
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 188

The Local Government Pension Scheme
Regulations (Northern Ireland) 2014

PART 2

ADMINISTRATION

MANAGEMENT, FUNDS AND ACCOUNTS AND AUDIT

Scheme administration and management

60.—(1) For the purposes of these Regulations, the Committee shall be constituted in accordance with Part 1 of Schedule 3 (constitution of the Committee).

(2) The Committee shall have the powers specified in Part 2 of Schedule 3 (powers of the Committee).

(3) The expenses and allowances payable by the Committee shall be in accordance with Part 3 of Schedule 3 (expenses and allowances payable by the Committee).

(4) The Committee is responsible for managing and administering the Scheme.

The fund and the admission agreement fund

61.—(1) The Committee shall maintain a pension fund for the Scheme (“the fund”).

(2) Where the Committee has made an admission agreement, it may establish and maintain a further fund (an “admission agreement fund”) in addition to the fund maintained under paragraph (1).

(3) Immediately after the Committee establishes an admission agreement fund, it shall give the Department written notice that it has done so.

(4) The notice shall specify the admission bodies whose employees are eligible for benefits from the admission agreement fund.

(5) Where an admission agreement fund is established—

(a) the liabilities of the fund as respects membership in employment with those specified bodies become liabilities of the admission agreement fund; and

(b) assets of such value as an actuary appointed by the Committee determines to be appropriate shall be transferred from the fund to the admission agreement fund.

(6) When valuations under regulation 68 (actuarial valuations and certificates) of both the fund and the admission agreement fund are first obtained after the admission agreement fund is established, the Committee shall obtain from the actuary it has appointed—

(a) a transfer statement; and

(b) a rates and adjustment certificate for the admission agreement fund for each remaining year of the period covered by the most recent such certificate for its fund.

(7) The transfer statement shall specify whether, in the actuary's opinion, there is a need for further assets to be transferred from the fund to the admission agreement fund, or vice versa, and if so, their value.

(8) Where the transfer statement specifies that assets of a specified value need to be transferred, the Committee shall arrange for assets of that value to be transferred as soon as is reasonably practicable.

Governance policy statement

62.—(1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out—

- (a) whether the Committee delegates its function, or part of its function in relation to maintaining a pension fund to a sub-committee or an officer of the Committee; and
- (b) if the Committee delegates that function or part of that function, to a sub-committee or an officer of the Committee—
 - (i) the frequency of any sub-committee meetings;
 - (ii) the terms of reference, structure and operational procedures of the delegation; and
 - (iii) whether the sub-committee includes representatives of employing authorities or members, and if so, whether those representatives have voting rights.

(2) A statement prepared under paragraph (1) shall be revised and published by the Committee following a material change in its policy on any of the matters referred to in that paragraph.

Accounts and audit

63.—(1) The Committee shall keep accounts of all financial transactions of the fund and any admission agreement fund it establishes.

(2) The Secretary of the Committee shall prepare the financial statements for the financial year ended the 31st March 2015 and subsequent financial years in accordance with paragraph (3) and shall forward three copies of the financial statements duly signed and dated by the Secretary of the Committee to the Department no later than the 30th June after the expiration of the financial year to which the financial statements relate.

(3) The financial statements shall comprise—

- (a) a Foreword;
- (b) a Statement of the Committee's Responsibilities;
- (c) an Accounting Officer's Statement;
- (d) a Fund Account;
- (e) a Net Assets Statement; and

shall be prepared in accordance with guidance for the time being issued by the Department of Finance and Personnel.

(4) The financial statements shall give a true and fair view of the Fund Account for the financial year, and the Net Assets Statement as at the end of the financial year.

(5) The financial statements kept by the Committee shall be audited annually by the local government auditor who shall report on the financial statements audited and shall send that report, together with two audited copies of the financial statements duly signed and dated by the local government auditor, to the Department within fourteen days after completion of the audit.

(6) The Department on receipt of the local government auditor's report and the audited copies of the financial statements shall send a copy of such report and financial statements to the Secretary of the Committee who shall—

- (a) lay such copy of the report and financial statements before the next meeting of the Committee; and
- (b) forward a copy of such report and financial statements to each employing authority.

(7) The local government auditor may require—

- (a) the production before the local government auditor of all documents and financial records of the Committee which are thought necessary for the purpose of the audit;
- (b) any person holding or accountable for any such documents or financial records to appear before the local government auditor at the audit or any adjournment thereof; and
- (c) any such person to make and sign a declaration as to the correctness of the documents or financial records.

(8) The Committee shall annually, at such time as the Department may direct, make to it a report of its proceedings during the preceding year, and the Department shall lay a copy of such a report before the Northern Ireland Assembly.

STRATEGIES, STATEMENTS AND REPORTS

Funding strategy statement

64.—(1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out its funding strategy.

(2) The statement shall be published no later than 31st March 2015.

(3) The Committee shall keep the statement under review and, after consultation with such persons as it considers appropriate, make such revisions as are appropriate following a material change in its policy set out in the statement and, if revisions are made publish the statement as revised.

(4) In preparing, maintaining and reviewing the statement, the Committee shall have regard to—

- (a) the guidance set out in the document published in October 2012 by CIPFA, the Chartered Institute of Public Finance and Accountancy and called “Preparing and Maintaining a Funding Strategy Statement in the Local Government Pension Scheme 2012”(1); and
- (b) the statement of investment principles published by the Committee under regulation 10 (statement of investment principles) of the 2000 Regulations.

Pension administration strategy

65.—(1) The Committee may prepare a written statement of its policies in relation to such of the matters mentioned in paragraph (2) as it considers appropriate (“its pension administration strategy”) and, where it does so, paragraphs (3) to (7) apply.

(2) The matters are—

- (a) procedures for liaison and communication with employing authorities;
- (b) the establishment of levels of performance which the Committee and employing authorities are expected to achieve in carrying out their Scheme functions by—
 - (i) the setting of performance targets,
 - (ii) the making of agreements about levels of performance and associated matters, or
 - (iii) such other means as the Committee considers appropriate;

- (c) procedures which aim to secure that the Committee and the employing authorities comply with statutory requirements in respect of those Scheme functions and with any agreement about levels of performance;
 - (d) procedures for improving the communication by the Committee and employing authorities, to each other, of information relating to those Scheme functions;
 - (e) the circumstances in which the Committee may consider giving written notice to any employing authority under regulation 76 (additional costs arising from employing authority's level of performance) on account of that employing authority's unsatisfactory performance in carrying out its Scheme functions when measured against levels of performance established under sub-paragraph (b);
 - (f) the publication by the Committee of annual reports dealing with—
 - (i) the extent to which the Committee and employing authorities have achieved the levels of performance established under sub-paragraph (b), and
 - (ii) such other matters arising from its pension administration strategy as it considers appropriate; and
 - (g) such other matters as appear to the Committee, after consulting employing authorities and such other persons as it considers appropriate to be suitable for inclusion in that strategy.
- (3) The Committee shall—
- (a) keep its pension administration strategy under review; and
 - (b) make such revisions as are appropriate following a material change in its policies in relation to any of the matters contained in the strategy.
- (4) In preparing or reviewing and making revisions to its pension administration strategy, the Committee shall consult employing authorities and such other persons as it considers appropriate.
- (5) The Committee shall publish—
- (a) its pension administration strategy; and
 - (b) where revisions are made to it, the strategy as revised.
- (6) When the Committee publishes its pension administration strategy, or that strategy as revised, it shall send a copy of it to each employing authority and to the Department as soon as is reasonably practicable.
- (7) The Committee and employing authorities shall have regard to the current version of the pension administration strategy when carrying out their Scheme functions under these Regulations and the former regulations.
- (8) In this regulation references to the functions of the Committee include, where applicable, its functions as an employing authority.

