
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 188

The Local Government Pension Scheme
Regulations (Northern Ireland) 2014

PART 2

ADMINISTRATION

FORFEITURE

Forfeiture of pension rights after conviction for employment-related offences

102.—(1) If a member is convicted of a relevant offence, the former employing authority may apply to a Minister of the Crown who may issue a forfeiture certificate.

(2) A relevant offence is an offence committed in connection with an employment in which the person convicted is a member and because of which the member left that employment.

(3) Where a former employing authority applies for a forfeiture certificate, it shall at the same time send the convicted person and the Committee a copy of the application.

(4) Where a forfeiture certificate is issued, the member's former employing authority may direct that any of the member's rights under these Regulations as respects that member's previous membership are forfeited.

(5) The former employing authority shall serve a notice of its decision to make a direction on the member.

(6) A forfeiture certificate is a certificate that the offence—

- (a) was gravely injurious to the State, or
- (b) is liable to lead to a serious loss of confidence in the public service.

(7) If the former employing authority incurred loss as a direct consequence of the relevant offence, it may only give a direction under paragraph (4) if it is unable to recover its loss under regulation 104 (recovery or retention where former member has misconduct obligation) or otherwise, except after an unreasonable time or at disproportionate cost.

(8) A direction under paragraph (4) may only be given if an application to a Minister of the Crown for a forfeiture certificate has been made by the former employing authority before the expiry of the period of three months beginning with the date of conviction.

Interim payments directions

103.—(1) If—

- (a) a person leaves an employment in which that person was a member of the Scheme because of an offence in connection with that employment; and
- (b) a forfeiture certificate has been issued under regulation 102(1) (forfeiture of pension rights after conviction for employment-related offences) in respect of that offence,

the former employing authority may give an interim payments direction to the Committee.

(2) But that former employing authority may not give such a direction under paragraph (1) if it has given any direction under regulation 102(4) (“a forfeiture direction”).

(3) An interim payments direction is a direction to make interim payments to any person who appears to the former employing authority to be a person who would be entitled to receive payment of a benefit under the Scheme if no forfeiture direction were given.

(4) The person to whom payments shall be made, and the amounts, shall be specified in the direction.

(5) The amounts shall not exceed the amounts which the person specified would be entitled to be paid if no forfeiture direction were given.

(6) An interim payments direction is not a decision under regulation 80 (first instance decisions - general) as to any person’s entitlement to a benefit.

(7) Payments in accordance with an interim payments direction shall be deemed to be payments in respect of a benefit to which the recipient was entitled (regardless of any contrary forfeiture direction or decision under regulation 80).

Recovery or retention where former member has misconduct obligation

104.—(1) This regulation applies where a person—

- (a) has left an employment in which that person was or had at some time been a member of the Scheme, in consequence of grave misconduct or a criminal, negligent or fraudulent act or omission in connection with that employment;
- (b) has incurred some monetary obligation, arising out of that misconduct, act or omission, to the body that was the employing authority in that employment; and
- (c) is entitled to benefits under these Regulations which, for the purposes of this regulation, includes entitlement to a refund of contributions.

(2) The former employing authority may recover or retain out of the pension fund, the lesser of—

- (a) the amount of the monetary obligation; or
- (b) the value at the time of recovery or retention of all benefits in respect of the former employee with respect to that person’s previous membership (as determined by an actuary, except where the benefit is a refund of contributions).

(3) The rights specified in paragraph (2)(b) do not include earned pension credited under regulation 113 (effect of acceptance of transfer value payment), additional pension purchased by the member under regulation 18 (additional pension contributions) or AVCs paid by the member under regulation 19 (additional voluntary contributions).

(4) The former employing authority shall give the former employee—

- (a) not less than three months’ notice of the amount to be recovered or retained under paragraph (2); and
- (b) a statement showing the amount recovered or retained, how it is calculated and the effect on the person’s benefits or prospective benefits.

(5) If there is any dispute over the amount of the monetary obligation specified in paragraph (1)(b), the former employing authority may not recover or retain any amount under paragraph (2) until the obligation is enforceable under an order of a competent court or the award of an arbitrator.

Adjustment of accounts following forfeiture, etc.

105.—(1) Where a forfeiture direction is issued under regulation 102 (forfeiture of pension rights after conviction for employment-related offences) the Committee shall transfer out of the member's pension account the benefits which are forfeited.

(2) Where an amount is recovered or retained under regulation 104 (recovery or retention where former member has misconduct obligation), the Committee shall transfer out of the member's pension account the amount recovered or retained and pay it to the relevant employing authority.

(3) If the effect of a forfeiture direction, or of the recovery or retention of an amount, is to extinguish the member's entitlement to benefits, the Committee shall close the member's pension account.

Protection of guaranteed minimum pension rights

106.—(1) The power to direct forfeiture of benefits under regulation 102 (forfeiture of pension rights after conviction for employment-related offences) or to recover or retain amounts under regulation 104 (recovery or retention where former member has misconduct obligation) may not be exercised so as to deprive a person of—

- (a) that person's guaranteed minimum pension; or
- (b) any widow's, widower's or surviving civil partner's guaranteed minimum pension.

(2) But such a power may be exercised if the person is convicted—

- (a) of the offence of treason; or
- (b) of one or more offences under the Official Secrets Acts 1911 to 1989⁽¹⁾ for which the person has been sentenced on the same occasion—
 - (i) to a term of imprisonment of at least ten years, or
 - (ii) to two or more consecutive terms amounting in the aggregate to at least ten years.

Revaluation of guaranteed minimum

107. (1) Where the guaranteed minimum of a person who has ceased to be an active member is appropriately secured, that persons earning factors for the purposes of section 10(2) of the 1993 Act shall be determined—

- (a) by reference to the last order under Article 23 of the Social Security Pensions (Northern Ireland) Order 1975⁽²⁾ or section 130 of the Social Security Administration (Northern Ireland) Act 1992⁽³⁾ (revaluation orders) to come into force before the end of the tax year in which the person ceased to be an active member; and
- (b) without reference to the last such order to come into force before the end of the final relevant year.

(2) For such a person the weekly equivalent mentioned in section 10(2) of the 1993 Act is to be increased—

- (a) by at least the prescribed percentage for each relevant year after the end of the tax year in which the person ceased to be an active member; and
- (b) in accordance with such additional requirements as may be prescribed for the purposes of section 12(3) of the 1993 Act.

(1) Section 16(2) of the Official Secrets Act 1989 (c. 6) provides that that Act and the Official Secrets Acts 1911 to 1989 may be cited together as the Official Secrets Acts 1911 to 1989.

(2) 1975 No.1503 (N.I. 15)

(3) 1992 c.8

(3) In this regulation—

“appropriately secured” has the meaning given in section 15(3) of the 1993 Act;

“final relevant year” has the meaning given in section 12(5) of that Act;

“relevant year” has the meaning given in section 10(8) of that Act; and

“prescribed percentage” has the meaning given in regulation 62 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996.