
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 256

The Health and Social Care (Pension Scheme) Regulations (Northern Ireland) 2008

PART 2

BENEFITS FOR OFFICERS

CHAPTER 3

CONTRIBUTIONS

Basic contributions by members

Contributions by members

27.—(1) Each active member must make contributions to the Scheme in respect of the member's pensionable pay in accordance with regulation 28—

- (a) until the member completes 45 years' pensionable service, or
- (b) where the notice required by regulation 7(3) has been properly received, until the member ceases officer service.

(2) The member's employing authority in respect of the employment must deduct the member's contributions from the member's earnings for the period and pay them to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(3) A non-GP provider shall pay C1 contributions to the host Board.

(4) If a non-GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority shall—

- (a) deduct C1 contributions from any pensionable pay it pays that person, and
- (b) if it is not also the host Board, pay those contributions to that Health and Social Services Board.

(5) Subject to paragraph (6), if a non-GP provider is—

- (a) an employing authority which is a GMS practice or an APMS contractor, or
- (b) a shareholder or partner in such an employing authority,

that employing authority must pay C5 contributions to the host Board.

(6) If a non-GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (5), each employing authority must pay C5 contributions on any pensionable pay it pays to the non-GP provider or, as the case may be, on the non-GP provider's share of the partnership profits, to the host Board.

(7) If paragraph (4) applies (but paragraph (5) does not) and the employing authority referred to in that paragraph—

- (a) is not the host Board, that authority must pay C5 contributions to the host Board;
- (b) is the host Board, that Health and Social Services Board must pay C5 contributions to the Department in respect of any pensionable pay it pays to the non-GP provider.

(8) Contributions which are required to be paid to the host Board in accordance with this regulation must be paid to that Health and Social Services Board not later than the 7th day of the month following the month in which the earnings were paid.

(9) It shall be a function of the host Board to pay the contributions—

- (a) paid to it by a non-GP provider;
- (b) paid to it by another employing authority;
- (c) it is liable to pay by virtue of paragraph (7)(b),

in accordance with the provisions of this regulation, to the Department not later than the 19th day of the month following the month in which the earnings were paid.

(10) Without prejudice to any other method of recovery, if in respect of C1 contributions—

- (a) a non-GP provider has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions,

in accordance with this paragraph, the Department may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them if—

- (c) the member agrees to such a deduction; and
- (d) the deduction is to the member's advantage.

(11) For the purposes of this regulation—

- (a) "C1 contributions" means contributions payable under this regulation by a non-GP provider under the Scheme;
- (b) "C5 contributions" means contributions payable under regulation 31 by an employing authority in respect of a non-GP provider.

(12) If an employing authority fails to deduct contributions payable by a member in respect of an employment from the member's earnings and the member agrees, the Department may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member.

(13) Paragraph (12) does not affect any other right of recovery the Department may have.

(14) A member who is absent from service in circumstances within regulation 9 (1) to (3) may make contributions to the Scheme in respect of the member's pensionable pay in accordance with that regulation and regulation 28.

Members' contribution rate

28.—(1) Contributions under regulation 27(1) must be paid at the member's contribution rate for the period in question.

(2) Subject to paragraph (3), a member's contribution rate for that period is the percentage specified in Column 2 of the following Table in respect of the corresponding pensionable pay range specified in Column 1 of the Table into which the member's pensionable earnings fall.

Table

<i>Column 1</i> <i>Amount of pensionable pay</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £19,682	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

(3) The Department may make a determination substituting any or all of the pensionable pay amounts or contribution rates specified in the table in paragraph (2) with effect from a date specified in the determination.

(4) Before making a determination under paragraph (3), the Department must consider the advice of the Scheme actuary and the Department of Finance and Personnel.

Employees

29.—(1) If, at any time during the 2008–2009 scheme year and having no earlier officer service or practitioner service, a member commences pensionable employment (including a zero hours contract) under this Part of these Regulations—

(a) that member’s pensionable pay shall be calculated according to the formula—

$$\frac{EPP}{NDPE} \times 365$$

where—

EPP is the amount of pensionable pay that the member’s employing authority estimates will be payable to the member in respect of that employment during the 2008–2009 scheme year if that member is in whole-time employment; and

NDPE is the number of days of pensionable employment from the date employment commences to the end of the 2008–2009 scheme year, and

(b) contributions payable for the 2008–2009 scheme year shall be those specified in Column 2 of the Table in paragraph (2) in respect of the amount of pensionable pay referred to in Column 1 of that Table corresponding to the member’s estimated pensionable pay for the 2008–2009 scheme year calculated in accordance with this paragraph.

