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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 76**

**PUBLIC SERVICE PENSIONS**

**The Judicial Pensions Regulations (Northern Ireland) 2015**

*Laid before the Assembly in draft*

*Made - - - - 18th February 2015*

*Coming into operation in accordance with  
regulation 1(2) and (3)*

The Department of Justice makes these Regulations in exercise of the powers conferred by sections 1(1), (2)(b)(1), 2(1), 3(1), (2), (3)(a), (3)(c) and (4), 4(3) and (6) (as read with section 4(1)), 5(3)(c) (as read with section 5(1)), 5(4), and (5), 7(1) and (4), 8(1)(a)(2), 12(6) and (7)(3), 14(1) and 18(5), (6) and (7) of, paragraph 2 of Schedule 2, Schedule 3 and paragraphs 1(2)(ii), 2(2)(ii) and 5(1) of Schedule 7 to, the Public Service Pensions Act (Northern Ireland) 2014(4).

In accordance with section 21 of that Act, the Department of Justice has consulted such persons and representatives of such persons as appear to it likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, the Department of Finance and Personnel has consented to the making of these Regulations.

The Department of Justice has had regard to the matters referred to in section 5(4) of that Act.

A draft of this instrument has been laid before the Assembly and approved by a resolution of the Assembly in accordance with section 24(1)(c) of the Public Service Pensions Act (Northern Ireland) 2014.

**PART 1**

**Preliminary**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Judicial Pensions Regulations (Northern Ireland) 2015.

(2) Part 1, Part 3, regulations 20, 128, 166, 167, Schedule 1, Schedule 2 and paragraph 12 of Schedule 3 come into operation on 28th February 2015.

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(1) See also section 1(3) and Schedule 1.

(2) See also section 8(2)(a) and (4).

(3) See also section 12(1) to (3) and (5): coming into force on 1st April 2015.

(4) 2014 c. 2 (N.I.).

- (3) The remaining provisions come into operation on 1st April 2015.

## Interpretation

### 2. In these Regulations—

“the Act” means the Public Service Pensions Act (Northern Ireland) 2014;

“the 1971 Act” means the Pensions (Increase) Act (Northern Ireland) 1971<sup>(5)</sup>;

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993<sup>(6)</sup>;

“the 1995 Order” means the Pensions (Northern Ireland) Order 1995<sup>(7)</sup>;

“the 1999 Order” means the Welfare Reform and Pensions Act 1999<sup>(8)</sup>;

“the 2004 Act” means the Finance Act 2004<sup>(9)</sup>;

“accrued added pension” means—

- (a) accrued added (self only) pension (if any); and
- (b) accrued added (all beneficiaries) pension (if any);

“accrued earned pension” means—

- (a) in relation to this scheme—
  - (i) accrued standard earned pension (if any); and
  - (ii) accrued earned pension attributable to an effective pension age option (if any);
- (b) in relation to another pension scheme, accrued rights to benefits under that scheme which are the equivalent of accrued earned pension under this scheme;

“accrued pension” means—

- (a) accrued earned pension; and
- (b) accrued added pension (if any);

“accrued rights”, in relation to benefits under this scheme, does not include a right to benefits attributable (directly or indirectly) to a pension credit;

“accrued standard earned pension”—

- (a) for the purpose of calculating the amount of a description of full retirement pension or the provisional amount of any description of deferred pension, has the meaning given in regulation 32(2);
- (b) for the purpose of calculating the amount of a description of partial retirement pension, has the meaning given in regulation 33(2);

“active member”, in relation to this scheme, means a person who is in pensionable service under this scheme;

“active member’s account” has the meaning given in regulation 37(2);

“actuarial guidance” means guidance given by the scheme manager after consultation with the scheme actuary;

“actuarial reduction” in relation to reduction of pension payable to a member who has not reached normal pension age, means a reduction determined by the scheme manager after consultation with the scheme actuary or taking into account tables prepared by the scheme actuary;

(5) 1971 c. 35 (N.I.).

(6) 1993 c. 49.

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

(8) S.I. 1999/3147 (N.I. 11).

(9) 2004 c. 12.

“actuarial tables” means tables prepared by the scheme manager after consultation with the scheme actuary;

“added pension” means—

- (a) added (self only) pension under paragraph 18 of Schedule 1 (if any); and
- (b) added (all beneficiaries) pension under paragraph 19 of Schedule 1 (if any);

“added pension payments” means periodical payments or a lump sum payment for added pension made to this scheme;

“additional paternity leave” has the meaning given in regulation 2(1) (interpretation) of the Additional Paternity Leave Regulations (Northern Ireland) 2010<sup>(10)</sup>;

“adoption leave” has the meaning given in regulation 2(1) (interpretation) of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002<sup>(11)</sup>;

“age addition” has the meaning given in regulation 30(4);

“allocation amount” means the amount of pension allocated as a result of making an allocation election;

“allocation election” means an election under regulation 78(2);

“amount of added pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 39(5);

“amount of credited pension” means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 (pension credits: mode of discharge) to the 1999 Order;

“amount of earned pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 39(3);

“annual allowance” has the meaning given in section 228 (annual allowance) of the 2004 Act<sup>(12)</sup>;

“annual allowance charge” has the meaning given in section 227 (annual allowance charge) of the 2004 Act<sup>(13)</sup>;

“annual rate”—

- (a) for each description of pension, has the meaning given in Part 5 (retirement benefits); and
- (b) in relation to pensionable earnings, means the amount of pensionable earnings payable for a scheme year;

“assumed age addition” has the meaning given in regulation 31(3);

“assumed pay” has the meaning given in regulation 24(2);

“the beginning date”, in relation to a pension not attributable (directly or indirectly) to a pension credit, means the date on which the pension is deemed to begin for the purpose of section 8(2) (meaning of “pension” and other supplementary provisions) of the 1971 Act<sup>(14)</sup>;

“beneficiary”, in relation to a deceased member, means the surviving adult or eligible child of the member;

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(10) S.R. 2010 No. 297.

(11) S.R. 2002 No. 377; regulation 2 was amended by S.R. 2006 No. 373.

(12) Section 228 was substituted by the Finance Act 2011 (c. 11), Schedule 17 paragraphs 1 and 4 were amended by the Finance Act 2013 (c. 29) section 49.

(13) Section 227 was amended by the Finance Act 2009 (c. 10) Schedule 2 paragraphs 10 and 15 and the Finance Act 2011 (c. 11), Schedule 16 paragraph 45 and Schedule 17 paragraphs 1 and 3.

(14) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13)). Article 3 (5) and the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 36(1) and (3). Section 8(2) of the 1971 Act may be applied subject to such modifications, adaptations and exceptions as may be specified in regulations made under section 5(3) of that Act.

“closing date” in relation to a transition member, has the meaning given in paragraph 1 of Schedule 2;

“the commutation amount” means the amount of pension exchanged for a lump sum as a result of the exercise of the commutation option;

“commutation option” means the option to exchange part of a pension for a lump sum—

- (a) exercisable under regulation 76 in relation to a retirement pension; or
- (b) exercisable under regulation 89 in relation to a pension credit member’s pension;

“connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) (scheme manager) of the Act, with this scheme;

“continuity of service”, in relation to a transition member, has the meaning given in paragraph 2 of Schedule 2;

“continuous period of pensionable service”, in relation to this scheme, means a period of pensionable service under this scheme disregarding any gap in pensionable service not exceeding 5 years, unless otherwise provided;

“continuous period of service”, in relation to qualifying judicial office, means a period of service in that office disregarding any gap in service not exceeding 5 years;

“death benefits” means benefits payable under Part 8;

“deferred member” has the meaning given in regulation 25;

“deferred member’s account” has the meaning given in regulation 43(3);

“description of accrued added pension” means either of the following—

- (a) accrued added (self only) pension; or
- (b) accrued added (all beneficiaries) pension;

“description of accrued pension” means accrued pension of a description mentioned in Chapter 1 of Part 5;

“description of added pension” means either of the following—

- (a) added (self only) pension; and
- (b) added (all beneficiaries) pension;

“description of deferred pension” means any of the following—

- (a) deferred standard earned pension;
- (b) deferred earned pension attributable to an effective pension age option;
- (c) deferred added (all beneficiaries) pension;
- (d) deferred added (self only) pension;

“description of full retirement pension” means a full retirement pension of a description mentioned in Chapter 1 of Part 5;

“description of partial retirement pension” means a partial retirement pension of a description mentioned in Chapter 1 of Part 5;

“description of pension” means any of the following—

- (a) standard earned pension;
- (b) transferred pension;
- (c) earned pension attributable to an effective pension age option;
- (d) added (all beneficiaries) pension;
- (e) added (self only) pension;

“dual capacity member” has the meaning given in regulation 146;

“early payment reduction” means the actuarial reduction that is applied when calculating the annual rate of pension payable to a member of this scheme who has not reached normal pension age under this scheme or, if applicable, effective pension age;

“effective pension age”, in relation to a member who has exercised an effective pension age option, means the age at which the member is entitled to payment, without actuarial reduction, of a full retirement earned pension or partial retirement earned pension attributable to that option;

“effective pension age payments” means periodical payments for an effective pension age made to this scheme;

“effective pension age option” means the option to make effective pension age payments;

“eligible child” has the meaning given in regulation 103;

“eligible child’s pension” has the meaning given in regulation 102;

“employer” means the person responsible for the remuneration of a qualifying judicial officeholder;

“fee-paid office” means an office where service is remunerated by payment of fees, as opposed to the payment of salary;

“full retirement account” has the meaning given in regulation 47(4);

“full retirement added pension” means—

- (a) full retirement added (self only) pension (if any); and
- (b) full retirement added (all beneficiaries) pension (if any);

“full retirement earned pension” means—

- (a) full retirement standard earned pension (if any); and
- (b) full retirement earned pension attributable to an effective pension age option (if any);

“full retirement pension” means—

- (a) full retirement earned pension; and
- (b) full retirement added pension (if any);

“guaranteed minimum” includes the guaranteed minimum as defined in sections 10(15) (earner’s guaranteed minimum) and 13(16) (minimum pensions for earners, widows and widowers) of the 1993 Act—

- (a) as increased in accordance with the requirements of section 105(17)(annual increase of minimum pensions) of that Act; and
- (b) if a reduction has been made under section 11A(18) (reduction of guaranteed minimum in consequence of pension debit) of that Act, as reduced in accordance with that section;

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(15) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Articles 147, 168, Schedule 3 paragraph 20 and Schedule 5 Part 3, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 3(1) and Schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 (c. 29) Schedule 11 paragraphs 1 and 22.

(16) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) article 3(1), Schedule 1 paragraph 42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433), Schedule 1, paragraph 5, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4) (N.I.) sections 52, 67, Schedule 5, Part 1, paragraph 9 and Schedule 9, Part 3, the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) (N.I. 1) Article 261(2) and the Pensions Act (Northern Ireland) 2008 (c.1)(N.I.) section 12(2).

(17) Section 105 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 55 and paragraph 22 of Schedule 1 to S.R. 2005 No. 433.

(18) Section 11A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 29(3).

- “ill-health pension” has the meaning given by regulation 68;
- “index adjustment” means, in relation to the opening balance of a description of pension for any scheme year, the change in prices in that scheme year<sup>(19)</sup>;
- “in-service revaluation index”, in relation to a pension scheme, means the percentage increase or decrease by which the pensionable earnings of a person, or a proportion of those earnings accrued as a pension, are revalued whilst the person is in pensionable service in that pension scheme;
- “last active scheme year” means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme;
- “last day of pensionable service” means the last day of a continuous period of pensionable service under this scheme;
- “late payment supplement”, in relation to the provisional amount of any description of deferred pension, means an additional amount of pension determined by the scheme manager after consulting the scheme actuary to be appropriate if a deferred member of this scheme is over normal pension age or, if applicable, effective pension age, under this scheme before becoming entitled to the immediate payment of a full retirement pension;
- “the leaving year” means the scheme year in which the relevant last day falls;
- “lump sum death benefit” means a lump sum paid under Part 8 on the death of a member;
- “maternity leave” includes ordinary maternity leave or additional maternity leave as defined in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999<sup>(20)</sup>;
- “medical certificate” is a certificate prepared by a registered medical practitioner at the request of the scheme manager;
- “member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member of this scheme;
- “member contributions” has the meaning given in Part 9;
- “normal minimum pension age” has the same meaning as in section 279(1) (other definitions) of the 2004 Act<sup>(21)</sup>;
- “normal pension age”, in relation to this scheme, is determined in accordance with section 10 of the Act;
- “occupational pension scheme” has the meaning given in section 1 (categories of pension schemes) of the 1993 Act <sup>(22)</sup>;
- “opening balance”, in relation to a description of pension for a scheme year, has the meaning given in regulation 40(3);
- “option proportion”, in relation to a description of accrued pension, means the proportion specified in a notice under regulation 62;
- “ordinary maternity leave” has the meaning given in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999;
- “parental leave” has the meaning given in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999;

(19) Under section 9 of the Public Services Pension Act (Northern Ireland) 2014 (c. 2)(N.I.), the change in prices to be applied in a period is the percentage increase or decrease as a Department of Finance and Personnel order under that section may specify in relation to the period.

(20) S.R. 1999 No. 471, to which there are amendments not relevant to these Regulations.

(21) To which there are amendments not relevant to these Regulations.

(22) Section 1 was amended by Article 216 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), Part 3(2) of Schedule 27 to the Finance Act 2007 (c.11) and regulation 2(2) of the Occupational Pensions Schemes (EEA States) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 457).

“partial retirement account” has the meaning given in regulation 50(2);

“partial retirement added pension” means—

- (a) partial retirement added (self only) pension (if any); and
- (b) partial retirement added (all beneficiaries) pension (if any);

“partial retirement earned pension” means—

- (a) partial retirement standard earned pension (if any); and
- (b) partial retirement earned pension attributable to an effective pension age option (if any);

“partial retirement option” means the option exercisable under regulation 60(2);

“partial retirement pension” means—

- (a) partial retirement earned pension; and
- (b) partial retirement added pension (if any);

“partially retired”, in relation to a member of this scheme, means a member who has exercised the partial retirement option;

“partnership pension account”, in relation to a person in service in a qualifying judicial office, means a stakeholder pension scheme or personal pension scheme to which the person’s employer is paying contributions;

“paternity leave” includes leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(23);

“pay period” means the period in respect of which a payment of pensionable earnings is made;

“pension credit” has the meaning given in Article 121(1) (interpretation of Part 2) of the 1995 Order(24);

“pension credit member”, in relation to this scheme, means a person who has rights under this scheme which are attributable (directly or indirectly) to a pension credit under a pension sharing order following divorce or nullity of marriage;

“pension credit member’s account” has the meaning given in regulation 52;

“pension credit member’s pension” means a pension payable under regulation 83;

“pension debit” means a debit under Article 26(1)(a) (creation of pension credits and debits) of the 1999 Order;

“pension debit member”, in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under Article 28 (reduction under pension sharing order following divorce or nullity of marriage) of the 1999 Order;

“pensionable earnings” has the meaning given in regulation 23;

“pensionable public service” means pensionable service under an existing scheme;

“pensionable service” means service in a qualifying judicial office;

“pensioner member”, in relation to this scheme, means a person who is entitled to the immediate payment of a retirement pension under this scheme;

“pension sharing order” means any provision or order specified in Article 25 (activation of pension sharing) of the 1999 Order(25);

“period of assumed pay” has the meaning given in regulation 24(1);

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(23) S.R. 2002 No. 377.

(24) The definition of “pension credit” was inserted in Article 121(1) by the Welfare Reform and Pensions (Northern Ireland) Order 1999 S.I. 1999/3147 (N.I. 11) Schedule 9 paragraph 50(3).

(25) Article 25 was amended by the Civil Partnership Act 2004 (c. 33) Schedule 29 paragraph 110).

“personal pension scheme” means a personal pension scheme as defined in section 1 (categories of pension schemes) of the 1993 Act that is a registered pension scheme;

“prospective normal pension age”, in relation to a member’s prospective entitlement to benefits under this scheme, means the normal pension age that the scheme manager, by reference to Department of Finance and Personnel directions made under section 11(2) (valuations) of the Act, determines would apply in relation to those benefits;

“provisional amount”, in relation to any description of deferred pension, has the meaning given in regulation 44(2);

“qualifying judicial office” has the meaning given in regulation 13;

“qualifying service” has the meaning given in regulation 55;

“registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 (registration of pension schemes) of the 2004 Act;

“the relevant last day”, in relation to a continuous period of pensionable service, means—

- (a) for a partially retired member, the day before the day on which the partial retirement option was exercised, and
- (b) otherwise, the member’s last day of pensionable service;

“retirement index adjustment”, in relation to an amount of accrued pension, has the meaning given in regulation 29;

“retirement benefits” means benefits payable under Part 6;

“retirement pension” means any of the following—

- (a) a full retirement pension;
- (b) a partial retirement pension;
- (c) an ill-health pension;

“this scheme” means the scheme established by these Regulations;

“scheme actuary” means the actuary appointed by the Department of Justice under regulation 144;

“scheme closing date” means 31st March 2015;

“scheme manager” has the meaning given in regulation 4;

“scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“stakeholder pension scheme” means a scheme which is a stakeholder pension scheme for the purposes of Part 2 (stakeholder pension schemes) of the 1999 Order (see Article 3(26) of that Order);

“standard earned pension” means pension which is earned under this scheme and which is payable without actuarial reduction at normal pension age;

“statutory pay” means—

- (a) statutory adoption pay within the meaning of section 167ZL(1) (entitlement) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(27);
- (b) statutory maternity pay within the meaning of section 160(1) (statutory maternity pay - entitlement and liability to pay) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

(26) Article 3 was amended by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) Article 262 (2), (3) and (4), the Taxation of Pension Schemes Consequential Amendments) Order 2006 S.I. 2006/745, Article 16(2), the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)) Sections 13 and 19, Schedule 4, paragraph 37 and Schedule 6, Part 6.

(27) 1992 c. 7; section 167ZL was inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)) Article 6.



- (c) ordinary statutory paternity pay within the meaning of section 167ZA(1) (entitlement: birth) or 167ZB(1) (entitlement: adoption) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(28); or
- (d) additional statutory paternity pay within the meaning of section 167ZEA(1) (entitlement to additional statutory paternity pay: birth) and 167ZEB(1) (entitlement to additional statutory paternity pay: adoption) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(29):

“surviving adult”, in relation to a deceased member of this scheme, has the meaning given in regulation 91;

“surviving adult’s pension” has the meaning given in regulation 93;

“surviving civil partner” has the meaning given in regulation 91;

“surviving nominated partner” has the meaning given in regulation 92;

“surviving spouse” has the meaning given in regulation 91;

“tax year” means a period of one year which is the period of assessment for income tax purposes;

“total allocation amount”, in relation to an amount of retirement pension, means the total amount of that pension allocated under Chapter 6 of Part 6;

“transfer value” has the meaning given in regulation 132;

“transfer value payment” means payment of a transfer value;

“transferred pension” means pension attributable to receipt of a transfer value payment;

“transition member” has the meaning given in paragraph 1 of Schedule 2;

“weekly rate”, in relation to a guaranteed minimum pension, has the same meaning as in regulation 55(2) (scheme rules about guaranteed minimum pensions) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(30);

“whole of the member’s accrued pensions” means—

- (a) all the member’s accrued earned pension; and
- (b) all the member’s accrued added pension (if any).

## PART 2

### Establishment of the scheme

#### Establishment and scope

**3.** A career average revalued earnings scheme is established as a defined benefits scheme for the payment of pensions and other benefits to or in respect of holders of judicial office.

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(28) Sections 167ZA and 167ZB were inserted by the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)) Article 5. Subsections (1) of those sections were amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) Schedule 1 paragraphs 11 and 12.

(29) Sections 167ZEA and 167ZEB were inserted by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) Articles 8 and 9.

(30) S.R. 1996 No. 493, regulation 55 was amended by S.R. 1997 No. 160 and S.R. 2005 No. 433.

## PART 3

### Governance

#### **Scheme manager**

4.—(1) The Department of Justice is the scheme manager for this scheme and any statutory pension scheme that is connected with it.

(2) The scheme manager is responsible for managing and administering this scheme and any statutory pension scheme that is connected with it.

(3) A statutory pension scheme that is a defined contributions scheme is not connected with this scheme.

(4) Before exercising any discretion under these Regulations, the scheme manager must obtain a recommendation from the Judicial Pension Board.

