STATUTORY RULES OF NORTHERN IRELAND

2014 No. 290

The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014

PART 12

Supplementary

CHAPTER 1

Dual capacity members

Meaning of "dual capacity member"

160.—(1) A person (P) is a dual capacity member of this scheme if—

(a) P is a member of this scheme in 2 or more of the following capacities—

(i) an active member;

(ii) a deferred member;

(iii) a pensioner member;

(b) P is both a pension credit member of this scheme and a member of this scheme in one or more of the following capacities—

(i) an active member;

(ii) a deferred member;

(iii) a pensioner member;

(c) P is a member of this scheme in relation to 2 or more continuous periods of pensionable service; or

(d) P is a pension credit member of this scheme entitled to 2 or more pension credits.

(2) For the purpose of paragraph (1)(a) or (b)—

(a) in determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person's rights in that capacity are to be disregarded(**1**); and

(b) in determining whether a person who is an active member or pensioner member is also a deferred member, the fact that the person is an active member or pensioner member and the person's rights in that capacity are to be disregarded.

Payment of benefits to or in respect of a dual capacity member

161.—(1) If a person is a dual capacity member of this scheme—

(**1**) ()See regulation 64 (exercise of partial retirement option). A member who is partially retired may be both an active member and a pensioner member

(a) the benefits that are payable to or in respect of the member in each of the member's capacities are treated separately for the purposes of these regulations; and

(b) the amounts payable to or in respect of the member in each of the member's capacities are determined accordingly.

(2) In relation to payment of retirement benefits, paragraph (1) does not affect the interpretation of regulation 64 (exercise of partial retirement option) if a member is both an active member and a pensioner member by virtue of that regulation.

(3) In relation to payment of death benefits, paragraph (1) does not prevent—

(a) the calculation under regulation 130 of a lump sum payable on the death of an active member of this scheme being made by reference to amounts that are relevant to the member in another capacity;

(b) the calculation under regulation 131 of a lump sum payable on the death of a pensioner member or deferred member of this scheme being made by reference to amounts that are relevant to the member in both of those capacities; or

(c) the calculation under regulation 131 of a lump sum payable on the death of—

(i) a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service; or

(ii) a pensioner member of this scheme in relation to 2 or more continuous periods of pensionable service.

CHAPTER 2

Payment of benefits: general

Late payment of retirement index adjustment

162. Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment to be paid before the end of the last active scheme year.

Commutation of small pensions

163.—(1) This regulation applies if—

(a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member's beneficiary does not exceed the small pensions commutation maximum; or

(b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member's beneficiary does not exceed the small pensions commutation maximum.

(2) Unless the member has reached state pension age, this regulation does not apply if—

(a) the pension entitlement of the member or the member's beneficiary under paragraph (1)(a) is equal to or exceeds the member's guaranteed minimum; or

(b) the total pension entitlement of the member or the member's beneficiary under paragraph (1)(b) is equal to or exceeds the member's guaranteed minimum.

(3) The scheme manager may pay the member or the member's beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—

(a) the member or the member's beneficiary consents to receipt of a lump sum in place of the pension; and

(b) the requirements of the commutation provisions that apply in the circumstances are met.

(4) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

(5) In this regulation—

"the commutation provisions" means the provisions permitting the commutation of pensions set out in—

(a) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997(**2**);

(b) paragraph 7 of Schedule 29 (authorised lump sums – supplementary) to the 2004 Act (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)(**3**) and, in relation to a pension payable under Part 8 (death benefits), by paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(**4**); and

(c) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**5**);

"single capacity member" means a member of this scheme who is not a dual capacity member; and

"the small pensions commutation maximum" means the amount that is permitted to be commuted having regard to the commutation provisions that apply in the circumstances.

Guaranteed minimum pensions

164.—(1) If a member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act(**6**) in relation to benefits under this scheme—

(a) nothing in these Regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a member and such a member's rights under this scheme not to be met in the case of the member;

(b) nothing in these Regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of the member; and

(c) the following provisions are without prejudice to the generality of this paragraph.