(2) If a member holds two or more pensionable employments under this Part at the same time, each of those employments shall be treated separately for the purposes of calculating and paying contributions.

(3) If a member who is in employment under this Part (“the earlier employment”) which is not a zero hours contract—

(a) commences a further employment (“the later employment”) at any time during the 2008–2009 scheme year which is not a zero hours contract; and

(b) that later employment is held concurrently with the earlier employment,

the member shall pay contributions in respect of the later employment at the rate specified in Column 2 of the Table in paragraph (2) in respect of the amount of pensionable pay referred to in Column 1 of that Table corresponding to the member’s estimated pensionable pay for the 2008–2009 scheme year calculated in accordance with paragraph (1).

(4) If a member—

- (a) at any time during the 2008–2009 scheme year, ceases pensionable employment that is not a zero hours contract (“the earlier employment”) and is not held concurrently with another pensionable employment which is not a zero hours contract; and
- (b) after so ceasing, the member next commences a further pensionable employment that is not a zero hours contract (“the later employment”) and is not held concurrently with another pensionable employment which is not a zero hours contract,

the member shall continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(5) If a member—

- (a) at any time during the 2008–2009 scheme year, ceases to be in two or more employments that were not zero hours contracts and were at one time held concurrently with each other (“the earlier employments”);
- (b) those earlier employments did not all cease on the same day; and
- (c) that member next commences a further pensionable employment that is not a zero hours contract (“the later employment”),

the member shall continue to pay contributions in respect of the later employment at the same rate as that which applied to whichever of the earlier employments was the last to cease.

(6) If a member—

- (a) at any time during the 2008–2009 scheme year, ceases to be in two or more employments that were not zero hours contracts and were at one time held concurrently with each other (“the earlier employments”);
- (b) the last two or more of those earlier employments ceased on the same day; and
- (c) that member next commences a further pensionable employment that is not a zero hours contract (“the later employment”),

the member shall pay contributions in respect of the later employment at the rate specified in Column 2 of the Table in paragraph (2) in respect of the amount of pensionable earnings referred to in Column 1 of that Table corresponding to the member’s pensionable pay for the 2008–2009 scheme year calculated in accordance with paragraph (1).

(7) If a member—

- (a) commences pensionable employment (other than a zero hours contract) under this Part at any time during the 2008–2009 scheme year (“the later employment”);
- (b) has previous service under Part 3 during that scheme year in respect of which he was liable to pay contributions to the scheme under that Part and that service was—
 - (i) as a practitioner (other than a dentist performer), or
 - (ii) as a dentist performer, or
 - (iii) both as a practitioner and as a dentist performer (one of which ceased before the other), and
 - (iv) all the previous practitioner service ceased prior to the commencement of the later service,

that member shall pay contributions in respect of the later employment at the rate determined under Part 3 for that earlier service that ceased immediately prior to the commencement of the later employment.

(8) If a member—

- (a) commences pensionable employment (other than a zero hours contract) under this Part (“the later service”) at any time during the 2008–2009 scheme year;
- (b) has previous service under Part 3 during that scheme year in respect of which he was liable to pay contributions to the Scheme under that Part and that service was both as a practitioner and as a dentist performer, but
- (c) all such practitioner service had ceased on the same day and prior to the commencement of the later employment,

the member shall pay contributions in respect of the later employment at the rate specified in Column 2 of the Table in paragraph (2) in respect of the amount of pensionable pay referred to in Column 1 of that Table corresponding to the member’s pensionable pay for the 2008–2009 scheme year calculated in accordance with paragraph (1).

(9) If, in respect of a member, none of the foregoing paragraphs apply, for the purpose of determining a member’s relevant contribution rate, the Department must determine the amount of the member’s pensionable pay to be attributed to the 2008–2009 scheme year and, in doing so, shall (in addition to the matters referred to in regulation 28(4)) have regard to that pensionable pay attributable to pensionable employment comparable to the member’s pensionable employment, prevailing pay scales and prevailing rates of pensionable allowances.

