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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 290**

**PUBLIC SERVICE PENSIONS**

**The Public Service (Civil Servants and Others)  
Pensions Regulations (Northern Ireland) 2014**

*Made - - - - 26th November 2014  
Coming into operation in accordance with  
regulation 1(2) and (3)*

The Department of Finance and Personnel makes these Regulations in exercise of the powers conferred by sections 1(1), (2)(a)(1), 2(1), 3(1), (2), (3)(a) and (c), 4(5) and (6) as read with sections 4(1), 5(1) and (3)(c), 8(1)(a)(2), 12(6) and (7)(3), 18(5), (6), (7) and (8), 25(3), paragraph 1 of Schedule 2, Schedule 3 and paragraphs 1(2)(ii) and 2(2)(ii) and 5(1) of Schedule 7 to the Public Service Pensions Act (Northern Ireland) 2014(4).

In accordance with section 21 of that Act, the Department of Finance and Personnel has consulted such persons and representatives of such persons as appear to the Department likely to be affected by these Regulations.

**PART 1**

**Preliminary**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014.

(2) Part 1, regulations 138 and 182, Schedule 1 (payments for extra pension) and Schedule 2 (transitional provisions) shall come into operation on 18th December 2014.

(3) The remaining provisions come into operation on 1st April 2015.

**Interpretation**

2. In these Regulations—

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- (1) See also section 1(3) and Schedule 1  
(2) See also section 8(2)(a) and (4)  
(3) See also section 12(1) to (3) and (5): coming into operation on 1st April 2015  
(4) [2014 c.2 \(N.I.\)](#)

- “the Act” means the Public Service Pensions Act (Northern Ireland) 2014;
- “the 1971 Act” means the Pensions (Increase) Act (Northern Ireland) 1971(5);
- “the 1972 Order” means the Superannuation (Northern Ireland) Order 1972(6);
- “the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993(7);
- “the 1995 Order” means the Pensions (Northern Ireland) Order 1995(8);
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999(9);
- “the 2004 Act” means the Finance Act 2004(10);
- “accrued added pension” means—
- (a) accrued added (self only) pension (if any); and
  - (b) accrued added (all beneficiaries) pension (if any);
- “accrued club transfer earned pension”—
- (a) for the purpose of calculating the amount of a description of full retirement pension or the provisional amount of a description of deferred pension, is the amount calculated in accordance with regulation 35(5);
  - (b) for the purpose of calculating the amount of description of partial retirement pension, is the amount calculated in accordance with regulation 36(5);
- “accrued earned pension” means—
- (a) in relation to this scheme—
    - (i) accrued standard earned pension (if any);
    - (ii) accrued earned pension attributable to an effective pension age option (if any);
    - (iii) accrued club transfer earned pension (if any);
  - (b) in relation to another pension scheme, accrued rights to benefits under that scheme which are the equivalent of accrued earned pension under this scheme;
- “accrued pension” means—
- (a) accrued earned pension under this scheme; and
  - (b) accrued added pension (if any);
- “accrued rights”, in relation to benefits under this scheme, does not include a right to benefits attributable (directly or indirectly) to a pension credit;
- “accrued standard earned pension”—
- (a) for the purpose of calculating the amount of a description of full retirement pension or the provisional amount of any description of deferred pension, is the amount calculated in accordance with regulation 35(3);
  - (b) for the purpose of calculating the amount of a description of partial retirement pension, is the amount calculated in accordance with regulation 36(3);
- “active member” in relation to this scheme, means a person who is in pensionable service(11) under this scheme;
- “active member’s account” has the meaning given in regulation 40(2);

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(5) 1971 c.35

(6) S.I. 1972/1073 (N.I. 10)

(7) 1993 c.49

(8) S.I. 1995/3213 (N.I. 22)

(9) S.I. 1999/3147 (N.I. 11)

(10) 2004 c.12

(11) See section 34 of the Act for the meaning of “pensionable service”

“actuarial guidance” means guidance given by the scheme manager after consultation with the scheme actuary;

“actuarial reduction”, in relation to reduction of pension payable to a member who has not reached normal pension age, means a reduction determined by the scheme manager after consulting with the scheme actuary or taking into account tables prepared by the scheme actuary;