(2) If apart from this regulation—

(a) no pension would be payable to the member under this scheme; or

(b) the weekly rate of the pensions payable would be less than the guaranteed minimum,

a pension at a weekly rate equal to the guaranteed minimum is payable to the member for life from the date on which the member reaches state pension age or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(3) If—

(a) on reaching state pension age the member is still in employment (whether or not it is scheme employment); and

(**2**) S.R. 1997 No.153; regulation 2 was amended by, S.R. 2005 No. 171, S.R. 2006 No. 141, S.I. 2006/744 and S.R. 2009 No. 365

(**3**) Paragraph 7 was amended by Finance Act 2011 (c.11) Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and S.I. 2006/572

(**4**) Paragraph 20 was amended by Finance Act 2011 (c.11) Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6

(**5**) S.R 2000 No. 146; regulation 3 was substituted by S.R. 2009 No. 365

(**6**) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Arts.147, 168, Sch.3 para. 20, Sch.5 Pt. III, the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1) and Sch.1 para.41, the Proceeds of Crime Act 2002 (2002 c.29) Section 456, Schedule.2 para 23(3)

(b) if it is not scheme employment, the member consents to a postponement of the member's entitlement under paragraph (2),

paragraph (2) does not apply until the member leaves employment.

This is subject to paragraph (4).

(4) If the member continues in employment for a further 5 years after reaching state pension age and does not then leave employment, the member is entitled from the end of that period to so much of the member's pension under Parts 6 and 7 as equals the member's guaranteed minimum (or, as the case may be, to so much of the member's pensions under Parts 6 and 7 as together have a weekly rate equal to the member's guaranteed minimum), unless the member consents to a further postponement of the entitlement.

(5) In the circumstances provided for in paragraph (3) or (4), the amount of the guaranteed minimum to which the member is entitled under this regulation is increased in accordance with section 11 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) of the 1993 Act.

(6) If—

(a) before state pension age the member becomes entitled to the immediate payment of a pension; and

(b) the member has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum,

the weekly rate of the pension, so far as attributable to that service, must not be less than the guaranteed minimum, multiplied by such factor as is indicated in actuarial tables for a person of the member's age and sex at the date on which the pension becomes payable.

(7) This paragraph applies if a person has ceased to be in employment that is contracted-out employment, within the meaning of Part 3 of the 1993 Act (certification of pension schemes and effects on members' state scheme rights and duties), by reference to this scheme and either—

(a) a transfer payment in respect of all the person's rights to benefits under this scheme, except the person's rights in respect of the person's guaranteed minimum or rights under section 5(2B) (requirements for certification of schemes: general) of the 1993 Act(**7**) ("the person's contracting-out rights") has been made; or

(b) the person has no rights to benefits under this scheme apart from the person's contracting-out rights.

(8) If paragraph (7) applies—

(a) from the date on which the person reaches state pension age the person is entitled to a pension payable for life at a weekly rate equal to the person's guaranteed minimum, if any; and

(b) from the date on which the person reaches normal pension age under this scheme the person is entitled to a lump sum and pension in respect of the person's rights under section 5(2B) of the 1993 Act,

but a person falling within paragraph (7) is not to be regarded as a pensioner for the purposes of Part 8 (death benefits).

(9) Paragraphs (2) to (8) do not apply to—

(a) a pension that is forfeited—

(**7**) Subsection 5(2B) was inserted by the Pensions (Northern Ireland) Order 1995,(S.I. 1995/3213 (N.I. 22)) Article 133(3) and amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, No. 671, Sch.1 paragraph 38(2)

(i) as a result of a conviction for treason; or

(ii) under regulation 165, in a case where the relevant offence within the meaning of regulation 165 is an offence under the Official Secrets Acts 1911 to 1989(**8**);

(b) a pension that is commuted under regulation 85 or 98 (serious ill-health: commutation of whole pension); or

(c) a pension that is commuted under regulation 163 where the conditions in regulation 60 (payment of a guaranteed minimum pension as a lump sum) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(**9**) are met,

but if any other provision of this scheme is inconsistent with this regulation, this regulation prevails.

(10) In this regulation, references to the amount of a pension are to its amount after the subtraction of the commutation amount, if any (but before the subtraction of the allocation amount, if any (see regulation 86(5)).

CHAPTER 3

Forfeiture and set-off

Forfeiture: offences committed by members

165.—(1) If a member is convicted of a relevant offence, the scheme manager may to the extent the scheme manager considers appropriate withhold benefits payable under this scheme to or in respect of the member.

(2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of "relevant offence".

