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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 177**

**Local Government Pension Scheme  
Regulations (Northern Ireland) 2000**

**Part B**

**Membership**

***Eligibility***

**General eligibility of employees of LGPS employers**

**B1.**—(1) Subject to the provisions of this Part, a person is only eligible to be a member of the occupational pension scheme constituted by these regulations (in these regulations referred to as “the Scheme”) if he is an employee of a LGPS employer.

(2) In these regulations—

- (a) “employee” means an employee whether permanent or temporary; and
- (b) “a LGPS employer” is a local authority as defined in Article 2 of the Order of 1972(1).

**Age restrictions: meaning of “latest retirement age” and “LRD”**

**B2.**—(1) A person is only eligible to be a member of the Scheme if he has attained the age of 16 years.

(2) Subject to paragraph (3), a person applying to his employer to join the Scheme who—

- (a) has attained the age of 50 years (or would, on or by the date on which he would otherwise become a member of the Scheme have attained that age), and
- (b) was first employed by the employer and eligible to be a member by virtue of that employment before he attained that age,

is not eligible to be a member of the Scheme if he is given notice in writing to that effect by his employer.

(3) Paragraph (2) shall not apply to a person to whom regulation K17 applies.

(4) Subject to paragraph (5), a person is not eligible to be a member of the Scheme after he has attained the age of 65 and in these regulations, in relation to any person, “latest retirement age” (“LRA”) means that age and “latest retirement date” (“LRD”) means the date by which he attains that age.

(5) A person is only eligible to be a member of the Scheme on and after his LRD if—

- (a) his total period of membership does not exceed the maximum referred to in paragraph (7); and

- (b) at least one of the conditions mentioned in paragraph (6) is satisfied in relation to him.
- (6) The conditions mentioned in paragraph (5) are—
  - (a) at least one of the following has become payable to him—
    - (i) a pension which is liable to be reduced or suspended under Schedule D5 (re-employed pensioners),
    - (ii) an ill-health retirement grant under regulation D8, or under regulation E4 of the 1992 regulations, or under regulation 28A(2) of the 1981 regulations,
  - (b) he has received or is entitled to receive compensation under any enactment for loss of employment or loss or diminution of emoluments attributable to the provisions of an enactment, and the compensation is liable to be reduced or suspended, in consequence of his taking up employment with a LGPS employer, in the like manner and to the like extent as it would have been if he had remained eligible to belong to the occupational pension scheme to which he belonged or was eligible to belong immediately before suffering the loss.
- (7) The maximum referred to in paragraph (5)(a) is—
  - (a) in the case of a Class A member (as defined in paragraph 1(1) of Schedule C4) 40 years, and
  - (b) in the case of a Class B member or a Class C member (as so defined), the aggregate of—
    - (i) his total period of membership before he attained the age of 60 years (disregarding any period in excess of 40 years), and
    - (ii) his total period of membership since he attained that age (but not exceeding 5 years plus any period by which the period mentioned in paragraph (i) fell short of 40 years);
 and in paragraph (5) and this paragraph “total period of membership” has the meaning given in regulation B13, except that it also includes any additional period of membership which the member has been treated as being entitled to count for the purposes of regulation D7 (enhancement in cases of retirement on grounds of ill-health) or any corresponding earlier provision.

**Restrictions by reference to working hours: “part-time” and “variable-time” employees**

**B3.**—(1) If an employee is in two or more employments under a single LGPS employer, he is eligible to be a member of the Scheme in respect of all (but not less than all) of the employments.

(2) A person who is a variable-time employee of a LGPS employer is only eligible to be a member of the Scheme in respect of that employment if—

- (a) he is a member of the Scheme also in respect of whole-time or part-time employment with a LGPS employer who is so specified; or
  - (b) having been such a member at the same time as being a member in respect of his variable-time employment, he has ceased to hold the whole-time or part-time employment; or
  - (c) he is not also in the whole-time or part-time employment of a LGPS employer and his employer has by a statutory resolution—
    - (i) specified him as being so eligible, or
    - (ii) specified a class of employees to which he belongs as being so eligible.
- (3) For the purposes of these regulations—

- (a) an employee is a variable-time employee if in accordance with his terms of office or contract of employment he is to be treated as such for the purposes of the Scheme and either—
    - (i) his remuneration is calculated by reference to his obligations in his employment (rather than necessarily by reference to the number of hours he has worked), or
    - (ii) he holds an office or employment the functions of which are only exercisable on an occasional basis;
  - (b) an employee is a whole-time employee if his contractual hours are not less than the number of hours which, in accordance with his terms of employment, is the number of contractual hours for a person employed in that employment on a whole-time basis; and
  - (c) an employee is a part-time employee if he is neither a whole-time employee nor a variable-time employee.
- (4) In these regulations—
- “the contractual hours” means—
- (i) the number of hours the employing authority is entitled to require the employee to work in each of the contractual weeks, or
  - (ii) if there is any cyclical variation in those hours, the average of those hours over the cycle; or
  - (iii) if there is any variation in those hours which is not cyclical, the average of those hours over the weeks in such period (not exceeding 12 months) as the employing authority considers appropriate, being a period for which, assuming that there will be no unpaid leave of absence, a wage or salary is payable to the employee; and
- “the contractual weeks” means the number of weeks in every period of 12 months for which (on that assumption) a wage or salary is payable to the employee.

#### **Certain office-holders etc. to be treated as employees of LGPS employers**

**B4.** In these regulations, references to employees of a LGPS employer shall be construed as including references to persons who are deemed for the purposes of these regulations to be in the employment of a LGPS employer and other provisions relating to employment by or under a LGPS employer shall be construed accordingly.

