

2001 No. 64

LOCAL GOVERNMENT

**Local Government Pension Scheme (Amendment No. 2)
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 on it by Article 9 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and now invested in it(b) 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 and commencement

1. These Regulations may be cited as the Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2001 and shall come into operation on 2nd April 2001.

Amendment of regulations

2. The Local Government Pension Scheme Regulations (Northern Ireland) 2000(c) shall be amended in accordance with regulations 3 to 12 of these Regulations.

Agreements to enable employees of non-LGPS employers to be members ("admission agreements")

3. For regulation B6 substitute the following—

"Agreements to enable employees of non-LGPS employers to be members ("admission agreements")

B6.—(1) The Committee may make an admission agreement with any admission body.

(2) An admission agreement is an agreement that all or any specified class of the admission body's employees may be members.

(3) These are admission bodies—

(a) a body which provides a public service in the United Kingdom otherwise than for the purposes of gain and which either—

(a) S.I. 1972/1073 (N.I. 10)

(b) S.R. & O.(N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(c) S.R. 2000 No. 177

- (i) has sufficient links with a LGPS employer for the body and the LGPS employer to be regarded as having a community of interest, whether because the operations of the admission body are dependent on the operations of the LGPS employer or otherwise, or
- (ii) is approved by the Department for the purpose of admission to the Scheme;
- (b) a body to the funds of which any LGPS employer contributes;
- (c) a body to which any monies are payable from monies appropriated by or under an enactment as defined in section 98(1) of the Northern Ireland Act 1998(a);
- (d) a body representative—
 - (i) of local authorities, or
 - (ii) of local authorities and officers of local authorities, or
 - (iii) of officers of local authorities, or
 - (iv) of LGPS employers;
- (e) statutory undertakers;
- (f) non-statutory undertakers;
- (g) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(b);
- (h) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(c); and
- (i) a body which provides services or assets referred to in a transfer arrangement.

(4) An admission body referred to in paragraph (3)(d)(iii) is only an admission body if it is formed for the purpose of consultation as to the common interests of local authorities and the discussion of matters relating to local government.

(5) Approval under paragraph (3)(a)(ii) may be subject to such conditions as the Department thinks fit and it may withdraw approval at any time if such conditions are not met.

(6) It must be a term of an admission agreement made with a non-associated admission body within paragraphs (3)(b) and (c) that the body which provides the funding or from which monies are appropriated (and, if more than one, all of them) guarantees the liability of the admission body to pay all amounts due from it under the Regulations.

(7) In the case of an admission agreement with a transferee admission body—

(a) 1998 c. 47
 (b) 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)
 (c) S.I. 1997/1772 (N.I. 15)

- (a) the transferor LGPS employer, if not the Committee, must be a party to the admission agreement;
- (b) only those employees of the transferee admission body who are employed in connection with the provision of the services or assets referred to in the transfer arrangement are eligible to be members of the Scheme;
- (c) the admission agreement shall require an indemnity or bond in an approved form and with an authorised insurer or a relevant institution; and
- (d) provision shall be made for the matters set out in Schedule A2.

(8) Where a transferor LGPS employer and a transferee admission body undertake to meet the requirements of paragraph (7), the Committee must admit to the Scheme the eligible employees of the transferee admission body and, where it does so, the terms on which it does so are the admission agreement for the purposes of these Regulations.

(9) An admission agreement must terminate if the admission body ceases to be such a body.

(10) An admission agreement may make such other provision about its termination as the parties to the agreement consider appropriate.

(11) When the Committee makes an admission agreement, it must promptly inform the Department of the date the agreement takes effect, the admission body's name and, in the case of an admission agreement with a transferee admission body, the name of the relevant transferor LGPS employer.

(12) The Committee must notify the Commissioners of Inland Revenue of the admission of an admission body within the time prescribed in regulations made under section 605 of the Taxes Act^(a) and provide such information as may be so prescribed.

(13) Any question which may arise between the Committee and any other party to an admission agreement relating to the construction of the agreement or to the rights and obligations under that agreement shall be referred in writing for determination to the Department.

(14) An employee of an admission body may not be a member if he is a member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993^(b)) other than where the accrual of benefits under that pension scheme would not affect approval of the Scheme as an approved scheme.

