
STATUTORY RULES OF NORTHERN IRELAND

2001 No. 61

LOCAL GOVERNMENT

**Local Government Pension Scheme (Pension Sharing
on Divorce) Regulations (Northern Ireland) 2001**

Made - - - - *16th February 2001*

Coming into operation *2nd April 2001*

The Department of the Environment, in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972⁽¹⁾ and now vested in it⁽²⁾ and of every other power enabling it in that behalf and, after consultation with the Association of Local Authorities of Northern Ireland, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the regulations as appeared to it to be appropriate, hereby makes the following Regulations:—

Citation, commencement and retrospectio

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Pension Sharing on Divorce) Regulations (Northern Ireland) 2001.

(2) These Regulations shall come into operation on 2nd April 2001 but shall have effect as from 1st December 2000.

Amendment of the Local Government Pension Scheme Regulations (Northern Ireland) 2000

2. The Local Government Pension Scheme Regulations (Northern Ireland) 2000⁽³⁾ shall be amended in accordance with the Schedule.

The Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000

3. In regulation 5(4) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000⁽⁴⁾ for “(except those incurred in connection with a FSAVC scheme) may be paid from it” substitute—

(1) S.I. 1972/1073 (N.I. 10); Article 14 was amended by Article 12 of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13))
(2) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)
(3) S.R. 2000 No. 177
(4) S.R. 2000 No. 178

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“may be paid from it except—

- (a) those incurred in connection with a FSAVC scheme, and
- (b) those costs and charges prescribed by regulations made under Article 21, 22 or 38 of the Welfare Reform and Pensions (Northern Ireland) Order 1999⁽⁵⁾ which the Committee is enabled to recover by or under any such regulations”.

Sealed with the Official Seal of the Department of the Environment on 16th February 2001.

L.S.

Sam Foster
Minister for the
Department of the Environment

⁽⁵⁾ S.I. 1999/3147; see S.R. 2000 No. 142, S.R. 2000 No. 335

SCHEDULE

Regulation 2

Amendments to the Local Government Pension Scheme Regulations (Northern Ireland) 2000

Interpretation

1. In regulation A2 for paragraph (1) substitute the following paragraph—
 - “(1) In these regulations the expressions defined in Schedule A1 (general definitions) and Schedule A2 (interpretation for pension sharing on divorce) have the meanings given to them by those Schedules.”.

Pension debit member

- 2.—(1) In regulation C10(1) (maximum length of additional periods to be purchased under regulation C9) after “regulation C26” insert “and C26A”.
- (2) In regulation C24(1) (additional voluntary contributions) after “regulation C26” insert “and C26A”.
- (3) After regulation C26 insert the following—

“Replacement of rights

C26A.—(1) Subject to paragraph (2), a pension debit member who is also a member may not replace any rights debited as a consequence of a pension sharing order with any rights which the member would not have been able to acquire (in addition to the debited rights) had the pension sharing order not been made⁽⁶⁾.

(2) The provisions of paragraph (1) shall not apply in circumstances which the Commissioners of Inland Revenue may stipulate in relation to “moderate earners” in any taxation exception or concession made by them from time to time under paragraph 18(10) and (11) of Schedule 10 to the Finance Act 1999⁽⁷⁾, or otherwise.

(3) For the purpose of this regulation, “moderate earners” has the meaning in paragraphs (4) to (6) of regulation 5 of the Retirement Benefits Schemes (Sharing of Pensions on Divorce) Regulations 2000⁽⁸⁾.”.

“Standard retirement pension” and “standard retirement grant”

3. In regulation D2—
 - (a) in paragraph (1) for “Subject to paragraphs (2) and (3),”, substitute “Subject to paragraphs (2), (3) and (4),”; and
 - (b) after paragraph (3), add—
 - “(4) In the case of a pension debit member the “standard retirement pension” and, if not already paid, the “standard retirement grant” shall be reduced in accordance with guidance issued by the Government Actuary to take into account the debit to which the shareable rights of the pension debit member are subject under a pension sharing order.”.

⁽⁶⁾ See Section 590(3)(bb) of the Income and Corporation Taxes Act 1988 (1988 c. 1) inserted by paragraph 2(3) of Schedule 10 to the Finance Act 1999 (1999 c. 16)

⁽⁷⁾ See S.I. 2000/1085, 1093

⁽⁸⁾ S.I. 2000/1085

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Deferred pensioner's spouse's long-term pension

4. In regulation F3, after paragraph (2) add—
 - “(3) Where the deceased was a pension debit member, the long-term pension is equal to half the pension to which he would have been entitled under regulation D5 if he had become entitled to a pension under that regulation on the date that he died.”.