(5) If the scheme manager exercises any discretion under these Regulations contrary to a recommendation made by the Judicial Pension Board, it must provide written reasons for doing so to the Judicial Pension Board and to the member to whom the discretion relates (if any).

(6) The scheme manager and the Judicial Pension Board may agree that paragraphs (4) and (5) do not apply to specific discretions or in specific circumstances.

#### **Delegation**

5.—(1) The Department of Justice may delegate any functions under these Regulations, including this power.

(2) The scheme manager may delegate any functions under these Regulations, including this power.

(3) The Judicial Pension Board may delegate any functions under these Regulations.

#### **Judicial Pension Board: establishment**

6.—(1) A pension board (“the Judicial Pension Board”) is established.

(2) The Judicial Pension Board is responsible for assisting the scheme manager—

(a) to secure compliance with—

(i) these Regulations;

(ii) any other legislation relating to the governance and administration of this scheme and of any statutory pension scheme that is connected with it; and

(iii) any requirements imposed by the Pensions Regulator in relation to this scheme or any statutory pension scheme that is connected with it; and

(b) in the performance of the scheme manager’s functions under these Regulations.

(3) The Judicial Pension Board may determine its own procedures.

#### **Judicial Pension Board: membership**

7.—(1) The Judicial Pension Board is to consist of a chair appointed by the scheme manager and at least 2 and no more than 16 persons appointed by the chair, who are to be entitled to vote in its proceedings (“voting members”).

(2) Equal numbers of employer representatives and member representatives must be appointed under paragraph (1), including a departmental finance director who is to be treated as an employer representative.

(3) The chair cannot be an employer representative or a member representative.

(4) The appointment of member representatives must be approved by the Lord Chief Justice.

(5) The appointment of employer representatives must be approved by the scheme manager.

(6) The chair may, with the approval of the scheme manager, appoint up to 4 members of the Judicial Pension Board who are not to be entitled to vote in its proceedings (“non-voting members”).

(7) A non-voting member cannot be an employer representative or a member representative.

(8) A member of the Judicial Pension Board is to hold and vacate office in accordance with the terms of that member’s appointment.

(9) In this regulation, “departmental finance director” means—

(a) an accounting officer appointed by the Department of Finance and Personnel under section 9 (resource accounts: preparation) of the Government Resources and Accounts Act (Northern Ireland) 2001(31); or

(b) a civil servant who has responsibility for the financial management of a government department.

#### **Judicial Pension Board: conflicts of interest**

**8.—**(1) Before appointing, or approving the appointment of, any person under regulation 7, the scheme manager must be satisfied that that person does not have a conflict of interest.

(2) The scheme manager must be satisfied from time to time that none of the members of the Judicial Pension Board has a conflict of interest.

(3) If the scheme manager determines that a member of the Judicial Pension Board has a conflict of interest, the scheme manager must terminate the appointment of the member.

(4) A member of the Judicial Pension Board, or a person proposed to be appointed as such a member, must provide the scheme manager with any information the scheme manager may reasonably require for the purpose of paragraph (1) or (2).

#### **Scheme advisory board: establishment**

**9.—**(1) A scheme advisory board is established.

(2) The scheme advisory board is responsible for providing advice to the Department of Justice, at the request of that Department, on the desirability of making changes to this scheme.

(3) The scheme advisory board may determine its own procedures, subject to the approval of the Department of Justice.

#### **Scheme advisory board: membership**

**10.—**(1) The scheme advisory board is to consist of a chair appointed by the Department of Justice and at least 2 and no more than 16 persons appointed by the chair.

(2) Equal numbers of employer representatives and member representatives must be appointed under paragraph (1).

(3) The chair cannot be an employer representative or a member representative.

(4) The appointment of member representatives must be approved by the Lord Chief Justice.

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(31) 2001 c. 6 (N.I.).

(5) The appointment of employer representatives must be approved by the scheme manager.

(6) A member of the scheme advisory board is to hold and vacate office in accordance with the terms of that member's appointment.

#### **Scheme advisory board: conflicts of interest**

**11.**—(1) Before appointing, or approving the appointment of, any person under regulation 10, the Department of Justice must be satisfied that that person does not have a conflict of interest.

(2) The Department of Justice must be satisfied from time to time that none of the members of the scheme advisory board has a conflict of interest.

(3) If the Department of Justice determines that a member of the scheme advisory board has a conflict of interest, the Department of Justice must terminate the appointment of the member.

(4) A member of the scheme advisory board, or a person proposed to be appointed as such a member, must provide the Department of Justice with any information the Department of Justice may reasonably require for the purpose of paragraph (1) or (2).

#### **Payment of fees and expenses**

**12.** The Department of Justice may—

- (a) pay fees to or in respect of members of the Judicial Pension Board and the scheme advisory board of such amounts as the Department of Justice may determine; and
- (b) reimburse members of the Judicial Pension Board and the scheme advisory board in respect of any reasonable expenses incurred by them in the performance of their duties in relation to this scheme.

## **PART 4**

### **Scheme membership**

#### **CHAPTER 1**

#### **Eligibility for active membership**

#### **Qualifying judicial office**

**13.** For the purpose of these Regulations, a person who is appointed to an office specified in an order made under paragraph 2 of Schedule 1 (holders of judicial office) to the Act is in qualifying judicial office.

#### **Eligible persons**

**14.**—(1) For the purposes of this Part, an eligible person is a person who is eligible to be an active member of this scheme.

(2) A person who begins service in a qualifying judicial office (P) becomes an eligible person in relation to that service unless paragraph (3) or (4) applies and subject to paragraphs (5) and (6).

(3) This paragraph applies if the terms of P's office exclude them from being an active member of this scheme.

(4) This paragraph applies if, in relation to service in that office—

- (a) P is a protected member of an existing scheme;
- (b) P has a partnership pension account; or

- (c) P is a member of any other pension scheme and P's employer pays contributions to that scheme in respect of P.
- (5) P is not eligible to be a member of this scheme if—
  - (a) P is in a fee-paid office;
  - (b) P was in a fee-paid office on 31st March 2012;
  - (c) P was aged 55 years or over on 1st April 2012; and
  - (d) P does not exercise the option to begin pensionable service under this scheme on 1st April 2015 in the form and by the date determined by the scheme manager.
- (6) P is not eligible to be a member of this scheme until a date during the period beginning with 31st May 2015 and ending with 31st January 2022 as determined by the scheme manager by reference to a table published for the purposes of paragraph 3 of Schedule 2 if—
  - (a) P is in a fee-paid office;
  - (b) P was in a fee-paid office on 31st March 2012;
  - (c) P was aged between 51 years and 6 months and 55 years on 1st April 2012; and
  - (d) P does not exercise the option to begin pensionable service under this scheme on 1st April 2015 in the form and by the date determined by the scheme manager.

### **Service in 2 or more qualifying judicial offices**

15. If a person is in service in 2 or more qualifying judicial offices, regulation 14 applies separately in relation to each office.

## **CHAPTER 2**

### **Pensionable service**

#### **Application of Chapter**

- 16.—(1) This Chapter applies in relation to a continuous period of service in a qualifying judicial office.
- (2) If a person is in service in 2 or more qualifying judicial offices, this Chapter applies separately in relation to each of the offices.

#### **Enrolment**

- 17.—(1) A person (P) begins pensionable service under this scheme in relation to a qualifying judicial office on the first day on which P becomes an eligible person in relation to service in that office unless—
- (a) regulation 21 applies; or
  - (b) P is a transition member with continuity of service and paragraph (2) applies.
- (2) This paragraph applies if—
- (a) the first day on which P becomes an eligible person in relation to service in a qualifying judicial office is the day after P's transition date; and
  - (b) on P's transition date—
    - (i) P was in service in the same office; and
    - (ii) P has opted out of an existing scheme in relation to that service.

### **Opting into this scheme**

**18.**—(1) A person who, in relation to a qualifying judicial office, is an eligible person but is not in pensionable service under this scheme may opt to become an active member of this scheme in relation to service in that office.

(2) A person who has a partnership pension account in relation to service in a qualifying judicial office may opt into this scheme in relation to service in that office (see regulation 19 for when opt-in takes effect).

(3) The option under this regulation may only be exercised by notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(4) A person who exercises the option under this regulation in relation to service in a qualifying judicial office is taken to exercise that option on the date on which the opt-in notice is received by the scheme manager.

(5) If P opts out of this scheme within 12 months after opting in, P may not opt in again until after the end of that period of 12 months.

### **When does an option in take effect**

**19.**—(1) If P opts into this scheme in relation to service in a qualifying judicial office for which P has a partnership pension account—

(a) P becomes an active member of this scheme in relation to that service on the first date that is 1st April or 1st October—

(i) after the period of 3 months beginning with the date on which the option is exercised;  
or

(ii) after any shorter period the scheme manager considers appropriate; and

(b) immediately before that date, P’s partnership pension account is closed.

(2) If P opts into this scheme in relation to service for which P does not have a partnership pension account, P becomes an active member of this scheme in relation to that service—

(a) at the beginning of the first pay period beginning on or after the date on which the option is exercised; or

(b) if the scheme manager considers that pay period inappropriate, at any other time the scheme manager considers appropriate.

### **Opting out of this scheme**

**20.**—(1) A person (P) opts out of this scheme in relation to service in a qualifying judicial office if—

(a) P opts not to be an active member of this scheme in relation to that service; or

(b) P opens a partnership pension account in relation to that service.

(2) P may only exercise the option under paragraph (1)(a) by notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).

(3) The option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.

### **Opting out before the end of one month**

**21.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in a qualifying judicial office before the end of one month after P’s first day of a

continuous period of service in that office (or within any longer period the scheme manager considers appropriate).

(2) If this regulation applies, P is taken never to have been in pensionable service under this scheme in relation to the continuous period of service in that office.

(3) This regulation does not require the scheme manager to pay P any additional amount which becomes payable by P in respect of national insurance contributions because P has not after all been an active member of this scheme during any period.

### **Opting out after one month**

**22.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in a qualifying judicial office not less than one month after P’s first day of a continuous period of service in that office.

(2) If P opts out of this scheme by opt-out notice, P ceases to be in pensionable service under this scheme in relation to that office—

- (a) on the first day of the first pay period beginning on or after the date on which the option is exercised; or
- (b) if the scheme manager considers that day inappropriate, on the first day of any later pay period the scheme manager considers appropriate.

(3) If P opens a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that office on the first date that is 31st March or 30th September—

- (a) after the period of one month beginning with the date on which that account is opened; or
- (b) after any shorter period the scheme manager considers appropriate.

## **CHAPTER 3**

### **Pensionable earnings**

#### **Pensionable earnings**

**23.** For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable earnings for any period are the sum of—

- (a) the member’s earnings for service in a qualifying judicial office for that period; and
- (b) any allowance granted on a permanent basis that the scheme manager determines to be pensionable earnings for that period.

#### **Meaning of “assumed pay”**

**24.**—(1) For the purpose of these Regulations, an active member of this scheme (P) receives assumed pay in respect of any period in which any of the circumstances in paragraph (3) apply (“period of assumed pay”).

(2) For the purpose of paragraph (1), “assumed pay” means the sum of an amount equal to the pensionable earnings that P would have received in that period if those circumstances had not applied.

(3) The circumstances are—

- (a) P is on sick leave on reduced pay;
- (b) P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave;
- (c) P is receiving statutory pay; or

- (d) P is on secondment to a different employer under an arrangement providing for P to continue to be an active member of this scheme in relation to P's service although P is paid for by that employer;

(4) For the purpose of paragraph (3)(a), a period of sick leave on reduced pay does not include a period of leave in respect of which P is paid at a rate determined by P's employer to be appropriate because it is equivalent to the annual rate of an ill-health pension.

## CHAPTER 4

### Deferred membership

#### Meaning of “deferred member”

25. A person (P) becomes a deferred member of this scheme in relation to a continuous period of pensionable service under this scheme if—

- (a) P ceases to be an active member of this scheme in relation to that period of service;
- (b) P does not become a pensioner member of this scheme in relation to that period of service; and
- (c) where P is not over normal pension age—
  - (i) P has at least 2 years' qualifying service, or
  - (ii) a transfer value payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.

## PART 5

### Pension accounts

#### CHAPTER 1

##### Preliminary

#### Descriptions of accrued pension

26. For the purpose of these Regulations, the descriptions of accrued pension are—

- (a) accrued earned pension;
- (b) accrued standard earned pension;
- (c) accrued earned pension attributable to an effective pension age option;
- (d) accrued added pension;
- (e) accrued added (all beneficiaries) pension; and
- (f) accrued added (self only) pension.

#### Descriptions of full retirement pension

27. For the purpose of these Regulations, the descriptions of full retirement pension are—

- (a) full retirement standard earned pension;
- (b) full retirement earned pension attributable to an effective pension age option;
- (c) full retirement added (self only) pension; and
- (d) full retirement added (all beneficiaries) pension.



### **Descriptions of partial retirement pension**

- 28.** For the purpose of these Regulations, the descriptions of partial retirement pension are—
- (a) partial retirement standard earned pension;
  - (b) partial retirement earned pension attributable to an effective pension age option;
  - (c) partial retirement added (self only) pension; and
  - (d) partial retirement added (all beneficiaries) pension.

## **CHAPTER 2**

### **Calculation of adjustments**

#### **Calculation of “retirement index adjustment”**

- 29.—**(1) The retirement index adjustment for an amount of accrued pension is—  
**amount of accrued pension X retirement index percentage**

where—

“amount of accrued pension” means an amount of any description of accrued pension; and  
“retirement index percentage” means the retirement index percentage calculated under paragraph (2) for that description of accrued pension.

- (2) The retirement index percentage is—

$$A \times \frac{B}{12}$$

where—

*A* means the in-service revaluation index that applies in relation to this scheme for the leaving year;

*B* is the number of complete months in the period between the beginning of the leaving year and the end of the relevant last day; and

“complete month” includes an incomplete month that consists of at least 16 days.

#### **Determination of “the age addition”**

**30.—**(1) This regulation applies in relation to every scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme, other than—

- (a) the scheme year in which the account is established under this Part; and
- (b) the scheme year immediately following that.

(2) If the member has exercised an effective pension age option then, for the years for which that option has effect, this regulation applies in relation to every scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches the member’s effective pension age, other than—

- (a) the scheme year in which the account is established under this Part; and
- (b) the scheme year immediately following that.

(3) At the beginning of the scheme year, for each description of pension, the scheme manager having regard to actuarial guidance must determine the age addition to be awarded for that scheme year by reference to the opening balance of that description of pension for the previous scheme year.

(4) In these Regulations, “the age addition” means an additional amount of pension determined by reference to the proportion of the previous scheme year in which a member had reached—

- (a) normal pension age under this scheme; or
- (b) where applicable, the member’s effective pension age.

#### **Determination of “the assumed age addition”**

**31.**—(1) This regulation applies when a deferred member’s account, full retirement account or partial retirement account is established under this Part for a member who reaches normal pension age under this scheme at least one month before the relevant last day.

(2) For each description of accrued pension specified in the account, the scheme manager having regard to actuarial guidance must determine the assumed age addition to be awarded.

(3) In these Regulations “the assumed age addition” means—

- (a) for an amount of accrued standard earned pension not attributable to a transferred pension, the age addition that would have been awarded for standard earned pension had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (b) for an amount of accrued standard earned pension attributable to a transferred pension, the age addition that would have been awarded for transferred pension had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (c) for an amount of accrued earned pension attributable to an effective pension age option, the age addition that would have been awarded for earned pension attributable to that option had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached the effective normal pension age stated in that option;
- (d) for an amount of any description of accrued added pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

### CHAPTER 3

#### Calculation of accrued pension

##### **Calculation of amount of accrued pension for purpose of deferment or full retirement**

**32.**—(1) For the purpose of calculating the amount of a description of full retirement pension or the provisional amount of each description of deferred pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued standard earned pension is the total of the following amounts specified in the active member’s account as at the end of the last day of pensionable service—

- (a) the sum of the opening balance of standard earned pension for the last active scheme year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the last active scheme year;

- (c) the sum of the opening balance of transferred pension for the last active scheme year and the index adjustment for that opening balance; and
  - (d) the amount of transferred pension for the last active scheme year.
- (3) The amount of accrued earned pension attributable to an effective pension age option is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—
- (a) the sum of the opening balance of earned pension attributable to that option for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of earned pension attributable to that option for the last active scheme year.
- (4) The amount of any description of accrued added pension is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—
- (a) the sum of the opening balance of added pension of that description for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of accrued added pension of that description for the last active scheme year.

#### **Calculation of amount of accrued pension for purpose of partial retirement**

**33.**—(1) For the purpose of calculating the amount of a description of partial retirement pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued standard earned pension is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of standard earned pension for the leaving year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the leaving year;
- (c) the sum of the opening balance of transferred pension for the leaving year and the index adjustment for that opening balance; and
- (d) the amount of transferred pension for the leaving year.

(3) The amount of accrued earned pension attributable to an effective pension age option is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of earned pension attributable to that option for the leaving year and the index adjustment for that opening balance; and
- (b) the amount of earned pension attributable to that option for the leaving year.

(4) The amount of any description of accrued added pension is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of added pension of that description for the leaving year and the index adjustment for that opening balance; and
- (b) the amount of added pension of that description for the leaving year.

## CHAPTER 4

### Pension accounts: general

#### **Establishment of pension accounts: general**

**34.**—(1) The scheme manager must establish and maintain one or more pension accounts for each member of this scheme in accordance with this Part.

(2) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

### **Closure and adjustment of pension accounts on transfer out**

**35.**—(1) Except as otherwise provided in this regulation, the scheme manager must close all pension accounts relating to a member of this scheme if—

- (a) a transfer value payment is made in respect of the member's accrued rights under this scheme; or
- (b) all members' contributions and payments for extra pension made by the member are refunded to the member under Part 9.

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer value payment does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme.

(4) Paragraph (1)(a) does not require the scheme manager to close a pension credit member's account if the transfer value payment is made in respect of the accrued rights of a member who is both—

- (a) a pension credit member of this scheme; and
- (b) an active member, deferred member or pensioner member of this scheme.

## **CHAPTER 5**

### **Active member's account**

#### **Application of Chapter**

**36.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is an active member of this scheme in relation to 2 or more continuous periods of pensionable service at the same time, this Chapter applies separately in relation to each of those periods of service.

#### **Establishment of active member's account**

**37.**—(1) The scheme manager must establish a pension account for a member who is in pensionable service from the day on which the member begins pensionable service.

(2) For the purpose of these Regulations, an account established under paragraph (1) is called an active member's account.

#### **Receipt of a transfer value payment**

**38.**—(1) This regulation applies if a transfer value payment is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receiving the transfer value payment, the scheme manager must credit the active member's account with the amount of transferred pension calculated under regulation 143 (amount of transferred pension).

#### **Amount of pension for a scheme year**

**39.**—(1) This regulation applies in relation to every scheme year in which an active member's account is open.

(2) The active member's account must specify, in relation to each description of pension, the amount of that description of pension for the scheme year.

(3) The amount of earned pension for a scheme year is 2.32% of the member's pensionable earnings for that year.

(4) The amount of transferred pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 143 for that year.

(5) The amount of added pension of any description for a scheme year is the amount (if any) credited to the active member's account in that scheme year under paragraph 13 or 14 of Schedule 1.

(6) In this regulation, "earned pension" means—

- (a) standard earned pension (if any); and
- (b) earned pension attributable to an effective pension age option (if any).

#### **Opening balance, index adjustment and age addition**

**40.**—(1) This regulation applies in relation to every scheme year in which an active member's account is open other than the scheme year in which that account is established.

(2) The active member's account must specify for each description of pension—

- (a) the opening balance for the scheme year and the index adjustment for the opening balance; and
- (b) if applicable, the age addition awarded at the beginning of the scheme year.

(3) In these Regulations, "opening balance" in relation to a description of pension—

- (a) for the scheme year immediately following the scheme year in which the active member's account is established, means the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
- (b) for any subsequent scheme year, means the sum of the following amounts—
  - (i) the opening balance of that pension for the previous scheme year and the index adjustment for that opening balance;
  - (ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
  - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

#### **Closure of active member's account**

**41.**—(1) The scheme manager must close an active member's account in relation to a period of service when the scheme manager establishes in relation to that period of service—

- (a) a deferred member's account under regulation 43; or
- (b) a full retirement account under regulation 47.

(2) The scheme manager must re-establish an active member's account under this Chapter when the scheme manager closes—

- (a) a deferred member's account under regulation 46; or
- (b) a full retirement account under regulation 49.

