

**2011 No. 117**

**LOCAL GOVERNMENT**

**Local Government Pension Scheme (Councillors) (Amendment)  
Regulations (Northern Ireland) 2011**

*Made* - - - - *18th March 2011*

*Coming into operation* - *9th May 2011*

The Department of the Environment makes these Regulations in exercise of the powers conferred by Article 9 of the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b).

In accordance with Article 9 of that Order the Department has consulted with the Northern Ireland Local Government Association, 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.

**Citation and commencement**

1. These Regulations may be cited as the Local Government Pension Scheme (Councillors) (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 9th May 2011.

**Amendment of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009**

2.—(1) The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(c) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 1 (citation, commencement and interpretation), after the definition of “contribution rate” insert—

““council” has the same meaning as defined in section 1 (district councils) of the Local Government Act (Northern Ireland) 1972(d);

“councillor” means a member of a council as defined in section 1 of the Local Government Act (Northern Ireland) 1972;

“councillor member” means a person who is a member of the Scheme by reason of being a councillor;

“councillor membership” means any period of membership which counts in respect of service as a member of a council and not other local government employment;”.

(3) After regulation 2 (active members), insert—

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(a) S.I. 1972/1073 (N.I. 10); Art. 9 was amended by Art. 34 S.I. 2005/1968 (N.I. 18).

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

(c) S.R. 2009 No. 32 as amended by S.R. 2010 No. 164 and S.R. 2010 No. 410.

(d) 1972 c. 9.

### **“Eligibility of councillors**

**2A.** These Regulations apply to councillor members in respect of their councillor membership with the modifications set out in the Schedule.”.

(4) The Schedule within Schedule 1 shall be inserted in the appropriate place at the end of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009.

### **Amendment of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009**

**3.—**(1) The Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009(a) shall be amended in accordance with paragraphs (2) to (4).

(2) After regulation 3 (general eligibility for membership), insert—

### **“Eligibility of councillors**

**3A.** These Regulations apply to councillor members in respect of their councillor membership with the modifications set out in Schedule 4.”.

(3) In Schedule 1 (interpretation), after the definition of “contribution rate” insert—

““council” has the same meaning as defined in section 1 (district councils) of the Local Government Act (Northern Ireland) 1972(b);

“councillor” means a member of a council as defined in section 1 of the Local Government Act (Northern Ireland) 1972;

“councillor member” means a person who is a member of the Scheme by reason of being a councillor;

“councillor membership” means any period of membership which counts in respect of service as a member of a council and not other local government employment;”.

(4) Schedule 4 within Schedule 2 shall be inserted after Schedule 3 (the committee) in the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009.

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

**4.—**(1) The Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001(c) shall be amended in accordance with paragraph (2).

(2) For regulation 32(1) (interpretation of Part V), substitute—

“**32.—**(1) In this Part relevant employment is employment with an LGPS employer, otherwise than—

(a) retained or volunteer membership with a fire and rescue authority as defined in Article 3 of the Fire and Rescue Services (Northern Ireland) Order 2006(d);

(b) as an employee pensionable under a superannuation scheme provided in regulations for the time being in force under Article 11 of the 1972 Order;

(c) as an employee of Citybus Limited or Ulsterbus Limited; or

(d) as a councillor member of the Local Government Pension Scheme under regulation 2A of the Benefits Regulations and regulation 3A of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009.”.

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(a) S.R. 2009 No. 33 as amended by S.R. 2010 No. 410.

(b) 1972 c. 9.

(c) S.R. 2001 No. 279 as amended by S.R. 2002 No. 353, S.R. 2003 No. 61, and S.R. 2009 No. 34.

(d) S.I. 2006/1254 (N.I. 9).

Sealed with the Official Seal of the Department of the Environment on 18th March 2011.