Statements of policy about exercise of discretionary functions

66.—(1) Each employing authority shall prepare a written statement of its policy in relation to the exercise of its functions under regulations—

- (a) 18(2)(e) and 18(4)(d) (additional pension contributions, funding of additional pension);
- (b) 31(6) (retirement benefits, flexible retirement);
- (c) 31(8) (retirement benefits, waiving of actuarial reduction); and
- (d) 32 (award of additional pension),

and the Committee shall prepare such a statement in relation to the exercise of its functions under regulation 31(8) (retirement benefits, waiving reduction) in cases where a former employing authority has ceased to be an employing authority.

(2) Each employing authority shall send a copy of its statement to the Committee before 31st July 2015, and shall publish its statement.

(3) Each employing authority required to prepare a statement under paragraph (1), shall—

(a) keep its statement under review; and

(b) make such revisions as are appropriate following a change in its policy.

(4) Where an employing authority makes revisions to the statement as required by paragraph (3) (b) it shall before the expiry of one month beginning with the date upon which the revisions are made—

(a) send a copy of the revised statement to the Committee; and

(b) publish the revised statement.

(5) In preparing, or reviewing and making revisions to its statement, the employing authority required to prepare a statement under paragraph (1) shall consider whether and to what extent the exercise of any of the functions set out in paragraph (1), in accordance with that statement, might lead to a serious loss of confidence in the public service.

Statements of policy concerning communications with members and employing authorities

67.—(1) The Committee shall prepare, maintain and publish a written statement setting out its policy concerning communications with—

(a) members;

(b) representatives of members;

(c) prospective members; and

(d) employing authorities.

(2) In particular the statement shall set out its policy on—

(a) the provision of information and publicity about the Scheme to members, representatives of members and employing authorities;

(b) the format, frequency and method of distributing such information or publicity; and

(c) the promotion of the Scheme to prospective members and their employing authorities.

(3) The statement shall be revised and published by the Committee following a material change in its policy on any of the matters referred to in paragraph (2).

ACTUARIAL VALUATIONS

Actuarial valuations and certificates

68.—(1) The Committee shall obtain—

(a) an actuarial valuation of the assets and liabilities of the pension fund, as at 31st March 2016 and on 31st March in every third year afterwards;

(b) a report by an actuary in respect of the valuation; and

(c) a rates and adjustments certificate prepared by an actuary.

(2) Each of those documents shall be obtained before the first anniversary of the date (“the valuation date”) as at which the valuation is made or such later date as the Department may agree.

(3) A report under paragraph (1)(b) shall contain a statement of the demographic assumptions used in making the valuation and the statement shall show how the assumptions relate to the events which have actually occurred in relation to members of the Scheme since the last valuation.

(4) A rates and adjustments certificate is a certificate specifying—

- (a) the common rate of employers' contribution;
- (b) any individual adjustments; and
- (c) any amount calculated in accordance with paragraph (8),

for each year of the period of three years beginning with 1st April in the year following that in which the valuation date falls.

(5) The common rate of employers' contribution is the amount, if any, which in the actuary's opinion, should be paid to the pension fund so as to secure the fund's solvency by all contributing bodies whose employees contribute to it expressed as a percentage of the pay of their employees who are active members, or for any other employing authority or former employing authority which does not employ active members but is liable to contribute to the fund under regulation 70(12) and (13) (special circumstances where revised actuarial valuations and certificates shall be obtained) is such amount as is payable under regulation 70(13).

(6) The actuary shall have regard to—

- (a) the existing and prospective liabilities arising from circumstances common to all those bodies;
- (b) the desirability of maintaining as nearly constant a common rate of employers' contribution as possible;
- (c) the current version of the Committee's funding strategy statement mentioned in regulation 64 (funding strategy statement); and
- (d) the desirability of securing long term cost efficiency of the pension fund.

(7) An individual adjustment is any percentage or amount by which, in the actuary's opinion, contributions at the common rate of employer's contribution should, in the case of—

- (i) a particular contributing body;
- (ii) a particular guarantor; or
- (iii) both employing authority and inheriting employer if agreed under regulation 71 (apportionment),

be increased or reduced by reason of any circumstances peculiar to that contributing body, guarantor or both of them and, where necessary, reflects inherited liabilities being attributable or no longer attributable.

(8) Where inherited liabilities are attributable to a guarantor or any other person which is not an employing authority, at the direction of the Committee, the actuary shall calculate such amount which in the actuary's opinion such a guarantor or other person that is not an employing authority should pay by reason of its assumption of responsibility for these inherited liabilities.

(9) A rates and adjustments certificate shall contain a statement of the assumptions on which the certificate is given as respects—

- (a) the number of members who will become entitled to payment of pensions under the provisions of the Scheme; and
- (b) the amount of the liabilities arising in respect of such members,

during the period covered by the certificate.

(10) The Committee shall provide the actuary preparing a valuation or a rates and adjustments certificate with the consolidated revenue account of the pension fund and such other information as the actuary requests.

Scheme costs

69.—(1) The Committee and employing authorities shall have regard to any guidance issued by the Department about how future costs of the Scheme will be met.

(2) To enable the Department to calculate those costs for the purposes of that guidance, the Committee shall provide to the Department by 31st August 2016, and by 31st August in every third year afterwards, all the information used for the purposes of providing an actuarial valuation under regulation 68 (actuarial valuations and certificates).

Special circumstances where revised actuarial valuations and certificates shall be obtained

70.—(1) If a contributing body—

- (a) ceases to be an employing authority (including ceasing to be an admission body participating in the Scheme), or
- (b) was an employing authority, but no longer has an active member contributing to a pension fund,

that contributing body becomes “an exiting employer” for the purposes of this regulation.

(2) When a contributing body becomes an exiting employer, the Committee shall obtain—

- (a) subject to paragraphs (5) and (6), an actuarial valuation determined by an actuary appointed by the Committee at the exit date of the liabilities of the pension fund in respect of benefits in respect of the exiting employer’s current and former employees and any inherited liabilities;
- (b) an exit certificate showing any exit payment due from the exiting employer or any surplus due to the exiting employer from the pension fund in respect of those benefits as calculated by an actuary appointed by the Committee, on a basis consistent with the actuarial valuation in paragraph (a); and
- (c) where relevant, a revised rates and adjustments certificate to reflect the certificate produced pursuant to paragraph (b).

(3) An amount equal to any exit payment shall immediately become due from that exiting employer to the pension fund and shall be payable as a lump sum within one month of the date of the exit certificate or such longer period as the Committee and the exiting employer agree, regardless of whether or not there has been any revision of the rates and adjustments certificate after the exit date.