(10) If a non-GP provider commences pensionable employment for the first time (having no earlier employment or service under Part 2 or 3) at any time during the 2008–2009 scheme year—

- (a) that non-GP provider’s pensionable pay in respect of that scheme year shall be the amount agreed between the host Board on the one hand and the provider on the other hand as representing their estimate of the non-GP provider’s pensionable pay from all provider sources for that year; and
- (b) contributions payable for that part year shall be those specified in Column 2 of the Table in paragraph (2) in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to those estimated earnings.

(11) If a non-GP provider—

- (a) commences further pensionable employment (“the later employment”) at any time during the 2008–2009 scheme year;
- (b) at the time of commencing that later employment—
 - (i) has other pensionable employment as a non-GP provider in respect of which he is liable to pay contributions in accordance with paragraph (10), or
 - (ii) had previously been, but no longer is, in other pensionable employment in respect of which he was liable to pay contributions in accordance with paragraph (10), (“the earlier employment”),

the non-GP provider shall continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(12) If paragraph (11) applies and the non-GP provider had two or more earlier pensionable employments, that non-GP provider shall continue to pay contributions in respect of the later employment—

- (a) at the same rate as that which applied to whichever of the earlier employments was the last to cease, or
- (b) if all of those earlier pensionable employments, or the last two or more of them, ceased on the same day, in accordance with paragraph (10).

(13) If paragraph (11) would apply but for the fact that the earlier officer service, or one or more of them in the case of multiple earlier officer services was a zero hours contract, the non-GP provider

shall pay contributions in respect of the later employment referred to in paragraph (11)(a) at the rate determined in accordance with paragraph (10).

(14) In any case where paragraph (1) applies and it is apparent at the time when the person becomes an active member in an employment under this Part the person's pensionable pay in that employment includes any amount that is variable, that amount is to be taken as such amount as the employing authority consider appropriate for the 2008–2009 scheme year and, in the case of a member who works part time, is the variable amount that would be paid in respect of a comparable whole time employment.

(15) If a transfer payment from a corresponding health service scheme is accepted in respect of a person, the person is treated for the purposes of this regulation as if—

- (a) the person was an active member of the Scheme during any period during which the person was an active member of that scheme, and
- (b) the pay by reference to which the person's benefits under that scheme were calculated were pensionable pay for the purposes of the Scheme.

(16) If, apart from this paragraph, the pensionable pay determined for a scheme year in respect of a member's employment would not be a whole number of pounds, it must be rounded down to the nearest whole pound.

(17) In this regulation “a zero hours contract” means pensionable employment under this Part under which—

- (a) an employing authority does not guarantee to provide work for the member;
- (b) there are no specified working hours or working patterns;
- (c) the member is paid only for work actually done under it.

Part-time employees

30.—(1) The pensionable pay for the 2008–2009 scheme year in respect of a member's part-time employment is such amount as would, in the opinion of the Department, be the pensionable pay for a comparable whole-time employment under which services of the kinds performed in the part-time employment were performed on the assumption in paragraph (2).

(2) In forming that opinion, the Department must assume that the pensionable pay for the part-time employment is the part-time amount.

(3) In paragraph (2) “the part-time amount” means the amount that would be the pensionable pay for the part-time employment if it were determined in the same way as the pensionable pay for a whole-time employment is determined under regulation 29.

(4) If, apart from this paragraph, the pensionable pay for a scheme year in respect of a member's part-time employment would not be a whole number of pounds, it must be rounded down to the nearest whole pound.

Contributions by employing authorities

Contributions by employing authorities: general

31.—(1) Each employing authority must contribute to the Scheme, in respect of each person who is an active member of the Scheme in an employment with the authority, at such a rate as the Department specifies from time to time.

(2) In specifying such a rate, the Department must take account of the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions

(Increase) Act (Northern Ireland) 1971 and Article 69 of the Social Security Pensions (Northern Ireland) Order 1975(1).

(3) Any contributions payable under this regulation must be paid to the Department on the same day as the member's contributions under regulation 27.

(4) If for any period a person holds more than one employment with an employing authority in respect of which the person is an active member of the Scheme, this regulation and regulation 32 apply in respect of each of those employments as if it were the only employment held.

(5) The rate for the period commencing on 1st April 2008 and ending on 31st March 2009 is 15.7%.