## CHAPTER 6

### Deferred member's account

#### **Application of Chapter**

**42.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

#### **Establishment of deferred member's account**

**43.**—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme in relation to a continuous period of pensionable service.

(2) The scheme manager must—

- (a) close the active member's account for that period of service; and
- (b) establish a pension account for the deferred member for that period of service.

(3) For the purpose of these Regulations, an account established under paragraph (2)(b) is called a deferred member's account.

#### **Provisional amount of deferred pension**

**44.**—(1) The deferred member's account must specify the provisional amount of each description of deferred pension.

(2) The provisional amount of each description of deferred pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 32 ("accrued amount");
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) The retirement index adjustment is not applied in relation to an amount of accrued pension if a transfer value payment was made before the end of the last active scheme year in respect of the member's rights to that accrued pension.

(4) In this regulation, "relevant accrued pension" means—

- (a) for a deferred standard earned pension, accrued standard earned pension;
- (b) for a deferred earned pension attributable to an effective pension age option, accrued earned pension attributable to that option;
- (c) for a deferred added (self only) pension, accrued added (self only) pension; and
- (d) for a deferred added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

#### **Adjustment of provisional amount**

**45.**—(1) This regulation applies when a deferred member of this scheme in relation to a period of service becomes entitled to the immediate payment of a full retirement pension for that period of service.

(2) For the provisional amount of each description of deferred pension, the deferred member's account must specify—

- (a) the late payment supplement (if any);
- (b) the early payment reduction (if any);
- (c) the commutation amount (if any); and
- (d) the total allocation amount (if any).

#### **Closure of deferred member's account after gap in pensionable service not exceeding 5 years**

**46.**—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service re-enters pensionable service under this scheme after a gap in pensionable service not exceeding 5 years.

(2) The scheme manager must—

- (a) close the deferred member's account in relation to that period of service and treat the deferred member's account as if it were never established;
- (b) re-establish the active member's account under Chapter 5 in relation to that period of service; and
- (c) make entries in the active member's account as if, during the gap in pensionable service, the member—
  - (i) was in pensionable service under this scheme; but
  - (ii) received no pensionable earnings.

### CHAPTER 7

#### Full retirement account

#### **Establishment of full retirement account**

**47.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme.

(2) When an active member of this scheme becomes entitled to the immediate payment of a full retirement earned pension or an ill-health pension in relation to a continuous period of pensionable service under this scheme, the scheme manager must—

- (a) close the active member's account for that continuous period of pensionable service; and
- (b) establish an account for the pensioner member for that period of service.

(3) When an active member of this scheme exercises the partial retirement option in respect of the whole of the member's accrued pensions and becomes entitled to the immediate payment of a full retirement pension, the scheme manager must—

- (a) close the active member's account for the period of earlier service;
- (b) establish an account for the pensioner member for that period of earlier service; and
- (c) establish a new active member's account under Chapter 5 for the member's continuing service as if the first day of pensionable service is the day after the option date.

(4) For the purpose of these Regulations, an account established for a member under paragraph (2) (b) or (3)(b) is called a full retirement account.

(5) In this regulation—

“continuing service” means pensionable service that continues in accordance with regulation 60(2) from the option date;

“option date” means the date on which the partial retirement option is exercised and the member becomes entitled to the immediate payment of a full retirement pension; and

“period of earlier service” means the continuous period of pensionable service ending on the option date.

### **Amount of full retirement pension**

**48.**—(1) The full retirement account must specify the amount of each description of full retirement pension.

(2) The amount of each description of full retirement pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 32 (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) For each amount of a description of full retirement pension, the full retirement account must specify—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the total allocation amount (if any).

(4) In this regulation, “relevant accrued pension” means—

- (a) for a full retirement standard earned pension, accrued standard earned pension;
- (b) for a full retirement earned pension attributable to an effective pension age option, accrued earned pension attributable to that option;
- (c) for a full retirement added (self only) pension, accrued added (self only) pension; and
- (d) for a full retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

### **Closure of full retirement account**

**49.** The scheme manager must close a full retirement account if a full retirement pension ceases to be payable under regulation 59.

## **CHAPTER 8**

### **Partial retirement account**

#### **Establishment of partial retirement account**

**50.**—(1) This regulation applies if an active member of this scheme in relation to a continuous period of pensionable service—

- (a) exercises the partial retirement option in respect of part only of the member’s accrued pensions for that period of service; and
- (b) becomes entitled under regulation 63(a) to the immediate payment of a partial retirement pension for that period of service.

(2) The scheme manager must—

- (a) establish a pensioner member’s account (“the partial retirement account”) for that period of service; and
- (b) adjust the active member’s account in accordance with paragraph (3).



(3) The amount of each description of accrued pension for which a partial retirement option notice specifies an option proportion is reduced by that option proportion.

(4) After that adjustment, Chapter 5 applies in relation to the member as if the amount of each description of accrued pension for which a partial retirement option notice specifies an option proportion had always been reduced by that option proportion.

(5) In this regulation, “partial retirement option notice” means an option notice under regulation 61.

### **Amount of partial retirement pension**

**51.**—(1) The partial retirement account must specify the amount of each description of partial retirement pension.

(2) The amount of each description of partial retirement pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 32 (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) For each amount of a description of partial retirement pension, the partial retirement account must specify—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the total allocation amount (if any).

(4) In this regulation, “relevant accrued pension” means—

- (a) for a partial retirement standard earned pension, accrued standard earned pension;
- (b) for a partial retirement earned pension attributable to an effective pension age option, accrued earned pension attributable to that option;
- (c) for a partial retirement added (self only) pension, accrued added (self only) pension; and
- (d) for a partial retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

## **CHAPTER 9**

### **Pension accounts for pension credit members**

#### **Establishment of pension credit member’s account**

**52.**—(1) The scheme manager must establish a pension account for each pension credit member of this scheme (“the pension credit member’s account”).

(2) If a pension credit is derived from 2 or more pension debit members, the scheme manager must establish a pension credit member’s account in relation to each pension debit member.

(3) The pension credit member’s account must specify the amount of credited pension, and for that amount—

- (a) the early payment reduction (if any); and
- (b) the commutation amount (if any).

(4) On the establishment of the pension credit member’s account, the accounts established under this Part for the pension debit member must be reduced by the relevant amount.

(5) In this regulation—

“relevant amount” is the amount that the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of the 1993 Act<sup>(32)</sup> in respect of the pension credit member’s right to benefits under this scheme attributable (directly or indirectly) to the pension credit; and
- (b) the provisions of Articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of the 1999 Order.

### **Other pension accounts**

**53.** If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the scheme manager must establish a pension credit member’s account in addition to any other account established for the member under this Part.

## **PART 6**

### **Retirement benefits**

#### **CHAPTER 1**

##### **General**

### **Application of Part**

**54.** This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

### **Qualifying service**

**55.—(1)** In these Regulations, “qualifying service” means the total of—

- (a) any continuous period of pensionable service under this scheme;
  - (b) if a transfer value payment has been received by this scheme in respect of a member’s accrued rights under another occupational pension scheme, the member’s pensionable service under that scheme; and
  - (c) for a transition member with continuity of service, the member’s pensionable service under an existing scheme before the transition date for that member.
- (2)** None of the following counts as qualifying service—
- (a) any pensionable service under this scheme in respect of which a person’s rights under this scheme are extinguished;
  - (b) any pensionable service under an existing scheme in respect of which a person’s rights under that scheme are extinguished;
  - (c) any unauthorised absence from qualifying judicial office.

<sup>(32)</sup> Part 4A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147(N.I. 11)) Article 34.

## CHAPTER 2

### Full retirement benefits

#### **Entitlement to full retirement pension**

**56.**—(1) A member of this scheme (P) is entitled to the immediate payment for life of a full retirement earned pension if—

- (a) P has reached normal minimum pension age;
- (b) P has ceased to be in pensionable service under this scheme; and
- (c) P has claimed payment of a full retirement pension.

(2) But if P has not reached normal pension age under this scheme, P is not so entitled unless—

- (a) P has at least 2 years' qualifying service; or
- (b) a transfer value payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.

(3) On becoming entitled to the immediate payment for life of a full retirement earned pension, P is entitled to the immediate payment for life of a full retirement added pension of any description as follows—

- (a) for an active member who becomes a pensioner member, if the full retirement account so specifies, an amount of full retirement added pension of that description;
- (b) for a deferred member who becomes a pensioner member, if the deferred member's account so specifies, a provisional amount of the relevant deferred added pension.

(4) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in a form required by the scheme manager.

(5) A claim for a full retirement pension to be paid before P reaches normal pension age under this scheme must state if any of the following applies—

- (a) P has opted to buy out the early payment reduction;
- (b) P has exercised an effective pension age option.

(6) In this regulation, "relevant deferred added pension" means—

- (a) for a full retirement added (self only) pension, a deferred added (self only) pension;
- (b) for a full retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

#### **Annual rate of full retirement pension (active members)**

**57.**—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of a full retirement pension payable to the member is calculated by—

- (a) taking the amount of that description of full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

#### **Annual rate of full retirement pension (deferred members)**

**58.**—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

(4) In this regulation, “the relevant description of deferred pension” means—

- (a) for a full retirement standard earned pension, deferred standard earned pension;
- (b) for a full retirement earned pension attributable to an effective pension age option, deferred earned pension attributable to that option;
- (c) for a full retirement added (self only) pension, deferred added (self only) pension; and
- (d) for a full retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

#### **Full retirement pension ceases to be payable**

**59.**—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

(2) If paragraph (1) applies in relation to a member—

- (a) the scheme manager must—
  - (i) cease to pay the pension; and
  - (ii) recover any payment of pension or lump sum made;
- (b) close the full retirement account in accordance with regulation 49; and
- (c) the active member’s account must be re-established under Part 5 and treated as if it had never been closed.

## CHAPTER 3

### Partial retirement benefits

#### **Exercise of partial retirement option**

**60.**—(1) This regulation applies if—

- (a) a person (P) is an active member of this scheme in relation to a continuous period of pensionable service;
- (b) P has reached normal minimum pension age;
- (c) the terms of P’s appointment have changed and as a result of that change the annual rate of P’s pensionable earnings is reduced to 80% of their amount before the change or less; and
- (d) P would be entitled to the immediate payment of a full retirement pension in relation to that period of service if P left pensionable service and claimed payment of the pension.

(2) P may opt to continue in pensionable service but claim payment of the whole or part only of P’s accrued pensions for the continuous period of pensionable service before P’s pensionable earnings were reduced (“partial retirement option”).

(3) P may not exercise a partial retirement option more than once in relation to a description of accrued pension.

#### **Partial retirement option notice**

**61.**—(1) A partial retirement option may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager (“option notice”); and
- (b) in the 3 months after P’s pensionable earnings are reduced, on a date agreed by the member and the scheme manager.

(2) An option notice must specify—

- (a) whether P claims payment of—
  - (i) the whole of P’s accrued pensions; or
  - (ii) part only of P’s accrued pensions; and
- (b) if P claims payment of part only—
  - (i) the descriptions of accrued pension for which payment is claimed; and
  - (ii) the proportion of each description of accrued pension for which payment is claimed (“option proportion”), which must comply with regulation 62.

#### **Option proportion**

**62.**—(1) A partial retirement option which relates to a description of accrued added pension must relate to all of the descriptions of P’s accrued added pension.

(2) If P claims payment of accrued standard earned pension, P must also claim payment of any of P’s accrued added pension.

(3) If P claims payment of P’s accrued added pension, P must also claim payment of any accrued standard earned pension.

(4) If P claims payment of part only of P’s accrued pensions, the following are the option proportions of each description of accrued pension which can be claimed—

- (a) 100% of each of the descriptions of P’s accrued pension for which payment is claimed;

- (b) an option proportion lower than 100% for one description of accrued pension claimed and 100% for each of the other descriptions of P's accrued pension claimed.

(5) For the purposes of (4)(b), any accrued standard earned pension and accrued added pension claimed is treated together as if it were one description of accrued pension.

#### **Entitlement to partial retirement pension or full retirement pension**

**63.** An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of—

- (a) if P claims payment of part only of P's accrued pensions, a partial retirement pension calculated in accordance with regulation 51; or
- (b) if P claims payment of the whole of P's accrued pensions, a full retirement pension calculated in accordance with regulation 48.

#### **Annual rate of partial retirement pension**

**64.**—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of part only of P's accrued pensions.

(2) The annual rate of each description of partial retirement pension is calculated under regulation 57 by reference to the amount of each description of full retirement pension specified in the full retirement account.

(3) Regulation 57 applies as if—

- (a) the reference to a full retirement pension were a reference to a partial retirement pension; and
- (b) the reference to the full retirement account were a reference to the partial retirement account.

#### **Annual rate of full retirement pension**

**65.**—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of the whole of P's accrued pensions.

(2) The annual rate of each description of full retirement pension is calculated under regulation 57 by reference to the amount of that description of full retirement pension specified in the full retirement account.

(3) Regulation 57 applies as if the last day of pensionable service were the day before the day on which the member exercised the partial retirement option.

### **CHAPTER 4**

#### **Ill-health benefits**

#### **Meaning of “permanent breakdown in health”**

**66.** For the purposes of this Chapter, a member's breakdown in health is “permanent” if it is likely to continue until the member reaches prospective normal pension age.

#### **Meaning of “incapacity for employment”**

**67.** For the purposes of this Chapter, a member's permanent breakdown in health involves “incapacity for employment” if, as a result of the breakdown, the member is incapable of discharging the duties of their qualifying judicial office.

### **Entitlement to ill-health pension**

**68.**—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to immediate payment of an ill-health pension under this scheme, in accordance with the provisions of this Chapter, if the following conditions are met—

- (a) a member has claimed payment of an ill-health pension;
- (b) a medical certificate states that the member has suffered a permanent breakdown in health involving incapacity for employment; and
- (c) either—
  - (i) the member has at least 2 years qualifying service, or
  - (ii) where the member has less than 2 years qualifying service, the scheme manager determines that the member is entitled to an ill-health pension.

(2) A member who is entitled to immediate payment of an ill-health pension is entitled to a full retirement added pension of any description if the full retirement account specifies an amount of full retirement added pension of that description.

(3) The annual rate of an ill-health pension and any added pension payable under this regulation is calculated in accordance with regulation 69.

### **Annual rate of ill-health pension**

**69.**—(1) The annual rate of an ill-health pension is the sum of—

- (a) the annual rate of full retirement earned pension, calculated in the same way as for an active member under regulation 57, but without subtracting the early payment reduction; and
- (b) an ill-health enhancement.

(2) The annual rate of a full retirement added pension of any description payable with an ill-health pension is calculated in the same way as for an active member under regulation 57, but without subtracting the early payment reduction.

(3) In this regulation—

“an ill-health enhancement” means half the annual rate of a full retirement earned pension calculated in respect of a member’s assumed period of pensionable service and based on the member’s pensionable earnings as at the date their pensionable service ceases;

“the member’s assumed period of pensionable service” means the period (expressed in years)

—

- (a) beginning with the day after the member’s continuous period of pensionable service ceased; and
- (b) ending with—
  - (i) for a member appointed for a fixed term, the day with which that term ends; or
  - (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age).

### **Deferment of accrued earned pension attributable to a transfer value payment**

**70.**—(1) This regulation applies in relation to a member of this scheme—

- (a) who is entitled to payment of an ill-health pension; and
- (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued earned pension attributable in whole or in part to a transfer value

payment received by this scheme in relation to the member in the 24 months before that last day.

(2) If the scheme manager so directs, the member becomes a deferred member of this scheme in respect of that amount of accrued earned pension and accordingly—

- (a) a deferred member's account must be established under Part 5;
- (b) that amount of accrued earned pension must be specified in the deferred member's account as the provisional amount of deferred earned pension; and
- (c) that amount of accrued earned pension is not included in the calculation of the annual rate of full retirement earned pension.

### **Deferment of added pension attributable to recent payments**

**71.**—(1) This regulation applies in relation to a member of this scheme—

- (a) who is entitled to payment of an ill-health pension; and
- (b) whose active member's account as at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 1 within the 12 months before the relevant day.

(2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—

- (a) a deferred member's account must be established under Part 5;
- (b) that amount of accrued added pension must be specified in the deferred member's account as the provisional amount of the relevant description of deferred added pension; and
- (c) that amount of accrued added pension is not included in the calculation of the annual rate of full retirement added pension payable with the ill-health pension.

(3) In paragraph (1), “the relevant day” means—

- (a) the day on which a medical certificate is produced in accordance with regulation 68(1) by virtue of which the member is entitled to payment of the ill-health pension; or
- (b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.

## **CHAPTER 5**

### **Payment options**

#### **Options under this Chapter**

**72.** The options under this Chapter are—

- (a) the option under regulation 74 to buy out the early payment reduction;
- (b) the option under regulation 75 to defer payment of a full retirement added pension;
- (c) the option under regulation 76 to exchange part of a retirement pension for a lump sum;
- (d) the option under regulation 77 to exchange the whole of the member's accrued pensions for a lump sum in cases of serious ill-health.

#### **Exercising an option under this Chapter**

**73.**—(1) A member may exercise an option under this Chapter by notice to the scheme manager in a form required by the scheme manager.



(2) In this Chapter, “option notice” means a notice by which a member exercises an option under this Chapter.

### **Option to buy out early payment reduction**

**74.**—(1) This regulation applies if—

- (a) a member of this scheme becomes entitled under Chapter 2 or 3 to the immediate payment of a full retirement pension or a partial retirement pension; and
- (b) the member has not reached—
  - (i) normal pension age under this scheme; or
  - (ii) if applicable, the member’s effective pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of retirement pension.

(3) The cost must be met by way of a special payment to this scheme made by—

- (a) the member;
- (b) the member’s employer; or
- (c) both the member and the employer.

(4) Any special payment by the employer must be made with the consent of the scheme manager.

(5) The cost of buying out the early payment reduction is an amount determined by the scheme manager after consulting the scheme actuary.

### **Option to defer payment of added pension**

**75.**—(1) This regulation applies if a member of this scheme—

- (a) becomes entitled to the immediate payment of a full retirement added pension of any description; and
- (b) has not reached normal pension age under this scheme.

(2) The member may opt under this regulation to defer payment of the full retirement added pension of that description.

(3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the full retirement added pension of that description and accordingly—

- (a) a deferred member’s account must be established under Part 5; and
- (b) the amount of full retirement added pension of that description must be specified in the deferred member’s account as the provisional amount of deferred added pension of that description.

(4) The member is entitled to payment of the full retirement added pension of that description when the member gives notice to the scheme manager, in a form required by the scheme manager, that the member wishes to take that full retirement added pension.

(5) The annual rate of full retirement added pension is calculated in accordance with regulation 58.

### **Option to commute part of pension**

**76.**—(1) A member who becomes entitled to the immediate payment of a retirement pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 241 of that Act(33)).

(5) If paragraph (6) applies, the member may opt to exchange only so much of the pension (after subtracting the allocation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act(34) in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer value payment from another pension scheme in respect of which the member had such a guaranteed minimum.

### **Option to commute whole of member's accrued pensions (serious ill-health)**

77.—(1) This regulation applies where there is a medical certificate stating that an active member or deferred member of this scheme has a life-expectancy of less than 12 months.

(2) The member may opt under this regulation to exchange the whole of the member's accrued pensions for a lump sum.

(3) An option under this regulation may only be exercised before the first payment of the pension is made.

(4) The lump sum payable to the member is an amount equal to—

$$(A + B + C) \times 5$$

where—

*A* means the total annual amount of full retirement pension;

*B* means the total annual amount of partial retirement pension; and

*C* means the total annual amount of ill-health pension.

(5) For the purpose of paragraph (4), "total annual amount" means—

(a) in relation to a full retirement pension or partial retirement pension to which the member would be entitled apart from this option, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date the option is exercised, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date; and

(b) in relation to an ill-health pension, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date when payment would first be due, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

(33) Section 241 was amended by the Finance Act 2006 (c. 25) Schedule 21 paragraphs 2 and 9, the Finance Act 2007 (c. 11) Schedule 19 paragraphs 1 and 15 and the Finance Act 2011 (c. 11) Schedule 16 paragraphs 62 and 74.

(34) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Articles 147, 168, Schedule 5 Part 3, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 3(1) and Schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 (c. 29) Schedule 11 paragraph 23.

(6) The lump sum must be paid to the member as soon as is reasonably practicable after the option is exercised.