“actuarial tables” means tables determined by the scheme manager after consultation with the scheme actuary;

“added pension” means, in relation to this scheme—

- (a) added (self only) pension (if any); and
- (b) added (all beneficiaries) pension (if any);

“added pension payments” means periodical payments or a lump sum payment for added pension made to this scheme;

“additional paternity leave” has the meaning given in regulation 2(1) of the Additional Paternity Leave Regulations (Northern Ireland) 2010;(12)

“Admission Agreement” has the meaning given in regulation 16;

“adoption leave” has the meaning given in regulation 2(1) of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(13)

“age addition” has the meaning given in regulation 33(4);

“the allocation amount” means the amount of the pension allocated as a result of making an allocation election;

“allocation election” means an election under regulation 86;

“amount of added pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 43(7);

“amount of credited pension” has the meaning given in regulation 56(5);

“amount of earned pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 43(4);

“annual allowance” has the meaning given in section 228 (annual allowance) of the 2004 Act(14);

“annual allowance charge” has the meaning given in section 227 (annual allowance charge) of the 2004 Act(15);

“annual rate”—

- (a) for each description of pension, has the meaning given in Part 6 (retirement benefits); and
- (b) in relation to pensionable earnings, means the amount of pensionable earnings payable for a scheme year;

“assumed age addition” has the meaning given in regulation 34(3);

“assumed pay” has the meaning given in regulation 27(2);

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(12) (S.R. 2010 No. 297

(13) (S.R. 2002 No. 377; regulation 2 was amended by S.R. 2004 No. 205 and S.R. 2006 No. 373

(14) Section 228 was substituted by the Finance Act 2011 (c.11), Schedule 17, paragraphs 1 and 4 and was amended by the Finance Act 2013 (c.29)

(15) Section 227 was amended by the Finance Act 2009 (c.10), Schedule 2, paragraphs 10 and 15 and the Finance Act 2011, Schedule 17, paragraph 3

“the beginning date”, in relation to a pension not attributable (directly or indirectly) to a pension credit, means the date on which the pension is deemed to begin for the purpose of section 8(2) (meaning of “pension” and other supplementary provisions) of the 1971 Act<sup>(16)</sup>;

“beneficiary”, in relation to a deceased member, means the surviving adult or eligible child of the member;

“civil service” means the civil service of Northern Ireland;

“closing date”, in relation to a transition member, has the meaning given in paragraph 1 of Schedule 2 (transitional provisions);

“club scheme” means a registered occupational pension scheme (other than a connected scheme) that has agreed to make and receive club transfer value payments under the club transfer arrangements;

“club transfer” means a transfer to or from this scheme under the club transfer arrangements;

“club transfer arrangements” means arrangements approved by the scheme manager as providing reciprocal arrangements between this scheme and other registered occupational pension schemes for making and receiving club transfer value payments;

“club transfer earned pension” means pension attributable to the receipt of a club transfer value payment;

“club transfer value” has the meaning given in regulation 141

“club transfer value payment” means payment of a club transfer value;

“the commutation amount” means the amount of pension exchanged for a lump sum as a result of the exercise of the commutation option;

“commutation option” means the option to exchange part of a pension for a lump sum—

- (a) exercisable under regulation 84 in relation to a retirement pension ;or
- (b) exercisable under regulation 97 in relation to a pension credit member’s pension;

“compensation scheme” means—

- (a) the Civil Service Compensation Scheme (Northern Ireland) made under Article 3 (superannuation schemes as respects civil servants etc.) of the 1972 Order<sup>(17)</sup> which was made on the 28th August 1996, as amended from time to time;
- (b) a scheme made under section 1(2)(a) of the Act providing for redundancy compensation payments;

“connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme;

“continuity of service”, in relation to a transition member, has the meaning given in paragraph 2 of Schedule 2;

“continuous period of pensionable service”, in relation to this scheme, means a period of pensionable service under this scheme disregarding any gap in pensionable service not exceeding 5 years, unless otherwise provided;

“death benefits” means benefits payable under Part 8 (death benefits);

“deferred member”, in relation to this scheme, has the meaning given in regulation 28;

“deferred member’s account” has the meaning given in regulation 47(3);

