occupational health medicine and who has been appointed by the Committee under regulation 36(6) and 37(2).

(2) The IRMP, in accordance with regulation 38 (role of the IRMP), shall supply to the Committee, when requested by the Committee, a certificate regarding its ill-health determination.

Notification of first instance decisions

82.—(1) Every person whose rights or liabilities are affected by a decision under regulation 80 (first instance decisions: general) or 81 (first instance determinations: ill-health) shall be notified of it by the Committee or the employing authority which made it as soon as is reasonably practicable.

(2) A notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision;
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated;
- (c) in the case of a notification under paragraphs (a) or (b) a conspicuous statement directing the person’s attention to—
 - (i) the address from which that person may obtain further information about the decision, including details of any calculation of employment or benefits;
 - (ii) that person’s right under regulation 84 (right to apply for an appointed person to review a decision) to make an application to an appointed person within the time limit referred to in that regulation, the address at which the appointed person may be contacted and the appointed person’s job title; and
 - (iii) that person’s right under regulation 86 (reference of disagreement to the Committee) to apply to the Committee for a reconsideration of the matter within the time limit referred to in that regulation; and

(2) S.R. 1992 No. 547; as amended by other instruments listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

(3) S.R. 2000 No. 177; as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353.

- (d) in the case of a decision by an employing authority made under regulation 80, a conspicuous statement directing the person's attention to—
 - (i) the employing authority's address from which the person may obtain further information about the decision; and
 - (ii) the person's right of appeal to the county court under regulation 89 (referral of decisions under regulation 80(1) to the county court).

Appointment of persons to resolve disputes

83.—(1) The Committee shall appoint a panel of persons it considers to be suitably qualified for the purpose of resolving disagreements in respect of which an application is made under regulation 84 (right to apply for an appointed person to review a decision).

(2) For this Part the persons appointed under paragraph (1) are “appointed persons”.

(3) An application under regulation 84 may be decided by one or more appointed persons (and references to “the appropriate appointed person”, in relation to any application, are to the appointed person or persons to whom the application in question is referred).

(4) An application shall not be referred to a person who has previously been involved in the subject matter of the disagreement.

(5) An appointed person shall hold and vacate office under the terms of that appointment.

(6) An appointed person may resign by notice in writing to the Committee.

(7) The Committee shall determine—

- (a) the procedure to be followed by the persons appointed by it when exercising their functions as appointed persons; and
- (b) the manner in which those functions are to be exercised.

Right to apply for an appointed person to review a decision

84.—(1) Where there is a disagreement about a matter in relation to the Scheme between a member or an alternative applicant and the Committee, the member or, as the case may be, the alternative applicant may—

- (a) apply directly to the appropriate appointed person to decide a disagreement; or
- (b) apply to the Committee for it to refer the disagreement to an appointed person for decision.

(2) These persons are alternative applicants—

- (a) a widow, widower, surviving civil partner or nominated co-habiting partner of a deceased member;
- (b) a dependant of a deceased member or any other person to whom benefits in respect of the deceased member may be paid;
- (c) a prospective member;
- (d) a pension credit member;
- (e) a person entitled to a pension credit;
- (f) a person who ceased to be a member, or to fall within sub-paragraph (a), (b), (c), (d) or (e) during the period of six months ending with the date of the application; and
- (g) in the case of a disagreement relating to the question as to whether a person claiming to be a member or to fall within sub-paragraph (a), (b), (c), (d), (e) or (f) does so, the claimant.

(3) The application for a decision shall set out particulars of the disagreement, including a statement as to its nature with sufficient details to show why the applicant is aggrieved.

(4) An application by—

- (a) a member or a prospective member;
- (b) a person who has ceased to be a member or prospective member during the period of six months ending with the date of the application; or
- (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address, date of birth, national insurance number (if any) and the name of the person's employing authority.

(5) An application by—

- (a) a person entitled to a pension credit or a pension credit member;
- (b) a person who ceased to be such a person or member during the period of six months ending with the date of the application; or
- (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address and date of birth.

(6) An application by any other person shall set out—

- (a) that person's full name, address and date of birth;
- (b) that person's relationship to the member; and
- (c) the member's full name, address, date of birth, national insurance number and the name of the member's employing authority.

(7) The application shall be signed by or on behalf of the applicant.

(8) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(9) The application shall be made before the end of the period of six months beginning with the relevant date or such further period as the appropriate appointed person considers reasonable.