## CHAPTER 6

### Allocation of part of pension

#### Allocation election

**78.**—(1) This regulation applies in relation to a full retirement earned pension or a partial retirement earned pension payable in respect of a member’s pensionable service under this scheme.

(2) The member may elect to allocate part of the retirement pension to a beneficiary (“allocation election”).

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

- (a) the member’s spouse or civil partner;
- (b) financially wholly or mainly dependent on the member; or
- (c) financially interdependent with the member.

(4) If the member wishes to allocate pension to more than one beneficiary, the member must make a separate allocation election in respect of each beneficiary.

(5) If paragraph (6) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 1 (earner’s guaranteed minimum) 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 value payment from another pension scheme in respect of which the member had such a guaranteed minimum.

#### Restriction on total amount of pension that may be allocated

**79.**—(1) The sum of the following must not exceed the annual rate of retirement pension that would be payable to the member (P)—

- (a) the total amount of retirement pension allocated under this Part (“total allocation amount”); and
- (b) the annual rate of surviving adult’s pension that would be payable on P’s death.

(2) In determining whether the restriction in paragraph (1) is met, it is assumed that—

- (a) P will have become a pensioner member before P’s death;
- (b) P will exercise the commutation option so as to exchange for a lump sum the maximum amount possible of the whole of P’s accrued pensions;
- (c) P’s spouse or civil partner status will not change before P dies;
- (d) all of P’s beneficiaries will survive P; and
- (e) any beneficiary who would have been P’s dependant for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions - supplementary) to the 2004 Act<sup>(35)</sup> will be such a dependant when P dies.

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(35) Paragraph 15(3) of Schedule 28 was amended by [S.I. 2005/3229](#).

(3) If at the time an allocation election is made it would result in the restriction in paragraph (1) not being met, the scheme manager may treat the election (or each of the elections) as allocating a smaller amount that would result in the restriction being met.

### **Making an allocation election**

**80.**—(1) If requested by a member (P), the scheme manager must advise P of the last day on which P may make an allocation election.

(2) An allocation election may only be made—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the election closing date.

(3) An allocation election must—

- (a) specify the amount of retirement pension to be allocated;
- (b) name the beneficiary;
- (c) be accompanied by a declaration in a form required by the scheme manager stating that—
  - (i) P is in good health; and
  - (ii) the beneficiary is a person who meets the conditions set out in regulation 78(3); and
- (d) be accompanied by a medical certificate giving the opinion that P is in good health.

(4) Before the election closing date, the member may, by notice to the scheme manager in a form required by the scheme manager—

- (a) revoke the election; or
- (b) amend the election by altering the amount of retirement pension to be allocated.

(5) The election takes effect on the election closing date, unless it has no effect under paragraph (6) or (7) .

(6) An allocation election has no effect unless the scheme manager is satisfied that when P made the election the matters stated in the declaration were true.

(7) An allocation election has no effect if P or the beneficiary dies before the election closing date.

(8) In this regulation, “election closing date” means the earlier of—

- (a) the date advised by the scheme manager under paragraph (1); or
- (b) the day before the pension becomes payable.

### **Effect of allocation election**

**81.**—(1) If an allocation election takes effect—

- (a) the member’s pension is reduced accordingly (and this reduction applies even if the beneficiary predeceases the member); and
- (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life (“allocated pension”) of an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to—
  - (i) the amount of retirement pension allocated under the election, and
  - (ii) the beneficiary’s age and gender.

(2) The scheme manager may withhold payment from the beneficiary if—

- (a) the member dies before the end of the period of 2 years beginning with the date on which the election takes effect; and

- (b) the scheme manager is satisfied that the member made a false declaration about the member's state of health when making the election.
- (3) An allocation election in relation to a retirement pension has no effect if it would result in an allocated pension being paid—
  - (a) on the member becoming entitled to the retirement pension, to a person who is not—
    - (i) the member's spouse or civil partner;
    - (ii) financially wholly or mainly dependent on the member; or
    - (iii) financially interdependent with the member;
  - (b) on the death of the member, to a person who is not—
    - (i) the member's surviving adult; or
    - (ii) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions - supplementary) to the 2004 Act.

#### **Adjustment of allocated benefit (members who have reached the age of 75)**

- 82.**—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—
- (a) the member who made the allocation election dies after reaching the age of 75; and
  - (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants' scheme pension under section 167 (pension benefit rules) of the 2004 Act<sup>(36)</sup>.
- (2) In this regulation, “allocated pension” has the meaning given in regulation 81(1)(b).

## **PART 7**

### **Benefits for pension credit members**

#### **Entitlement to pension credit member's pension**

- 83.**—(1) A pension credit member (P) of this scheme is entitled to the immediate payment for life of a pension credit member's pension under this scheme if—
- (a) P has reached normal pension age;
  - (b) the pension sharing order under which P is entitled to the pension credit has taken effect; and
  - (c) P has claimed payment of the pension.
- (2) Where a pension adjustment order is made under section 12 of the Irish Family Law Act 1995<sup>(37)</sup> in respect of benefits under this scheme, this Part applies with any modifications that the scheme manager considers necessary.

#### **Claim for early payment**

- 84.**—(1) This regulation applies in relation to a pension credit member (P) who—
- (a) has reached normal minimum pension age; and

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<sup>(36)</sup> Section 167 was amended by the Finance Act 2007 (c. 11) Schedule 20 paragraph 22 and the Finance Act 2011 (c. 11) Schedule 16 paragraph 11. See also Part 2 of Schedule 28 to that Act for the meaning of expressions used in section 167.

<sup>(37)</sup> Number 26 of 1995 of the Acts of the Oireachtas of the Republic of Ireland.

- (b) has not reached normal pension age under this scheme.
- (2) P may claim early payment of a pension credit member's pension by notice to the scheme manager in a form required by the scheme manager.
- (3) A claim for early payment—
  - (a) must state whether P has opted to buy out the early payment reduction; and
  - (b) must specify the date on which payment of the pension is claimed (“the claim date”).
- (4) P is entitled to the immediate payment for life of a pension credit member's pension on the claim date if the scheme manager is reasonably satisfied that on that date the requirements of regulation 7(5) (early retirement or deferred retirement) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(38)</sup> are met.

#### **Annual rate of pension credit member's pension**

- 85.**—(1) The annual rate of a pension credit member's pension is calculated by—
- (a) taking the amount of credited pension specified in the pension credit member's account;
  - (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
  - (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.
- (2) If a member opts to buy out the early payment reduction, as provided for by regulation 86, the annual rate of pension is calculated without subtracting the early payment reduction.

#### **Option to buy out early payment reduction**

- 86.**—(1) A pension credit member who claims early payment of a pension credit member's pension may opt to buy out the early payment reduction.
- (2) The option may only be exercised by notice to the scheme manager in a form required by the scheme manager.
- (3) The scheme manager must prepare actuarial tables setting out the cost of buying out the early payment reduction.
- (4) The pension credit member must meet the cost by making a payment to this scheme calculated in accordance with actuarial tables prepared in accordance with paragraph (3).

#### **Reduction in pension debit member's benefits**

- 87.** The benefits to which a pension debit member is entitled under this Part are subject to the reduction to be made under Article 28 (reduction of benefit) of the 1999 Order.

#### **Pension credit member's rights**

- 88.**—(1) If regulation 7(5) (early retirement or deferred retirement) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 (early retirement or deferred retirement) applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.
- (2) Benefits that are attributable (directly or indirectly) to a pension credit may not be aggregated with any other benefit to which a pension credit member is entitled under this scheme.

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(38) [S.R. 2000 No. 146](#); regulation 7 was amended by [S.R. 2009 No. 115](#).

(3) If a pension credit member is a dual capacity member, 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.

#### **Option for pension credit member to commute part of pension**

**89.**—(1) A pension credit member who becomes entitled to payment of a pension credit member's pension under this scheme may opt to exchange part of the pension for a lump sum.

(2) The option under this regulation may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the first payment of the pension is made.

(3) If a pension credit member exercises the option under this regulation, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A pension credit member may not exchange pension for a lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act.

(5) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under Part 7 before the date on which the pension sharing order takes effect.

#### **Option for pension credit member to commute whole pension (serious ill-health)**

**90.**—(1) This regulation applies to a pension credit member who can show, to the satisfaction of the scheme manager, that they have a life-expectancy of less than 12 months.

(2) The pension credit member may opt to exchange the whole of the pension credit member's pension under this scheme for a lump sum.

(3) The option under this regulation ("this option") may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the first payment of the pension is made.

(4) The lump sum—

- (a) is an amount equal to the total annual amount of the pension credit member's pension, multiplied by 5; and
- (b) must be paid to the pension credit member as soon as is reasonably practicable after this option is exercised.

(5) In this regulation, "total annual amount" in relation to a pension credit member's pension means the total of—

- (a) the annual rate of pension to which the member would be entitled if they had not exercised this option, calculated as at the date this option is exercised, but without subtracting the early payment reduction (if any); and
- (b) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

## PART 8

### Death benefits

#### CHAPTER 1

##### Pensions for surviving adults

###### Surviving adults

**91.** In these Regulations—

“surviving adult”, in relation to a deceased member of this scheme, means the member’s surviving spouse, surviving civil partner or surviving nominated partner;

“surviving civil partner”, in relation to a deceased member of this scheme, means a person who was in a civil partnership with the member as at the date of the member’s death; and

“surviving spouse”, in relation to a deceased member of this scheme, means a person who was married to the member as at the date of the member’s death.

###### Meaning of “surviving nominated partner”

**92.**—(1) A person (P) is a surviving nominated partner of a deceased member of this scheme if—

- (a) the member nominated P to receive a pension on the member’s death;
- (b) the nomination is made by a written declaration signed by both the member and P in a form required by the scheme manager; and
- (c) P satisfies the scheme manager that immediately before the member’s death—
  - (i) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
  - (ii) P and the member were not prevented from entering into a marriage or a civil partnership; and
  - (iii) either P was financially dependent on the member or P and the member were financially interdependent.

(2) The member or P may revoke a declaration under paragraph (1)(b) at any time by notice to the scheme manager in a form required by the scheme manager.

###### Meaning of “surviving adult’s pension”

**93.** In these Regulations, “surviving adult’s pension” means any of the following pensions payable to a surviving adult under this Chapter—

- (a) a dependant’s earned pension;
- (b) a dependant’s ill-health pension;
- (c) a dependant’s added pension.

###### Meaning of dependant’s earned pension

**94.** A dependant’s earned pension is a pension payable on the death of a member of this scheme if the member was a pensioner member or would have become entitled to a full retirement earned pension had the member not died.



### **Meaning of dependant's ill-health pension**

**95.** A dependant's ill-health pension is a pension payable on the death of a member of this scheme if the member was entitled to the immediate payment of an ill-health pension as at the date of the member's death.

### **Meaning of "dependant's added pension"**

**96.** A dependant's added pension is a pension payable on the death of a member of this scheme if the member—

- (a) was entitled to the immediate payment of a full retirement added (all beneficiaries) pension as at the date of the member's death; or
- (b) would have become entitled to such a pension had the member not died.

### **Entitlement to surviving adult's pension**

**97.—(1)** This regulation applies in relation to a member who, at the date of the member's death is—

- (a) an active member of this scheme, or an existing scheme, in relation to a continuous period of pensionable service of at least 12 months;
- (b) a deferred member of this scheme; or
- (c) a pensioner member of this scheme.

(2) If the member is a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (1)(a) includes the member's period of pensionable service under an existing scheme before the transition date for that member.

(3) The surviving adult of the member is entitled to payment for life of a surviving adult's pension as follows—

- (a) if the member was a pensioner member or would have become entitled to a full retirement earned pension had the member not died, a dependant's earned pension;
  - (b) if an ill-health pension was payable as at the date of the member's death, a dependant's ill-health pension;
  - (c) if the member was entitled to the immediate payment of a full retirement added (all beneficiaries) pension as at the date of the member's death or would have become entitled to such a pension had the member not died, a dependant's added pension.
- (4) The scheme manager may withhold a surviving adult's pension as follows—
- (a) for a pension that would otherwise be payable to the surviving spouse, if the member and the surviving spouse married less than 6 months before the member's death;
  - (b) for a pension that would otherwise be payable to a surviving civil partner, if the civil partnership was formed less than 6 months before the member's death.
- (5) Paragraph (4) is subject to regulation 110.

### **Annual rate of surviving adult's pensions payable on death of pensioner member**

**98.—(1)** This regulation applies on the death of a pensioner member of this scheme (P).

(2) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the sum of—

- (a) the amount of full retirement earned pension specified in P's full retirement account as at the date of P's death; and

- (b) the amount of partial retirement earned pension specified in P's partial retirement account as at the date of P's death.
- (3) The annual rate of a dependant's ill-health pension is an amount equal to 37.5% of the annual rate of ill-health pension, calculated without subtracting the commutation amount (if any) and the total allocation amount (if any).
- (4) The annual rate of a dependant's added pension is an amount equal to 37.5% of the sum of—
  - (a) the amount of full retirement added (all beneficiaries) pension specified in P's full retirement account as at the date of P's death; and
  - (b) the amount of partial retirement added (all beneficiaries) pension specified in P's partial retirement account as at the date of P's death.
- (5) In accordance with section 7(4) of the 1971 Act, for the purposes of this scheme there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

#### **Annual rate of surviving adult's pensions payable on death of deferred member**

- 99.**—(1) This regulation applies on the death of a deferred member of this scheme.
- (2) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the sum of the provisional amount of deferred earned pension specified in the deferred member's account.
  - (3) The annual rate of a dependant's added pension is an amount equal to 37.5% of the provisional amount of deferred added (all beneficiaries) pension specified in the deferred member's account.

#### **Annual rate of surviving adult's pensions payable on death of active member (death in service)**

- 100.**—(1) This regulation applies on the death of an active member of this scheme in relation to a continuous period of pensionable service of at least 12 months.
- (2) If the member is a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (1) includes the member's period of pensionable service under an existing scheme before the transition date for that member.
  - (3) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the amount of full retirement earned pension that would have been specified in the member's full retirement account under regulation 48(2) had P become entitled to the immediate payment of a full retirement pension on the date of P's death.
  - (4) The annual rate of a dependant's added pension is an amount equal to 37.5% of the amount of full retirement added (all beneficiaries) pension that would have been specified in the member's full retirement account under regulation 48(2) had P become entitled to the immediate payment of a full retirement pension on the date of P's death.
  - (5) When calculating the amount of a member's full retirement earned pension (except in relation to a member who before the member's death was entitled under regulation 63(a) to the immediate payment of a partial retirement pension)—
    - (a) the accrued earned pension includes an additional amount equal to the lesser of—
      - (i) the amount of accrued earned pension not attributable to a transfer value payment; and
      - (ii) the enhancement fraction of the amount mentioned in paragraph (i);
    - (b) if the member is a transition member with continuity of service, the accrued earned pension includes an additional amount equal to the lesser of—
      - (i) the total amount of accrued earned pension under this scheme which is not attributable to a transfer value payment and the equivalent of accrued earned pension

- earned under an existing scheme which is not attributable to a transfer value payment; and
- (ii) the enhancement fraction of the amount mentioned in paragraph (a)(i); and
- (c) the early payment reduction (if any), the commutation amount (if any) and the total allocation amount (if any) are not subtracted.
- (6) In this regulation—

“the enhancement fraction” means  $\frac{X}{Y}$  where—

$X$  is the lower of—

- (a) the member’s assumed period of pensionable service (expressed in years); and
- (b) 10;

$Y$  is the lower of—

- (c) the number of years for which the member has been an active member of this scheme; and
- (d) the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account; and

“the member’s assumed period of pensionable service” means the period (expressed in years) —

- (a) beginning with the day after the date of the member’s death; and
- (b) ending with—
- (i) for a member appointed for a fixed term, the day on which that term would have ended; and
- (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age.

### **Reduction in pensions in cases of wide age disparity**

**101.**—(1) This regulation applies if, on the death of a member of this scheme, a surviving adult’s pension is payable to a person (“the dependant”) who is more than 12 years younger than the member.

(2) The annual rate of the surviving adult’s pension is reduced by the lower of—

- (a) 50% of the amount of the annual rate of the pension so calculated under regulation 98, 99 or 100 as applicable; and
- (b)  $2.5 \times (N - 12)\%$  of the amount of the annual rate of the pension so calculated,

where  $N$  is the number of whole years by which the dependant is younger than the member.

## **CHAPTER 2**

### **Pensions for eligible children**

#### **Meaning of “eligible child’s pension”**

**102.** In these Regulations, “eligible child’s pension” means any of the following pensions payable under this Part—

- (a) a child’s earned pension;
- (b) a child’s ill-health pension;
- (c) a child’s added pension.

**Meaning of “eligible child”**

**103.**—(1) In these Regulations, “eligible child”, in relation to a deceased member of this scheme, means—

- (a) a natural child of the member where—
  - (i) the child meets any of conditions A to C; and
  - (ii) at the date of the member’s death the child was born or the child’s mother was pregnant with the child;
- (b) an adopted child of the member who meets any of the conditions A to C; or
- (c) any other child or young person who—
  - (i) meets any of the conditions A to C; and
  - (ii) in the opinion of the scheme manager, was financially dependent on the member as at the date of the member’s death.

(2) Condition A is that the person is under the age of 18.

(3) Condition B is that the person is in full-time education or vocational training and is under the age of 23.

(4) Condition C is that in the opinion of the scheme manager the person is unable to engage in gainful employment because of physical or mental impairment and either—

- (a) the person is under the age of 23; or
- (b) that impairment is likely to be permanent and the person is dependent on the member as at the date of the member’s death because of physical or mental impairment.

(5) For the purpose of Condition B, a person who is under the age of 19 on the date on which the person stops full-time education or vocational training is taken to be in full-time education until the first of the following dates after the person stops full-time education or vocational training—

- (a) the second Monday in January;
- (b) the second Monday after Easter Monday;
- (c) the second Monday in September;
- (d) the date on which the person becomes engaged full-time in gainful employment;
- (e) the person’s 19th birthday.

(6) For the purpose of Condition B, a person who is under the age of 22 at the date of the member’s death is taken to be in full-time education or vocational training if the person has temporarily stopped full-time education or vocational training for a period of up to 15 months (“gap period”).

(7) Nothing in paragraph (6) requires an eligible child’s pension to be paid to a person during a gap period.

**Eligible child’s pension**

**104.**—(1) This regulation applies if a member of this scheme dies leaving an eligible child.

(2) An eligible child’s pension is only payable in respect of such period or periods during which a child or young person is an eligible child.

(3) An eligible child’s pension is not payable in respect of any period before a child’s birth.

(4) An eligible child’s pension is payable in respect of an eligible child as follows—

- (a) a child’s earned pension is payable if the member was entitled to the immediate payment of a full retirement pension as at the date of the member’s death or the member would have become entitled to such a pension had the member not died;

- (b) a child's ill-health pension is payable if an ill-health pension was payable to the member as at the date of the member's death;
- (c) a child's added pension is payable if the member was entitled to the immediate payment of an added (all beneficiaries) pension as at the date of the member's death or would have become entitled to such a pension had the member not died.

**Annual rate of eligible child's pension**

**105.**—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 101) whether or not a surviving adult's pension is payable on the death of the member.

- (2) For the purposes of this regulation, the corresponding surviving adult's pensions are—
  - (a) for a child's earned pension, a dependant's earned pension;
  - (b) for a child's ill-health pension, a dependant's ill-health pension;
  - (c) for a child's added pension, a dependant's added pension.
- (3) If a surviving adult's pension is payable on the death of the member—
  - (a) if an eligible child's pension is payable in respect of only one eligible child, the annual rate of eligible child's pension is equal to 80% of the annual rate of the corresponding surviving adult's pension; and
  - (b) if an eligible child's pension is payable in respect of 2 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 80% of the annual rate of the corresponding surviving adult's pension.
- (4) If a surviving adult's pension is not payable on the death of the member—
  - (a) if an eligible child's pension is payable in respect of only one eligible child, the annual rate of eligible child's pension is equal to the annual rate of the corresponding surviving adult's pension multiplied by 4 and divided by 3; and
  - (b) if an eligible child's pension is payable in respect of 2 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of the annual rate of the corresponding surviving adult's pension multiplied by 4 and divided by 3.

- (5) In this regulation, "the appropriate fraction" means  $\frac{2}{Y}$  where—  
Y is the number of eligible children in respect of whom an eligible child's pension is payable immediately after the date of the member's death.