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(16) Section 8(2) was amended by The Pensions (Miscellaneous Provisions) (NI) Order 1990 (S.I. 1990/1509 (N.I. 13)) Article 3(5) and The Welfare Reform and Pensions (NI) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 36(1) and (3). Section 8(2) of the 1971 Act may be applied subject to such modifications, adaptations and exceptions as may be specified in regulations under section 5(3) of that Act

(17) S.I. 1972/1073 (N.I. 10). These powers are extended by Article 39 of the Welfare Reform and Pensions (Northern Ireland) Order 1999. S.I. 1999/3147 (N.I. 11)

“description of accrued added pension” means any of the following—

- (a) accrued added (self only) pension; or
- (b) accrued added (all beneficiaries) pension;

“description of accrued pension” means accrued pension of a description mentioned in regulation 29;

“description of added pension” means any of the following—

- (a) added (self only) pension; and
- (b) added (all beneficiaries) pension;

“description of deferred pension” means any of the following—

- (a) deferred standard earned pension;
- (b) deferred earned pension attributable to an effective pension age option;
- (c) deferred club transfer earned pension;
- (d) deferred added (all beneficiaries) pension;
- (e) deferred added (self only) pension;

“description of full retirement pension” means a full retirement pension of a description mentioned in regulation 30;

“description of partial retirement pension” means a partial retirement pension of a description mentioned in regulation 31;

“description of pension” means any of the following—

- (a) standard earned pension;
- (b) transferred pension;
- (c) earned pension attributable to an effective pension age option;
- (d) club transfer earned pension;
- (e) added (all beneficiaries) pension;
- (f) added (self only) pension;

“the Department” means the Department of Finance and Personnel;

“dual capacity member” has the meaning given in regulation 160;

“early payment reduction” means the actuarial reduction that is applied when calculating the annual rate of pension payable to a member of this scheme who has not reached normal pension age under this scheme or, if applicable, effective pension age;

“effective pension age”, in relation to a member who has exercised an effective pension age option, means the age at which the member is entitled to payment, without actuarial reduction, of a full retirement earned pension or partial retirement earned pension attributable to that option;

“effective pension age payments” has the meaning given in paragraph 1 of Schedule 1 (payments for extra pension);

“effective pension age option” has the meaning given in paragraph 1 of Schedule 1;

“eligible child” has the meaning given in regulation 113;

“eligible child’s pension” has the meaning given in regulation 112;

“employment” includes an office or appointment and related expressions are to be read accordingly;

“Fair Deal eligible person” has the meaning given in regulation 16;

“Fair Deal transfer date” has the meaning given in regulation 16;

“full retirement account” has the meaning given in regulation 51(4);

“full retirement added pension” means, unless otherwise provided—

- (a) full retirement added (self only) pension (if any); and
- (b) full retirement added (all beneficiaries) pension (if any);

“full retirement earned pension” means, unless otherwise provided—

- (a) full retirement standard earned pension (if any);
- (b) full retirement earned pension attributable to an effective pension age option (if any);
- (c) full retirement club transfer earned pension (if any);

“full retirement pension” means—

- (a) full retirement earned pension; and
- (b) full retirement added pension (if any);

“guaranteed minimum” means the guaranteed minimum as defined in sections 10(18) (earner’s guaranteed minimum) and 13(19) (minimum pensions for widows and widowers) of the 1993 Act—

- (a) as increased in accordance with the requirements of section 105(20) of that Act (annual increase of guaranteed minimum pensions); and
- (b) if a reduction has been made under section 11A(21) of that Act (reduction of guaranteed minimum in consequence of pension debit), as reduced in accordance with that section;

“ill-health pension”, in relation to pension payable under this scheme, means—

- (a) a lower tier earned pension; and
- (b) an upper tier top up earned pension (if applicable); or
- (c) if paragraph 29 of Schedule 2 applies, a pension payable under that paragraph;

“index adjustment” means—

- (a) in relation to the opening balance of a description of pension other than club transfer earned pension for any scheme year, the change in prices in that scheme year(22); and
- (b) in relation to the opening balance of club transfer earned pension for any scheme year, the in-service revaluation index that the sending scheme would have applied to the transferred pension for that scheme year, had it not been transferred.