Pensioner's children's long-term pensions

5. In regulation G6 (2) after “retirement pension” insert—
 - “which if the deceased person was a pension debit member, is calculated by reference to the retirement pension to which the deceased would have been entitled had his shareable rights not been subject to a pension debit”.

Pensioner's children's short-term pensions

6. In regulation G7—
 - (a) in paragraph (2), after “Subject to” insert “paragraph (3) and”;
 - (b) after paragraph (2) add—
 - “(3) In the case of a person who was a pension debit member the annual rate of children's short-term pension is equal to the retirement pension to which the deceased person would have been entitled had his shareable rights not been subject to a pension debit.”.

Interest on late payment of certain benefits

7. In regulation H1(1)—
 - (a) in sub-paragraph (a), for “Part D, F or G” substitute “Part D, F, G or N”;
 - (b) in sub-paragraph (b), after “a retirement grant” insert “and a lump sum grant payable under regulation N9,”;
 - (c) in sub-paragraph (d), after “a death grant” insert “including a death grant payable under regulation N10,”; and
 - (d) in sub-paragraph (e), after “regulation H6” insert “N11 or N12,”.

Decisions as to benefits

8. In regulation J3(3), after “includes” insert “a benefit specified in Part N,”.

Application for a decision

9. In regulation J6, after paragraph (5) insert—
 - “(5A) An application for a decision by—
 - (a) a person entitled to a pension credit or a pension credit member,
 - (b) a person who ceased to be such a person or member during the period of six months ending with the date of the application, or
 - (c) a person claiming to be such a person or member within sub-paragraph (a) or (b),shall set out particulars of that person's full name, address and date of birth.”.

Inward transfer(s)

10. In regulation K14—

- (a) in paragraph (1), after the words “person who” insert “is or”; and
- (b) for paragraph (2)(b) substitute the following—
 - “(b) excludes rights to benefits arising—
 - (i) out of an additional voluntary contributions' provision or an additional voluntary contributions' scheme (except where the payments securing such rights began before 8th April 1987), or
 - (ii) under a scheme, contract or arrangement which are attributable to a pension credit.”.

Pension sharing

11. After Part M insert the following Part—

“Part N

Pension Sharing

Sharing of rights under the Scheme

Interpretation

N1. References in this Part to a pension credit member are to that person in relation to his pension credit rights and not in relation to any other rights he may have under the Scheme.

Discharge of liability for pension credit rights

N2.—(1) The Committee may discharge its liability in respect of a pension credit in accordance with either sub-paragraph (2) or sub-paragraph (3) of paragraph 1 of Schedule 5 to the 1999 Order.

(2) Where the Committee discharges its liability by conferring pension credit rights on the person entitled to the pension credit, those rights shall be to—

- (a) a pension and a lump sum grant; and
- (b) a death grant.

(3) A pension credit member is not entitled to a lump sum grant if the transferor has been paid a retirement grant before the valuation date.

(4) The pension at the valuation date shall be calculated—

- (a) by reference to the value of the pension credit member's pension credit rights calculated in accordance with regulation 10 of the Pension Sharing (Implementation and Discharge of Liability) Regulations (Northern Ireland) 2000⁽⁹⁾, and
- (b) in accordance with guidance issued by the Government Actuary.

⁽⁹⁾ S.R. 2000 No 145; amended by S.R. 2000 No. 335.

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Aggregation

N3.—(1) Pension credit rights or pension credit benefits may not be aggregated with any other rights or benefits under the Scheme (including those attributable to a different pension credit).

(2) Where a pension credit member is also a member, he may not count any period which may count for any purpose as a period of membership in connection with his pension credit benefits towards the membership period required before he is entitled to any benefit which relates to his membership, or in the calculation of that benefit.

Death of person entitled to a pension credit before discharge

N4.—(1) Where a person entitled to a pension credit dies before liability in respect of his pension credit has been discharged in accordance with regulation N2(1), such liability shall be discharged by the Committee by the payment of a lump sum.

(2) The lump sum shall be equal to three times the annual rate of the pension that would have been paid to him if on the date of his death he had become entitled to a pension as a pension credit member, calculated in accordance with guidance issued by the Government Actuary.

(3) The Committee shall pay the lump sum to the deceased's personal representatives.

Safeguarded rights

N5.—(1) A pension credit member's safeguarded rights for the purposes of the Scheme and of the Pension Schemes (Northern Ireland) Act 1993⁽¹⁰⁾ and regulations made under that Act are such of his rights falling within section 64A(1)⁽¹¹⁾ of that Act as represent the safeguarded percentage of the rights acquired by him in the Scheme by virtue of the pension credit.