(10) Where the disagreement relates to a decision under regulation 81 (first instance determinations: ill-health), the relevant date is the date notification of it is given under regulation 82.

(11) Otherwise, the relevant date is the date of the act or omission which is the cause of the disagreement or, if there is more than one, the last of them.

Notice of decisions by the appointed person under regulation 84

85.—(1) A decision on the matters raised by an application under regulation 84 (right to apply for an appointed person to review a decision) shall be issued by the appropriate appointed person—

- (a) to the applicant; and
- (b) to the Committee,

by notice in writing before the expiry of the period of two months beginning with the date the application was received.

(2) But, if no such notice is issued before the expiry of that period, an interim reply shall immediately be sent to the persons mentioned in paragraph (1) setting out the reasons for the delay and an expected date for issuing the decision.

(3) A notice under paragraph (1) shall include—

- (a) a statement of the decision;
- (b) reference to any legislation or provisions of the Scheme relied upon;
- (c) in the case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;

- (d) a reference to the rights of the applicant to refer the disagreement for reconsideration by the Committee under regulation 86 (reference of disagreement to the Committee), specifying the time within which the applicant may do so; and
- (e) a statement that the Pensions Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved and the address at which it may be contacted.

Reference of disagreement to the Committee

86.—(1) Where an application about a disagreement has been made under regulation 84 (right to apply for an appointed person to review a decision), an application may be made to the Committee to reconsider the disagreement by the person who applied under regulation 84.

(2) The application shall set out particulars of the grounds on which it is made, including a statement that the applicant under this regulation wishes the disagreement to be reconsidered by the Committee.

(3) An application made by the person who applied under regulation 84 shall set out the matters required by paragraph (4), (5) or (6) as the case may be, of that regulation to be included in that person's application.

(4) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(5) Where notice of a decision on the application under regulation 84 has been issued, the application under this regulation shall state why the applicant is dissatisfied with that decision and be accompanied by a copy of that notice.

(6) The application shall be signed by or on behalf of the person making it.

(7) An application for reconsideration may only be made before the expiry of the period of six months beginning with the relevant date.

(8) Where notice of a decision on the matters raised by the application under regulation 84 has been issued, the relevant date is the date of that notice.

(9) Where—

(a) an interim reply has been sent out under regulation 85(2) (notice of decisions by the appointed person under regulation 84); but

(b) no notice of decision has been issued before the expiry of the period of one month beginning with the date specified in the reply as the expected date for issuing the decision,

the relevant date is the date with which that period expires.

(10) Where no notice of decision has been issued or interim reply has been sent before the expiry of the period of three months beginning with the date the application under regulation 84 was made, the relevant date is the date with which that period expires.

Notice of decisions by the Committee under regulation 86

87.—(1) The Committee shall issue its decision on the matters raised by an application under regulation 86 (reference of disagreement to the Committee) to the parties to the disagreement by notice in writing before the expiry of the period of two months beginning with the date the application was received (but see paragraph (2)).

(2) If no such notice is issued before the expiry of that period, an interim reply shall be sent immediately to those parties, setting out the reasons for the delay and the expected date for issuing the decision.

(3) A notice under paragraph (1) shall include—

- (a) a statement of the decision;
- (b) in a case where there has been a decision made under regulation 85 (notice of decisions by the appointed person under regulation 84), an explanation as to whether and, if so, to what extent that decision is confirmed or replaced;
- (c) a reference to any legislation or provisions of the Scheme relied upon;
- (d) in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;
- (e) a statement that the Pension Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulties with the Scheme which remain unresolved and of the address at which the Pension Advisory Service may be contacted; and
- (f) a statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to the Scheme made or referred in accordance with the 1993 Act and of the address at which the Pensions Ombudsman may be contacted.

Rights of representation

88.—(1) An application under regulation 84 (right to apply for an appointed person to review a decision) or 86 (reference of disagreement to the Committee) may be made or continued on behalf of the applicant by a representative nominated by the applicant.

(2) Where a person who has the right to make or has made such an application dies, the application may be made or continued on that person's behalf by the person's personal representative.

(3) Where such a person is a minor or is or becomes otherwise incapable of acting on that person's own behalf, the application may be made or continued by a member of that person's family or some other person suitable to represent that person.

(4) Where a representative is nominated before an application is made, the application shall specify that representative's full name and address and whether that is to be used for service on the applicant of any documents in connection with the application.