*Wesley Shannon*  
A senior officer of the Department of the Environment

## SCHEDULE 1

Regulation 2

# “SCHEDULE COUNCILLOR MEMBERS

Regulation 2A

## PART 1 CONTRIBUTIONS

### Pay

#### 1. For regulation 4 (meaning of “pensionable pay”) substitute—

“4.—(1) A councillor member’s pensionable pay in any year is the total of all basic allowance and special responsibility allowance paid to the councillor by a council under the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999(a).

(2) “Basic allowance” and “special responsibility allowance” have the same meaning as in regulations 3 and 5 respectively of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 1999.

(3) All references to “pay” in these Regulations and in the Administration Regulations in respect of a councillor member and the councillor membership shall be construed in accordance with paragraph (1).

(4) “Career average pay” in these Regulations shall mean an amount equal to the total of the councillor member’s pay for each year or part year of his active membership divided by the number of those years or part years.

(5) All references to “final pay” in these Regulations and in the Administration Regulations shall, in respect of a councillor member and councillor membership, be taken to mean “career average pay”.

(6) When calculating a councillor member’s career average pay, the pay for any year other than the final year shall be increased in proportion to the increase in the Consumer Price Index from the last day of that year up to the last day of the month in which the his active membership ends.

(7) “Year” means the 12 months ending with 31st March.

(8) “Final year” means the year during which, or at the end of which, the councillor member’s active membership ends.

(9) “Consumer Price Index” means the index of retail prices for the United Kingdom published by the Office of National Statistics.

(10) No sum may be taken into account in calculating pensionable pay unless income tax liability has been determined on it.”.

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(a) S.R. 1999 No. 449 as amended by S.R. 2007 No. 168.

## PART 2 BENEFITS

### Preliminary

2. In regulation 7 (calculation of length of periods of membership)—
  - (a) delete paragraphs (3) and (4); and
  - (b) for paragraph (5) substitute—

“(5) The amount of any annual pension payable to a councillor as a result of his membership is calculated by multiplying his total councillor membership by his career average pay and divided by 60.”.
3. Delete regulations 8 (final pay: general), 10 (final pay: reductions) and 11 (final pay: fluctuating emoluments).

### Retirement Benefits

4. Delete regulation 18 (flexible retirement).
5. Delete regulation 19 (early leavers: inefficiency and redundancy).
6. For paragraphs (1) to (4) of regulation 20, (early leavers: ill-health) substitute—

“**20.**—(1) Where a councillor member, who has a total membership of at least one year, ceases to be a member of his council on grounds that—

  - (a) his ill-health or infirmity of mind or body renders him permanently incapable of discharging efficiently the duties of that office; and
  - (b) he has a reduced likelihood of being capable of undertaking gainful employment (whether in local government or otherwise) before his normal retirement,

the Committee may, at the request of the employing authority, determine that his retirement pension comes into payment before his normal retirement age in accordance with this regulation in the circumstances set out in paragraph (2), or (3), as the case may be.

(2) If the Committee determines that there is no reasonable prospect of him being capable of undertaking the duties of that office because of his ill-health before his normal retirement age his benefits are increased—

- (a) as if the date on which he leaves that office were his normal retirement age; and
- (b) by adding to his total membership at that date the whole of the period between that date and the date on which he would have retired at normal retirement age.

(3) If the Committee determines that he has a reasonable prospect of being capable of undertaking any gainful employment before his normal retirement age, his benefits are increased—

- (a) as if the date on which he leaves that office were his normal retirement age; and
- (b) by adding to his total membership at that date 25% of the period between that date and the date on which he would have retired at normal retirement age.

(4) Where the Committee, at the request of the employing authority, is considering whether a person who has ceased to be a member of his district council is entitled to benefit under this regulation, it shall refer for decision to an independent registered medical practitioner qualified in occupational health medicine, appointed by the

Committee, as to whether in his opinion, expressed as a certificate, the member is suffering from a condition that renders him permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition he—

- (a) has no prospect of being capable of undertaking any gainful employment before his normal retirement age; or
- (b) has a reasonable prospect of being capable of undertaking any gainful employment before his normal retirement age.”.