(3) The scheme manager may only withhold that part of a person's pension that exceeds any guaranteed minimum to which the person is entitled under—

(a) section 10 of the 1993 Act (earner's guaranteed minimum); or

(b) section 13(**10**) of that Act (minimum pensions for widows and widowers).

(4) In this regulation—

"forfeiture certificate" means a certificate stating that the Department issuing the certificate considers that the offence—

(a) has been gravely injurious to the interests of the State or

(b) is liable to lead to serious loss of confidence in the public service; and

"relevant offence" means—

(c) one or more offences under the Official Secrets Acts 1911 to 1989(**11**) for which the member has been sentenced on the same occasion to—

(i) a term of imprisonment of at least 10 years; or

(ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;

(d) An offence committed in connection with service as a public servant and in respect of which the Department has issued a forfeiture certificate.

(**8**) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989"

(**9**) S.R. 1996 No. 493. Regulation 60 was substituted by S.I. 2006/744 and amended by S.R. 2006 No. 223, S.R. 2009 No. 365 and S.R. 2010 No. 108

(**10**) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch.1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.I. 2005/433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.3 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1.(N.I.))

(**11**) 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989"

Forfeiture: offences committed by a member's beneficiary

166.—(1) If the beneficiary of a deceased member of this scheme (D) is convicted of a relevant criminal offence, the scheme manager may withhold benefits payable to the beneficiary in respect of D.

(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 13 of the 1993 Act.

(3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 8 (death benefits) applies as if the beneficiary had died before D.

(4) In this regulation, "relevant criminal offence" means—

(a) the murder of D;

(b) the manslaughter of D; or

(c) any other offence of which the unlawful killing of D is an element.

Forfeiture: relevant monetary obligations and relevant monetary losses

167.—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may withhold benefits payable to P under this scheme.

(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of P's pension that exceeds any guaranteed minimum to which P is entitled under section 10 of the 1993 Act.

(3) The scheme manager may not withhold more than the lesser of—

(a) the amount of the relevant monetary obligation or relevant monetary loss; and

(b) the value of P's entitlement to benefits.

(4) The scheme manager may only withhold benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or

(b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—

(i) under an order of a competent court; or

(ii) in consequence of an award of an arbitrator.

(5) In this regulation—

"relevant monetary obligation" means a monetary obligation which—

(a) was incurred to the Department or P's employer (if different);

(b) was incurred after P became an active member of this scheme;

(c) arose out of P's criminal, negligent or fraudulent act or omission; and

(d) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme; and

"relevant monetary loss" means a monetary loss which—

(e) was caused to this scheme; and

(f) arose as a result of P's criminal, negligent or fraudulent act or omission.

Set-off

168.—(1) The scheme manager may set off a relevant monetary obligation against a member's entitlement to benefits under this scheme.

(2) In this regulation, a "relevant monetary obligation" is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions are that the monetary obligation—

(a) was incurred to the Department or P's employer (if different);

(b) was incurred after P became an active member of this scheme; and

(c) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme.

(4) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of P's criminal, negligent or fraudulent act or omission.

(5) The conditions are that the monetary obligation—

(a) was incurred to this scheme; and

(b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P's entitlement to benefits that represents transfer credits within the meaning of Article 121(1) (interpretation of Part 2) of the 1995 Order(**12**) (other than prescribed transfer credits for the purposes of Article 89(5)(d) (exceptions from the inalienability of occupational pensions) of the 1995 Order(**13**)).

(8) The scheme manager may only apply a set-off against that part of a member's pension that exceeds any guaranteed minimum to which the member is entitled under section 10 of the 1993 Act.

(9) The value of the set-off applied must not exceed the lesser of—

(a) the amount of the relevant monetary obligation;

(b) the value of P's entitlement to benefits.

(10) The scheme manager may only set-off a relevant monetary obligation against P's entitlement to benefits if—

(a) there is no dispute as to the amount of the relevant monetary obligation; or

(b) the relevant monetary obligation is enforceable—

(i) under an order of a competent court; or

(ii) in consequence of an award of an arbitrator.