(15) These Regulations apply to employment with an admission body in which the employee is a member in the same way as if the body were a LGPS employer.

(16) In this regulation and in Schedule A2 (where applicable)—

- (a) “authorised insurer” means—

(a) 1988 c. 1; section 605 was amended by section 105 of the Finance Act 1994 (c. 9). For the regulations, see S.I.1995/3103

(b) 1993 c. 49

- (i) an insurance company authorised under section 3 or 4 of the Insurance Companies Act 1982^(a) to carry on general business, or
- (ii) an EC company which is lawfully carrying on general business, or providing insurance of an appropriate class within general business, in the United Kingdom,

and expressions used in this definition and the Insurance Companies Act 1982 have the same meaning as in that Act;

- (b) “indemnity or bond in an approved form” means an indemnity or bond to meet a level of risk exposure arising on premature termination of the transfer arrangement actuarially assessed to the satisfaction of the Committee and the transferor LGPS employer if not the Committee;
- (c) “non-associated admission body” means a body described in—
 - (i) paragraph (3)(a)(ii),
 - (ii) paragraph (3)(b) where, at the date that the admission agreement is made, the contributions paid to a body by any one or more LGPS employers equal in total 50% or less of the total amount it receives from all sources, or
 - (iii) paragraph 3(c);
- (d) “non-statutory undertakers” means a body who, though not authorised by any statutory provision to do so, is primarily engaged in carrying on—
 - (i) any railway, light railway, road transport, water transport, canal, inland navigation, dock, harbour, pier; or
 - (ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;
- (e) “relevant institution” means—
 - (i) an institution authorised under Part I of the Banking Act 1987^(b) (regulation of deposit-taking business),
 - (ii) a person to whom the restriction on acceptance of deposits in section 3 of that Act does not apply because he is specified in Schedule 2 to that Act (Central banks etc.), or
 - (iii) a European authorised institution which has lawfully established a branch in the United Kingdom for the purpose of accepting deposits,

and “European authorised institution” has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992^(c);

- (f) “statutory undertakers” means a body authorised by any statutory provision to carry on—

(a) 1982 c.50 ; section 2, which contains definitions, was amended by S.I.1994/1696, regulations 4 and 45 and Schedule 6
 (b) 1987 c. 22
 (c) S.I. 1992/3218

- (i) any railway, light railway, road transport, water transport, canal, inland navigation, dock, harbour, pier; or
- (ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic;
- (g) “transferee admission body” means an admission body described in paragraph (3)(i);
- (h) “transfer arrangement” means a contract or other arrangement made with a transferor LGPS employer for the provision of, or making available of, services or assets, for the purposes of or in connection with the exercise of a function of that transferor LGPS employer; and
- (i) “transferor LGPS employer” means an authority or body which is a LGPS employer.”.

Other cases of ineligibility

4. In regulation B8, after paragraph (2) add—

“(3) A person who is a member and is an employee of a transferee admission body is treated as leaving a local government employment when he ceases to be employed in connection with the services or assets referred to in the transfer arrangement.”.

Further provisions about preserved benefits

5. In regulation D12, after paragraph(2) add—

“(3) In the case of a member who first becomes a member on or after 2nd April 2001 any period of membership in the employment of a non-associated admission body (as defined in regulation B6(16)(c)) shall not be aggregated with any other periods of membership for the purpose of calculating his retirement grant.”.

Valuations of fund

6. In regulation L3—

- (a) in paragraph (1)(a), for the word “shall” substitute “must”;
- (b) in paragraph (3) after the words “valuation and report” insert the words “under this regulation or regulation L4A”;
- (c) delete paragraph (4).

Special circumstances where revised actuarial valuations and certificates must be obtained

7. After regulation L4 insert the following—

“Special circumstances where revised actuarial valuations and certificates must be obtained

L4A.—(1) Where an admission agreement ceases to have effect the Committee must obtain—

- (a) an actuarial valuation as at the date it ceases of the liabilities of the fund in respect of current and former employees of the

admission body which is a party to that admission agreement (the outgoing admission body), and

(b) a revision of the certificate provided under regulation L4(1), showing the revised contributions due from the outgoing admission body.