(4) An amount equal to any surplus due to the exiting employer shall be payable by the Committee as a lump sum within one month of the date of the exit certificate or such longer period as the Committee and the exiting employer agree, regardless of whether or not there has been any revision of the rates and adjustments certificate after the exit date.

(5) Where in respect of an exiting employer its entire liabilities to the pension fund in respect of benefits due to the exiting employer’s current and former employees and any inherited liabilities attributable to it, have transferred and become attributable to another person in accordance with regulation 71, paragraphs (2)(a) and (b) shall be modified so that no actuarial valuation needs to be carried out in respect of the exiting employer and the exit debt shall be zero.

(6) Where in respect of an exiting employer, part but not all of its liabilities to the pension fund have been transferred and become attributable to another person in accordance with regulation 71, paragraphs (2)(a) and (b) shall be modified so that the reference to liabilities of the pension fund in respect of benefits due to the exiting employer’s current and former employees and any inherited liabilities shall exclude any part of such liabilities which have transferred to and become attributable to the other person under regulation 71, and the exit payment shall be calculated accordingly.

(7) Where for any reason it is not possible to obtain all or part of the exit payment due from the exiting employer, or from an insurer, or any person providing an indemnity, bond or guarantee

on behalf of that exiting employer, the Committee shall obtain a further revision of any rates and adjustments certificate for the pension fund showing—

- (a) in the case where the exiting employer is an admission body falling within paragraph 2(1)(h)(i) of Part 1 of Schedule 2 to these Regulations (admission agreements with admission bodies: bodies providing services as a result of transfer of a service), the revised contribution due from the body which is the related employer in relation to that admission body; and
- (b) in any other case, the revised contributions due from each employing authority which contributes to the pension fund,

with a view to providing that assets equivalent to the exit payment due from the exiting employer are provided to the pension fund over such period of time as the Committee considers reasonable.

(8) Where in the opinion of the Committee there are circumstances which make it likely that an employing authority (including an admission body) will become an exiting employer, the Committee may obtain from an actuary a certificate specifying the percentage or amount by which, in the actuary's opinion—

- (a) the contribution at the common rate of employers' contribution should be adjusted; or
- (b) any prior individual adjustment should be increased or reduced,

with a view to providing that assets equivalent to the exit payment that will be due from the employing authority are provided to the pension fund by the likely exit date or, where the employing authority is unable to meet that liability by that date, over such period of time thereafter as the Committee considers reasonable.

(9) When an exiting employer has paid an exit payment into the pension fund, no further payments are due from that exiting employer in respect of any liabilities relating to the benefits in respect of any current or former employees of that exiting employer as a result of these Regulations.

(10) Paragraph (11) applies where—

- (a) an employing authority agrees to pay increased contributions to meet the cost of an award of additional pension under regulation 32 (award of additional pension); or
- (b) it appears likely to the Committee that the amount of the liabilities arising or likely to arise in respect of members in employment with an employing authority exceeds the amount specified, or likely as a result of the assumptions stated, for that employing authority, in a rates and adjustments certificate by virtue of regulation 68(9) (actuarial valuations and certificates, assumptions).

(11) The Committee shall obtain a revision of the rates and adjustments certificate concerned, showing the resulting changes as respects that employing authority.

(12) Where a contributing body becomes an exiting employer the Committee may, with the approval of the Department, defer obtaining an actuarial valuation and exit certificate under paragraph (2) and determine the date at which the actuarial valuation and exit certificate shall be obtained and the dates from which it will be effective, and paragraph (2) will be modified to the extent necessary so that it applies as if the contributing body became an exiting employer on such date as is determined by the Committee in accordance with this regulation.

(13) During any period of deferral under paragraph (12) the exiting employer will continue to pay contributions under regulation 73 (contributing body's contributions) in respect of liabilities of the pension fund relating to benefits due to the exiting employer's current and former employees and any inherited liabilities which it may have (but excluding any part of such liabilities which have transferred to and become attributable to the other person under regulation 71 (apportionment of liabilities)) and the contributions shall be calculated by the actuary taking account of the amount of those liabilities and the period of deferral.

(14) For the purposes of this regulation—

- “exit certificate” means a certificate produced in accordance with paragraph (2);
- “exit date” means the date on which the employer becomes an exiting employer;
- “exit payment” means the amount specified in an exit certificate as being due from an exiting employer in accordance with this regulation;
- “exiting employer” means an employer of any of the descriptions specified in paragraph (1);
- and
- “related employer” means any employing authority or other such contracting body which is a party to the admission agreement (other than the Committee).

Apportionment of liabilities

71.—(1) The Committee may agree with any inheriting employer or guarantor that with effect from a specific date, some or all of the liabilities in relation to benefits for or in respect of members in connection with their employment with a current employing authority or former employer shall transfer to and be attributable to the inheriting employer in accordance with the terms of this regulation (the “inherited liabilities”).

(2) The agreement under paragraph (1) (“the apportionment agreement”) shall be recorded in writing between the Committee and the inheriting employer or guarantor and shall specify—

- (a) its effective date, which may be a date before the date of the apportionment agreement;
- (b) the liabilities attributable to the original employer which will transfer;
- (c) the manner and time in which those liabilities will be discharged; and
- (d) any other conditions to protect the solvency of the pension fund that the Committee considers necessary.

(3) As soon as is practicable after an apportionment agreement is made under paragraph (1) the Committee, after seeking advice from an actuary may—

- (a) unless paragraph (6) applies, vary the rates and adjustments certificate currently in place in respect of contributions payable by the original employer and, or if appropriate, obtain an actuarial valuation and exit certificate in accordance with regulation 70;
- (b) vary the rates and adjustments certificate currently in place in respect of contributions payable by the inheriting employer or guarantor; and
- (c) where a rates and adjustments certificate is not currently in place in respect of the inheriting employer or guarantor, produce a rates and adjustments certificate.

to reflect the transfer of liabilities under paragraph (1).

(4) Any future rates and adjustment certificate in respect of any inheriting employer or guarantor under regulation 68 (actuarial valuations and certificates) and any revision of the rates and adjustments certificate in respect of the inheriting employer under regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) shall be calculated to reflect the transfer of liabilities under paragraph (1).

(5) For the purposes of paragraphs (3) and (4) the transfer of liabilities shall be reflected in a rates and adjustments certificate in—

- (a) the calculation of the individual adjustment of employer contributions in respect of the original employer and, as the case may be, any inheriting employer under regulation 68(7);
- (b) the calculation of the amount payable by a guarantor or other non-employer under regulation 68(8); and
- (c) any exit payment calculation in respect of the original employer and, as the case may be, any inheriting employer under regulation 70(2).

(6) Where the apportionment agreement under this regulation is entered into after the original employer has become an exiting employer in accordance with regulation 70(1) (special circumstances where revised actuarial valuations and certificates shall be obtained), the effect of that regulation shall, with the agreement of the Committee, be modified so that either—

- (a) there is no longer a requirement to obtain an actuarial valuation and no exit payment is treated as coming due in respect of the exiting employer; or
- (b) the actuarial valuation and exit payment shall be recalculated so that they relate only to the liabilities in respect of members' benefits which continue to be attributable to that exiting employer and exclude the liabilities in respect of members' benefits which have become attributable to another person in accordance with the apportionment agreement under paragraph (1).