Contributions by employing authorities: members becoming entitled to pensions under regulation 55

32.—(1) If a pension becomes payable to a member under regulation 55 (early retirement on termination of employment by employing authority), the employing authority must make a contribution to the Department in respect of—

- (a) the cost of providing the pension under that regulation for the period between the member leaving the employment in which the member was an active member and reaching the age of 65, and
- (b) the cost of providing for any increase in the rate of the benefits referred to in sub-paragraph (a) for that period as a result of orders made under Article 69 of the Social Security Pensions (Northern Ireland) Order 1975 (so far as not already met by contributions made under regulation 31(1)).

(2) If, on a pension under regulation 55 becoming payable to a member in respect of the termination of the member's employment with an employing authority ("the first authority"), a pension also becomes payable to the member in respect of pensionable service with one or more other employing authorities, the first authority must also make any additional contributions due in accordance with paragraph (1) in respect of that other pension.

(3) An employing authority is not responsible for meeting any costs in respect of the early payment of benefits to the extent that the benefits are attributable to contributions made under regulation 34, 36 or 37.

(4) Any contributions payable under this regulation must be paid—

- (a) except in a case within sub-paragraph (b), by a single payment made within one month of the date on which the pension under regulation 55 became payable, or
- (b) if the Department agrees, by not more than 5 equal annual instalments, the first of which is to be paid within one month of the date on which the pension under regulation 55 became payable and the others by 31st October in each of the following 4 scheme years.

(5) The following amounts must be determined by the Department on the advice of the Scheme actuary—

- (a) the costs mentioned in paragraph (1),
- (b) the amount of the payment mentioned in paragraph (4)(a), and
- (c) the amount of each of the instalments payable under paragraph (4)(b).

Guarantees, indemnities and bonds

33.—(1) This regulation applies if—

- (a) an employing authority fails to pay contributions in accordance with regulation 31 or 32, and
 - (b) the authority is—
 - (i) a GMS practice;
 - (ii) an APMS contractor; or
 - (iii) an OOH provider.
- (2) The Department may require the employing authority to have in force a guarantee, indemnity or bond which provides for payment to the Department, should that authority fail to meet them, of all future liabilities of the authority under—
- (a) this Part, or
 - (b) the Health and Personal Social Services (Superannuation) (Additional Voluntary Contributions) Regulations (Northern Ireland) 1999⁽²⁾.
- (3) The guarantee, indemnity or bond must be in such form, in respect of such an amount and provided by such a person as the Department approves for the purpose.

Additional contributions to purchase additional pensions

Member's option to pay additional periodical contributions to purchase additional pension

- 34.—**(1) An active member may opt to make additional periodical contributions by monthly instalments during the contribution option period—
- (a) to increase by a specified amount the benefits payable to the member under Chapter 4 (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for three or six months under Chapter 5 (death benefits)), or
 - (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 5 (death benefits) in respect of the member.
- (2) A member may exercise the option under paragraph (1) more than once.
- (3) If a member exercises an option under paragraph (1), the member's employing authority must—
- (a) deduct the member's contributions from the member's earnings, and
 - (b) pay them to the Department not later than the 19th day of the month following the month in which the earnings were paid.
- (4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be—
- (a) an amount less than the minimum amount, or
 - (b) an amount other than a multiple of the minimum amount.
- (5) In paragraph (4) "the minimum amount" means the amount that would, in accordance with tables prepared for the Department by the Scheme actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member's pension of—
- (a) £250, or
 - (b) such other amount as the Department may for the time being determine,

(2) [S.R. 1999 No. 294](#)

assuming that the contributions are made in accordance with the option for the remainder of the option period.

- (6) The tables referred to in paragraph (5)—
 - (a) may specify different amounts for different descriptions of members, and
 - (b) may be amended during a scheme year,

but no such amendment affects the contributions payable during that year under any option, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 36 (member's option to pay additional lump sum contributions to purchase additional pension), or
- (b) contributions made under regulation 37 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Department may for the time being determine (taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 165 to 174).

(8) In this Part "the contribution option period", in relation to an option under this regulation, means a period of whole years, that—

- (a) is specified in the option,
- (b) begins with the pay period in respect of which the first contribution is made under the option,
- (c) is not less than 1 year nor more than 20 years, and
- (d) does not end later than the member's 65th birthday.

Effect of member being absent or leaving and rejoining the Scheme during the contribution option period

35.—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 34 is absent from work because of—

- (a) illness or injury,
- (b) maternity leave,
- (c) adoption leave,
- (d) paternity leave,
- (e) parental leave, or
- (f) a leave of absence of the kind mentioned in regulation 9(3).