(2) Where it is not possible for any reason to obtain the revised contributions from the outgoing admission body or from an insurer or any person providing a guarantee or indemnity on behalf of that admission body, the Committee may obtain a further revision of the certificate, showing the revised contributions due from each employing authority which contributes to the fund.

(3) The Committee may obtain from an actuary a certificate specifying, in the case of an admission body, the percentage or amount by which, in the actuary's opinion,—

(a) the contribution at the common rate should be adjusted, or

(b) any prior individual adjustment should be increased or reduced,

with a view to providing that the value of the assets of the fund in respect of current and former employees of that admission body is neither materially more nor materially less than the anticipated liabilities of the fund in respect of those employees at the date that the admission agreement is to end.”

Admission agreements

8. After Schedule A1, insert Schedule A2 as set out in the Schedule to these Regulations.

Limitations on contributions and benefits

9. In paragraph 1(1) of Schedule C4,—

(a) in the definition of “Class B member”

(i) at the end of sub-paragraph (b) delete the word “and”;

(ii) at the end of sub-paragraph (c) insert the word “and”; and

(iii) after sub-paragraph (c) insert the following—

“(d) has continued to be a member since before 1st June 1989 and has either not had a continuity break or satisfies one of the continuity conditions mentioned in sub-paragraph (7) in relation to any period when he was not a member.”;

(b) in the definition of “Class C member”

(i) in sub-paragraph (a) after “17th March 1987” insert “and has not had a continuity break”;

(ii) at the end of sub-paragraph (a) delete the word “and”;

(iii) after sub-paragraph (a) insert the following—

“(aa) has continued to be a member since before 17th March 1987 or satisfies one of the continuity conditions mentioned in sub-paragraph (7) in relation to any period when he was not a member; and”;

(c) after the definition of “Class C member” insert the following definition—

““continuity break” is a change of employment from a LGPS employer (including an admission body) to a non-associated or transferee admission body (as defined in regulation B6(16)(c) and (g)) but does not include a change in the case of a person who was a member of the Scheme on 2nd April 2001”;

(d) in sub-paragraphs (5)(b) and (6)(b) insert the word “continuity” between the words “the” and “conditions”; and

(e) in sub-paragraph (7)—

(i) insert the word “continuity” between the words “the” and “conditions”;

(ii) insert “1(1),” before “(5)(b)”; and

(iii) in sub-paragraph (d) for the words “of such cessation he returned to work” substitute the words “he rejoined the Scheme”.

The Committee

10. In paragraph 22(1) of Part II of Schedule L1, in both places where the words “or public body” occur substitute “, a public body or a body described in regulation B6(3)(i).”.

Consequential Amendments

11.—(1) In regulation B13(1)(d) delete the reference to “B6(6)”.

(2) In Schedule A1, in the definitions of “Admission agreement employee” and “LGPS employer” for “regulation B6(3)” substitute “regulation B6(15).”

(3) In Part I of Schedule B1 in paragraph 1(1)(b) delete the reference to “B6(6)”.

(4) In Schedule M4—

(a) in paragraph 2(a)(i) for “regulation B6(3)” substitute “regulation B6(15),”

(b) in paragraph 2(b) for “regulation B6(9)” substitute “regulation B6(3)”.

Miscellaneous

12. In Schedule A1, in paragraph (b) of the definition of “Local government employment”, after the words “or has been deemed to be” insert the words “a member of the Scheme, or”.

Savings

13. The amendments made by regulations 2 to 11 shall not affect any admission agreements made in accordance with the Local Government Pension Scheme Regulations (Northern Ireland) 2000 before the date on which these Regulations come into operation.

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

Matters to be included in an admission agreement in certain cases

A reference to the date of the transfer arrangement.

A requirement for the transferee admission body to pay to the Committee all contributions and payments due under the Regulations.

A provision whereby the transferor LGPS employer may set off against any payments due to the transferee admission body an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the Regulations) due from the transferee admission body as an employing authority.

A reference to the indemnity or bond in the approved form.

A warranty from the transferee admission body that such an indemnity or bond is in place.

A provision requiring the transferee admission body to adopt the practices and procedures relating to the operation of the Scheme set out in the Regulations and in any employer’s guide published by the Committee and provided to the transferee admission body.