**CHAPTER 3**

**Payment of pensions for surviving adults and eligible children**

**Payment of pensions under this Part**

**106.**—(1) A surviving adult's pension or eligible child's pension is payable from the day after the date of the member's death.

- (2) Unless the scheme manager directs otherwise, an eligible child's pension payable in respect of an eligible child aged under the age of 18 must be paid—
  - (a) if the child is in the care of the member's surviving adult, to the surviving adult; and
  - (b) in any other case, to the child's guardian.

**Stopping payment and recovery of pensions paid under this Part**

**107.**—(1) This regulation applies if—

- (a) on a member's death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) stop paying the pension; and
- (b) recover any payment made under the award.

**Provisional awards of eligible child's pensions: later adjustments**

**108.**—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children as at the date of the member's death and that there were then no other eligible children; and
- (c) it later appears that—
  - (i) a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
  - (ii) on that date a further person was an eligible child; or
  - (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of matters referred to in paragraph (1)(c) as applicable.

**Adjustment of benefits to comply with the 2004 Act where members die over the age of 75**

**109.**—(1) This regulation applies if—

- (a) a member of this scheme dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 (the pension death benefit rules) of the 2004 Act.

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 (the pension death benefit rules) of the 2004 Act.

**Guaranteed minimum pensions for surviving spouses and civil partners**

**110.**—(1) If a person who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member has a guaranteed minimum under section 13(39) (minimum pensions for widows and widowers) of the 1993 Act in relation to benefits in respect of the deceased member under this scheme—

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(39) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/67) Article 3(1), Schedule 1 paragraph 42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433) Schedule 1, paragraph 5, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.) sections 52, 67, Schedule 3, paragraph 3, Schedule 5 paragraph 1, the Pensions (Northern Ireland) Order 2005 (S.I. 1995/3213 (N.I. 22))) Article 261(2), and the Pensions Act (Northern Ireland) 2008 (c. 1(N.I.)) section 12.

- (a) nothing in these Regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a person and such a person's rights under a scheme not to be met in the case of the person;
  - (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 person; and
  - (c) paragraph (2) is without prejudice to the generality of this paragraph.
- (2) If apart from this regulation—
- (a) no pension would be payable to the surviving spouse or civil partner under this Part; or
  - (b) the weekly rate of the pensions payable would be less than the guaranteed minimum,
- a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse or civil partner for life or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.
- (3) Paragraph (2) does not apply to a pension that is forfeited—
- (a) as a result of a conviction for treason; or
  - (b) under regulation 151, in a case where the relevant offence within the meaning of regulation 151 is an offence under the Official Secrets Acts 1911 to 1989<sup>(40)</sup>.

## CHAPTER 4

### Payment of lump sum death benefits

#### Payment of lump sum death benefit

- 111.**—(1) A lump sum death benefit is payable in respect of—
- (a) an active, deferred or pensioner member of this scheme who dies; or
  - (b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.
- (2) But a lump sum death benefit is not payable in respect of—
- (a) a pensioner member who is not also an active member who dies more than 5 years after the member's full retirement pension or ill-health pension becomes payable; or
  - (b) a member who has reached the age of 75.
- (3) Payment of a lump sum death benefit must be made within the period of 2 years beginning with the earlier of—
- (a) the day on which the scheme manager first knew of the member's death; and
  - (b) the day on which the scheme manager could reasonably be expected to have known of the member's death.
- (4) The scheme manager may decide not to pay a lump sum death benefit if it is impracticable to pay it.

#### Nominations for lump sum death benefits

- 112.**—(1) A member of this scheme may nominate a person or persons to receive a lump sum death benefit.
- (2) The member may nominate—
- (a) one or more individuals;

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<sup>(40)</sup> 1989 c. 6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989".

- (b) one incorporated or unincorporated body; or
- (c) one or more individuals and one incorporated or unincorporated body.
- (3) A nomination may specify how payments are to be apportioned between—
  - (a) 2 or more individuals; or
  - (b) one or more individuals and one incorporated or unincorporated body.
- (4) A nomination may only be made by notice to the scheme manager in a form required by the scheme manager.
- (5) A member may revoke or alter a nomination by notice to the scheme manager in a form required by the scheme manager.

#### **Invalid nominations of individuals**

- 113.**—(1) If the nomination of an individual is invalid, any lump sum death benefit that would have been payable to the individual is payable to the member’s personal representatives.
- (2) A nomination of an individual is invalid if—
    - (a) the individual nominated is the member’s spouse or civil partner and the individual is not the member’s spouse or civil partner when the member dies;
    - (b) the individual predeceases the member; or
    - (c) the individual is convicted of the offence of murder of the member.
  - (3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of manslaughter of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

#### **Payment of lump sum death benefit to nominees or personal representatives**

- 114.**—(1) The scheme manager may pay a lump sum death benefit to—
- (a) the person or persons nominated by the member under regulation 112 (“the nominees”);
  - (b) the member’s personal representatives; or
  - (c) both the nominees and the member’s personal representatives.
- (2) If the scheme manager decides to pay all or part of the lump sum death benefit to the nominees and more than one individual has been nominated, the payment is to be made to them—
- (a) in the proportions specified by the member in the nomination; or
  - (b) if the member has not specified proportions, in the proportions the scheme manager considers appropriate.
- (3) If the scheme manager decides to pay the lump sum death benefit to both the nominees and the personal representatives, the payment is to be made to them in the proportions the scheme manager considers appropriate.

#### **Members affected by court orders to former spouses and civil partners on death**

- 115.**—(1) This regulation applies if on a member’s death the scheme manager is required under a court order to pay any part of a lump sum death benefit to the member’s former spouse or civil partner.
- (2) The amount of lump sum death benefit payable under regulation 114 is first determined as if no such order had been made, and then this Part applies as if the amount payable under regulation 114 were reduced by the amount payable under the court order.



### **Pension protection lump sum death benefit**

**116.**—(1) A lump sum death benefit is treated for the purposes of the 2004 Act as a pension protection lump sum death benefit if and to the extent that—

- (a) the member has given written notice to the scheme manager that the lump sum death benefit is to be so treated; and
- (b) any other conditions that are required to be met for the lump sum death benefit to be so treated are met (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to the 2004 Act<sup>(41)</sup>).

(2) Tax may be deducted from the lump sum death benefit if the scheme manager is liable for tax under section 206 (special lump sum death benefits charge) of the 2004 Act<sup>(42)</sup> in respect of a pension protection lump sum death benefit.

### **Recovery of payments**

**117.** The scheme manager may recover a lump sum death benefit paid to any person if the person's nomination is subsequently found to be invalid.

### **Payment of pension instead of lump sum for members who have reached the age of 75**

**118.**—(1) This regulation applies if a member dies—

- (a) after reaching the age of 75, and
- (b) before the fifth anniversary of the date on which a pension became payable to the member.

(2) The scheme manager may pay the pension to—

- (a) the person or persons nominated by the member under regulation 112 (“the nominees”);
- (b) the member's personal representatives; or
- (c) both the nominees and the member's personal representatives.

(3) The scheme manager is to pay the pension in the proportions the scheme manager considers appropriate if—

- (a) the scheme manager decides to pay all or part of the pension to the nominees and more than one individual has been nominated; or
- (b) the scheme manager decides to pay the pension to both the nominees and the personal representatives.

(4) A pension payable under this regulation—

- (a) is payable for the pension protection period; and
- (b) must be equal to the sum of—
  - (i) the pension that would have been payable to the member had the member lived until the end of the pension protection period; and
  - (ii) any increases in the annual rate of that pension under the 1971 Act during that period.

(5) In this rule “the pension protection period” means the period from the date of the member's death until the fifth anniversary of the date on which the member's pension became payable.

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<sup>(41)</sup> Paragraph 14 was amended by the Finance Act 2011 (c. 11) Schedule 16 paragraphs 32 and 34.

<sup>(42)</sup> Section 206 was amended by the Finance Act 2011 (c. 11) Schedule 16 paragraph 41 and the Finance Act 2013 (c. 29) Schedule 46 paragraphs 119 and 123.

## CHAPTER 5

## Amount of lump sum death benefits

**Meaning of “final pay”**

**119.**—(1) In this Chapter, “final pay” in relation to a continuous period of pensionable service means the greater of the following amounts—

- (a) the amount of a member’s pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
- (b) the amount of a member’s pensionable earnings payable in respect of any scheme year (“the earnings year”) in the 10 scheme years immediately before the last active scheme year.

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater—

- (a) if the member’s continuous period of pensionable service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member’s annualised final pay; and
- (b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under the 1971 Act by the day following the last day of pensionable service if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) In this regulation, if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under an existing scheme before the transition date for that member.

**Meaning of “annualised final pay”**

**120.**—(1) For the purposes of this Chapter, for a continuous period of pensionable service that is less than 12 months, a member’s annualised final pay is—

$$FP \times \frac{365}{N}$$

where—

*FP* is the amount of the member’s pensionable earnings payable in respect of that period of service; and

*N* is the number of days in that period.

(2) If the continuous period of pensionable service includes the day 29th February, paragraph (1) has effect with the substitution for “365” of “366”.

(3) In this regulation, if the member is a transition member with continuity of service, “pensionable earnings” payable in respect of any period includes the member’s pensionable earnings under an existing scheme before the transition date for that member.

**Amount payable on death of active member (death in service)**

**121.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

(2) If the member is a transition member with continuity of service, the period of service includes the member’s period of pensionable service under an existing scheme before the transition date for that member.

(3) For the purpose of this regulation, a person dies in service if the person dies while an active member of this scheme in relation to a period of service.

(4) The amount of the lump sum death benefit payable in respect of a person who dies in service (P) is the amount in paragraph (5) or (6), whichever is the greater.

(5) The amount in this paragraph is an amount equal to  $X - Y$  where—

$X$  is—

- (a) if P’s period of service was at least 12 months, twice the amount that would have been P’s final pay if P had ceased to be in pensionable service at the time of death; or
- (b) if P’s period of service was less than 12 months, twice P’s annualised final pay; and

$Y$  is—

- (c) any lump sum paid under this scheme to P before P’s death; and
- (d) any lump sum death benefit payable under this scheme or under a partnership pension account death benefits scheme in respect of P after P’s death.

(6) The amount in this paragraph is an amount equal to  $X - Y$  where—

$X$  is the total annual amount of P’s full retirement pensions in relation to that period of service, multiplied by 5;

$Y$  is the total amount of any payments of retirement pension made to P under this scheme; and “total annual amount” in relation to P’s full retirement pensions means the total of—

- (a) the annual rate of each description of full retirement pension calculated as if the beginning date for that pension were the date of P’s death, but without subtracting the early payment reduction (if any); and
- (b) the amount of increase (if any) in the annual rate of that pension under the 1971 Act payable as at the date of P’s death.

(7) For the purpose of this regulation, any amounts paid or payable to or in respect of P in the capacity of a pension credit member are disregarded.

**Amount payable on death of deferred member or pensioner member (death out of service)**

**122.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

(2) If the member is a transition member with continuity of service, the period of service includes the member’s period of pensionable service under an existing scheme before the transition date for that member.

(3) For the purpose of this regulation, a person dies out of service if the person—

- (a) dies while a deferred member or pensioner member of this scheme in relation to that period of service; and
- (b) is not an active member of the scheme when the person dies.

- (4) The amount of the lump sum death benefit payable in respect of a person who dies out of service (P) is equal to—
- (a) the total annual amount of P’s full retirement pensions in relation to the period of service, multiplied by 5; less
  - (b) the total amount of any payments of retirement pension made to P under this scheme.
- (5) In paragraph (4)(a), “total annual amount” in relation to P’s full retirement pensions means the total of—
- (a) the annual rate of each description of full retirement pension calculated as if the beginning date for that pension were—
    - (i) if P died while a deferred member of the scheme, the date of P’s death; or
    - (ii) if P died while a pensioner member of the scheme, the day P’s pension was deemed to begin for the purposes of section 8(2) (meaning of “pension” and other supplementary provisions) of the 1971 Act(43); and
  - (b) the amount of increase (if any) in the annual rate of that pension under the 1971 Act payable as at the date of P’s death.
- (6) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are disregarded.

#### **Amount payable on death of pension credit member**

**123.**—(1) Paragraph (2) applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death benefit is equal to 25% of the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of the 1993 Act(44) in respect of the member’s right to benefits under this scheme attributable (directly or indirectly) to a pension credit if—

- (a) the member had been entitled to require the payment of that amount; and
- (b) the amount had been payable as at the date of the member’s death.

(3) Paragraph (4) applies if a pension credit member dies after the pension credit member’s pension becomes payable.

(4) The amount of the lump sum death benefit is equal to the amount of pension credit member’s pension that would have been payable to the member during so much of the period of 5 years beginning with the date on which the pension became payable as falls after the date of the member’s death.

- (5) In paragraph (4), “amount of pension credit member’s pension” means the total of—
- (a) the annual rate of that pension as at the date the pension was deemed to begin for the purposes of section 8(2A) (meaning of “pension” and other supplementary provisions) of the 1971 Act(45); and
  - (b) the amount of increase (if any) in the annual rate of that pension under that Act payable as at the date of the member’s death.

(43) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 S.I. 1990/1509 (N.I. 13) Article 3(5) and the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Articles 36(1) and (3)(b).

(44) Part 4A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 34.

(45) Subsection (2A) was inserted by the by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 36(3)(c).

## PART 9

### Contributions

#### Rate of member contributions

**124.**—(1) An active member of this scheme must pay contributions to this scheme (“member contributions”) on the member’s pensionable earnings for each pay period at a rate determined under this regulation (“member contributions rate”).

(2) The member contributions rate which applies to a member’s pensionable earnings is the rate which applies when the member’s pensionable earnings are paid.

(3) For the purposes of paragraph (2), assumed pay for any pay period is treated as having been paid when pensionable earnings for that period would have been paid had the circumstances in regulation 24(3) which apply to the member not applied.

(4) The member contributions rate during a scheme year to which a table set out in this regulation applies is the percentage, set out in the table, which applies to a member’s annualised rate of pensionable earnings calculated in relation to each payment of a member’s pensionable earnings.

(5) Where the member’s pensionable earnings for a scheme year are payable to the member in 12 instalments, the member’s annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$12P$$

where  $P$  is the amount of a payment of the member’s pensionable earnings.

(6) Where the member’s pensionable earnings for a scheme year are payable otherwise than in 12 instalments, the member’s annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$P \times \frac{365}{N}$$

where—

$P$  is the amount of a payment of the member’s pensionable earnings; and

$N$  is the number of days in the applicable payment period.

(7) For the purposes of paragraph (6) the applicable payment period is—

(a) if it is the member’s first payment of pensionable earnings in relation to a continuous period of pensionable service in a qualifying judicial office, the number of days in the period beginning on the day the member commenced the period of pensionable service in the qualifying judicial office and ending on the day before the day that this payment was made; or

(b) in any other case, the period beginning on the day the previous payment of the member’s pensionable earnings was made and ending on the day before the day that this payment was made.

(8) If the scheme year in which the payment of pensionable earnings is made includes the day 29th February, paragraph (6) has effect with the substitution for “365” of “366”.

#### Scheme Year 1st April 2015 to 31st March 2016

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>
Up to but not including £15,001	4.6%

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*Status: This is the original version (as it was originally made).*

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<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>
£15,001 to but not including £21,001	4.6%
£21,001 to but not including £47,001	5.45%
£47,001 to but not including £150,001	7.35%
£150,001 and above	8.05%

**Scheme Year 1st April 2016 to 31st March 2017**

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>
Up to but not including £15,001	4.6%
£15,001 to but not including £21,211	4.6%
£21,211 to but not including £48,472	5.45%
£48,472 to but not including £150,001	7.35%
£150,001 and above	8.05%

**Scheme Year 1st April 2017 to 31st March 2018**

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>
Up to but not including £15,001	4.6%
£15,001 to but not including £21,423	4.6%
£21,423 to but not including £51,006	5.45%
£51,006 to but not including £150,001	7.35%
£150,001 and above	8.05%

**Scheme Year 1st April 2018 to 31st March 2019**

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>
Up to but not including £15,001	4.6%
£15,001 to but not including £21,637	4.6%
£21,637 to but not including £51,516	5.45%
£51,516 to but not including £150,001	7.35%
£150,001 and above	8.05%

**Amount of pensionable earnings**

**125.**—(1) For the purposes of regulation 124, the amount of a member's pensionable earnings for any pay period is determined in accordance with this regulation.

(2) Unless paragraph (3) or (4) applies, the amount of the member's pensionable earnings during any period of assumed pay is equal to the member's assumed pay.

(3) For any period of assumed pay under regulation 24(3)(a), the amount of the member's pensionable earnings is equal to the member's reduced pay while on sick leave.

(4) For any period of assumed pay under regulation 24(3)(b) or (c), the amount of the member's pensionable earnings is the amount of remuneration or statutory pay actually paid to or for the member in respect of the period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave.

#### **Payment of member contributions**

**126.**—(1) Member contributions are to be deducted by the member's employer from the member's pensionable earnings for each pay period.

(2) A member's employer may make contributions on the member's behalf in circumstances determined by the scheme manager.

(3) A member is not required to pay member contributions—

- (a) while the member is on unpaid adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave; or
- (b) with the employer's approval, while the member is on unpaid leave.

#### **Employers' contributions**

**127.**—(1) Each employer of an active member of this scheme must pay contributions to this scheme in respect of the member at the rate and at the intervals the scheme manager may for the time being determine after consultation with the scheme actuary.

(2) Each employer of an active member of this scheme must in addition pay to this scheme—

- (a) annual administration charges; and
- (b) any other administrative charges,

at such intervals and at such rates as the scheme manager may from time to time determine.

#### **Deduction of payments for extra pension under Schedule 1**

**128.** Schedule 1 has effect for the purpose of enabling deductions of payments for—

- (a) added pension; and
- (b) an effective pension age.

#### **Refund of all member contributions and payments for extra pension made by the member**

**129.**—(1) Member contributions and payments resulting from the exercise of an option under Schedule 1 made by the member are only refundable if—

- (a) regulation 21 applies; or
- (b) the member ceases to be in pensionable service under this scheme and—
  - (i) the member has less than 2 years' qualifying service;
  - (ii) if a transfer value payment has been received by this scheme in relation to the member, it was from another occupational pension scheme; and
  - (iii) the member has not reached normal pension age under this scheme.

(2) If paragraph (1)(b) applies, the member is entitled to be paid an amount equal to the sum of all member contributions and payments resulting from the exercise of an option under Schedule 1 made by the member, less an amount equal to the income tax payable under section 205 (short service

refund lump sum charge) of the 2004 Act<sup>(46)</sup> as a result of a refund of those contributions and payments.

(3) If all member contributions and payments for extra pension made by the member are refunded under this regulation, the member's rights under this scheme are extinguished.

### **Refund of payments for extra pension made by the member**

**130.**—(1) This paragraph applies if—

- (a) a member cancels an effective pension age option during the periodical payment period under Part 3 of Schedule 1;
- (b) the member has less than 2 years' qualifying service; and
- (c) the member has not reached normal pension age under this scheme.

(2) The member is entitled to be paid an amount equal to all the payments for extra pension made by the member in respect of that option, less an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of the 2004 Act as a result of a refund of those payments.

## **PART 10**

### **Transfers**

#### **CHAPTER 1**

##### **Preliminary**

### **Application of Part**

**131.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 (transfer values) of the 1993 Act and is without prejudice to that Chapter; and
- (b) supplements the rights conferred by or under Chapter 5 of that Part<sup>(47)</sup> (early leavers: cash transfer sums and contribution refunds) and is without prejudice to that Chapter.

### **Interpretation of Part**

**132.** In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act<sup>(48)</sup>;

“guarantee date” has the meaning given in regulation 135;

“guaranteed cash equivalent” means, in relation to calculating the transfer value of accrued rights to benefits under this scheme, the cash equivalent of those benefits as at the guarantee date, as specified in a statement of entitlement;

<sup>(46)</sup> Section 205 was amended by the Finance Act 2013 (c. 29) Schedule 46 paragraphs 119 and 121 and S.I. 2010/536.

<sup>(47)</sup> Chapter 5 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 was inserted by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) Article 241.

<sup>(48)</sup> Section 93 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22)) Article 165 Schedule 4 paragraph 6 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.14)(N.I.) section 52 and Schedule 5 paragraph 5.