(7) Where a guarantor has agreed to accept liabilities under paragraph (1) the apportionment agreement shall state the manner and time in which the guarantor will discharge those liabilities.

(8) Any agreement entered into prior to the introduction of this regulation shall be treated as an agreement under this regulation.

(9) Any question which may arise between the parties to an apportionment agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred in writing to the Department for determination.

(10) Liabilities in relation to benefits for or in respect of members in connection with their employment with a current or former employing authority may for the purposes of these Regulations be attributable to a person other than that employing authority either—

- (a) as a result of an agreement to that effect to which that person and the Committee are parties (whether made under these Regulations or otherwise);
- (b) by the operation of a scheme of reorganisation which has been created and approved in accordance with legislation;
- (c) by a transfer of engagements in accordance with the provisions of legislation;
- (d) because of the provisions of any other legislation; or
- (e) by an order of the Court.

(11) Where liabilities become attributable under paragraph 10 to a person other than an employing authority they shall constitute inherited liabilities.

Supply of copies of valuations, certificates, etc.

72.—(1) The Committee shall send copies of any valuation, report, certificate or revised certificate obtained under regulation 68 (actuarial valuations and certificates) to—

- (i) the Department;
- (ii) each contributing body with employees who contribute to the pension fund in question; and
- (iii) any other contributing body, guarantor or inheriting employer which is or may become liable to make payments to that pension fund.

(2) The Committee shall send copies of any revised actuarial valuation or certificate obtained under regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) to—

- (i) the Department; and
- (ii) each contributing body, guarantor or inheriting employer to which the revised actuarial valuation or certificate relates.

(3) The Committee shall also send to the Department—

- (a) a copy of the consolidated revenue account with which the actuary was provided under regulation 68(10) (actuarial valuations and certificates, information provided to actuary); and
- (b) a summary of the assets of the pension fund at the valuation date (unless such a summary is contained in the report under regulation 68(1)(b) (actuarial valuations and certificates, report by actuary)).

PAYMENTS

Contributing body's contributions

73.—(1) A contributing body shall contribute to the pension fund in each year covered by a rates and adjustment certificate under regulation 68 (actuarial valuations and certificates), regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) or regulation 71 (apportionment of liabilities) the amount appropriate for that contributing body as calculated in accordance with the certificate and paragraph (4).

(2) During each of those years a contributing body shall make payments to the pension fund on account of the amount required for the whole year.

(3) Those payments on account shall—

- (a) where the contributing body employs active members of the Scheme, be paid at the end of the intervals determined under regulation 75 (payment by employing authorities to the Committee) and where the contributing body does not employ active members of the Scheme, be paid at intervals of not greater than twelve months as the Committee may determine; and
- (b) equal the appropriate proportion of the whole amount due under paragraph (1) for the year in question.

(4) A contributing body's contribution for any year is the common percentage for that year of—

- (a) the pensionable pay on which contributions have been paid into the pension fund by active members in accordance with regulations 11 to 14 and 16 (contributions), except where sub-paragraph (b) applies, and
- (b) the assumed pensionable pay in respect of members on child-related leave or on leave due to sickness or injury on reduced contractual pay or no pay,

increased or reduced by any individual adjustments specified for that contributing body for that year in the rates and adjustments certificate.

(5) The common percentage is the common rate of the employer's contribution specified in that certificate expressed as a percentage of the pensionable pay of its employees who are active members of the Scheme.

(6) A person to whom regulation 68(1) (actuarial valuations and certificates) applies shall contribute to the pension fund such amount as is specified in any exit certificate in accordance with regulation 70.

(7) A contributing body shall also contribute to the pension fund in each year, any employing authority contributions made under regulation 18 (additional pension contributions).

(8) A guarantor or other person which is not an employing authority shall pay sums specified pursuant to regulation 71 or which arise as a result of a revision of a rates and adjustments certificate in accordance with regulation 71 at such times as is specified by the Committee.

Employing authority's further payments

74.—(1) Any extra charge on the pension fund resulting from a member becoming entitled to benefits under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or 37 (early payment of retirement pension on ill-health grounds: deferred members) shall be paid into the pension fund by the employing authority concerned.

(2) The Committee may require the employing authority concerned to make additional payments to the pension fund in respect of any extra charge on that pension fund resulting from retirement benefits becoming immediately payable to a member under regulation 31(6) (retirement benefits, flexible retirement) or 31(7) (retirement benefits, early leavers on grounds of redundancy or business efficiency), including the cost as calculated by an actuary appointed by the Committee, as a result of a waiver of any reduction under regulation 31(8) (retirement benefits, waiver of reductions).

(3) Other than where regulation 70(10) (special circumstances where revised actuarial valuations and certificates shall be obtained) applies, an employing authority making an award under regulation 32 (award of additional pension) shall pay a sum into the pension fund to meet the cost of any additional pension, in accordance with actuarial guidance issued by the Department.

Payment by employing authorities to the Committee

75.—(1) Every employing authority shall pay to the Committee on or before such dates falling at intervals of not more than twelve months as the Committee may determine—

- (a) all amounts received from time to time from employees under regulations 11 to 16 and 18 (contributions);
- (b) any charge payable under regulation 74 (employing authority's further payments) of which it has been notified by the Committee during the interval;
- (c) a contribution towards the cost of the administration of the pension fund; and
- (d) any amount specified in a notice given in accordance with regulation 76 (additional costs arising from employing authority's level of performance).

(2) But—

- (a) an employing authority shall pay the amounts mentioned in paragraph (1)(a) within the prescribed period referred to in Article 49(8) of the Pensions (Northern Ireland) Order 1995(2); and
- (b) paragraph (1)(c) does not apply where the cost of the administration of the pension fund is paid out of the pension fund under regulation 5(4) (management of the fund) of the 2000 Regulations.

(3) Every payment under paragraph (1)(a) shall be accompanied by a statement showing—

- (a) the total pensionable pay received by members during the period covered by the statement whilst regulation 11 (contributions) applied (including the assumed pensionable pay members were, in accordance with regulation 23 (assumed pensionable pay), treated as receiving during that period whilst regulation 11 applied);
- (b) the total employee contributions (if any) deducted from the pensionable pay under subparagraph (a);
- (c) the total pensionable pay received by members during the period covered by the statement whilst regulation 12 (temporary reduction in contributions) applied (including the assumed pensionable pay members were, in accordance with regulation 23, treated as receiving during that period whilst regulation 12 applied);

- (d) the total employee contributions (if any) deducted from the pensionable pay under sub-paragraph (c);
 - (e) the total employing authority contributions in respect of the pensionable pay under sub-paragraphs (a) and (c);
 - (f) the total additional pension contributions (if any) paid by members under regulation 18 (additional pension contributions) during the period covered by the statement; and
 - (g) the total additional pension contributions (if any) paid by the employing authority under regulation 18 during the period covered by the statement.
- (4) The Committee may direct that the information mentioned in paragraph (3) shall be given to it in such form, and at such intervals (not exceeding twelve months) as it specifies in the direction.
- (5) If an amount payable under paragraph (1)(c) or (d) cannot be settled by agreement, it shall be determined by the Department.

Additional costs arising from employing authority's level of performance

76.—(1) This regulation applies where, in the opinion of the Committee, it has incurred additional costs which should be recovered from an employing authority because of that employing authority's level of performance in carrying out its functions under these Regulations.