An undertaking from the transferee admission body to the Committee that it shall not do anything to prejudice the status of the Scheme as an exempt approved scheme within the meaning given by section 592(1) of the Taxes Act(a).

A representation and warranty from the transferee admission body to the Committee and to the transferor LGPS employer that all the transferee admission body’s employees or class of employees who are specified as members are employed in connection with the services, assets or function referred to in the transfer arrangement.

An undertaking from the transferee admission body that it will promptly notify the Committee and the transferor LGPS employer in writing of any material change in the terms and conditions of employment which affect entitlement to benefits under the Scheme for its employees who are members and of any terminations of employment by virtue of redundancy or in the interests of efficiency.

A requirement that the transferee admission body notifies the Committee and the transferor LGPS employer of any matter which may affect, or is likely to affect, its participation in the Scheme and that it gives immediate notice of any actual or proposed change in its status which may give rise to a termination, including take-over, reconstruction or amalgamation, liquidation or receivership and a change in the nature of its business or constitution.

A minimum period of three months’ notice to terminate the admission agreement but automatic termination, as required by regulation B6(9) in the event that the transferee admission body ceases to be such.

A right for the Committee to terminate the agreement in the event of—

the insolvency, winding up or liquidation of the transferee admission body,

a breach by the transferee admission body of any of its obligations under the admission agreement (but where the breach is capable of remedy only where it has not been remedied within a reasonable time),

the withdrawal of approval by the Commissioners of Inland Revenue to the participation of the transferee admission body as a LGPS employer, or

a failure by the transferee admission body to pay any sums due to the fund within a reasonable period after receipt of a notice from the Committee requiring it to do so.

A requirement that the admission agreement in its final form shall be available for public inspection at the appropriate offices of the transferor LGPS employer and the Committee (if different).”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (“the principal Regulations”) which comprise the Local Government Pension Scheme (“the Scheme”).

Regulations 2 to 12 make a number of amendments to the principal Regulations and the amendments take effect from the date that these Regulations come into operation.

Regulation 3 amends the principal Regulations by substituting a new regulation B6 which provides for the Committee to extend eligibility to the Scheme to employees of admission agreement bodies. The new regulation B6 of the principal Regulations widens the categories of bodies which are admission bodies. It also adds procedural requirements in connection with admission agreements with certain categories of admission bodies and provides that questions arising in connection with admission agreements shall be determined by the Department of the Environment.

The principal change is to allow employees of transferee admission bodies to be members. Transferee admission bodies are bodies which provide services or assets to local authorities or to other public bodies under a contractual arrangement.

The substituted regulation B6 also permits a body which is representative of Local Government Pension Scheme employers to be an admission body.

Regulation 4 makes a consequential amendment to regulation B8 of the principal Regulations, to define when employees of transferee admission bodies are treated as leaving local government employment for the purposes of the Scheme.

Regulation 5 amends regulation D12 of the principal Regulations, which covers re-employed and rejoining deferred members, to provide that for members who have accrued Scheme membership with certain admission bodies, specified periods of such membership may not be aggregated in calculating lump sum benefits.

Regulation 6 makes minor consequential amendments to regulation L3 of the principal Regulations.

Regulation 7 inserts into the principal Regulations a new regulation L4A which deals with special circumstances where revised actuarial valuations and certificates must be obtained. The amendments make special provision in connection with valuations and certificates in respect of liabilities of admission bodies and of the fund in respect of employees of those bodies.

Regulation 8 adds a new Schedule A2 to the principal Regulations which sets out conditions to be included in an admission agreement with a transferee admission body.

Regulation 9 makes consequential amendments to Schedule C4 to the principal Regulations which sets out Inland Revenue restrictions on benefits under the Scheme.

Regulation 10 makes consequential amendments to Schedule L1 to the principal Regulations which sets out the powers of the Committee.

Regulation 11 makes consequential amendments to the principal Regulations.

Regulation 12 makes a miscellaneous amendment to a definition in Schedule A1 to the principal Regulations.

Regulation 13 provides that the amendments made by regulations 2 to 11 do not affect admission agreements entered into before the date these Regulations come into operation.