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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 L**

**Pension Fund and Payments by Employers**

*Transfers, recovery and retention from the fund in misconduct cases*

**Transfer of sums from the fund to compensate for former member's misconduct**

**L8.**—(1) This regulation applies where—

- (a) a person (“the former employee”) has ceased to hold an employment in which he was a member in consequence of—
  - (i) an offence of a fraudulent character, or
  - (ii) grave misconduct,in connection with that employment;
- (b) the body which was his employing authority in that employment (“the former employing authority”) has suffered direct financial loss by reason of the offence or misconduct, and
- (c) the former employee—
  - (i) became entitled to benefits under Part D and a direction has been given under regulation H4(1), or
  - (ii) he did not become so entitled and his total period of membership is less than two years.

(2) Where this regulation applies and the former employing authority is the Committee, it may retain an appropriate amount in the fund.

(3) Where this regulation applies and the former employing authority is not the Committee, the Committee shall, subject to paragraph (5), pay the former employing authority an appropriate amount out of the fund if requested to do so.

(4) For the purposes of paragraphs (2) and (3), an appropriate amount is an amount which does not exceed—

- (a) the amount of the direct financial loss, or
- (b) the amount of any contributions which could have, but have not, been returned to the former employee, or paid to his spouse or a dependant, under regulation C21(4).

(5) Where a payment in lieu of contributions is due or has been made in respect of the former employee, the Committee may reduce a payment under paragraph (3) by half the amount of the payment in lieu of contributions.

(6) If, after making a payment under paragraph (3), the Committee is required to pay a transfer value in respect of the former employee, the former employing authority shall repay the Committee the amount of that payment if requested to do so.

**Recovery or retention where former member has misconduct obligation**

**L9.**—(1) This regulation applies where a person (“the former employee”)—

- (a) has ceased to hold an employment, in respect of which he was or had at some time been a member, in consequence of a criminal, negligent or fraudulent act or omission on his part in connection with that employment;
- (b) has incurred some monetary obligation, arising out of that act or omission, to the body which was his employing authority in that employment (“the former employing authority”); and
- (c) is entitled to benefits under Part D.

(2) Where this regulation applies the former employing authority may recover or retain out of the fund the amount of the monetary obligation, or if less, the actuarial value, at the time of the recovery or retention, of all rights enjoyed by or in respect of the former employee under these regulations with respect to his previous membership (other than rights enjoyed by virtue of the receipt of a transfer value from the scheme managers of a non-local government scheme or the trustees or managers of a personal pension scheme, a self-employed pension arrangement, a retirement annuity contract or an appropriate policy).

(3) The power under paragraph (2) may not be so exercised as to deprive a person of his guaranteed minimum pension or, in the event of his leaving a surviving spouse, deprive that spouse of any widow’s or widower’s guaranteed minimum pension, unless the person ceased to hold his employment in consequence of—

- (a) an offence of treason, or
- (b) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(1)</sup> for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(4) The former employing authority shall give the former employee—

- (a) not less than three months’ notice of the amount to be recovered or retained under paragraph (2); and
- (b) a certificate provided by the Committee showing the amount so recovered or retained, the manner in which it is calculated, and the effect of the recovery or retention on his benefits or prospective benefits.

(5) If there is any dispute as to the amount of the monetary obligation mentioned in paragraph (1) (b), the former employing authority may not recover or retain any amount under paragraph (2) until the obligation has become enforceable under an order of a competent court or the award of an arbitrator.

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(1) 1911 c. 28; 1920 c. 75; 1939 c. 21; 1989 c. 6.