(2) The "safeguarded percentage" is the percentage of the shareable rights by reference to which the amount of the pension credit is determined which are contracted-out rights.

(3) "Contracted-out rights" has the meaning given in section 64A(5) of the Pension Schemes (Northern Ireland) Act 1993.

Valuation date

N6. For the purposes of—

- (a) calculating the cash equivalent referred to in Article 27(2) of the 1999 Order; and
- (b) regulations N2(3) and (4) and N8(1),

the valuation date shall be the first day of the implementation period as defined in Article 31(1) of that Order.

Pension credit members and pension credit

Application of the Regulations to pension credit members

N7. Part A (preliminary), regulations H1 (interest on late payment of certain benefits), H3 (benefits not assignable), H7 (payments due in respect of deceased persons), Part J (decisions and appeals), regulations L11 (Pension Increases etc), M2 (information to be

⁽¹⁰⁾ 1993 c. 49.

⁽¹¹⁾ Section 64A was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

supplied by certain employees) and M3 (records to be kept by the Committee) apply to a pension credit member.

Calculation—

N8.—(1) The annual rate of the pension at normal benefit age shall be the pension calculated as referred to in regulation N2(4), increased in accordance with the Pensions (Increase) Act (Northern Ireland) 1971⁽¹²⁾ and, if applicable, the Pensions Increase (Northern Ireland) Order 1974⁽¹³⁾ from the valuation date.

(2) The lump sum grant shall be equal to three times the annual rate of the pension.

Payment of benefits

N9.—(1) A pension credit member who attains normal benefit age is entitled to the immediate payment of a pension and, if applicable, a lump sum grant.

(2) The pension and the lump sum grant are payable from the fund.

(3) The pension is payable for life.

Death grants

N10.—(1) When a pension credit member dies before he attains the age of 70, the Committee shall pay a death grant.

(2) The amount of the death grant of a pension credit member who dies before his normal benefit age is a lump sum equal to three times the annual rate of the pension that would have been paid to him if on the date of his death he had become entitled to the pension.

(3) The amount of the death grant of a pension credit member who dies after he is in receipt of a pension under this Part is a lump sum equal to five times the annual rate of the pension being paid to him at the date of his death but reduced by the amount of any pension paid to him under regulation N9.

(4) The Committee at its absolute discretion may make payments of a death grant to or for the benefit of the pension credit member's nominee or personal representatives, or any person appearing to the Committee to have been his relative or dependant at any time.

(5) If the Committee has not made payments under paragraph (4) equalling in aggregate the pension credit member's death grant before the expiry of the period of two years beginning with his death, it must pay an amount equal to the shortfall to the pension credit member's personal representatives.

Commutation: small pensions

N11.—(1) If the annual rate of the pension under regulation N8(1) to which a pension credit member is entitled is not more than £195 the Committee may pay him a lump sum representing the capital value of the pension.

(2) If the pension credit member is also entitled to another pension or a retirement pension under the Scheme, a lump sum is only payable if, when aggregated with the pension, the total annual amount payable to that member is not more than £195.

(3) The capital value of the pension must be calculated in accordance with guidance issued by the Government Actuary.

⁽¹²⁾ 1971 c. 35 (N.I.); sections 3, 8 and 15 are amended by Article 36 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

⁽¹³⁾ S.I. 1974/1267 (N.I. 2)

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(4) The payment of a lump sum in respect of a pension due to the pension credit member under this regulation discharges the Committee from its liability for the pension.

(5) The Committee must deduct from any payment under this regulation any tax to which it may become chargeable under section 599 of the Income and Corporation Taxes Act 1988⁽¹⁴⁾.

Commutation: serious ill-health

N12.—(1) In circumstances where a pension credit member is suffering from serious ill-health at any time prior to the date when he first becomes entitled to receive a pension under this Part, the whole of that pension may be commuted for a lump sum and the total of—

- (a) that lump sum, and
- (b) the lump sum grant (if applicable)

(“the commutation payment”) paid to the pension credit member.

(2) The lump sum referred to in paragraph (1)(a) shall be equal to five times the annual rate of the pension to which the pension credit member would have been entitled if on the date of commutation he had reached the normal benefit age.

(3) If applicable, the lump sum grant shall be equal to three times that annual rate.

(4) In this regulation, “serious ill-health” means ill-health which is such as to give rise to a life expectancy of less than one year from the date on which commutation of the pension is to take effect.

(5) Before making any decision as to whether a pension credit member may be entitled under paragraph (1), the Committee must obtain from an independent registered medical practitioner which it has appointed a certificate as to whether in his opinion the pension credit member is suffering from serious ill-health.