Forfeiture and set-off: procedure and appeals

169.—(1) If the scheme manager proposes to withhold benefits or apply a set-off against a person's entitlement to benefits, the scheme manager must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 167 or applies a set-off against an entitlement to benefits under regulation 168, the scheme manager must give the member a certificate showing—

(a) the amount withheld or set off; and

(**12**) The definition of "transfer credits" in Article 121(1) was amended by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), Art.290(1), Sch.10 para. 63(1) and (2)

(**13**) Article 89(5)(d) was amended by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Schedule 9 para.46(1) and (4). See S.R. 1997 No. 153 which prescribes the transfer credits

(b) the effect of the withholding or set-off on the member's benefits under this scheme.

(3) If the scheme manager proposes to withhold a person's benefits under regulation 165 to 167, the person may appeal against the scheme manager's proposal to the Northern Ireland Civil Service Appeal Board.

(4) On an appeal made under paragraph (3) the Northern Ireland Civil Service Appeal Board may—

(a) confirm or reject the scheme manager's proposal; or

(b) amend it so as to reduce the extent to which the benefits are withheld.

(5) The scheme manager must comply with the Northern Ireland Civil Service Appeal Board's decision.

CHAPTER 4

Payment and deduction of tax

Scheme manager to be scheme administrator for purposes of Part 4 of Finance Act 2004

170. The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on the scheme administrator by or under Part 4 of the 2004 Act (pension schemes etc).

Payment on behalf of members of lifetime allowance charge

171.—(1) A member of this scheme may request the scheme manager to pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the 2004 Act ("the amount") if—

(a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of the 2004 Act(**14**) occurs in relation to the member; and

(b) the member and the scheme manager are jointly and severally liable in relation to the event.

(2) A request may only be made by notice given to the scheme manager before the event occurs.

(3) The scheme manager may only comply with a request if the member pays the amount to the scheme manager on or before the date on which the event occurs.

Reduction of benefits where lifetime allowance charge payable

172.—(1) This regulation applies if—

(a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of the 2004 Act ("the table") occurs in relation to a member;

(b) the member and the scheme manager are jointly and severally liable in relation to the event; and

(c) no request has been duly made under regulation 171 in relation to the event or, if such a request has been made, the scheme manager is prevented from complying with it by paragraph (3) of that regulation.

(2) If this regulation applies—

(a) the scheme manager must pay the tax payable on the event;

(**14**) Section 216(1) was amended by the Finance Act 2005 (c.7) Schedule 10 paragraphs 1, 31 and 42; the Finance Act 2006 (c.25) Schedule 23 paragraphs 1 and 30; the Finance Act 2008 (c.9) Schedule 29 paragraphs 1, 4 and 5; and the Finance Act 2011 (c.11) Schedule 16 paragraphs 43, 62, 73 and 104

(b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and

(c) in the case of any other event in the table, the amount or value of the benefits payable to or in respect of the member must be reduced.

(3) The amount or value of the reduction—

(a) must fully reflect the amount of the tax so paid;

(b) must be determined in accordance with guidance provided by the scheme manager; and

(c) in the case of any reduction to pension benefits, must be consistent with normal actuarial practice.

Information about payment of annual allowance charge

173.—(1) If a member's pension scheme input amount for this scheme for a tax year exceeds the amount of the annual allowance for that tax year, paragraph (2) applies in respect of the member for that tax year.

(2) The scheme manager must, no later than 31st July after the end of the tax year, provide the member with any information the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year.

(3) In this regulation, "pension scheme input amount" has the meaning given in section 237B(2) (liability of scheme administrator) of the 2004 Act(**15**).

Reduction of benefits where annual allowance charge paid by scheme manager

174.—(1) This regulation applies where—

(a) a member gives valid notice to the scheme manager of joint and several liability for an annual allowance charge under section 237B(3) of the 2004 Act; and

(b) the scheme manager satisfies the liability specified in the notice.

(2) The amount or value of the benefits payable to or in respect of the member for the tax year to which the notice relates must be reduced by the scheme manager in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount or value of the reduction of benefits—

(a) must fully reflect the amount paid by the scheme manager; and

(b) must be consistent with normal actuarial practice.

(4) Benefits may only be reduced under this regulation to the extent that the reduction would not result in the loss of any part of a guaranteed minimum pension to which a person is entitled under section 10 (earner's guaranteed minimum) or 13 (minimum pensions for widows and widowers) of the 1993 Act.

CHAPTER 5

General

General prohibition on unauthorised payments

175. Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the 2004 Act (pension schemes etc.) (see section 160(5) of that Act).

