
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

**Local Government Pension Scheme
Regulations (Northern Ireland) 2002**

PART II

PRIMARY PROVISIONS

CHAPTER IV

BENEFITS

Preliminary

General qualification for benefits

- 18.**—(1) Membership of the Scheme only entitles the member to benefits under this Chapter if—
- (a) his total membership is at least two years;
 - (b) a transfer value is credited to him; or
 - (c) neither paragraph (a) nor (b) applies and he—
 - (i) has attained state pensionable age; or
 - (ii) will attain that age before the following 6th April.
- (2) But paragraph (1) does not apply—
- (a) to a benefit under regulation 26 (normal retirement) in a case where the member's normal retirement date is his 65th birthday or under regulation 29(2) (ill-health grants); or
 - (b) to benefits in respect of a member under regulation 41 (death grants), regulation 42 (surviving spouse's short-term pension), regulation 47 (children's short-term pensions) or regulation 48 (children's long-term pensions).

Calculations

- 19.**—(1) The amount of any benefit payable as a result of a person's membership is generally calculated by multiplying his final pay by the appropriate multiplier.
- (2) Unless another multiplier is indicated, the appropriate multiplier for a pension is—
- $$\frac{\text{the member's total membership}}{80}$$
- (3) Unless another multiplier is indicated, the appropriate multiplier for a retirement grant is—

3 × the member's total membership

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- (4) But –
- (a) benefits payable to a pension debit member are reduced as provided in regulation 20; and
 - (b) benefits payable on or after the death of a pensioner member are calculated by multiplying the amount of his former retirement pension by the multiplier specified for the benefit in question.
- (5) Unless otherwise indicated, references to the amounts of pensions are to their annual rate.
- (6) The amount of a deceased person's former retirement pension is the amount of the pension he would have received immediately before his death, but for –
- (a) regulation 31 (re-employed pensioners);
 - (b) regulation 33 (elections for early payment);
 - (c) regulation 36 (surrenders);
 - (d) regulation 52 (commutation in cases of exceptional ill-health);
 - (e) regulation 56 (effect of increases under Chapter II of Part III for older members);
 - (f) regulation 59 (effect of increases under Chapter III of Part III for older members); or
 - (g) regulation 113 (application of abatement policy in individual cases).
- (7) Periods are measured in years and fractions of a year (calculated as specified in regulation 10).
- (8) A pensioner member includes a person who would have been entitled to a pension but for regulation 113 (application of abatement policy in individual cases).
- (9) But paragraph (8) does not stop a person to whom it applies from also being an active member.

Pension debit member

20.—(1) The benefits payable to a pension debit member shall be reduced to take into account the debit to which the shareable rights of the pension debit member are subject under a pension sharing order.

(2) The amount of the reduction shall be calculated in accordance with guidance issued by the Government Actuary.

Replacement of rights

21.—(1) Subject to paragraph (2), a pension debit member who is an active 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⁽¹⁾.

(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⁽²⁾, or otherwise.

(1) 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).

(2) See S.I. 2000/1085, 1093

(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(3).

Final pay

22.—(1) A member’s final pay for an employment is his pay for as much of the final pay period as he is entitled to count as active membership in local government employment (but see paragraphs (3) to (11), regulations 23 and 24(2) and Schedule 4).

(2) A member’s final pay period is the year ending with the day on which he stops being an active member (but see paragraph (10) and regulations 23 and 24).

(3) In the case of part-time employment, the final pay is the pay which would have been paid for a single comparable whole-time employment.

(4) But in calculating death grant or the rate of surviving spouse’s or children’s short-term pension payable on the death of an active member, actual pay in part-time employment is to be used, or, in calculating death grant, three eightieths of final pay multiplied by total membership if greater.

(5) Any reduction or suspension of a member’s pay during the final pay period because of his absence from work owing to illness or injury must be disregarded for this Chapter.

(6) If a member’s final pay period includes reserve forces service leave, his final pay is –

- (a) in a case where he has paid contributions by virtue of regulation 16(5), the amount it would have been if his reserve forces pay were pay received in his former local government employment; or
- (b) otherwise, the amount it would have been if he had continued to be employed in his former employment during the period of that leave.

(7) For the purposes of this Chapter, a member’s pay for any period of maternity absence during the final pay period in respect of which she pays or is treated as paying contributions is the pay she would have received had she not been absent.

(8) If a member is absent from work for any other reason during his final pay period, he is only to be treated for this Chapter as having received the pay he would otherwise have received if he has made the appropriate contributions under Chapter III for the period he is absent.