- (2) The Committee may give written notice to the employing authority stating—
 - (a) the Committee's reasons for forming the opinion mentioned in paragraph (1);
 - (b) the amount the Committee has determined the employing authority should pay under regulation 75(1)(d) (payment by employing authorities to the Committee, additional costs arising from employing authority's level of performance) in respect of those costs and the basis on which the specified amount is calculated; and
 - (c) where the Committee has prepared a pension administration strategy under regulation 65 (pension administration strategy), the provisions of the strategy which are relevant to the decision to give the notice and to the matters in sub-paragraphs (a) or (b).

Interest on late payments

77.—(1) The Committee may require any person from whom any payment due under regulations 73 to 76 (employing authority's contributions or payments) is overdue to pay interest on that amount.

(2) The date on which any amount due under regulations 73 (contributing body's contributions), 74 (employing authority's further payments), 76 (additional costs arising from employing authority's level of performance) is overdue is one month from the date specified by the Committee for payment.

(3) The date on which any amount due under regulation 75 (payment by employing authorities to the Committee) (other than an extra charge payable under regulation 74 and referred to in regulation 75(1)(b)) is overdue is the day after the date when that payment is due.

(4) Interest payable under this regulation shall be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.

Contributions Equivalent Premium

78.—(1) Where the Committee pays a contributions equivalent premium under section 51 of the 1993 Act in respect of any member, it is entitled to retain from the pension fund a sum not exceeding the contributions equivalent premium.

(2) Where the Committee may retain any sum under section 57 of that Act in respect of the premium, then only the balance may be retained under paragraph (1).

(3) Where the contributions equivalent premium is refunded under regulation 54(1)(c) (re-entry into employment which is contracted out by reference to the same scheme) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996⁽³⁾, the Committee shall credit to the pension fund a sum equal to the amount of the premium.

DECISIONS

First instance decisions

79. For regulations 79 to 89 (decisions), a reference to the employing authority of a prospective member is a reference to the body that would be the prospective member's employer, if that prospective member were to become an active member in the employment by virtue of which the prospective member would be eligible to join the Scheme.

First instance decisions - general

80.—(1) Any question concerning the rights or liabilities under the Scheme of any person, other than an employing authority, shall be decided in the first instance by the person specified in this regulation.

(2) Subject to regulation 81 (first instance decisions: ill-health) the Committee shall decide any question concerning—

- (a) a person's previous service or employment;
- (b) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the National Insurance Act (Northern Ireland) 1966⁽⁴⁾ in respect of any period of non-participating employment;
- (c) the crediting of additional pension under regulation 18 (additional pension contributions); and
- (d) the amount of any benefit or return of contributions that a person is or may become entitled to out of the pension fund.

(3) The employing authority shall decide any question regarding any other matter relating to a person's rights or liabilities under the Scheme.

(4) The questions specified in paragraphs (2) and (3) shall be decided as soon as is reasonably practicable.

(5) Any question as to whether a person is entitled to a benefit under the Scheme shall be decided by the Committee.

(6) Where a person is or may become entitled to benefit payable out of the pension fund, the Committee shall decide the amount of the benefit.

(7) The decision under paragraph (5) shall be made as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee and that under paragraph (6) as soon as is reasonably practicable after the occurrence of the event by virtue of which the entitlement arises or may arise.

(8) In this regulation—

⁽³⁾ S.R. 1996 No. 493

⁽⁴⁾ 1966 c.6 (N.I.)

- (a) “benefit” includes a return of contributions and a benefit specified in regulation F6(11) or (14) of the Local Government (Superannuation) Regulations (Northern Ireland) 1992(5), Part N (pension sharing) of the Local Government Pension Scheme Regulations (Northern Ireland) 2000(6) and Part VI (pension sharing) of the 2002 Regulations; and
- (b) “employing authority” includes a body that is an employing authority of a prospective member.

First instance determinations: ill-health

81.—(1) Where the Committee is considering whether a person who has ceased to hold a local government employment is entitled to a benefit under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or regulation 37 (early payment of retirement pension on ill-health grounds: deferred members), it shall refer for decision to the IRMP, who is qualified in occupational health medicine and who has been appointed by the Committee under regulation 36(6) and 37(2).

(2) The IRMP, in accordance with regulation 38 (role of the IRMP), shall supply to the Committee, when requested by the Committee, a certificate regarding its ill-health determination.

Notification of first instance decisions

82.—(1) Every person whose rights or liabilities are affected by a decision under regulation 80 (first instance decisions: general) or 81 (first instance determinations: ill-health) shall be notified of it by the Committee or the employing authority which made it as soon as is reasonably practicable.

(2) A notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision;
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated;
- (c) in the case of a notification under paragraphs (a) or (b) a conspicuous statement directing the person’s attention to—
 - (i) the address from which that person may obtain further information about the decision, including details of any calculation of employment or benefits;
 - (ii) that person’s right under regulation 84 (right to apply for an appointed person to review a decision) to make an application to an appointed person within the time limit referred to in that regulation, the address at which the appointed person may be contacted and the appointed person’s job title; and
 - (iii) that person’s right under regulation 86 (reference of disagreement to the Committee) to apply to the Committee for a reconsideration of the matter within the time limit referred to in that regulation; and
- (d) in the case of a decision by an employing authority made under regulation 80, a conspicuous statement directing the person’s attention to—
 - (i) the employing authority’s address from which the person may obtain further information about the decision; and
 - (ii) the person’s right of appeal to the county court under regulation 89 (referral of decisions under regulation 80(1) to the county court).

(5) S.R. 1992 No. 547; as amended by other instruments listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

(6) S.R. 2000 No. 177; as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353.

Appointment of persons to resolve disputes

83.—(1) The Committee shall appoint a panel of persons it considers to be suitably qualified for the purpose of resolving disagreements in respect of which an application is made under regulation 84 (right to apply for an appointed person to review a decision).

(2) For this Part the persons appointed under paragraph (1) are “appointed persons”.

(3) An application under regulation 84 may be decided by one or more appointed persons (and references to “the appropriate appointed person”, in relation to any application, are to the appointed person or persons to whom the application in question is referred).

(4) An application shall not be referred to a person who has previously been involved in the subject matter of the disagreement.

(5) An appointed person shall hold and vacate office under the terms of that appointment.

(6) An appointed person may resign by notice in writing to the Committee.

(7) The Committee shall determine—

- (a) the procedure to be followed by the persons appointed by it when exercising their functions as appointed persons; and
- (b) the manner in which those functions are to be exercised.

Right to apply for an appointed person to review a decision

84.—(1) Where there is a disagreement about a matter in relation to the Scheme between a member or an alternative applicant and the Committee, the member or, as the case may be, the alternative applicant may—

- (a) apply directly to the appropriate appointed person to decide a disagreement; or
- (b) apply to the Committee for it to refer the disagreement to an appointed person for decision.