“statement of entitlement” means, in relation to an active or deferred member’s accrued rights to benefits under this scheme, a statement by the scheme manager of the cash equivalent of those benefits as at the guarantee date;

“transfer value” means—

- (a) for accrued rights to benefits under this scheme, an amount equal to—
  - (i) the guaranteed cash equivalent of those benefits; or
  - (ii) the guaranteed cash equivalent together with any increase payable under regulation 137; and
- (b) for accrued rights to benefits under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and
  - (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme.

## CHAPTER 2

### Transfers out

#### **Transfer value payments made to other schemes or pension arrangements**

**133.**—(1) A transfer value payment may only be made in respect of the accrued rights to benefits of an active or deferred member of this scheme.

(2) A transfer value payment may only be made to—

- (a) a registered pension scheme that is not a connected scheme; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 (pension schemes etc.) of the 2004 Act.

(3) A transfer value payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer value payment in a way specified in section 91(2) (ways of taking right to cash equivalent) of the 1993 Act<sup>(49)</sup>.

(5) The whole of the transfer value payment must be made in accordance with the provisions of this regulation.

(6) If section 92(2) (further provisions concerning exercise of option under section 91) of the 1993 Act<sup>(50)</sup> applies, benefits attributable to the following may be excluded from the transfer value payment—

- (a) the member’s accrued rights to a guaranteed minimum pension; or
- (b) the member’s accrued rights attributable to service in contracted-out employment, within the meaning of Part 3 (certification of pension schemes and effects on members’ state scheme rights and duties) of the 1993 Act, on or after 6 April 1997.

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<sup>(49)</sup> Section 91(2) was amended by [S.I. 2001/3649](#).

<sup>(50)</sup> Section 92(2) was amended by the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)) Article 147 and Schedule 3 paragraph 53, the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)) Articles 17, 76, Schedule 2 paragraph 2 and Schedule 10, Part 1, the Pensions Act (Northern Ireland) 2008 ([c1 \(N.I.\)](#)) sections 13, 18, Schedule 4 paragraph 29 and Schedule 6, Part 6 and the Pensions (2008 No. 2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 ([S.R. 2012 No. 124](#)) Article 4.

**Application for a statement of entitlement**

**134.**—(1) This regulation applies in relation to an active or deferred member of this scheme (P) who requires a transfer value payment to be made in respect of P’s accrued rights to benefits under this scheme.

(2) Before requesting the transfer value payment, P must apply for a statement of entitlement by notice to the scheme manager.

(3) P may withdraw the application by notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by notice to the scheme manager in the period of 12 months beginning with the date of the first application<sup>(51)</sup>.

**Statement of entitlement**

**135.**—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent is calculated (“guarantee date”).

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

- (a) the 3 months beginning with the date of the member’s application for the statement of entitlement (“the 3 month period”); and
- (b) the 10 days ending with the date on which the member is provided with that statement (“the 10 day period”).

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member’s application for the statement of entitlement if—

- (a) for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent cannot be obtained before the end of the 3 month period; and
- (b) the scheme manager considers it reasonable to specify a guarantee date that falls outside the 3 month period.

**Request for transfer value payment to be made**

**136.**—(1) An active or deferred member of this scheme who is provided with a statement of entitlement may request a transfer value payment to be made in respect of the member’s accrued rights to benefits under this scheme.

(2) The request for the transfer value payment must—

- (a) be made by notice to the scheme manager;
- (b) specify the pension scheme or other pension arrangement to which the transfer value payment is to be made; and
- (c) meet any other conditions the scheme manager requires.

(3) The member by notice to the scheme manager may withdraw the request at any time before the transfer value payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer value payment has already been entered into with a third party.

<sup>(51)</sup> Regulation 6(3) of *S.R. 1996 No. 619* provides that a member may not make a second application within this period unless the rules of the scheme provide otherwise.

### **Calculating the amount of a transfer value**

**137.**—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act.

(2) If the transfer value is less than the minimum transfer value, the amount of the transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(3) In this regulation, “minimum transfer value” means the total of—

- (a) the sum of all member contributions and payments for extra pension made by the member; and
  - (b) the sum of all transfer value payments received by this scheme in relation to the member.
- “member contributions” has the meaning given in regulation 124; and  
“payments for extra pension” are payments made under Schedule 1.

### **Effect of transfers-out**

**138.** If a transfer value payment is made under this Chapter in respect of a member’s accrued rights to benefits under this scheme, those rights are extinguished.

## CHAPTER 3

### Transfers in

### **Application of Chapter**

**139.** This Chapter applies in relation to an active member of this scheme (P) who has accrued rights under another pension scheme.

### **Interpretation of Chapter**

**140.** In this Chapter—

“accrued rights” does not include rights accrued under the Judicial Additional Voluntary Contributions Scheme if the scheme manager considers that the amount to which the member is entitled under that Scheme is sufficient for the purchase of an annuity for the member;

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a personal pension scheme; or
- (c) the Judicial Additional Voluntary Contributions Scheme;

“Judicial Additional Voluntary Contributions Scheme” means the additional voluntary contribution scheme constituted under Part 2 of the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995<sup>(52)</sup>;

“transfer date” means the earlier of—

- (a) if the scheme manager has provided a transfer statement, the last day of the period of 2 months beginning with the date of the statement; or
- (b) the day on which the transfer value payment is received by the scheme manager;

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(52) S.I. 1995/639, amended by S.I. 1996/52, 2006/747 and 2012/516.

“transfer payment request” means a request to the scheme manager under this Chapter that a transfer value payment be accepted from another pension scheme;

“transfer statement” means a statement under regulation 142(2).

### **Transfer payment requests**

**141.**—(1) P may by notice to the scheme manager make a transfer payment request in respect of some or all of P’s accrued rights to benefits under another pension scheme.

(2) A transfer payment request—

(a) must specify—

(i) the pension scheme from which the transfer value payment is requested to be made; and

(ii) the anticipated amount of the transfer value payment;

(b) must meet any other conditions the scheme manager requires; and

(c) subject to paragraph (3), must be made during the period of 12 months beginning with the day on which P commences service in a qualifying judicial office .

(3) A transfer payment request in relation to the Judicial Additional Voluntary Contributions Scheme must be made—

(a) within the period of 3 months ending with the day on which P is first entitled to receive retirement benefits under this scheme; or

(b) if the scheme manager considers it reasonable in the circumstances, within any longer period the scheme manager directs.

(4) The scheme manager may direct that a transfer payment request is to be treated as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(5) Subject to paragraph (6), on receiving a transfer payment request, the scheme manager may accept the transfer value payment if all of such conditions as the scheme manager may have required are met.

(6) The scheme manager may not accept a transfer payment request if—

(a) it would be applied in whole or in part in respect of—

(i) the member’s entitlement to a guaranteed minimum pension; or

(ii) the entitlement of the member’s spouse to a guaranteed minimum pension; and

(b) it is less than the amount required for that purpose, as calculated in accordance with actuarial tables.

### **Transfer statement**

**142.**—(1) This regulation applies in relation to a request by P for a transfer value payment to be accepted from another pension scheme.

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager to provide a statement of the amount of transferred pension that P will be entitled to count under regulation 143 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

(a) factors relating to P’s circumstances as at the end of that 2-month period; and

- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

### **Amount of transferred pension**

**143.**—(1) This regulation applies in relation to a transfer value payment received from another pension scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension P is entitled to count in respect of the transfer value payment is—

- (a) the amount specified in the transfer statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

(3) The amount of transferred pension P is entitled to count in a scheme year must not be more than 50% of P's annual rate of pensionable earnings as at the day P becomes an active member of this scheme.

## **PART 11**

### **Actuarial valuations and employer cost cap**

#### **Appointment of scheme actuary and actuarial valuations**

**144.**—(1) The Department of Justice must appoint an individual (the “scheme actuary”) to provide a consulting service on actuarial matters in relation to this scheme and any connected scheme.

(2) The scheme actuary is responsible for—

- (a) carrying out valuations of this scheme and any connected scheme; and
- (b) preparing reports on the valuations.

(3) Before appointing an individual as scheme actuary the Department of Justice must be satisfied that the actuary is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with Department of Finance and Personnel directions under section 11 of the Act (the “Department of Finance and Personnel directions”).

(4) The scheme administrator is responsible for providing the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and prepare a report on the valuation.

(5) A valuation of the scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Department of Finance and Personnel directions.

(6) Valuations of the scheme must be carried out within a time-frame which enables requirements in the Department of Finance and Personnel directions regarding dates which are applicable to the valuation to be met.

#### **Employer cost cap**

**145.**—(1) The employer cost cap for this scheme is 25.7 % of pensionable earnings of members of this scheme.

(2) If the cost of this scheme goes beyond the margin either side of the employer cost cap for this scheme specified in regulations under section 12(5)(a) (employer cost cap) of the Act, the Department of Justice must consult the scheme advisory board and such persons as appear likely to

be affected by any steps that may be taken, with a view to reaching agreement with the relevant Lord Chief Justice on the steps required to achieve the target cost for this scheme.

(3) If, following such consultation, agreement is not reached, the percentage of the member's pensionable earnings specified in regulation 39(3) as the amount of earned pension for a scheme year must be adjusted for pensionable earnings after the date of adjustment, so that the target cost for this scheme is achieved.

(4) In this regulation—

- (a) “cost of this scheme” means the cost of this scheme calculated following a valuation in accordance with regulation 144; and
- (b) “target cost for this scheme” means the target cost for this scheme specified in regulations under section 12(5)(b) (employer cost cap) of the Act.

## PART 12

### Supplementary

#### CHAPTER 1

#### Dual capacity members

#### Meaning of “dual capacity member”

**146.**—(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; 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

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

- (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 60 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 121 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 122 of a lump sum payable on the death of a deferred member or pensioner 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 122 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**

**148.** 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**

- 149.**—(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 (commutation of a pension under an occupational pension scheme) of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997<sup>(53)</sup>;
- (b) paragraph 7 of Schedule 29 (registered pension schemes: authorised lump sums - supplementary) to the 2004 Act (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)<sup>(54)</sup> and, in relation to a pension payable under Part 8, paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)<sup>(55)</sup>; and
- (c) regulation 3 (commutation of the whole of pension credit benefit) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(56)</sup>;

“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

**150.**—(1) If a member has a guaranteed minimum under section 10 (earner’s guaranteed minimum) of the 1993 Act<sup>(57)</sup> in relation to benefits under this scheme—

- (a) nothing in these Regulations permits or requires anything that would cause requirements under that Act in relation to such a member and their 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) Subject to paragraph (4), if—

- (a) on reaching state pension age the member is still in service (whether or not it is in a qualifying judicial office); and

<sup>(53)</sup> 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.

<sup>(54)</sup> 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.

<sup>(55)</sup> Paragraph 20 was amended by Finance Act 2011 (c. 11) Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.

<sup>(56)</sup> S.R. 2000 No. 146. Regulation 3 was substituted by S.R. 2009 No. 365.

<sup>(57)</sup> Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Articles 147, 168, Schedule 3 paragraph 20, Schedule 5, Part 3, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 3, Schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 (c. 29) Schedule 12 paragraphs 1 and 22.



(b) where the member is not in a qualifying judicial office, the member consents to a postponement of the member's entitlement under paragraph (2), paragraph (2) does not apply until the member ceases work.

(4) If the member continues in service for a further 5 years after reaching state pension age and remains in service, 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 reaching state pension age the member becomes entitled to the immediate payment of a pension under this scheme; and
- (b) the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) 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 value 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 service that is contracted-out, 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 value 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<sup>(58)</sup> ("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) (requirements for certification of schemes: general) 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—
  - (i) as a result of a conviction for treason; or

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<sup>(58)</sup> Section 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 (S.I. 1999/671) Schedule 1 paragraph 38.

- (ii) under regulation 151, in a case where the relevant offence within the meaning of regulation 151 is an offence under the Official Secrets Acts 1911 to 1989<sup>(59)</sup>;
  - (b) a pension that is commuted under regulation 77 or 90; or
  - (c) a pension that is commuted under regulation 149 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<sup>(60)</sup> are met,
- (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 78(5)).

### CHAPTER 3

#### Forfeiture and set-off

##### **Forfeiture: offences committed by members**

**151.**—(1) If a member is convicted of a relevant offence, the Department of Justice may, in agreement with the Lord Chief Justice and to the extent that they both consider 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 Department of Justice 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 (earner’s guaranteed minimum) of the 1993 Act; or
- (b) section 13<sup>(61)</sup>(minimum pension for widows and widowers ) of that Act.

(4) In this regulation—

“forfeiture certificate” means a certificate stating that the Department of Justice and the Lord Chief Justice issuing the certificate consider that the offence—

- (a) has been gravely injurious to the administration of justice; or
- (b) is liable to lead to serious loss of confidence in the judiciary; and

“relevant offence” means—

- (a) one or more offences under the Official Secrets Acts 1911 to 1989 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;
- (b) offences committed in connection with service in qualifying judicial office and in respect of which the Department of Justice and the Lord Chief Justice have issued a forfeiture certificate.

<sup>(59)</sup> 1989 c. 6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

<sup>(60)</sup> 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.

<sup>(61)</sup> Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 3, Schedule 1 paragraph 42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433) Schedule 1, paragraph 5, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (N.I.) sections 52, 67, Schedule 5 paragraph 1, Schedule 3, paragraph 3, the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) (N.I. 1) Article 261(2), the Pensions Act (Northern Ireland) 2008 (c. 1(N.I.)) section 12(2).

### **Forfeiture: offences committed by a member's beneficiary**

**152.**—(1) If the beneficiary of a deceased member of this scheme (D) is convicted of a relevant criminal offence, the Department of Justice may, in agreement with the Lord Chief Justice and to the extent that they both consider appropriate, withhold benefits payable to the beneficiary in respect of D.

(2) The Department of Justice may, in agreement with the Lord Chief Justice and to the extent that they both consider it appropriate, withhold benefits, but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 13 (minimum pensions for widows and widowers) of the 1993 Act.

(3) If the Department of Justice withholds all of the benefits payable to a beneficiary, Part 8 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**

**153.**—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the Department of Justice, subject to paragraph (2) may, in agreement with the Lord Chief Justice and to the extent that they both consider appropriate, withhold benefits payable to P under this scheme.

(2) The Department of Justice 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 Department of Justice 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 Department of Justice 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 Crown 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, fraudulent or negligent act or omission; and
- (d) arose out of or was connected with service in a qualifying judicial office in respect of which P is a member of this scheme.

“relevant monetary loss” means a monetary loss which—

- (a) was caused to this scheme; and
- (b) arose as a result of P's criminal, fraudulent or negligent act or omission.

## Set-off

**154.**—(1) The Department of Justice may, in agreement with the Lord Chief Justice, 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 Crown 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 a qualifying judicial office 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, fraudulent or negligent 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 Department of Justice 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<sup>(62)</sup> (other than prescribed transfer credits for the purposes of Article 89(5)(d)<sup>(63)</sup> (exceptions from the inalienability of occupational pensions) of that Order).

(8) The Department of Justice 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 Department of Justice 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;
  - (ii) in consequence of an award of an arbitrator.

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<sup>(62)</sup> 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)) Article 290 (1) and Schedule 10 paragraph 60.

<sup>(63)</sup> 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 paragraph 46.

## CHAPTER 4

### Payment and deduction of tax

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

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

#### **Payment on behalf of members of lifetime allowance charge**

**156.**—(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 (lifetime allowance charge) of the 2004 Act ("the amount") if—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1)(64) (benefit crystallisation events and amounts crystallised) of the 2004 Act ("the event") 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**

**157.**—(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 156 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;
- (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.

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(64) 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 and 73.

**Information about payment of annual allowance charge**

**158.**—(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 same meaning as in section 237B(2) (liability of scheme administrator) of the 2004 Act<sup>(65)</sup>.

**Reduction of benefits where annual allowance charge paid by scheme manager**

**159.**—(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) (liability of scheme administrator) 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 reduction in the amount or value 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 sections 10 (earner’s guaranteed minimum) or 13 (minimum pension for widows and widowers) of the 1993 Act.

**CHAPTER 5****General****General prohibition on unauthorised payments**

**160.** 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 (pension schemes etc.) of the 2004 Act (see section 160(5) (payments by registered pension schemes) of that Act).

**Calculation of periods of membership and service**

**161.**—(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).

<sup>(65)</sup> 2004 c. 12; section 237B was inserted by the Finance Act 2011 (c. 11) Schedule 17 paragraphs 1 and 15 and was amended by the Finance Act 2013 (c. 29) Schedule 46 paragraphs 119 and 129.

(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**

**162.**—(1) 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.

(2) The scheme manager must, in consultation with the Judicial Pension Board, establish a procedure for the determination of disputes relating to members or other persons with an interest in the scheme.

(3) A procedure established under paragraph (2) must meet the requirements of Article 50 (requirement for dispute resolution arrangements) of the 1995 Order<sup>(66)</sup>.

### **Evidence of entitlement**

**163.**—(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**

**164.**—(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 given under that section (“Department of Finance and Personnel directions”).

(2) The statement must contain the following information about the member’s benefits as at the date of the statement—

- (a) the amount of each description of accrued pension specified in the active member’s account as at that date;
- (b) the opening balance of each description of pension for that year and the index adjustment for that opening balance;
- (c) the amount of each description of pension for that year as at that date; and
- (d) any other information required by Department of Finance and Personnel directions.

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<sup>(66)</sup> [S.I. 1995/3213 \(N.I. 22\)](#); Article 50 was substituted by the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(N.I. 1\)](#)) Article 250 and amended by the Pensions Act (Northern Ireland) 2008 ([c. 1\(N.I.\)](#)) section 14.

**Information to be provided by employers**

165.—(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 the Department of Justice to fulfil any obligations on the scheme manager or the Department of Justice set out in or under legislation.

**Transitional provisions**

166. Schedule 2 has effect.

**Modifying provisions and amendments**

167. Schedule 3 has effect.

Sealed with the Official Seal of the Department of Justice on 18th February 2015



*David Ford*  
Minister of Justice

The Department of Finance and Personnel consents to the foregoing Regulations  
Sealed with the Official Seal of the Department of Finance and Personnel on 18th February 2015



*Joanne McBurney*  
A senior officer of the Department of Finance  
and Personnel



## SCHEDULE 1

Regulation 128

### Payments for extra pension

## PART 1

### General

#### Interpretation

1. In this Schedule—

“added pension option” means the option to make added pension payments;

“amount of accrued added pension” means the total of—

(a) the amount of accrued added (self only) pension (if any); and

(b) the amount of accrued added (all beneficiaries) pension (if any);

“amount of extra pension” has the meaning given in paragraph 2;

“appropriate pay period” means the pay period that the scheme manager considers appropriate;

“overall limit of extra pension” has the meaning given in paragraph 3;

“periodical payment period” means the period for which periodical payments for added pension or an effective pension age are payable;

“period of service”, in relation to this scheme, means a continuous period of pensionable service under this scheme;

“the relevant day”, in relation to a lump sum payment for added pension, means—

(a) if the scheme manager provides a statement of the amount of added pension, the first day after the period of one month beginning with the date of the statement; or

(b) otherwise, the day on which the lump sum payment is received by the scheme manager;

“the relevant scheme year” means the scheme year in which the relevant day falls;

“statement of the amount of added pension” means the statement referred to in paragraph 17;

“third party” means a third party approved by the scheme manager to make payments for extra pension in respect of an active member of this scheme; and

“value”, in relation to an effective pension age option, means a value determined by the scheme manager under paragraph 29.

#### Meaning of “amount of extra pension”

2. The amount of extra pension at any given time is the total of the following—

(a) the amount of accrued added pension at that time;

(b) if the member has exercised one or more effective pension age options, the value of each option at that time.

#### Meaning of “overall limit of extra pension”

3.—(1) The overall limit of extra pension is—

(a) £6,500 for any scheme year ending before 1st April 2016; and

(b) for any scheme year beginning on or after 1st April 2016—

*Status: This is the original version (as it was originally made).*

- (i) the overall limit of extra pension determined by the Department of Finance and Personnel in respect of that scheme year as published before the start of that scheme year; or
- (ii) if no such determination is made, the amount calculated under paragraph (2).

(2) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of extra pension for the previous scheme year would have been increased under the 1971 Act if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the first day of the previous scheme year.

#### **Limit on added pension options**

4. An added pension option may not be exercised in relation to a member if the member has exercised an effective pension age option and—

- (a) the value of the effective pension age option exceeds the overall limit of extra pension; or
- (b) if the added pension option is exercised, the amount of extra pension would exceed the overall limit of extra pension.