(5) Where a representative's address is not to be so used, the appropriate appointed person or the Committee, as the case may be, shall send to the applicant a copy of a decision under regulation 85(1) (notice of decisions by the appointed person under regulation 84) or 87(1) (notice of decisions by the Committee under regulation 86) or an interim reply under regulation 85(2) or 87(2).

Referral of decisions under regulation 80(1) to the county court

89. Where an employing authority has either decided or failed to decide such question as is mentioned in regulation 80(1) (first instance decisions: general), that question shall be determined by the county court having jurisdiction in the county court division in which such member as is mentioned in regulation 80(1) is employed or was last employed or, where that member is or was last employed in two or more county court divisions, in one of those divisions.

Exchange of information

90.—(1) An employing authority which is not the Committee shall—

- (a) inform the Committee of all decisions, concerning members, made by the employing authority under regulations 65 to 67, 79 to 90 and 99 to 101; and
- (b) give the Committee such other information as it requires for discharging its statutory Scheme functions.

(2) If—

(a) the Committee makes any decision under regulations 65 to 67, 79 to 90 or 99 to 101 about a person for whom it is not the employing authority; and

(b) information about that decision is required by the person's employing authority for discharging that employing authority's Scheme functions,

the Committee shall give that employing authority that information if asked to supply it.

(3) Within three months of the end of each Scheme year, each employing authority shall send to the Committee a statement showing the following details in respect of each employee who has been an active member during the Scheme year—

- (a) the employee's name and gender;
 - (b) the employee's date of birth and national insurance number;
 - (c) a unique reference number relating to each employment in which the employee has been an active member; and
 - (d) the information relating to the employee for the Scheme year in question for each employment which is specified in paragraph (4).
- (4) The information required by paragraph (3)(d) is—
- (a) the dates of active membership;
 - (b) the pensionable pay received and employee contributions deducted while regulation 11 (contributions) applied;
 - (c) the pensionable pay received and employee contributions deducted while regulation 12 (temporary reduction in contributions) applied;
 - (d) any contributions by the employer in relation to the employee's pensionable pay;
 - (e) any contributions by employee or employer under regulation 18 (additional pension contributions);
 - (f) any contributions by employee or employer under regulation 19 (additional voluntary contributions).

Interest on late payment of certain benefits

91.—(1) Where all or part of a pension or lump sum payment due under these Regulations (other than a payment due under regulation 19 (additional voluntary contributions)) is not paid within the relevant period after the due date, the Committee shall pay interest on the unpaid amount to the person to whom it is payable.

(2) The unpaid amount includes any increase due in accordance with regulation 98 (pension increases).

(3) The relevant period is—

- (a) in the case of a survivor pension, the period ending one month after the date on which the Committee receives notification of the member's death;
- (b) in the case of any other pension, one year; or
- (c) in the case of a lump sum payment, one month.

(4) The due date is—

- (a) in the case of a pension, the date on which it becomes payable;
- (b) in the case of a lump sum under regulation 34 (election for lump sum instead of pension) the benefit crystallisation event date;
- (c) in the case of a death grant, the date on which the member dies or, where notification of death is received more than two years after the date of death, the date of notification; or

- (d) in the case of a lump sum under regulation 35 (commutation and small pensions) the date of the commutation election or, if later, the nominated date within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the 2004 Finance Act.

(5) Interest payable under this regulation is calculated at one per cent above base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

Payments due in respect of deceased persons

92.—(1) Paragraph (2) applies if, when a person dies, the total amount due to that person's personal representatives under the Scheme (including anything due at that person's death) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) (Northern Ireland) Act 1967⁽⁴⁾ and applying in relation to that person's death.

(2) The Committee may pay the whole or part of the amount due from the pension fund to—

- (a) a person's personal representatives, or
- (b) any person or persons appearing to the Committee to be beneficially entitled to the estate, without the production of probate or letters of administration of the person's estate.

(3) Such a payment discharges the Committee from accounting for the amount paid.

Payments for persons incapable of managing their affairs

93. If it appears to the Committee that a person other than an eligible child is entitled to payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing that person's own affairs—

- (a) the Committee may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the Committee may determine, to be applied for the benefit of the person entitled; and
- (b) in so far as the Committee does not pay the benefits in that manner, the Committee may apply them in such manner as it may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.

Non-assignability

94.—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for that person.