(2) These persons are alternative applicants—

- (a) a widow, widower, surviving civil partner or nominated co-habiting partner of a deceased member;
- (b) a dependant of a deceased member or any other person to whom benefits in respect of the deceased member may be paid;
- (c) a prospective member;
- (d) a pension credit member;
- (e) a person entitled to a pension credit;
- (f) a person who ceased to be a member, or to fall within sub-paragraph (a), (b), (c), (d) or (e) during the period of six months ending with the date of the application; and
- (g) in the case of a disagreement relating to the question as to whether a person claiming to be a member or to fall within sub-paragraph (a), (b), (c), (d), (e) or (f) does so, the claimant.

(3) The application for a decision shall set out particulars of the disagreement, including a statement as to its nature with sufficient details to show why the applicant is aggrieved.

(4) An application by—

- (a) a member or a prospective member;
- (b) a person who has ceased to be a member or prospective member during the period of six months ending with the date of the application; or
- (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address, date of birth, national insurance number (if any) and the name of the person's employing authority.

(5) An application by—

- (a) a person entitled to a pension credit or a pension credit member;
- (b) a person who ceased to be such a person or member during the period of six months ending with the date of the application; or
- (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address and date of birth.

(6) An application by any other person shall set out—

- (a) that person's full name, address and date of birth;
- (b) that person's relationship to the member; and
- (c) the member's full name, address, date of birth, national insurance number and the name of the member's employing authority.

(7) The application shall be signed by or on behalf of the applicant.

(8) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(9) The application shall be made before the end of the period of six months beginning with the relevant date or such further period as the appropriate appointed person considers reasonable.

(10) Where the disagreement relates to a decision under regulation 81 (first instance determinations: ill-health), the relevant date is the date notification of it is given under regulation 82.

(11) Otherwise, the relevant date is the date of the act or omission which is the cause of the disagreement or, if there is more than one, the last of them.

Notice of decisions by the appointed person under regulation 84

85.—(1) A decision on the matters raised by an application under regulation 84 (right to apply for an appointed person to review a decision) shall be issued by the appropriate appointed person—

- (a) to the applicant; and
- (b) to the Committee,

by notice in writing before the expiry of the period of two months beginning with the date the application was received.

(2) But, if no such notice is issued before the expiry of that period, an interim reply shall immediately be sent to the persons mentioned in paragraph (1) setting out the reasons for the delay and an expected date for issuing the decision.

(3) A notice under paragraph (1) shall include—

- (a) a statement of the decision;
- (b) reference to any legislation or provisions of the Scheme relied upon;
- (c) in the case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;
- (d) a reference to the rights of the applicant to refer the disagreement for reconsideration by the Committee under regulation 86 (reference of disagreement to the Committee), specifying the time within which the applicant may do so; and
- (e) a statement that the Pensions Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved and the address at which it may be contacted.

Reference of disagreement to the Committee

86.—(1) Where an application about a disagreement has been made under regulation 84 (right to apply for an appointed person to review a decision), an application may be made to the Committee to reconsider the disagreement by the person who applied under regulation 84.

(2) The application shall set out particulars of the grounds on which it is made, including a statement that the applicant under this regulation wishes the disagreement to be reconsidered by the Committee.

(3) An application made by the person who applied under regulation 84 shall set out the matters required by paragraph (4), (5) or (6) as the case may be, of that regulation to be included in that person's application.

(4) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(5) Where notice of a decision on the application under regulation 84 has been issued, the application under this regulation shall state why the applicant is dissatisfied with that decision and be accompanied by a copy of that notice.

(6) The application shall be signed by or on behalf of the person making it.

(7) An application for reconsideration may only be made before the expiry of the period of six months beginning with the relevant date.

(8) Where notice of a decision on the matters raised by the application under regulation 84 has been issued, the relevant date is the date of that notice.

(9) Where—

(a) an interim reply has been sent out under regulation 85(2) (notice of decisions by the appointed person under regulation 84); but

(b) no notice of decision has been issued before the expiry of the period of one month beginning with the date specified in the reply as the expected date for issuing the decision,

the relevant date is the date with which that period expires.

(10) Where no notice of decision has been issued or interim reply has been sent before the expiry of the period of three months beginning with the date the application under regulation 84 was made, the relevant date is the date with which that period expires.

Notice of decisions by the Committee under regulation 86

87.—(1) The Committee shall issue its decision on the matters raised by an application under regulation 86 (reference of disagreement to the Committee) to the parties to the disagreement by notice in writing before the expiry of the period of two months beginning with the date the application was received (but see paragraph (2)).

(2) If no such notice is issued before the expiry of that period, an interim reply shall be sent immediately to those parties, setting out the reasons for the delay and the expected date for issuing the decision.

(3) A notice under paragraph (1) shall include—

(a) a statement of the decision;

(b) in a case where there has been a decision made under regulation 85 (notice of decisions by the appointed person under regulation 84), an explanation as to whether and, if so, to what extent that decision is confirmed or replaced;

(c) a reference to any legislation or provisions of the Scheme relied upon;

- (d) in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;
- (e) a statement that the Pension Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulties with the Scheme which remain unresolved and of the address at which the Pension Advisory Service may be contacted; and
- (f) a statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to the Scheme made or referred in accordance with the 1993 Act and of the address at which the Pensions Ombudsman may be contacted.

Rights of representation

88.—(1) An application under regulation 84 (right to apply for an appointed person to review a decision) or 86 (reference of disagreement to the Committee) may be made or continued on behalf of the applicant by a representative nominated by the applicant.

(2) Where a person who has the right to make or has made such an application dies, the application may be made or continued on that person's behalf by the person's personal representative.

(3) Where such a person is a minor or is or becomes otherwise incapable of acting on that person's own behalf, the application may be made or continued by a member of that person's family or some other person suitable to represent that person.

(4) Where a representative is nominated before an application is made, the application shall specify that representative's full name and address and whether that is to be used for service on the applicant of any documents in connection with the application.

(5) Where a representative's address is not to be so used, the appropriate appointed person or the Committee, as the case may be, shall send to the applicant a copy of a decision under regulation 85(1) (notice of decisions by the appointed person under regulation 84) or 87(1) (notice of decisions by the Committee under regulation 86) or an interim reply under regulation 85(2) or 87(2).

Referral of decisions under regulation 80(1) to the county court

89. Where an employing authority has either decided or failed to decide such question as is mentioned in regulation 80(1) (first instance decisions: general), that question shall be determined by the county court having jurisdiction in the county court division in which such member as is mentioned in regulation 80(1) is employed or was last employed or, where that member is or was last employed in two or more county court divisions, in one of those divisions.

Exchange of information

90.—(1) An employing authority which is not the Committee shall—

- (a) inform the Committee of all decisions, concerning members, made by the employing authority under regulations 65 to 67, 79 to 90 and 99 to 101; and
- (b) give the Committee such other information as it requires for discharging its statutory Scheme functions.

(2) If—

- (a) the Committee makes any decision under regulations 65 to 67, 79 to 90 or 99 to 101 about a person for whom it is not the employing authority; and
- (b) information about that decision is required by the person's employing authority for discharging that employing authority's Scheme functions,

the Committee shall give that employing authority that information if asked to supply it.