(2) If paragraph (1) applies—

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 27, and
- (b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 27 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if—

- (a) a member exercises the option under regulation 34,

- (b) the member ceases to be an active member during the contribution option period, and
- (c) the member becomes an active member again before the end of the period of 12 months beginning with the day on which the member ceased to be an active member.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after becoming an active member again unless a repayment of contributions has been made to the member under regulation 44.

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions back to the Department.

Member's option to pay lump sum contribution to purchase additional pension

36.—(1) An active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 4 (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for three or six months under Chapter 5 (death benefits)), or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners or dependent children under Chapter 5 (death benefits) in respect of the member.

(2) A member may only make a contribution under this regulation of an amount that is—

- (a) not less than the minimum amount, or
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount.

(3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Department by the Scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—

- (a) £250, or
- (b) such other amount as the Department may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1)—

- (a) the additional contribution is payable by the member to the employing authority—
 - (i) by deduction from the member's earnings or otherwise, and
 - (ii) before the end of the period of 1 month beginning with the day on which the member is notified by the Department that the option is accepted, and
- (b) the employing authority must pay it to the Department not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(6) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 34 (member's option to pay additional periodical contributions to purchase additional pension), or
- (b) contributions made under regulation 37 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Department may for the time being determine (taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 165 to 174).

Payment of additional lump sum contributions by employing authority

37.—(1) The employing authority of an active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 4 (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for three or six months under Chapter 5 (death benefits)), or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners or dependent children under Chapter 5 (death benefits) in respect of the member.

(2) An employing authority may only make a contribution under this regulation of an amount that is—

- (a) not less than the minimum amount (as defined in regulation 36(3)), and
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount (as so defined).

(3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.

(4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 34 (member's option to pay additional periodical contributions to purchase additional pension), or
- (b) contributions made under regulation 36 (member's option to pay lump sum contribution to purchase additional pension),

may not exceed £5000 or such other amount as the Department may for the time being determine (taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 165 to 174).

(5) A contribution under this regulation must be paid by the employing authority to the Department within one month of the date on which the authority gave the Department notice under regulation 38(2).

Exercise of options under regulations 34, 36 and 37

38.—(1) A member exercising an option under regulation 34 or 36 must do so by giving notice in writing to the employing authority, giving such information as may be required and must, at the same time, provide the Department with a copy of that notice.

(2) An employing authority exercising an option under regulation 37 must do so by giving notice in writing to the Department, giving such information as may be required.

(3) An option under regulation 34, 36 or 37 may not be exercised during a period whilst the member is absent from work for any reason.

(4) For the purposes of this Part—

- (a) a member is treated as exercising an option under regulation 34 or 36 on the date on which the employing authority receives the member's notice under paragraph (1), and
- (b) an employing authority is treated as exercising an option under regulation 37 on the date on which the Department receives the authority's notice under paragraph (2).

(5) The Department may refuse to accept an option exercised under regulation 34, 36 or 37 and must do so if not satisfied that—

- (a) the member is in good health, and
 - (b) in the case of an option exercised under regulation 34, there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period.
- (6) If the Department refuses to accept such an option—
- (a) the Department must give notice in writing of that fact—
 - (i) in the case of an option exercised under regulation 34 or 36, to the member, and
 - (ii) in the case of an option exercised under regulation 37, to the employing authority and the member, and
 - (b) this Part applies as if the option had not been exercised.
- (7) This Part also applies as if an option under regulation 36 or 37 had not been exercised if—
- (a) in the case of an option under regulation 36, the payment is not received by the employing authority—
 - (i) before the end of the period of 1 month beginning with the day on which the Department notifies the member of the acceptance of the option, or
 - (ii) if it is earlier, on or before the member's 65th birthday, and
 - (b) in the case of an option under regulation 37, the payment is not received by the Department—
 - (i) before the end of the period of one month beginning with the day on which the authority gave the Department notice under paragraph (2), or
 - (ii) if it is earlier, on or before the member's 65th birthday.

Cancellation of options under regulation 34

39.—(1) A member may cancel an option under regulation 34(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Department that the requirement in regulation 34(7) (overall maximum) will not be met if the member continues to make periodical contributions under an option exercised under regulation 34, the Department may cancel the option by giving the member notice in writing.