(6) Payment of the commutation payment discharges the Committee’s liability to the pension credit member in respect of his pension credit benefits.

(7) The Committee must deduct from the commutation payment any tax to which it may become chargeable under section 599 of the Income and Corporation Taxes Act 1988.

Transfers

Transfers out

N13. For the purposes of Chapter II of Part IVA⁽¹⁵⁾ of the Pension Schemes (Northern Ireland) Act 1993 (requirements relating to pension credit benefits), the managers of the Scheme in relation to a pension credit member are the Committee.

Transfers in

N14.—(1) A pension credit member is not entitled to request the Committee to accept a transfer value for accrued rights to benefit and the Committee must not accept a transfer value of such rights where they have accrued to a pension credit member.

(2) “Accrued rights to benefit” has the meaning given in regulation K14(2).”

⁽¹⁴⁾ 1988 c. 41 Section 599 was amended by the Finance Act 1989 (c. 26), Schedule 6, paragraphs 11 and 18

⁽¹⁵⁾ Part IVA of the Pension Schemes (Northern Ireland) Act 1993 was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999, Article 34.

Schedule A2: Definitions for pension sharing on divorce

12. After Schedule A1, insert the following Schedule—

“SCHEDULE A2

Regulation 2

Interpretation for pension sharing on divorce

In these Regulations—

“the 1999 Act” means the Welfare Reform and Pensions Act 1999(16);

“the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999(17);

“Deferred pensioner” and “pensioner” shall be construed in accordance with Part E;

“normal benefit age” means 65;

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order or under section 29(1)(b) of the 1999 Act;

“pension credit benefits” means benefits payable under the Scheme to or in respect of a pension credit member by virtue of rights under the Scheme attributable to a pension credit;

“pension credit member” means a person who has pension credit benefits under the Scheme;

“pension credit rights” means rights to future benefits under the Scheme which are attributable to a pension credit;

“pension debit” means a debit under Article 26(1)(a) of the 1999 Order or under section 29(1)(a) of the 1999 Act;

“pension debit member” means a member, a deferred pensioner or pensioner, whose shareable rights under the Scheme are subject to a pension debit;

“pension sharing order” in relation to a pension credit member, a pension debit member, a person entitled to a pension credit or pension credit rights means the order or provision by virtue of which Article 26 of the 1999 Order or section 29 of the 1999 Act takes effect;

“shareable rights” has the same meaning as in Article 24(2) of the 1999 Order or under section 27(2) of the 1999 Act;

“transfer date” in relation to a pension credit member and pension credit rights means the day on which the pension sharing order takes effect;

“transferor” in relation to a pension credit member or a person entitled to a pension credit means the person to whose shareable rights the pension sharing order relates.”

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision in connection with the pension rights of certain members of the Local Government Pension Scheme (“the Scheme”) and amend the Local Government Pension

(16) 1999 c. 30

(17) S.I. 1999 No. 3147 (N.I. 11)

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Scheme Regulations (Northern Ireland) 2000 (“the principal Regulations”) which regulate the Scheme. They also amend the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000.

The provisions and amendments are in relation to the sharing of pensions following divorce or nullity of a marriage, introduced by the Welfare Reform and Pensions (Northern Ireland) Order 1999.

Regulation 1 provides for citation, commencement and retrospection.

Regulation 2 and the Schedule amend the principal Regulations. Paragraphs 1 to 10 of the Schedule make amendments to the wording of the existing provisions. Paragraph 11 adds a new Part N to the principal Regulations to make provision for pension credit members and paragraph 12 inserts a new Schedule of definitions for pension sharing as Schedule A2 to the principal Regulations.

Part N provides that a person entitled to a pension credit may become a pension credit member of the Scheme. A pension credit member is entitled to receive pension benefits at age 65. The benefits take the form of a pension and, where the person whose rights are subject to a debit has not been paid a lump sum, a lump sum. There is no provision for earlier payment of the benefits except that they may be commuted for a lump sum in circumstances where life expectancy is less than one year. A pension of not more than £195 per annum may also be commuted for a lump sum.

There are no surviving spouse’s or children’s pensions payable following the death of a pension credit member but provision is made for payment of a death grant.

A pension credit member may not aggregate his pension credit rights with any other rights he may have under the Scheme nor may he ask for the Scheme to accept a transfer value for pension rights from another scheme or arrangement.

Regulation 3 amends the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000 to provide that certain costs and charges incurred in connection with pension sharing (as prescribed in regulations made under the Welfare Reform and Pensions (Northern Ireland) Order 1999) are not borne by the Scheme.

These Regulations do not impose any costs on business.

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express powers to make regulations retrospective in effect and these Regulations are retrospective to 1st December 2000.