(3) Within three months of the end of each Scheme year, each employing authority shall send to the Committee a statement showing the following details in respect of each employee who has been an active member during the Scheme year—

- (a) the employee's name and gender;
 - (b) the employee's date of birth and national insurance number;
 - (c) a unique reference number relating to each employment in which the employee has been an active member; and
 - (d) the information relating to the employee for the Scheme year in question for each employment which is specified in paragraph (4).
- (4) The information required by paragraph (3)(d) is—
- (a) the dates of active membership;
 - (b) the pensionable pay received and employee contributions deducted while regulation 11 (contributions) applied;
 - (c) the pensionable pay received and employee contributions deducted while regulation 12 (temporary reduction in contributions) applied;
 - (d) any contributions by the employer in relation to the employee's pensionable pay;
 - (e) any contributions by employee or employer under regulation 18 (additional pension contributions);
 - (f) any contributions by employee or employer under regulation 19 (additional voluntary contributions).

Interest on late payment of certain benefits

91.—(1) Where all or part of a pension or lump sum payment due under these Regulations (other than a payment due under regulation 19 (additional voluntary contributions)) is not paid within the relevant period after the due date, the Committee shall pay interest on the unpaid amount to the person to whom it is payable.

(2) The unpaid amount includes any increase due in accordance with regulation 98 (pension increases).

(3) The relevant period is—

- (a) in the case of a survivor pension, the period ending one month after the date on which the Committee receives notification of the member's death;
- (b) in the case of any other pension, one year; or
- (c) in the case of a lump sum payment, one month.

(4) The due date is—

- (a) in the case of a pension, the date on which it becomes payable;
- (b) in the case of a lump sum under regulation 34 (election for lump sum instead of pension) the benefit crystallisation event date;
- (c) in the case of a death grant, the date on which the member dies or, where notification of death is received more than two years after the date of death, the date of notification; or
- (d) in the case of a lump sum under regulation 35 (commutation and small pensions) the date of the commutation election or, if later, the nominated date within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the 2004 Finance Act.

(5) Interest payable under this regulation is calculated at one per cent above base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

Payments due in respect of deceased persons

92.—(1) Paragraph (2) applies if, when a person dies, the total amount due to that person's personal representatives under the Scheme (including anything due at that person's death) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) (Northern Ireland) Act 1967(7) and applying in relation to that person's death.

- (2) The Committee may pay the whole or part of the amount due from the pension fund to—
- (a) a person's personal representatives, or
 - (b) any person or persons appearing to the Committee to be beneficially entitled to the estate, without the production of probate or letters of administration of the person's estate.
- (3) Such a payment discharges the Committee from accounting for the amount paid.

Payments for persons incapable of managing their affairs

93. If it appears to the Committee that a person other than an eligible child is entitled to payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing that person's own affairs—

- (a) the Committee may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the Committee may determine, to be applied for the benefit of the person entitled; and
- (b) in so far as the Committee does not pay the benefits in that manner, the Committee may apply them in such manner as it may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.

Non-assignability

94.—(1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for that person.

(2) No such benefit is assignable or chargeable with that person's, or any other person's, debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order or an income payments agreement under Article 283 or 283A of the Insolvency (Northern Ireland) Order 1989(8).

Deduction and recovery of member's contributions

95.—(1) An employing authority may deduct from a person's pay any contributions payable by that person under these Regulations or the former regulations.

(2) Sums payable under regulation 15 (contributions during reserve forces service leave) may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(9), to the extent that they are payable in respect of the same period.

(3) The Committee may recover any contributions or sum remaining due and not deducted under paragraph (1) or (2)—

- (a) as a simple contract debt in a court of competent jurisdiction; or

(7) 1967 c.5 (N.I.)

(8) S.I. 1989/2405 (N.I. 12)

(9) 1951 c. 65 as amended by S.I. 1979/291

- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these Regulations.
- (4) But the sums mentioned in paragraph (2) are only recoverable under paragraph (3) if unpaid for twelve months after the person ceases to perform relevant reserve forces service.
- (5) If—
- (a) an employing authority deducts in error any amount in respect of contributions from a person's pay or any other sum due to that person; and
 - (b) the amount has not been repaid before the expiry of the period of one month beginning with the date of the deduction,
- the appropriate body shall pay interest on the amount, and the due date for the calculation of the interest payable is the date of the deduction.
- (6) Where the employee's contributions have been paid into a pension fund, the repayment and any interest shall be made out of that pension fund.
- (7) Interest shall be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.
- (8) The "appropriate body" for the purposes of paragraph (5) is—
- (a) the Committee, where the employee's contributions have been paid into the pension fund; and
 - (b) the person's employing authority, where the employee's contributions have not yet been paid into the pension fund.

Joint liability in respect of annual allowance charge

96.—(1) This regulation applies where a member gives notice to the Committee of joint and several liability under section 237B (liability of scheme administrator) of the 2004 Finance Act in respect of the member's annual allowance charge.

(2) Where the joint liability amount specified in the notice is met by the pension fund, the Committee shall reduce the value of the member's rights accrued under the Scheme in accordance with actuarial guidance issued by the Department.

Tax

97. The Committee is responsible for deducting from any payment of benefits under the Scheme any tax to which it may become chargeable under the 2004 Finance Act.

Pension increases

98.—(1) Where a pension to which the 1971 Act applies is payable out of the pension fund any increase under that Act or the Pensions (Increase) (Northern Ireland) Order 1974⁽¹⁰⁾ shall be paid from that pension fund.

(2) Any increase in a pension required by reason of Chapter 3 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 (Protection of Increases in Guaranteed Minimum Pensions: "Anti-Frinking")⁽¹¹⁾ shall be paid from the pension fund.

⁽¹⁰⁾ 1974 No. 1267 (N.I. 2)

⁽¹¹⁾ 1993 c. 49

Annual benefit statements

99.—(1) The Committee shall issue an annual benefit statement to each of its active, deferred, and pension credit members.

(2) Subject to paragraph (3), the annual benefit statement shall be issued no later than six months after the end of the Scheme year to which it relates.

(3) A statement shall be issued before the end of the six month period mentioned in paragraph (2) where a member makes a request in writing to the Committee, unless the Committee is unable to comply with the request because relevant data is not available.

(4) A statement shall contain the amount of benefit entitlement in respect of the rights that may arise under the Scheme which has been accrued by the member at the relevant date.

(5) The relevant date is 31st March before the date that the statement is issued, or such later date as the Committee may choose.

Pension savings statements

100.—(1) The Committee shall issue a pension savings statement to a member who has—

- (a) been an active member for all or part of the pension input period; and
- (b) exceeded the annual allowance in respect of the pension input period,

by 6th October following the end of each tax year in compliance with regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006(12).

(2) Where paragraph (1) does not apply, a member may request in writing, a pension savings statement from the Committee and the Committee shall provide it by the later of—

- (a) three months from the date of receiving the request; or
- (b) 6th October following the end of the relevant tax year,

and in compliance with regulation 14B of the Registered Pension Schemes (Provision of Information) Regulations 2006.

(3) In this regulation—

- (a) “annual allowance” has the meaning given to that expression by section 228 of the 2004 Finance Act;
- (b) “pension input period” has the meaning given to that expression by section 238 of the 2004 Finance Act; and
- (c) “pension savings statement” has the meaning given to the expression by regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006.

Information to be supplied by employees

101.—(1) Before the expiry of three months beginning with the date on which a person becomes a member, the employing authority shall ask the member in writing for the documents specified in paragraph (2).