(4) If the Department cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

Effect of payment of additional contributions under this Chapter

40.—(1) This regulation applies if—

- (a) an option is exercised by a member under regulation 34 and all the contributions to be made under the option are made,
- (b) an option is exercised by a member under regulation 36 or by a member's employing authority under regulation 37 and the lump sum payment is made.

(2) Subject to paragraph (9), the member's pension is increased by the full amount of the increase to be made in accordance with the terms of the option, after the final adjustment in that amount in accordance with regulation 43(revaluation of increases bought under options: members' pensions).

(3) Paragraph (2) is without prejudice to any increase or reduction falling to be made in the total amount of the member's pension under Chapter 4 (members' retirement benefits) as a result of the member becoming entitled to payment of the pension before or after reaching the age of 65 (see regulations 47 to 49).

(4) In the case of an option under regulation 34(1)(b), 36(1)(b) or 37(1)(b), any pension payable under Chapter 5 (death benefits) in respect of the member is increased by the appropriate amount.

(5) In paragraph (4), subject to regulations 41 and 42(3), "the appropriate amount" means—

- (a) in the case of a pension under regulation 67 the amount of which is determined under regulation 69 (active members) or regulation 71 (deferred members), 37.5% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)),
- (b) in the case of a pension under regulation 67 the amount of which is determined under regulation 70 (pensioner members), 37.5% of the amount of the increase in the member's pension as a result of the option,
- (c) in the case of a pension under regulation 74 the amount of which is determined under regulation 76 (active members) or regulation 78 (deferred members), the appropriate fraction (within the meaning of regulation 76 or, as the case may be, regulation 78) of 75% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)), and
- (d) in the case of a pension under regulation 74 the amount of which is determined under regulation 77 (pensioner members), the appropriate fraction (within the meaning of that regulation) of 75% of the amount of the increase in the member's pension as a result of the option.

(6) Except as provided in regulation 49, no separate claim is required as respects any additional pension payable by virtue of this regulation.

(7) This regulation is subject to regulation 41.

(8) For the effect of the options under regulation 34 where this regulation does not apply, see regulation 42 (effect of part payment of periodical contributions).

(9) Paragraph (10) applies only to an option under regulations 34(1)(a), 36(1)(a) or 37(1)(a), where a pension is to be paid for either three or six months at the same rate as the member's pension was being paid at the date of that member's death.

(10) Any increase to the member's pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (9).

Effect of death or early payment of pension after option exercised under regulation 34, 36 or 37

41.—(1) If a member in respect of whom an option under regulation 34, 36 or 37 has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 34 or 36, to the member's personal representatives, and
 - (ii) in the case of an option under regulation 37, to the employing authority which made the contribution, and

(b) regulation 40 (4) does not apply.

(2) If a member in respect of whom an option under regulation 34 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 40 (4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 34, 36 or 37 has been exercised becomes entitled to a pension under regulation 52 as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

(a) regulation 40(2) and (4) does not apply, and

(b) an amount equal to the contributions paid under the option must be paid—

(i) in the case of an option under regulation 34 or 36, to the member, and

(ii) in the case of an option under regulation 37, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation 34 has been exercised becomes entitled to a pension under regulation 52 before the end of the contribution option period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 40(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 34, 36 or 37 has been exercised—

(a) becomes entitled to a pension under regulation 48, 54 or 55, or

(b) becomes entitled to a pension under regulation 49 before reaching the age of 65,

the increase in the member's pension under Chapter 4 (members' retirement benefits) which would otherwise be due under regulation 40(2) or regulation 42 is reduced.

(6) The amount of the reduction is such amount as the Department determines, after consulting the Scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches 65.

(7) This regulation is subject to regulation 42.

Effect of part payment of periodical contributions

42.—(1) This regulation applies if—

(a) the full number and amount of contributions due under an option under regulation 34 for the whole contribution option period are not made, and

(b) regulation 41(1) to (4) does not apply.

(2) The increase in the member's pension under Chapter 4 (members' retirement benefits) is the appropriate proportion of the increase that would have been made under regulation 40(2) if the full number and amount of contributions had been made (but taking account of regulation 41(5) if that applies).