(2) No such benefit is assignable or chargeable with that person's, or any other person's, debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order or an income payments agreement under Article 283 or 283A of the Insolvency (Northern Ireland) Order 1989⁽⁵⁾.

Deduction and recovery of member's contributions

95.—(1) An employing authority may deduct from a person's pay any contributions payable by that person under these Regulations or the former regulations.

(4) 1967 c.5 (N.I.)

(5) S.I. 1989/2405 (N.I. 12)

(2) Sums payable under regulation 15 (contributions during reserve forces service leave) may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951⁽⁶⁾, 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 these Regulations.

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

(5) If—

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

the appropriate body shall pay interest on the amount, and the due date for the calculation of the interest payable is the date of the deduction.

(6) Where the employee's contributions have been paid into a pension fund, the repayment and any interest shall be made out of that pension fund.

(7) Interest shall be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.

(8) The "appropriate body" for the purposes of paragraph (5) is—

- (a) the Committee, where the employee's contributions have been paid into the pension fund; and
- (b) the person's employing authority, where the employee's contributions have not yet been paid into the pension fund.

Joint liability in respect of annual allowance charge

96.—(1) This regulation applies where a member gives notice to the Committee of joint and several liability under section 237B (liability of scheme administrator) of the 2004 Finance Act in respect of the member's annual allowance charge.

(2) Where the joint liability amount specified in the notice is met by the pension fund, the Committee shall reduce the value of the member's rights accrued under the Scheme in accordance with actuarial guidance issued by the Department.

Tax

97. The Committee is responsible for deducting from any payment of benefits under the Scheme any tax to which it may become chargeable under the 2004 Finance Act.

Pension increases

98.—(1) Where a pension to which the 1971 Act applies is payable out of the pension fund any increase under that Act or the Pensions (Increase) (Northern Ireland) Order 1974⁽⁷⁾ shall be paid from that pension fund.

⁽⁶⁾ 1951 c. 65 as amended by S.I. 1979/291

⁽⁷⁾ 1974 No. 1267 (N.I. 2)

(2) Any increase in a pension required by reason of Chapter 3 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 (Protection of Increases in Guaranteed Minimum Pensions: “Anti-Frinking”)(8) shall be paid from the pension fund.

Annual benefit statements

99.—(1) The Committee shall issue an annual benefit statement to each of its active, deferred, and pension credit members.

(2) Subject to paragraph (3), the annual benefit statement shall be issued no later than six months after the end of the Scheme year to which it relates.

(3) A statement shall be issued before the end of the six month period mentioned in paragraph (2) where a member makes a request in writing to the Committee, unless the Committee is unable to comply with the request because relevant data is not available.

(4) A statement shall contain the amount of benefit entitlement in respect of the rights that may arise under the Scheme which has been accrued by the member at the relevant date.

(5) The relevant date is 31st March before the date that the statement is issued, or such later date as the Committee may choose.

Pension savings statements

100.—(1) The Committee shall issue a pension savings statement to a member who has—

- (a) been an active member for all or part of the pension input period; and
- (b) exceeded the annual allowance in respect of the pension input period,

by 6th October following the end of each tax year in compliance with regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006(9).

(2) Where paragraph (1) does not apply, a member may request in writing, a pension savings statement from the Committee and the Committee shall provide it by the later of—

- (a) three months from the date of receiving the request; or
- (b) 6th October following the end of the relevant tax year,

and in compliance with regulation 14B of the Registered Pension Schemes (Provision of Information) Regulations 2006.

(3) In this regulation—

- (a) “annual allowance” has the meaning given to that expression by section 228 of the 2004 Finance Act;
- (b) “pension input period” has the meaning given to that expression by section 238 of the 2004 Finance Act; and
- (c) “pension savings statement” has the meaning given to the expression by regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006.

Information to be supplied by employees

101.—(1) Before the expiry of three months beginning with the date on which a person becomes a member, the employing authority shall ask the member in writing for the documents specified in paragraph (2).

(2) Those documents are—

(8) 1993 c. 49
(9) S.I. 2006/567

- (a) a statement in writing listing all that member's previous periods of employment; and
 - (b) copies of all notifications previously given to that member under these Regulations and the former regulations.
- (3) A request under this regulation shall contain a conspicuous statement that it is important that the member gives full and accurate information, especially for ascertaining the member's rights under the Scheme.
- (4) The employing authority need not request any documents if it is satisfied that it, or the Committee (if different), already has all material information.