(2) Those documents are—

- (a) a statement in writing listing all that member’s previous periods of employment; and
- (b) copies of all notifications previously given to that member under these Regulations and the former regulations.

(3) A request under this regulation shall contain a conspicuous statement that it is important that the member gives full and accurate information, especially for ascertaining the member's rights under the Scheme.

(4) The employing authority need not request any documents if it is satisfied that it, or the Committee (if different), already has all material information.

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⁽¹³⁾ 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⁽¹⁴⁾ or section 130 of the Social Security Administration (Northern Ireland) Act 1992⁽¹⁵⁾ (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.

(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.

⁽¹³⁾ 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.

⁽¹⁴⁾ 1975 No.1503 (N.I. 15)

⁽¹⁵⁾ 1992 c.8

TRANSFERS

Rights to payment out of pension fund

108.—(1) A member may apply for a transfer under Chapter 4 or 5 of Part 4 of the 1993 Act (transfer values and early leavers) and where the member does so the amount of any transfer value payment due in respect of the member under the relevant transfer may only be paid by the Committee from the pension fund if the transfer value payment is a recognised transfer (within the meaning of section 169 (recognised transfers) of the 2004 Finance Act).

(2) Where such a transfer value payment is to be or has been paid from the pension fund, no other payment or transfer of assets may be made from the pension fund as respects the accrued rights covered by the transfer value payment.

(3) Paragraph (2) overrides anything to the contrary in these Regulations, the Transitional Regulations or the former regulations.

Contracting-out requirements affecting transfers out

109.—(1) There shall be deducted from the transfer value payment to be made in respect of any person to a contracted-in defined benefit registered pension scheme—

- (a) the amount of any contributions equivalent premium payable pursuant to section 51 (payment of state scheme premiums on terminations of certified status) of the 1993 Act; or
- (b) an amount sufficient to meet the liability in respect of the person's contracted-out rights.

(2) Where the amount mentioned in paragraph (1)(a) is deducted, the Committee shall use that amount to pay the premium.

(3) Where the amount mentioned in paragraph (1)(b) is deducted, the Committee may use the amount in preserving the liability mentioned in that paragraph in the pension fund unless the member wishes a transfer value payment in respect of it to be paid to the trustees or managers of a contracted-out defined benefit or contracted-in defined contribution registered pension scheme.

(4) Contracted-out rights, in relation to a member, are—

- (a) the member's, and the member's surviving spouse's, civil partner's or nominated co-habiting partner's rights to guaranteed minimum pensions; and
- (b) the member's section 5(2B) rights as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996.

Bulk transfer (transfers of undertakings, etc.)

110.—(1) This regulation applies where—

- (a) two or more members' active membership ends on their joining a registered non-local government scheme ("the new scheme");
- (b) it is agreed by—
 - (i) the Committee;
 - (ii) the members' employing authorities (if different); and
 - (iii) the trustees or managers of the new scheme;

that a payment should be made under this regulation; and

- (c) the members—

- (i) agree in writing that that payment should be made instead of any payment which they otherwise might require to be made under Chapter 4 or 5 of Part 4 of the 1993 Act; and
- (ii) waive any rights they might have under those Chapters by virtue of the cessation of their active membership.

(2) The Committee shall not give its agreement under paragraph (1)(b) unless it is satisfied that the rights that each of the members will acquire under the new scheme are at least equivalent to those which they each would have obtained if the transfer value payment had been paid to the same scheme under Chapter 4 or 5 of Part 4 of the 1993 Act, as they apply as modified by these Regulations (assuming in any case where a member would not be entitled to such a payment that the member was so entitled).

(3) The Committee shall provide each member with sufficient information in writing to check that the requirement of paragraph (2) is satisfied before the member agrees as mentioned in paragraph (1)(c).

(4) The Committee shall—

- (a) set aside (whether in cash or in assets or both) such part of the pension fund (“the transfer value payment”) as an actuary appointed by it and an actuary appointed by the trustees or managers of the new scheme for the purpose may agree as appropriate for the acquisition of such rights in that new scheme as they may so agree; and
- (b) pay or transfer it to the trustees or managers of the new scheme for the benefit of the relevant members.

(5) The Committee shall certify to the new scheme’s trustees or managers the amount included in the transfer value payment which represents each member’s contributions and interest on them.

(6) Where a transfer value payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made from the pension fund by reason of membership covered by the transfer value payment.

(7) Paragraph (6) overrides anything to the contrary in these Regulations, the Transitional Regulations or the former regulations.

Calculation of amount of transfer value payment

111.—(1) The amount of the transfer value payment to be paid under regulation 110 (bulk transfer (transfers of undertakings, etc.)) is the amount determined by an actuary appointed by the Committee to be equal to the value at the date those members join the new scheme of the actual and potential liabilities payable from the pension fund which have then accrued in respect of the members and the persons who are or may become entitled to benefits under the Scheme through them.

(2) The actuary may make such adjustments as the actuary thinks fit in calculating that amount and in particular as respects the period from that date to the date of actual payment of the transfer value.

(3) The actuary shall specify in the valuation, the actuarial assumptions used in making it.

(4) The employing authority shall bear the costs of determining the appropriate part of the pension fund and apportioning that pension fund.

(5) If there is more than one employing authority involved, each shall bear such part of the costs as the actuary determines to be appropriate.

Inward transfers of pension rights

112.—(1) An active member with relevant pension rights may request the Committee to accept a transfer value payment for some or all of those rights from the relevant transferor.

(2) Relevant pension rights are—

- (a) accrued rights under a registered pension scheme other than rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit; and
- (b) accrued rights under a European pensions institution.

(3) Accrued rights under a registered pension scheme include rights to preserved benefits and rights appropriately secured under section 15 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) of the 1993 Act.

(4) The relevant transferor is the trustees or managers of the scheme under which the transferring person's relevant pension rights arise.

(5) But the relevant transferor for the rights specified in paragraph (3) is the trustees or managers of the scheme, or the insurance company, to which a payment in respect of the person's accrued rights has been made.

(6) A request from a transferring person under paragraph (1) shall be made by notice in writing given before the expiry of the period of twelve months beginning with the date on which the person first became an active member in an employment (or such longer period as the Committee may allow).

(7) Where a request under paragraph (1) is duly made, the Committee may accept the transfer value payment and credit it to the pension fund.

Effect of acceptance of transfer value payment

113.—(1) Where a transfer value payment has been accepted under regulation 112 (inward transfers of pension rights), the Committee shall credit the active member's pension account with the appropriate amount of earned pension.

(2) The calculation of the appropriate amount of earned pension for the purposes of paragraph (1) is to be in accordance with actuarial guidance issued by the Department.

EU scheme transfers

114.—(1) The persons mentioned in paragraph (2) are entitled to such rights under the Scheme as are specified in actuarial guidance issued by the Department.

(2) Those persons are—

- (a) a person who became employed by an EU institution after having been employed in local government employment; or
- (b) a surviving spouse, civil partner, nominated co-habiting partner, dependant or eligible child of such a person.

(3) In this regulation—

- (a) "EU institution" means a body treated as one of the EU's institutions for the purposes of the European Union's scheme; and
- (b) "the European Union's scheme" means the pension scheme provided for officials and other servants of the European Union in accordance with regulations adopted by the Council of the European Union.