7. Delete paragraphs (5), (6) and (7) of regulation 20.

8. For paragraphs (1) and (2) of regulation 31 (early payment of pension: ill-health) substitute—

“31.—(1) Subject to paragraph (2), if a councillor member who has ceased to be a member of a council before he is entitled to the immediate payment of retirement benefits (apart from under this regulation) becomes permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body he may make a written request to the Committee to receive payment of retirement benefits immediately, whatever his age, provided he has total membership of at least one year.

(2) Before determining whether to agree to a request under paragraph (1), the Committee must obtain a certificate from the independent registered medical practitioner, appointed under regulation 20(4), as to whether in his opinion the member is permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body and, if so, whether he has a reduced likelihood of being capable of undertaking any gainful employment (whether in local government or otherwise) before reaching his normal retirement age.”.

#### Death grants

9. In regulation 23 (death grants: active members)—

- (a) for paragraph (3) substitute—

“(3) The death grant of a councillor member is his career average pay multiplied by 3.”; and

- (b) delete paragraph (4).

10. For regulation 32(3) (death grants: deferred members) substitute—

“(3) The death grant for a councillor deferred member is 5 times the pension that would have been payable if the councillor member had retired at the date of death.”.

11. For regulation 35(3) (death grants: pensioner members) substitute—

“(3) The death grant for a councillor pensioner member is 10 times his pension less the amount of any pension paid to the councillor member.”.

### PART 3

#### OPTIONAL ADDITIONAL BENEFITS

##### Increases of membership and pensions

12. Delete regulations 12 (power of employing authority to increase total membership of members) and 13 (power of employing authority to award additional pension).”

## SCHEDULE 2

Regulation 3

## “SCHEDULE 4

Regulation 3A

## COUNCILLOR MEMBERS

### Membership

1. Regulation 12(1) (re-employed and rejoining deferred members) shall only apply to a councillor member in respect of any councillor membership where both the former membership and the membership as an active member referred to in that paragraph are councillor membership.
2. Delete regulation 13 (concurrent employments).

### Additional voluntary contributions and shared cost AVC schemes

3. Delete regulation 21(3) (additional voluntary contributions and shared cost additional voluntary contributions).
4. In regulations 21 to 23 delete “and SCAVCs” and “or SCAVCs” where it occurs.

### Members’ contributions

5. In regulation 22(1)(a)(ii) (use of accumulated value of AVCs and SCAVCs) delete “18 (flexible retirement), 19 (early leavers: inefficiency and redundancy),”.

### Transfers

6. In regulation 41 (rights to return of contributions) delete paragraphs (4) and (5).
7. Delete regulations 77 to 81 (bulk transfers (transfers of undertaking), etc., calculation of amount of transfer payment under regulation 77, inward transfers of pension rights, right to count a credited period and community scheme transferees).”

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Regulations which constitute the Local Government Pension Scheme to allow councillors in Northern Ireland to become members of the Local Government Pension Scheme (“the Scheme”) from the date following the next local government elections when, under section 11(2) of the Electoral Law Act (Northern Ireland) 1962, members of district councils come into office (i.e. the fourth day after election day).

Regulation 2 amends the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (the Benefits Regulations) by inserting a new regulation which applies the Benefits Regulations to councillor membership of the Scheme subject to the modifications contained in Schedule 1. It also inserts definitions relevant to councillor membership of the Scheme.

Schedule 1 modifies the application of some regulations for councillors and removes the application of other regulations within the Benefits Regulations.

Within Schedule 1—

Paragraph 1 substitutes regulation 4 which defines pensionable pay for councillor membership of the Scheme. It means that a councillor’s membership will be based on their income from basic allowance and special responsibility allowance on a career average basis. When calculating a councillor’s career average pay every year’s pay except the final year’s pay is increased in proportion to the increase in the consumer price index<sup>(a)</sup>. Every year’s pensionable pay is then added together and divided by the total number of year’s membership to arrive at the councillor’s career average pay for pension calculation purposes.