(9) If in any case where regulation 12(5) (collective pay agreements) applies to a member’s pay during any part of the final pay period –

- (a) his average weekly earnings from his local government employment in that period (other than payments for overtime and bonuses) –
 - (i) exceed by more than 50 per cent. the lower earnings limit at the end of that period, and
 - (ii) do not exceed the upper earnings limit at the end of that period; and
- (b) his final pay would be greater if determined using those earnings,

it is to be determined using them.

(10) If a member is only entitled to count part of the year specified in paragraph (2) as a period of active membership in relation to the employment which he ceases to hold, his final pay is his pay during that part multiplied by 365 and divided by the number of days in that part.

(11) Final pay does not include any pension in payment.

Other final pay periods

23.—(1) Where the whole or part of a member's pay consists of fluctuating emoluments, his final pay period for them is not the period specified in regulation 22(2) but –

- (a) the period of three years ending with the last day he was an active member; or
- (b) any other period he may with the consent of his employing authority elect, being a period of not less than three nor more than five years –
 - (i) ending with a day which is that last day or of which that last day is the anniversary, and
 - (ii) falling within the period of 13 years ending with that last day.

(2) But if he was only entitled to receive fluctuating emoluments during part of the period mentioned in paragraph (1)(a), that part is substituted for the period referred to in that paragraph.

(3) If a member has been absent from work during any part of the year specified in regulation 22(2), his final pay period is the last 365 days he is entitled to count as a period of active membership.

(4) A member to whom paragraph (5) applies may elect that instead of his final pay period being determined under regulation 22(2) or paragraph (1), (2) or (3), it should instead be –

- (a) as respects so much of his pay as does not consist of fluctuating emoluments, a year ending with a day –
 - (i) falling within the period of three years ending with the last day he was an active member, and
 - (ii) of which that last day is the anniversary; and
- (b) as respects so much of his pay as consists of fluctuating emoluments, that period of three years.

(5) This paragraph applies to a member whose pay in the period which he would elect as his final pay period if he made an election under paragraph (4) is higher than his pay in a final pay period determined under regulation 22(2) or paragraph (1), (2) or (3).

(6) Where paragraph (1) or (2) applies or a member elects for the period specified in paragraph (4) (b), as respects so much of his pay as consists of fluctuating emoluments his final pay is the annual average of his fluctuating emoluments during his final pay period.

(7) An election under this regulation by a member must be made by notice in writing given to the Committee before the expiry of the period of one month, or such longer period as the Committee may allow, beginning with the day he is notified of his entitlement to a benefit.

(8) Where a member has died without having made an election under this regulation, the Committee may make an election on his behalf (whether or not the period within which he could have elected has expired).

Permanent reductions in pay: certificates of protection of pension benefits

24.—(1) Where a certificate has been issued as respects a member's pay under paragraph (3) or (5) and the date of reduction or, as the case may be, restriction specified in the certificate is not more than 10 years before the date on which he ceases to be an active member, he may elect that his final pay period should be –

- (a) a year ending with a day –
 - (i) falling within the period of five years ending with the last day he was an active member, and
 - (ii) of which that last day is the anniversary; or

- (b) any three consecutive years –
 - (i) falling within the period of 13 years ending with the last day he was an active member, and
 - (ii) ending with a day of which that last day is the anniversary.
- (2) Where a member elects for the period specified in paragraph (1)(b), his final pay is the annual average of his pay during that period.
- (3) If, otherwise than by virtue of a member's own circumstances –
 - (a) his rate of pay is reduced; or
 - (b) the rate at which it may be increased is restricted in such a way that it is likely that the rate of his retirement pension will be adversely affected,he is entitled to be issued with a certificate to this effect by his employing authority (but see paragraph (5)).
- (4) A member is not entitled to be issued with a certificate under this regulation if the reduction in his rate of pay –
 - (a) is temporary; or
 - (b) consists in the termination of, or a reduction in, a temporary increase in the rate of pay.
- (5) The employing authority may issue a certificate without an application from the member, but need not issue a certificate if he does not apply for one within 12 months after the date of reduction or restriction.
- (6) A certificate issued under this regulation must specify the date of the reduction or restriction.
- (7) The employing authority must send a copy of the certificate to the Committee.
- (8) The employing authority must keep a record of the certificate including such information as would be necessary for applying paragraph (1) for the period of 10 years beginning with the date of reduction or restriction specified in it.
- (9) An election under this regulation by a member must be made by notice in writing given to the Committee before the expiry of the period of one month, or such longer period as the Committee may allow, beginning with the date on which he is notified of his entitlement to a benefit.
- (10) Where a member has died without having made an election under this regulation, the Committee may make an election on his behalf (whether or not the period within which he could have elected has expired).

Revenue restrictions

25. Schedule 4 contains restrictions on the amounts of benefits which a member is entitled to under the Scheme.