#### **Amount of accrued added pension may not exceed overall limit of extra pension**

5.—(1) At any given time, the total amount of accrued added pension in all the active member's accounts established for a member under Part 5 may not exceed the overall limit of extra pension.

(2) If a member has opted to make periodical payments for added pension, the scheme manager may by notice to the member cancel the added pension option if it appears to the scheme manager that the overall limit of extra pension will be exceeded if the member continues to make the periodical payments.

(3) If the scheme manager cancels the option, the periodical payments cease to be payable from the next pay period beginning after the date specified in the notice of cancellation.

#### **Actuarial advice**

6. The scheme manager must take advice from the scheme actuary before determining any amount under this Schedule.

## **PART 2**

### **Payments for added pension**

#### **CHAPTER 1**

##### **Exercising the added pension option**

#### **Added pension option exercisable by member**

7.—(1) An active member of this scheme may opt to make added pension payments to increase—

- (a) the member's retirement benefits for a period of service; or
- (b) both the member's retirement benefits and death benefits payable in respect of the member for a period of service.

(2) A member may exercise the added pension option by notice to the scheme manager in a form required by the scheme manager.

(3) The option notice must state whether the added pension payments are to be made by—

- (a) periodical payments; or
- (b) a lump sum payment.

(4) A member may exercise the added pension option more than once but an option to make a lump sum payment for added pension may only be exercised once in any scheme year.

(5) An option to make a lump sum payment for added pension may only be exercised if the member—

- (a) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; and
- (b) has been provided with a statement of the amount of added pension (if paragraph 18 applies).

#### **Added pension option exercisable by employer or third party**

8.—(1) A third party or the employer of an active member of this scheme may, if the scheme manager approves, opt to make a lump sum payment for added pension to increase—

- (a) the member's retirement benefits for a period of service; or
- (b) both the member's retirement benefits and death benefits payable in respect of the member for a period of service.

(2) The employer or third party may exercise an added pension option by notice to the scheme manager in a form required by the scheme manager.

(3) The employer or third party may exercise an added pension option more than once but only once in any scheme year.

## CHAPTER 2

### Periodical payments for added pension

#### **Application of Chapter**

9. This Chapter applies in relation to an active member of this scheme who opts to make periodical payments for added pension.

#### **Member's option to make periodical payments for added pension**

10.—(1) An option notice must specify—

- (a) the periodical payment period; and
- (b) the amount of the periodical payment to be deducted by the member's employer from the member's pensionable earnings in each pay period.

(2) The amount of the periodical payment may be expressed as—

- (a) a percentage of the member's pensionable earnings; or
- (b) a fixed sum.

(3) The amount of the periodical payment must not be less than any minimum amount determined by the scheme manager.

**Cancellation of option by member**

11.—(1) The member may, by notice to the scheme manager, cancel the option at any time during the periodical payment period.

(2) If the member cancels the option, the periodical payments cease to be payable from the beginning of the next scheme year after the scheme manager receives the notice of cancellation.

**Periodical payments**

12.—(1) The periodical payments are payable by deduction by the member's employer from the member's pensionable earnings during the periodical payment period.

(2) The periodical payment period—

(a) begins with—

(i) if the member exercises the option within 3 months after joining this scheme, the first appropriate pay period beginning on or after the date on which the scheme manager receives the option notice; or

(ii) in any other case, the first appropriate pay period of the scheme year beginning on or after the date on which the scheme manager receives the option notice; and

(b) ends on the earlier of—

(i) the date on which the member ceases to be an active member of this scheme; and

(ii) the date specified in the option notice.

(3) Subject to sub-paragraph (4), during a period of assumed pay the member may—

(a) stop the periodical payments; or

(b) continue the periodical payments as if the member were receiving pensionable earnings at the full rate.

(4) During any period in which the member is receiving statutory maternity pay within the meaning of Part 12 (statutory maternity pay) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(67)</sup> or is on paid ordinary maternity leave, paid adoption leave or paid paternity leave, the member may—

(a) stop the periodical payments; or

(b) make periodical payments of an amount determined by reference to the member's actual pay during that period.

(5) If a member stops the periodical payments during a period of assumed pay, the member may, by notice to the scheme manager in a form required by the scheme manager, resume the periodical payments in the next pay period after the period of assumed pay ends.

**Amount of added (self only) pension for a scheme year (periodical payments)**

13.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase the member's retirement benefits only.

(2) An amount of added (self only) pension is credited to the active member's account for that scheme year.

(3) The amount is determined by the scheme manager by reference to actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to a person of the member's age and gender.

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(67) 1992 c. 7.

### **Amount of added (all beneficiaries) pension for a scheme year (periodical payments)**

14.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase—

- (a) the member's retirement benefits; and
- (b) death benefits payable in respect of the member.

(2) An amount of added (all beneficiaries) pension is credited to the active member's account for that scheme year.

(3) The amount is determined by the scheme manager by reference to actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to—

- (a) a person of the member's age; and
- (b) dependants of a person of that age.

## **CHAPTER 3**

### **Lump sum payments for added pension made by member**

#### **Application of Chapter**

15. This Chapter applies in relation to an active member of this scheme who opts to make a lump sum payment for added pension.

#### **Member's option to make a lump sum payment for added pension**

16.—(1) A member may exercise the option to make a lump sum payment for added pension by notice to the scheme manager in a form required by the scheme manager.

(2) The option notice must specify the amount of the lump sum, which must not be less than any minimum amount determined by the scheme manager.

(3) The lump sum is payable immediately to the scheme manager by deduction by the member's employer from the member's pensionable earnings or otherwise.

#### **Statement of amount of added pension**

17.—(1) If the scheme manager so requires, the member before exercising the option to make a lump sum payment for added pension must ask the scheme manager to provide a statement of the amount of added pension.

(2) A statement of the amount of added pension must set out the amount that would be credited to the active member's account if the lump sum is received by the scheme manager within one month after the date of the statement.

(3) The statement must also—

- (a) specify the overall limit of extra pension; and
- (b) inform the member if it appears to the scheme manager that the overall limit of extra pension would be exceeded if the active member's account is credited with the amount of added pension set out in the statement.

#### **Amount of added (self only) pension (lump sum payment)**

18.—(1) This paragraph applies if a member opts to make a lump sum payment to increase the member's retirement benefits only.

(2) Following payment of the lump sum by the member, an amount of added (self only) pension is credited to the active member's account for the relevant scheme year.

*Status: This is the original version (as it was originally made).*

- (3) The amount credited to the account is—
- (a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or
  - (b) otherwise, an amount determined by the scheme manager by reference to actuarial tables, having regard to—
    - (i) the amount of the lump sum;
    - (ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and gender;
    - (iii) factors relating to the member's circumstances as at the relevant day; and
    - (iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

**Amount of added (all beneficiaries) pension (lump sum payment)**

- 19.—(1) This paragraph applies if a member opts to pay a lump sum to increase—
- (a) the member's retirement benefits; and
  - (b) death benefits payable in respect of the member.
- (2) On payment of the lump sum by the member an amount of added (all beneficiaries) pension is credited to the active member's account in the relevant scheme year.
- (3) The amount credited to the account is—
- (a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or
  - (b) otherwise, an amount determined by the scheme manager by reference to actuarial tables, having regard to—
    - (i) the amount of the lump sum;
    - (ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and dependants of a person of that age;
    - (iii) factors relating to the member's circumstances as at the relevant day; and
    - (iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

CHAPTER 4

Lump sum payments for added pension made by employer or third party

**Application of Chapter**

20. This Chapter applies in relation to an employer or third party who opts to make a lump sum payment for added pension in relation to an active member of this scheme.

**Employer or third party option to make a lump sum payment for added pension**

21.—(1) An employer or third party may exercise the option to make a lump sum payment for added pension by notice to the scheme manager in a form required by the scheme manager.

(2) The option notice must specify the amount by which the member's added (self only) pension or added (all beneficiaries) pension for the relevant scheme year is to be increased.

- (3) The amount of the lump sum payment is—
- (a) if the option notice specifies an increase in the member’s added (self only) pension, an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the cost as at the relevant day of providing retirement benefits to a person of the member’s age and gender; and
  - (b) if the option notice specifies an increase in the member’s added (all beneficiaries) pension, an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the cost as at the relevant day of providing retirement benefits to—
    - (i) a person of the member’s age; and
    - (ii) the dependants of such a person.
- (4) The lump sum payment must be paid in a manner determined by the scheme manager after consultation with the scheme actuary.
- (5) The scheme manager must notify the employer or third party of the amount of the lump sum and the manner in which it is to be paid.

**Amount of added (self only) pension (lump sum payment)**

- 22.—(1) This paragraph applies if an employer or third party opts to make a lump sum payment to increase the member’s added (self only) pension.
- (2) On payment of the lump sum by the employer or third party an amount of added (self only) pension is credited to the active member’s account in the relevant scheme year.
- (3) The amount credited to the account is an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the amount of the lump sum payment.

**Amount of added (all beneficiaries) pension (lump sum payment)**

- 23.—(1) This paragraph applies if an employer or third party opts to pay a lump sum to increase the member’s added (all beneficiaries) pension.
- (2) On payment of the lump sum by the employer or third party an amount of added (all beneficiaries) pension is credited to the active member’s account in the relevant scheme year.
- (3) The amount credited to the account is an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the amount of the lump sum payment.

**PART 3**

**Effective pension age payments**

**CHAPTER 1**

**Exercising the effective pension age option**

**Effective pension age option exercisable by member**

- 24.—(1) This paragraph applies if an active member of this scheme in relation to a continuous period of pensionable service has a normal pension age above 65 years.
- (2) Subject to sub-paragraphs (3) and (4), the member may opt to make periodical payments for an effective pension age of 1, 2 or 3 years below the member’s normal pension age (“effective pension age option”).

*Status: This is the original version (as it was originally made).*

(3) An effective pension age option may not be exercised to achieve an effective pension age below 65 years.

(4) The member may opt to make periodical payments for an effective pension age of any period up to 3 years below the member's normal pension age if that would achieve an effective pension age of 65 years.

(5) An effective pension age is—

- (a) relative to normal pension age; and
- (b) automatically adjusted to reflect any change in normal pension age.

### **Exercising the effective pension age option**

25.—(1) A member may exercise an effective pension age option by notice to the scheme manager in a form required by the scheme manager.

(2) The option notice must state the effective pension age which is to apply under the option.

(3) A member may exercise an effective pension age option more than once.

(4) A member may not exercise an effective pension age option during—

- (a) a period of assumed pay; or
- (b) any scheme year in which the member has reached the overall limit of extra pension for that year.

### **Payment of pension at effective pension age**

26.—(1) For any part of a scheme year in which a member makes periodical payments for an effective pension age option, the member is entitled to payment of a full retirement earned pension or partial retirement earned pension attributable to the option at the effective pension age stated in the option without actuarial reduction.

(2) The amount of pension attributable to the option is reduced if the periodical payments are stopped before the end of the periodical payment period.

(3) For any period in which the periodical payments are stopped, an amount of standard earned pension is credited to the active member's account instead of an amount of earned pension attributable to the option.

### **Member ceases to be in pensionable service under this scheme**

27.—(1) An effective pension age option in relation to a continuous period of pensionable service under this scheme ceases to have effect when the member ceases to be in that pensionable service.

(2) Periodical payments cease to be payable from the member's last day of pensionable service.

(3) In the circumstances provided for in regulation 129, the member is entitled to a refund under that regulation of the periodical payments.

(4) If the member re-enters pensionable service under this scheme after a gap in pensionable service not exceeding 5 years, should the member so opt, the periodical payments resume in the first pay period after the member re-enters pensionable service unless—

- (a) the periodical payments have been refunded to the member under regulation 129; or
- (b) a transfer value payment has been made to another scheme in respect of the member's accrued rights under this scheme.

(5) The periodical payments resume under sub-paragraph (4) even if the member has reached the overall limit of extra pension for the scheme year in which the payments resume.



### **Cancellation of option**

28.—(1) A member may, by notice to the scheme manager, cancel an effective pension age option at any time during the periodical payment period.

(2) If the member cancels the option, the periodical payments cease to be payable from the beginning of the next scheme year after the scheme manager receives notice of the cancellation.

(3) If the member exercises an effective pension age option again within a period not exceeding 5 years, the periodical payments resume from the first pay period of the next scheme year beginning after the date on which the member exercises the option again.

(4) The periodical payments resume under sub-paragraph (3) even if the member has reached the overall limit of extra pension for the scheme year in which the payments resume.

### **Value of an effective pension age option**

29.—(1) The value of an effective pension age option at any time is a value determined by the scheme manager as at that time.

(2) A member who has exercised an effective pension age option—

(a) may at any time ask the scheme manager to provide a statement of the value of the effective pension age option; and

(b) must ask the scheme manager to provide a statement of the value of the effective pension age option before an added pension option may be exercised in relation to the member.

## **CHAPTER 2**

### **Making effective pension age payments**

#### **Amount of periodical payments**

30.—(1) Periodical payments for an effective pension age are payable by deduction by the member's employer from the member's pensionable earnings in every pay period during the periodical payment period.

(2) The amount of the periodical payments is an amount—

(a) determined by the scheme manager; and

(b) set out in a notice to the member.

(3) The scheme manager must determine the amount by reference to actuarial tables having regard to—

(a) the member's age and gender; and

(b) the number of years before the member will reach normal pension age.

(4) Before the start of every scheme year, the scheme manager must—

(a) review the amount of the periodical payments; and

(b) if the scheme manager re-determines the amount, send the member notice of the amount payable from the start of the next scheme year.

#### **Periodical payment period**

31. The periodical payment period—

(a) begins with,

*Status: This is the original version (as it was originally made).*

- (i) if the member exercises the option within 3 months after joining this scheme, the first appropriate pay period beginning on or after the date on which the scheme manager receives the option notice; or
  - (ii) in any other case, the first appropriate pay period of the scheme year beginning on or after the date on which the scheme manager receives the option notice; and
- (b) ends on the earlier of,
- (i) the date on which the member ceases to be in pensionable service in the eligible employment to which the option relates; and
  - (ii) the date on which the member reaches the effective pension age.

### **Periodical payments during period of assumed pay**

32.—(1) Subject to sub-paragraph (2), during a period of assumed pay the member may—

- (a) stop the periodical payments; or
- (b) continue the periodical payments as if the member were receiving pensionable earnings at the full rate.

(2) During any period in which the member is receiving statutory maternity pay within the meaning of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 or is on paid ordinary maternity leave, paid adoption leave or paid paternity leave, the member may—

- (a) stop the periodical payments; or
- (b) make periodical payments of an amount determined by reference to the member's actual pay during that period.

(3) A member may stop that part of the periodical payments which relates to the years after the member would reach the age of 60 and before the member would reach the age of 65 without stopping that part of the periodical payments which relates to the years after the member would reach the age of 65 and before the member would reach normal pension age.

(4) If a member stops the periodical payments during a period of assumed pay, the member may, by notice to the scheme manager in a form required by the scheme manager, resume the periodical payments in the next pay period after the period of assumed pay ends.

## SCHEDULE 2

Regulation 166

### Transitional provisions

## PART 1

### General

#### **Interpretation**

1. In this Schedule—

“closing date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of an existing scheme, the tapered protection closing date for that member; or
- (b) if the member is not a protected member of that scheme, the scheme closing date;

“full protection member”, in relation to an existing scheme, has the meaning given in paragraphs 8 and 9;

“protected member”, in relation to an existing scheme, means a full protection member or tapered protection member of that scheme;

“protection period”—

- (a) for a full protection member of an existing scheme, has the meaning given in paragraph 6;
- (b) for a tapered protection member of an existing scheme, has the meaning given in paragraph 11;

“tapered protection closing date”, in relation to a tapered protection member of an existing scheme, has the meaning given in paragraph 3;

“tapered protection member”, in relation to an existing scheme, has the meaning given in paragraphs 12 and 13;

“transition date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of an existing scheme, the day after the tapered protection closing date for that member;
- (b) if the member is not a protected member of that scheme, the day after the scheme closing date or, if later, the day the person ceased to be a protected member of the scheme;

“transition member” means a person—

- (a) who is a member of an existing scheme by virtue of the person’s pensionable service under that scheme before the transition date; and
- (b) who is a member of this scheme by virtue of the person’s pensionable service under this scheme.

### **Meaning of “continuity of service”**

2. For the purposes of this Schedule, a transition member (T) has continuity of service between pensionable service in an existing scheme and pensionable service in this scheme (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before the transition date; and
- (b) ends on the day on which T becomes an active member of this scheme.

### **Meaning of “tapered protection closing date”**

3.—(1) The tapered protection closing date for a tapered protection member of an existing scheme is—

- (a) if the member exercises the option under Part 4 of this Schedule, the scheme closing date; or
- (b) if the member does not exercise the option, a date between 31st May 2015 and 31st January 2022 (both dates inclusive) determined by the scheme manager by reference to a table published for that purpose.

(2) A tapered protection closing date determined under sub-paragraph (1)(b) must fall on the last day of a month.

### **Meaning of “active member of an existing scheme “**

4.—(1) For the purpose of Parts 2 and 3 of this Schedule, a person (P) is an active member of an existing scheme on a given date if on that date—

*Status: This is the original version (as it was originally made).*

- (a) P is in pensionable service under that scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1)(b), after the closing date for an existing scheme P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), “the closing date for an existing scheme” means the date referred to in section 18(4) of the Act as applicable.

#### **Commencement of active membership of this scheme**

5.—(1) A person who is a transition member on entering pensionable service under this scheme who does not have continuity of service becomes an active member of this scheme on the day the person is appointed to qualifying judicial office.

(2) A person who is a transition member on entering pensionable service under this scheme who has continuity of service (T) becomes an active member of this scheme—

- (a) if T is in pensionable service in a qualifying judicial office on the transition date, on that date; or
- (b) if T is not in pensionable service in a qualifying judicial office on the transition date, on the day T enters pensionable service in a qualifying judicial office after that date.

## **PART 2**

Exceptions to section 18(1) of the Act: full protection members of an existing scheme

#### **Exception for full protection members during protection period**

6.—(1) The protection period for a person (P) who is a full protection member of an existing scheme is the period which—

- (a) begins on the day after the scheme closing date; and
- (b) ends when P ceases to be a full protection member of that scheme.

(2) During the protection period—

- (a) P is eligible to be in pensionable service under an existing scheme;
- (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
- (c) benefits are to be provided under an existing scheme to or in respect of P in relation to that pensionable service.

#### **Full protection member not eligible to join this scheme**

7.—(1) While a person (P) is a full protection member of an existing scheme, P is not eligible to be an active member of this scheme.

(2) P ceases to be a full protection member of an existing scheme when P ceases to be in pensionable service under that scheme.

#### **Members of an existing scheme on scheme closing date**

8.—(1) A person (P) is a full protection member of an existing scheme if sub-paragraph (2) or sub-paragraph (3) applies—

- (2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme on 31st March 2012;
  - (b) P was an active member of that scheme on the scheme closing date; and
  - (c) unless P dies, P would reach normal pension age under that scheme on or before 1st April 2022.
- (3) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012;
  - (b) P was an active member of an existing scheme (“Scheme A”) on the scheme closing date; and
  - (c) P would, unless P dies, reach normal pension age under Scheme A and P’s transitional scheme on or before 1st April 2022.

### **Members moving between schemes after the scheme closing date**

- 9.—(1) A person (P) is a full protection member of an existing scheme if—
- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012 and on the closing date for that scheme;
  - (b) P begins pensionable service which is pensionable under an existing scheme (“Scheme A”), not more than 5 years after leaving pensionable service in P’s transitional scheme.
  - (c) P would have been a fully protected member of P’s transitional scheme had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under Scheme A; and
  - (d) P would, unless P dies, reach normal pension age under Scheme A and P’s transitional scheme on or before 1st April 2022.
- (2) For the purposes of this paragraph—
- (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act as applicable;
  - (b) “exception”, in relation to an existing scheme, means an exception under section 18(6) of the Act provided for in scheme regulations which relate to that scheme; and
  - (c) “fully protected member” of an existing scheme means a person in respect of whom an exception applies and that exception is one to which section 18(6) of the Act applies for the purposes of that scheme.