Paragraph 2(a) deletes paragraphs (3) and (4) of regulation 7 (calculation of length of periods of membership) which deals with part-time service as this is not applicable to councillor membership.

Paragraph 2(b) substitutes regulation 7(5) which specifies the calculation of a councillor’s pension. The accrual rate of pension of one sixtieth per year of membership is the same as for other members of the Scheme. The calculation is therefore the total number of years of councillor membership of the Scheme multiplied by the councillor’s career average pay divided by 60.

Paragraphs 3, 4 and 5 delete regulations 8 (final pay: general), 10 (final pay: reductions), 11 (final pay: fluctuating emoluments), 18 (flexible retirement) and 19 (early leavers: business efficiency and redundancy). This means that these regulations do not apply to councillor members.

Paragraph 6 substitutes paragraphs (1) to (4) of regulation 20 to enable a councillor member of the Scheme to have the same access to ill-health pension provision as other members of the Scheme.

Paragraph 7 deletes paragraphs (5), (6) and (7) of regulation 20 which deal with part-time service as this is not applicable to councillor membership.

Paragraph 8 substitutes paragraphs (1) and (2) of regulation 31 (early payment of pension: ill-health) to enable a deferred councillor member to have the same access to ill-health pension provision as other deferred members of the LGPS.

Paragraphs 9, 10 and 11 modify regulations 23, 32 and 35 to enable death grants to be paid upon the death of a councillor member to the councillor member’s personal representatives.

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(a) The Consumer Price Index is published by the Office of National Statistics and may be found on its website at [www.statistics.gov.uk/instantfigures.asp](http://www.statistics.gov.uk/instantfigures.asp)



Paragraph 12 removes an employing authority's ability to increase total membership of a councillor member or to award additional pension to a councillor member.

Regulation 3 amends the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (the Administration Regulations) by inserting a new regulation which applies the Administration Regulations to councillor membership of the Scheme subject to the modifications contained in Schedule 4. It also inserts definitions relevant to councillor membership of the Scheme.

Schedule 2 modifies the application of some regulations for councillors and removes the application of other regulations within the Administration Regulations.

Within Schedule 2—

Paragraph 1 modifies regulation 12(1) so that a councillor member may only aggregate two periods of membership if those two periods are periods during which he or she was a councillor member of the LGPS.

Paragraph 2 deletes regulation 13 (concurrent employments) as this is not applicable to councillor members.

Paragraph 3 deletes regulation 21(3) (Additional voluntary contributions and shared cost additional voluntary contributions), which defines an additional voluntary contribution arrangement to which an employing authority contributes as a shared cost additional voluntary contributions arrangement. This means that this provision does not apply to councillor members.

Paragraph 4 removes any further reference to a shared cost additional voluntary contribution or SCAVC from the Regulations which apply to councillor membership of the Scheme.

Paragraph 5 removes the words "19 (early leavers: inefficiency and redundancy)" from regulation 22(1)(a)(ii) (use of accumulated value of AVCs and SCAVCs) because regulation 19 does not apply to councillor members.

Paragraph 6 deletes paragraphs (4) and (5) of regulation 41 (rights to return of contributions) because concurrent employments do not apply to councillor members and these paragraphs deal with the rights to return of contributions where an active member continues in another employment held concurrently with the employment in which he ceased to be an active member may elect for an amount equal to the repayment to be treated as contributions to the Scheme as respects that concurrent employment. These paragraphs do not apply to a councillor.

Paragraph 7 deletes regulations 77 to 81 because as these regulations relate to the transfer of pension rights which are not applicable to councillor member.

Regulation 4 amends The Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001 to exclude councillors from eligibility for additional discretionary payments.

A regulatory impact assessment has not been produced for these Regulations as it has no impact on the cost of businesses, charities, social economy enterprises or the voluntary sector and does not have a significant financial impact on any public bodies.

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