(**15**) 2004 c.12; section 237B was inserted by the Finance Act 2011 (c.11), Schedule 17, paragraph 15 and was amended by the Finance Act 2013 (c.29), Schedule 46, paragraphs 119 and 129

Calculation of periods of membership and service

176.—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days and fractions of a day, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

(a) the days referred to in paragraph (1); and

(b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to 4 decimal places.

(4) If a period of membership or service is less than one year, this regulation applies as if the words "whole years, and" were omitted from paragraph (1) and the words "in excess of the period of whole years" were omitted from paragraph (3).

Determination of questions

177. Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager, whose decision on it is final.

Evidence of entitlement

178.—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

(a) the person's identity; and

(b) the person's continuing entitlement to payment of any amount.

(2) If the person does not provide the required evidence, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

Provision of benefit information statements to members

179.—(1) The scheme manager must provide benefit information statements to each active member of this scheme in accordance with—

(a) section 14 of the Act (information about benefits); and

(b) directions made under that section (Department directions).

Information to be provided by employers

180.—(1) An employer of a member of this scheme must, by such date as the scheme manager may specify, provide the scheme manager with such information as the scheme manager may request—

(a) in connection with the scheme manager's or scheme administrator's functions in relation to this scheme; or

(b) to enable the scheme manager or Department to fulfil any obligations on the scheme manager or Department set out in or under legislation.

(2) An employer of a Fair Deal eligible person must provide to the scheme manager within 30 days after the end of each complete scheme year during which the employer is an employer of a Fair Deal eligible person—

(a) a list of the Fair Deal eligible persons employed by the employer, stating whether they are active members of this scheme or have opted-out of active scheme membership; and

(b) a statement confirming that the persons listed are eligible to be active members of this scheme.

(3) An employer of a Fair Deal eligible person (P) must inform the scheme manager promptly and in any event within 28 days—

(a) if P opts out of this scheme; or

(b) of any changes to P's eligibility to be an active member of this scheme including where P ceases to be eligible to be an active member of this scheme.

(4) (a) An employer of a Fair Deal eligible person who is an active member of this scheme (M) must inform the scheme manager promptly and in any event within 28 days of any change in the matters set out in sub-paragraph (b) where the change affects M's entitlement to benefits under or membership of this scheme.

(b) The matters are—

(i) M's terms and conditions of employment including terms and conditions relating to any work done by M on functions or services other than the transferred services;

(ii) M's working pattern or hours; and

(iii) M's attendance at work, including any long term sick leave or other absences.

(5) An employer of a Fair Deal eligible person must inform the scheme manager immediately the employer becomes aware of any circumstance (including any actual or proposed change in the employer's status) which is one which may give rise to the termination of the Admission Agreement.

Protections for the scheme in relation to employers of Fair Deal eligible persons

181.—(1) Where an employer of a Fair Deal eligible person increases the pensionable earnings of a member of this scheme employed by the employer in a way which the scheme manager has determined is one where the resulting costs to this scheme or any connected scheme are costs which should be paid by the employer, the employer must pay to this scheme on demand the amount of the increase in this or the connected scheme's costs or liabilities resulting from the increase.

(2) Where a Fair Deal eligible person exercises a choice available to the person under this scheme which leads to an increase in the contributions that the person's employer is required to pay under this scheme, the employer must pay to this scheme the amount of the increase in contributions.

(3) Where an employer of a Fair Deal eligible person has breached any of the provisions of this scheme or any provision of the Admission Agreement the employer must pay to this scheme on demand the sum, as determined by the scheme manager, which is required to compensate this scheme for—

(a) any increase in this scheme's costs or liabilities resulting from the breach; and

(b) any resulting additional administration expenses incurred by or on behalf of this scheme.

(4) Where an employer of a Fair Deal eligible person has entered into a contractual agreement (whether in the Admission Agreement or otherwise) with the scheme manager or the Department to lodge a bond with the scheme, the scheme manager or Department may call on the bond in the circumstances provided for in the contractual agreement.

(5) Where a person has entered into an agreement (whether in the Admission Agreement or otherwise) to indemnify this scheme in respect of contributions and other payments due to this scheme from an employer of a Fair Deal eligible person, that person must pay to this scheme on demand by the scheme manager or the Department the sums due under the indemnity, in accordance with the provisions of the agreement.

Transitional provisions

182. Schedule 2 has effect.