#### **Separate employments etc.**

**B5.**—(1) Where a person holds two or more separate employments under one LGPS employer then these regulations apply in relation to each of those employments as if the other or others were held by him under another LGPS employer.

(2) For the purposes of these regulations, a clerk of a district council who performs functions under Article 9(2) (conduct of elections) of the Electoral Law (Northern Ireland) Order 1972<sup>(3)</sup> shall, in relation to those functions, be treated as if he were employed by that council and any fees paid to him in connection with those functions shall be treated as remuneration paid to him by that council.

#### **Power to extend eligibility to employees of other bodies (“admission agreements”)**

**B6.**—(1) Subject to the following provisions of this regulation, the Committee may make an agreement (in these regulations referred to as “an admission agreement”) with any body specified in

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(3) [S.I. 1972 /1264 \(N.I. 13\)](#) as amended by the Local Government (Postponement of Elections and Reorganisation) (Northern Ireland) Order 1972 ([S.I. 1972/1998 \(N.I. 21\)](#))

paragraph (9) (“the employing body”), providing for employees of the employing body to be eligible to participate in the benefits of the Scheme.

(2) Subject to paragraph (4), an admission agreement may provide for employees, or any specified class or classes of employees, of the employing body to be members of the Scheme.

(3) Subject to paragraph (4) and regulation B9(3), these regulations apply to a person who is such an employee as is mentioned in paragraph (2) (“an admission agreement employee”) and has become a member of the Scheme as if the employing body were a LGPS employer.

(4) An admission agreement may not provide for any person to be a member if he would be ineligible to be a member by virtue of regulation B2(1) or (3), B3, B7 or B8 if he were an employee of a LGPS employer.

(5) Except as provided in paragraphs (6) and (7), an admission agreement may not modify the application of these regulations to any employee so that he has any greater or lesser rights or liabilities than those he would have if he became a member of the Scheme by virtue of regulation B1.

(6) An admission agreement may provide that any previous period of employment of an employee by the employing body is to count to such extent as there specified as a period of deemed membership of the Scheme.

(7) An admission agreement—

- (a) shall provide that the agreement shall cease to have effect if the employing body ceases to be a body specified in paragraph (9); and
- (b) may make such other provision for, and contain such incidental provisions relating to, its cessation as the parties consider appropriate.

(8) On making an admission agreement the Committee shall immediately inform the Department of the name of the employing body and the date from which the agreement takes effect.

(9) The bodies mentioned in paragraph (1) are—

- (a) a body representative of local authorities or of local authorities and officers of local authorities or a body representative of officers of local authorities formed for the purpose of consultation as to the common interest of those authorities and the discussion of matters relating to local government;
- (b) statutory undertakers;
- (c) non-statutory undertakers;
- (d) a body which provides a public service in Northern Ireland otherwise than for the purposes of gain or to whose funds any district council contributes or to whom any monies are payable from monies appropriated by Measure;
- (e) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(4); and
- (f) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(5).

(10) In this regulation—

“statutory undertakers” means a body authorised by any statutory provision to carry on—

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking; or
- (b) any undertaking for the supply of electricity, gas or hydraulic power; or

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(4) [S.I. 1986/594 \(N.I. 3\)](#) relevant amending regulations are [S.I. 1993/2810 \(N.I. 12\)](#) and [S.I. 1997/1772 \(N.I. 15\)](#)

(5) [S.I. 1997/1772 \(N.I. 15\)](#)

- (c) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;

“non-statutory undertakers” means a body who, though not authorised by any statutory provision to do so, is primarily engaged in carrying on—

- (a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier, lighthouse or airport undertaking; or
- (b) any undertaking for the supply of electricity, gas or hydraulic power; or
- (c) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic.

### **Ineligibility of employees eligible to join other statutory schemes**

**B7.**—(1) A person is not eligible to be a member of the Scheme by virtue of any employment which also entitles him to belong to another occupational pension scheme provided by or under an enactment.

(2) The reference in paragraph (1) to an enactment—

- (a) includes an enactment in a local Act, but
- (b) excludes Article 9 of the Order of 1972.

### **Other cases of ineligibility**

**B8.**—(1) Notwithstanding anything in regulations B1 to B3, the following persons are not eligible to be members of the Scheme—

- (a) an existing officer, unless he exercised the option conferred by regulation 23 of the 1950 regulations or the corresponding provision of the Belfast Corporation Superannuation Scheme;
- (b) any member of the fire brigade as defined in Article 2(2) of the Fire Services (Northern Ireland) Order 1984(6);
- (c) any officer in the employment of the Fire Authority of Northern Ireland who was employed by the Northern Ireland Fire Authority immediately before 1 May 1954, and who did not exercise the option available to him under the relevant proviso to regulation 3(1) of the 1950 regulations to avail himself of the benefits of those regulations;
- (d) any person in contributory service within the meaning of the Teachers (Superannuation) Act (Northern Ireland) 1950(7); and
- (e) any person who as a member of staff of the University of Ulster is eligible to participate in the Universities' Superannuation Scheme.

(2) A person is not eligible to be a member of the Scheme in respect of his part-time employment as a member of a fire brigade maintained in pursuance of the Fire Services (Northern Ireland) Order 1984 on terms under which he is or may be required to engage in fire fighting.

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(6) S.I. 1984/1821 (N.I. 11)

(7) 1950 c. 33 (N.I.)