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STATUTORY RULES OF NORTHERN IRELAND

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**2001 No. 279**

**The Local Government (Discretionary  
Payments) Regulations (Northern Ireland) 2001**

**Part III**

**Compensation for Premature Retirement**

*Eligibility to benefit under this Part*

**Persons who are eligible to benefit: LGPS members and non-members with relevant disqualification**

- 5.—(1) A LGPS member or an assumed member is eligible to benefit under this Part if—
- (a) he ceases to hold his employment with an employing authority—
    - (i) by reason of redundancy;
    - (ii) in the interests of the efficient exercise of that authority's functions; or
    - (ii) because he was one of the holders of a joint appointment and his appointment has been terminated because the other ceased to hold his appointment;
  - (b) in a case within sub-paragraph (a)(i) or (ii), that authority—
    - (i) has certified in relation to him in accordance with regulation D6(2)(a) of the LGPS Regulations (redundancy etc.); or
    - (ii) is satisfied that but for a relevant disqualification and on the relevant assumptions it would have so certified;
  - (c) he is not, in respect of the loss of that employment, entitled to have his case considered for the payment of section 137 compensation;
  - (d) on the material date he has attained the age of 50, but not the age of 65;
  - (e) on that date the aggregate of—
    - (i) his total period of membership, and
    - (ii) any periods to which Part II of Schedule B1 to the LGPS Regulations applies,amounts to at least 5 years;
  - (f) on that date his total period of membership does not exceed 40 years; and
  - (g) the period beginning with the day following the material date and ending with his 65th birthday, exceeds any period of residual entitlement which he has to his credit as described in regulation 7(2).

(2) In paragraph (1) "assumed member" means a person who the employing authority is satisfied would be, or be treated as, a LGPS member but for a relevant disqualification.

(3) In paragraph (1)(c) “section 137 compensation” means long-term compensation or retirement compensation—

- (a) under regulations made under section 137 of the Local Government Act (Northern Ireland) 1972(1); or
- (b) under any instrument made under any provision to the like effect in any other enactment.

**Application of Part III to assumed members: “relevant disqualification”, “relevant assumptions” and “special service”**

6.—(1) In this Part, in relation to any person, “relevant disqualification” means an act or omission in consequence of which (either alone or taken together with other such acts or omissions) that person has not become, has ceased to be or has not been treated as being a LGPS member, being one of the following acts or omissions—

- (a) the failure of a medical examination required under regulation B1(6) of the 1992 Regulations;
  - (b) the making of an election or the absence of an election with respect to any period under regulation B1(5) of, or Part III of Schedule 2 to, those Regulations;
  - (c) the absence of—
    - (i) an election under regulation B2 of, or paragraph 1(b) of Part II of Schedule 2 to, those Regulations with respect to any period; or
    - (ii) an application under regulation B10 of the LGPS Regulations for membership during any period;
  - (d) the giving of a notification under regulation B3 of the 1992 Regulations or under regulation B12 of the LGPS Regulations;
  - (e) the making of an election or the absence of an election with respect to any period under regulation 15(b) of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989(2).
- (2) In this Part “the relevant assumptions” means the following assumptions—
- (a) that during any period of special service a person was a LGPS member;
  - (b) that a person’s total period of membership included any periods of special service which do not consist of periods of unpaid leave or other unpaid absence from duty;
  - (c) that any election or determination which, on the assumptions mentioned in sub-paragraphs (a) and (b), might have been made with respect to a period of special service under paragraph 2 of Schedule D1 to the LGPS Regulations (optional alternative relevant periods for calculating pensionable remuneration)—
    - (i) in the circumstances mentioned in paragraph 3 of that Schedule, had been made; and
    - (ii) in the circumstances mentioned in paragraph 4 or 5 of that Schedule, had not been made; and
  - (d) that paragraph 6(b) of that Schedule did not apply with respect to a period of special service.
- (3) In this Part “special service” means, subject to paragraph (4), any period of employment with respect to which the employing authority is satisfied—
- (a) that, if it were not for a relevant disqualification, the person concerned would have been or have been treated as being a LGPS member; or

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(1) 1972 c. 9 (N.I.)

(2) S.R. 1989 No. 345 was revoked by S.R. 1992 No. 547

(b) that the employment would have fallen within sub-paragraph (a) if it had not been qualifying part-time employment (within the meaning of Part III of Schedule 2 to the 1992 Regulations) in which the person was ineligible to be a LGPS member.

(4) In relation to any employment ending before a person began his former employment, “special service” only includes such periods as are continuous with the former employment.

(5) For the purpose of paragraph (4), a period of employment is continuous with the former employment if in the interval between its ending and the former employment beginning there has been no period exceeding one month and one day during which the person was not employed by a LGPS employer.