## **PART 3**

### **Exceptions to section 18(1) of the Act: tapered protection members of an existing scheme**

#### **Exception for tapered protection members during protection period**

- 10.—(1) The protection period for a tapered protection member of an existing scheme is the period which—
- (a) begins on the day after the scheme closing date; and
  - (b) ends when P ceases to be a tapered protection member of an existing scheme.
- (2) During the protection period—
- (a) P is eligible to be in pensionable service under an existing scheme;

*Status: This is the original version (as it was originally made).*

- (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
- (c) benefits are to be provided under that scheme to or in respect of P in relation to that pensionable service.

#### **Tapered protection member not eligible to join this scheme**

11.—(1) While a person (P) is a tapered protection member of an existing scheme, P is not eligible to be an active member of this scheme.

(2) P ceases to be a tapered protection member of an existing scheme on whichever of the following days occurs first—

- (a) P’s tapered protection closing date; or
- (b) the day on which P ceases to be in pensionable service under an existing scheme.

#### **Member of an existing scheme on scheme closing date**

12.—(1) A person (P) is a tapered protection member of an existing scheme if sub-paragraph (2) or sub-paragraph (3) applies—

(2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme on 31st March 2012;
- (b) P was an active member of an existing scheme on the scheme closing date; and
- (c) unless P dies, P would reach normal pension age during the period beginning with 2nd April 2022 and ending with 1st September 2025.

(3) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P was an active member of an existing scheme (“Scheme A”) on the scheme closing date; and
- (c) P would, unless P dies, reach normal pension age under—
  - (i) Scheme A during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.

#### **Members moving between schemes after the scheme closing date**

13.—(1) A person (P) is a tapered protection member of an existing scheme if—

- (a) P was an active member of an existing scheme (“P’s transitional scheme”) on 31st March 2012 and on the closing date for that scheme;
- (b) P begins pensionable service which is pensionable under an existing scheme (“Scheme A”), not more than 5 years after leaving pensionable service in P’s transitional scheme.
- (c) P would have been a protected member of P’s transitional scheme had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under Scheme A; and
- (d) P would, unless P dies, reach normal pension age under—
  - (i) Scheme A during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.

- (2) For the purposes of this paragraph—
- (a) the closing date for an existing scheme is the date referred to in section 18(1) of the Act as applicable;
  - (b) “exception”, in relation to an existing scheme, means an exception under section 18(5) of the Act provided for in scheme regulations which relate to that scheme; and
  - (c) “protected member of P’s transitional scheme” means a person in respect of whom an exception applies for the purposes of that scheme.

## PART 4

### Option for tapered protection members of an existing scheme

#### **Option to begin pensionable service before the transition date**

14.—(1) This paragraph applies in relation to a tapered protection member (P) of an existing scheme.

(2) The scheme manager may offer P the option to begin pensionable service under this scheme on the day after the scheme closing date.

(3) If P does not exercise the option within the period determined by the scheme manager, P begins pensionable service under this scheme on P’s transition date.

(4) If P ceases to be a tapered protection member after the scheme closing date but before P’s transition date, P begins pensionable service under this scheme on the day P begins service in a qualifying judicial office.

## PART 5

### Payment of ill-health benefits to transition members with continuity of service

#### **Transition member who has not reached normal pension age under an existing scheme**

15.—(1) This paragraph applies to a transition member with continuity of service who becomes entitled to an ill-health pension under this scheme and an existing scheme.

(2) If the member is entitled under this scheme and an existing scheme to immediate payment of an ill-health pension, the annual rate of that ill-health pension is the sum of—

- (a) the annual rate of an ill-health pension under an existing scheme; and
- (b) the annual rate of an ill-health pension under this scheme.

(3) Where a member is entitled to immediate payment of an ill-health pension, payment of any pension or enhancement in respect of the member’s assumed period of pensionable service is not payable under an existing scheme.

(4) In this paragraph, “the member’s assumed period of pensionable service” means the period—

- (a) beginning with the day after the day on which the member’s continuous period of pensionable service ceased; and
- (b) ending with—
  - (i) for a member appointed for a fixed term, the day on which that term ends; or
  - (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age).

## PART 6

### Payment of death benefits in respect of transition members with continuity of service

#### **Annual rate of surviving adult's pensions payable under this scheme when a transition member dies in service**

- 16.—(1) This paragraph applies in relation to a transition member with continuity of service—
- (a) who dies as an active member of this scheme; and
  - (b) whose period of service is at least 12 months.
- (2) Where there is an entitlement under this scheme and an existing scheme to a surviving adult's pension, the annual rate of that pension is the sum of—
- (a) the amount of dependant's earned pension calculated under regulation 100; and
  - (b) the amount of the equivalent surviving spouse's or surviving civil partner's pension payable under an existing scheme.
- (3) Where there is an entitlement to a surviving adult's pension, the payment of any pension or enhancement in respect of the member's assumed period of pensionable service is not payable under an existing scheme.
- (4) In this paragraph—
- “the member's assumed period of pensionable service” means the period—
- (a) beginning with the day after the date of the member's death; and
  - (b) ending with—
    - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
    - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and
- “period of service” means—
- (a) the member's continuous period of pensionable service under this scheme; and
  - (b) the member's pensionable service under an existing scheme before the transition date for that member.

#### **Annual rate of eligible child's pension payable under this scheme when a transition member dies in service**

- 17.—(1) This paragraph applies in relation to a transition member with continuity of service—
- (a) who dies as an active member of this scheme; and
  - (b) whose period of service is at least 12 months.
- (2) The annual rate of child's pension payable is the sum of—
- (a) the annual rate of child's earned pension calculated under regulation 105; and
  - (b) the annual rate of child's pension payable under an existing scheme.
- (3) Where a child's pension is payable, the payment of any pension or enhancement in respect of the member's assumed period of pensionable service is not payable under an existing scheme.
- (4) In this paragraph—
- “the member's assumed period of pensionable service” means the period—
- (a) beginning with the day after the date of the member's death; and



- (b) ending with—
    - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
    - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and
- “period of service” means—
- (a) the member’s continuous period of pensionable service under this scheme; and
  - (b) the member’s pensionable service under an existing scheme before the transition date for that member.

#### **Death in service lump sum**

18.—(1) This paragraph applies in relation to a transition member with continuity of service who dies in service within the meaning of regulation 121.

- (2) On the death of the member—
  - (a) a lump sum death benefit is payable under regulation 121; but
  - (b) a death in service lump sum death benefit is not payable under an existing scheme.

#### **Death out of service lump sum**

19.—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a deferred member or pensioner member of this scheme dies out of service under this scheme and an existing scheme.

- (2) On the death of such a member—
  - (a) if regulation 122 applies to the member, a lump sum death benefit is payable under that regulation; and
  - (b) if the member is a pensioner member of an existing scheme and the conditions for payment of a death out of service lump sum death benefit under the rules of the existing scheme are met, a death out of service lump sum death benefit is payable under that scheme.

## **PART 7**

### **Transitional provisions relating to an existing scheme**

#### **Pensionable service under an existing scheme**

20.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under this scheme.

(2) The provisions of an existing scheme relating to payment of contributions for added pension and added years continue to apply after the closing date as if T continued in pensionable service under that scheme.

- (3) If T has continuity of service—
  - (a) in determining whether T qualifies under an existing scheme for retirement benefits, T’s pensionable service under that scheme terminates when T’s pensionable service under this scheme terminates;

*Status: This is the original version (as it was originally made).*

- (b) in determining T’s final salary for any purposes of an existing scheme under Schedule 7 to the Act, pensionable earnings derived from service under this scheme are to be regarded as derived from service under an existing scheme; and
- (c) where T has a working pattern or patterns involving a pro rata reduction in salary as at the date when they cease pensionable service in this scheme, T’s final salary for an existing scheme is to be calculated by reference to their full-time equivalent final salary, or to the proportion or proportions of their full-time equivalent final salary appropriate to T’s working pattern as at the closing date.

**Repayment of contributions under the existing scheme**

21. If a transition member with continuity of service (T) opts out of this scheme and T has less than 2 years’ qualifying service—

- (a) T must be repaid members’ contributions under an existing scheme; and
- (b) any periodical payments for added pension or added years under an existing scheme cease to be payable.

**Qualifying for retirement benefits under the existing scheme**

22. In determining whether a transition member with continuity of service qualifies for retirement benefits under an existing scheme, the member’s qualifying service includes the total of—

- (a) the member’s qualifying service under an existing scheme; and
- (b) the member’s qualifying service under this scheme.

**Nomination under the existing scheme continues to have effect**

23.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under these Regulations to receive a lump sum death benefit under this scheme.

(2) An existing nomination has effect as if made under these Regulations until the transition member makes a nomination under these Regulations.

- (3) In this paragraph, “existing nomination” means a nomination which—
  - (a) was made for the purpose of an existing scheme; and
  - (b) as at the member’s transition date, had effect under that scheme.

SCHEDULE 3

Regulation 167

Modifying provisions and amendments

**PART 1**

Modification of contracting-out provisions

**Application of this Part**

- 1. This Part applies where—

- (a) an election is made under section 7 (elections as to employments covered by contracting-out certificates) of the 1993 Act(68) in relation to persons who become members of this scheme on or after 1st April 2015 and before 6th April 2016 (whether or not any of those persons are members of an existing scheme); and
- (b) this scheme satisfies the requirements of section 5 (requirements for certification of schemes) of the 1993 Act(69).

### **Contracting-out**

2.—(1) Part 2 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(70) (certification of employments) is modified as follows in its application to this scheme.

(2) The requirements in regulation 2(1)(a) (making of elections for the issue of contracting-out certificates) and regulations 3 (notices by employers of intended election) to 5 (time for making an election) do not apply.

(3) In regulation 6 (information to be included in an election)—

- (a) paragraph (1) is to be read as though, for sub-paragraphs (a) to (f), there were substituted—
  - “(a) the name by which this scheme is to be known;
  - (b) the name by which the existing schemes listed in paragraphs 2 to 15 of Schedule 5 to the Act are known; and
  - (c) any other information necessary to enable the Commissioners for Her Majesty’s Revenue and Customs to identify those existing schemes.”; and
- (b) paragraphs (2) and (3) do not apply.

## **PART 2**

### **Modification of early leaver and other provisions**

#### **Application of this Part**

3. This Part applies where a person (P)—

- (a) is a member of an existing scheme (“the old scheme”) listed in paragraph 2 of Schedule 5 to the Act, whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the Act (final salary link);
- (b) is a member of this scheme by virtue of pensionable service for this scheme; and
- (c) is a person to whom paragraph 1 or 2 of Schedule 7 to the Act applies by virtue of that person’s pensionable service for this scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.

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(68) Section 7 was amended by the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Article 1 and Schedule 1.

(69) Section 5 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Articles 133, 147, 168 and Schedules 3 and 5, the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) (Order) 1999 (S.I. 1999/671) Articles 1, 3 and Schedule 1, the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) Article 260, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I. )) section 12, Schedule 6...

(70) S.R. 1996 No. 493. Part 2 was amended by the Social Security Contributions (Transfer of Functions etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) section 1(2), Schedule 2, and by S.R. 1997 No. 95, 1997 No. 160, 2002 No. 109, 2005 No. 568, 2009 No. 133, 2012 No. 120, and 2014 No. 79. By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c.11), references to the Commissioners of Inland Revenue are to be taken as references to the Commissioners for Her Majesty’s Revenue and Customs.

**Certification**

4.—(1) Section 11A of the 1993 Act<sup>(71)</sup> (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable service under the scheme is to be taken as a reference to pensionable service either for the old scheme or for this scheme.

**Preservation of benefit**

5.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

(a) in section 66<sup>(72)</sup> (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;

(b) in section 67(1) (basic principle as to short service benefit)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;

(iii) a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme;

(iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,

and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;

(c) in section 67(5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme;

(d) in section 67(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for the old scheme or for the old scheme and this scheme taken together; and

(e) in sections 68(2) (no discrimination between short service and long service beneficiaries), 70(6) and (7) (computation of short service benefit), 71(3) and (4) (credits) and 72(1) and (3) (pension increases), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme.

(3) In the application of that Chapter to this scheme—

(a) in section 66, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;

(b) in section 67(1)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;

<sup>(71)</sup> Section 11A was inserted by Article 29 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

<sup>(72)</sup> Section 66 was amended by S.R. 2005 No. 434.

- (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
  - (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme,
- and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
- (c) in section 67(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for this scheme or for the old scheme and this scheme taken together; and
  - (d) in section 70(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

### **Revaluation of preserved benefit**

6.—(1) Chapter 2 of Part 4 of the 1993 Act (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

- (a) in section 79(1)(a)(ii)(73) (scope of Chapter 2), the reference to the date on which P’s pensionable service ends is to be taken as a reference to the date on which P’s pensionable service ends in relation to this scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

### **Protection of increases in guaranteed minimum pensions**

7.—(1) Chapter 3 of Part 4 of the 1993 Act (protection for early leavers: protection of increases in guaranteed minimum pensions (“anti-franking”)) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 83(1)(a)(i)(74) (general protection principle), the reference to the time when P ceases to be in contracted-out employment by reference to a scheme is to be taken as a reference to the time when P ceases to be in service in a qualifying judicial office which is contracted-out by reference to this scheme; and
- (b) subsequent references to “the cessation date” are to be construed accordingly.

### **Transfer values**

8.—(1) Chapter 4 of Part 4 of the 1993 Act (protection for early leavers: transfer values) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme, in—

- (a) section 89(1)(a)(75) (scope of Chapter 4),

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(73) Section 79 was amended by section 84(1) of, and paragraphs 20 of Schedule 9 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraph 21 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 2(N.I.)).

(74) Section 83 was amended by section 13(3)(a) of, and paragraph 28 of Schedule 4 to, the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)).

(75) Section 89(1)(a) was substituted by Article 148 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

*Status: This is the original version (as it was originally made).*

- (b) section 93(3)(a) (calculation of cash equivalents), and
- (c) section 94(1A) and (3)(76) (variation and loss of rights under section 90),

a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme.

### **Transfer values regulations**

9.—(1) The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(77) are modified as follows.

(2) In the application of regulation 3 of those Regulations (rules on continuation in employment after termination of pensionable service) to P as a member of the old scheme—

- (a) in paragraph (1), a reference to employment to which a scheme applies is to be taken as a reference to service in a qualifying judicial office to which this scheme applies;
- (b) in paragraph (1)(a), a reference to P’s pensionable service terminating at P’s request is to be taken as a reference to P’s pensionable service in relation to this scheme so terminating; and
- (c) in paragraph (1)(b)(i), a reference to P’s pensionable service continuing until the guarantee date is to be taken as a reference to P’s pensionable service in relation to this scheme so continuing.

(3) In the application of regulation 4 of those Regulations (right to further cash equivalent on termination of employment to which the scheme applies) to P as a member of the old scheme, in paragraphs (1), (2), (3)(a) and (4) a reference to termination of P’s employment is to be taken as a reference to termination of P’s service in a qualifying judicial office to which this scheme applies.

### **Cash transfers and contribution refunds**

10.—(1) Chapter 5 of Part 4 of the 1993 Act(78) (protection for early leavers: cash transfers and contribution refunds) is modified as follows.

(2) In the application of that Chapter to P as a member of the old scheme—

- (a) in section 97AA(1)(a) and (b) (scope of Chapter 5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme;
- (b) in section 97AA(2), a reference in the opening words and in paragraph (a) to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for the old scheme or for the old scheme and this scheme taken together; and
- (c) in section 97AB(1) and (3) (right to cash transfer sum and contribution refund), 97AC(1) and (2)(a) (notification of right to cash transfer sum or contribution refund) and 97AI(7) (rights under section 971AB: definition of “reply date”), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service in relation to this scheme.
- (d) In the application of that Chapter to P as a member of this scheme, in section 97AA(2) a reference in the opening words and in paragraph (a) to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either for this scheme or for the old scheme and this scheme taken together.

(76) Section 94(1A) was inserted by, and section 48(3) amended by, Article 165 of, and paragraph 7 of Schedule 4 to, the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)).

(77) S.R. 1996 No. 619.

(78) Chapter 5 was inserted by Article 241 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)).

(3) In the application of that Chapter to P as a member of this scheme, in section 97AA(2) a reference in the opening words and in paragraph (a) to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either under this scheme or under the old scheme and this scheme taken together.

## PART 3

### Amendments

#### Amendments to the Judicial Pensions and Retirement Act 1993

11.—(1) Part 1 of the Judicial Pensions and Retirement Act 1993(79) (new arrangements for judicial pensions) is amended as follows.

(2) In section 2 (the judicial officer's entitlement to a pension)—

- (a) in subsection (7)(c), after “shall” insert “(subject to subsection (7A))”, and
- (b) after subsection (7) insert—

“(7A) Subsection (7)(c) does not apply where, at the date of the retirement, the person—

- (a) is a member of a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014; and
- (b) is entitled under that scheme to early payment of benefits on the grounds of ill-health.”

(3) In section 4 (lump sum on the judicial officer's retirement or death), after subsection (3) insert—

“(3A) Subsection (3) does not apply where, at the date of the person's death—

- (a) the person is a member of a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014; and
- (b) a lump sum is payable under that scheme on the person's death.”

(4) In section 5 (surviving spouse's and surviving civil partner's pension), after subsection (6) insert—

“(7) In a case within subsection (6)(c), section 2(7)(c) (deemed increase in period of service) is to be disregarded in determining the rate that would have been the appropriate annual rate of the deceased's pension if, at the date of death—

- (a) the deceased was a member of a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014, and
- (b) under that scheme, benefits are payable on the deceased's death to a widow, widower or surviving civil partner of the deceased.”

(5) In section 8 (rate of children's pension), after subsection (4) insert—

“(5) Section 5(7) accordingly applies for the purposes of this section in a case within section 5(6)(c), but as if the reference in section 5(7)(b) to the benefits payable on the deceased's death included a reference to benefits payable to surviving dependants of the deceased.”

**Amendment to the Public Service Pensions Act (Northern Ireland) 2014**

12.—(1) Schedule 5 to the Public Service Pensions Act (Northern Ireland) 2014<sup>(80)</sup> (existing pension schemes) is amended as follows.

(2) After paragraph 2(b) insert—

- “(ba) a member of a panel of chairmen appointed under regulation 4(1)(a) of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005<sup>(81)</sup>;
- (bb) a member of a panel of chairmen appointed under Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998<sup>(82)</sup>

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Part 2 of these Regulations establishes a scheme for the payment of pensions and other benefits to members of the judiciary. The scheme so established is a career average revalued earnings scheme.

Part 3 contains governance provisions including delegation of the scheme manager’s functions and establishment of the Judicial Pension Board and a scheme advisory board.

Part 4 provides for scheme membership. It sets out the key concepts of qualifying judicial office and pensionable earnings. It contains eligibility and enrolment provisions.

Part 5 provides for the establishment of a member’s pension accounts in relation to a continuous period of pensionable service under this scheme. It also provides for the establishment of a pension credit member’s account.

Chapter 2 explains how adjustments to amounts of accrued pension are calculated.

Chapter 3 explains how the amount of accrued pension is calculated.

Chapter 5 provides for the establishment of the active member’s account. This Chapter shows how the proportion of pensionable earnings accrued as pension is revalued each year until the member leaves pensionable service.

Chapter 6 provides for the establishment of the deferred member’s account and explains how the provisional amount of each description of deferred pension is calculated.

Part 6 provides for a member’s entitlement to payment of retirement benefits including partial retirement benefits and ill-health benefits. It also provides for the assignment of benefits. It sets out the key concept of qualifying service.

Part 7 provides for benefits for pension credit members.

Part 8 provides for death benefits payable to surviving adults and eligible children and for the payment of lump sums. It provides for payments to be stopped and recovered in certain cases.

Part 9 provides for the payment of contributions by members and employers.

Part 10 provides for making and receiving transfer value payments.

<sup>(80)</sup> 2014 c.2 (N.I.)

<sup>(81)</sup> S.R. 2005 No. 150

<sup>(82)</sup> S.I. 1998/3162 (N.I. 2)



Part 11 provides for actuarial valuations and the employer cost cap.

Part 12 contains supplementary provisions on payment of pensions, forfeiture and set off, payment and deduction of tax and miscellaneous provisions including the determination of questions.

Schedule 1 makes provision for payments for extra pension.

Schedule 2 makes transitional provision for entitlements under existing schemes and this scheme.

Schedule 3 modifies provisions of the Pension Schemes (Northern Ireland) Act 1993 (c.49) and amends the Judicial Pensions and Retirement Act 1993 (c.8) and the Public Service Pensions Act (Northern Ireland) 2014 (c.2 (N.I.)).

An impact assessment has not been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.