(3) In the case of an option under regulation 34(1)(b), the increase in any benefit payable under Chapter 5 (death benefits) in respect of the member is the appropriate proportion of the increase that would have been made under regulation 40(4) if the full number and amount of contributions had been made (but taking account of regulation 41(5) if that applies).

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the Scheme actuary may determine and specify in guidance given to the Department.

(5) In making a determination under paragraph (4), the Scheme actuary must have regard to—

- (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 34 for the whole contribution option period, and
- (b) the preservation requirements.

Revaluation of increases bought under options: members' pensions

43.—(1) This regulation applies for the purposes of determining the final amount of the increase in a member's pension as a result of the exercise of an option under regulation 34, 36 or 37.

(2) The amount of that increase immediately before the beginning date for that pension is found as follows—

Step 1

Calculate the amount of the increase in accordance with regulations 40 to 42 immediately before that date to find ("the basic amount").

Step 2

Multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it, to find the Step 2 amount.

Step 3

Divide the Step 2 amount by the retail prices index for the month in which the option was exercised to find the Step 3 amount.

Step 4

Add to the Step 3 amount any amount by which the Step 3 amount would be increased under the Pensions (Increase) Act (Northern Ireland) 1971 if it were the amount of the member's pension, to find the Step 4 amount.

Step 5

Divide the Step 4 amount by the Step 3 amount to find the Step 5 factor.

Step 6

Divide the Step 3 amount by the Step 5 factor to find the adjusted basic amount.

(3) The amount of the increase in a member's pension as a result of the exercise of an option under regulation 34, 36 or 37 as at the beginning date for that pension is—

- (a) if the adjusted basic amount is greater than the basic amount, the adjusted amount, and
- (b) otherwise the basic amount.

(4) In this regulation "the beginning date", in relation to a pension, means the date on which it is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act (Northern Ireland) 1971.

Repayment of contributions

Repayment of contributions

44.—(1) The contributions made by a member under this Chapter are not repayable in any circumstances except if—

- (a) paragraph (2) applies, or
- (b) Chapter V of Part IV of the 1993 Act (early leavers: cash transfer sums and contribution refunds) applies and the payment is made in accordance with that Chapter.

(2) This paragraph applies if—

- (a) a person who is not a pensioner member ceases to be an active member and does not continue to be, or become, an active member for the purposes of Part 3 within 12 months of ceasing officer service,
 - (b) the person does not fall within sub-paragraph (a), (b), (c) or (d) of regulation 45(2) (former members entitled to a pension),
 - (c) paragraph (1)(b) does not apply, and
 - (d) the person claims repayment of contributions under this regulation by applying in writing to the Department.
- (3) If paragraph (1)(b) applies, the person is entitled to be paid the amount to which the person is entitled under Chapter V of Part IV of the 1993 Act, less—
- (a) such part of any contributions equivalent premium paid in respect of the person as is permitted by or under section 57 of the 1993 Act, and
 - (b) an amount equal to the income tax payable under section 205 of the Finance Act 2004 (short service refund lump sum charge) as a result of the repayment.
- (4) If paragraph (2) applies, the person is entitled to be paid an amount equal to the sum of the contributions made by the person under this Chapter, less the amounts mentioned in paragraph (3) (a) and (b).
- (5) If a repayment is made under this regulation, the member's rights under the Scheme are extinguished unless the person or the person's spouse or civil partner is entitled to a guaranteed minimum pension under the Scheme and a contributions equivalent payment has not been paid.
- (6) A person—
- (a) who is entitled to a repayment of contributions under this regulation, and
 - (b) whose pensionable service did not cease because the person's employment was terminated at the person's request,
- is entitled to interest on the amount of the repayment unless the person's pensionable service ceased because the person's employment was terminated by reason of misconduct or inefficiency.
- (7) Subject to paragraphs (8) and (9), the interest is calculated on a compound basis at the rate of 2.5% per year, with yearly rests, for the period starting on 1st April after the contributions were paid and ending with the day the member leaves pensionable service.
- (8) Paragraph (7) does not apply if paragraph (1)(b) applies and the person is entitled to a greater amount of interest under Chapter V of Part IV of the 1993 Act.
- (9) So far as the contributions were paid under another scheme and were included in a transfer payment to the Scheme—
- (a) interest for the period before the transfer payment was made is calculated in accordance with the Scheme making the transfer payment (subject to any provision made in any statutory provision applicable to the transfer), and
 - (b) paragraph (7) does not apply as respects that period.