“in-service revaluation index”, in relation to a pension scheme, means the percentage increase or decrease by which the pensionable earnings of a person, or a proportion of those earnings accrued as a pension, are revalued whilst the person is in pensionable service in that pension scheme;

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- (18) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Arts.147, 168, Sch.3 para. 20, Sch.5 Pt. III, the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1) and Sch.1 para.41, the Proceeds of Crime Act 2002 (2002 c.29) Sch.11 para.23(3)
  - (19) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch. 1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.9 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)) section 12(2)
  - (20) Section 105 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Art 55 and para 22 of Schedule 1 to S.R. 2005 No. 433
  - (21) Section 11A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Art.29(3)
  - (22) Under section 9 of the Act the change in prices to be applied in a period is the percentage increase or decrease as a Department order under that section may specify in relation to the period.

“last active scheme year” means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme;

“last day of pensionable service”, means the last day of a continuous period of pensionable service under this scheme;

“late payment supplement”, in relation to the provisional amount of any description of deferred pension, means an additional amount of pension determined by the scheme manager after consulting the scheme actuary to be appropriate if a deferred member of this scheme reaches normal pension age under this scheme or, if applicable, effective pension age, before becoming entitled to the immediate payment of a full retirement pension;

“the leaving year” means the scheme year in which the relevant last day falls;

“lower tier earned pension” means accrued earned pension payable if a member meets the lower tier payment threshold;

“lower tier payment threshold” has the meaning given in regulation 72;

“lump sum death benefit” means a lump sum paid under Part 8 (death benefits) on the death of a member;

“maternity leave” means ordinary maternity leave or additional maternity leave as defined in regulation 2(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(23);

“member”, in relation to this scheme, means an active member, deferred member, pensioner member or pension credit member of this scheme;

“member contributions” has the meaning given in regulation 134;

“normal minimum pension age” has the same meaning as in section 279(1) (other definitions) of the 2004 Act(24).

“normal pension age”, in relation to this scheme, is determined in accordance with section 10 of the Act;

“occupational pension scheme” has the meaning given in section 1 (categories of pension schemes) of the 1993 Act(25);

“opening balance”, in relation to a description of pension for a scheme year, has the meaning given in regulation 44;

“option proportion”, in relation to a description of accrued pension, means the proportion specified in a notice under regulation 65;

“ordinary maternity leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999;

“parental leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999;

“partial retirement account” has the meaning given in regulation 54;

“partial retirement added pension” means—

- (a) partial retirement added (self only) pension (if any); and
- (b) partial retirement added (all beneficiaries) pension (if any);

“partial retirement earned pension” means—

- (a) partial retirement standard earned pension (if any);

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(23) S.R. 1999 No. 471; regulation 2 was amended by S.R. 2002 No. 355 and S.R. 2006 No. 372

(24) There are amendments to section 279(1) but none are relevant

(25) Section 1 was amended by Article 216 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), Part 3(2) of Schedule 27 to the Finance Act 2007 (c.11) and regulation 2(2) of the Occupational Pension Schemes (EEA States) Regulations (Northern Ireland) 2007 (S.R. 2007 No. 457)

(b) partial retirement earned pension attributable to an effective pension age option (if any);

(c) partial retirement club transfer earned pension (if any);

“partial retirement option” means the option exercisable under regulation 64;

“partial retirement pension” means—

(a) partial retirement earned pension; and

(b) partial retirement added pension (if any);

“partially retired”, in relation to a member of this scheme, means a member who has exercised the partial retirement option;

“partnership pension account”, in relation to a person in service in a scheme employment, means a stakeholder pension scheme or personal pension scheme to which the person’s employer is paying contributions;

“paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002(26);

“pay period” means the period in respect of which a payment of pensionable earnings is made;

“pension credit” has the meaning given under Article 121(1) of the 1995 Order(27);

“pension credit member”, in relation to this scheme, means a person who has rights under this scheme which are attributable (directly or indirectly) to a pension credit under a pension sharing order following divorce or nullity of marriage;

“pension credit member’s account” has the meaning given in regulation 56;

“pension credit member’s pension” means a pension payable under regulation 91;

“pension debit member” in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under Article 28 (reduction of benefit) of the 1999 Order;

“pensionable earnings” has the meaning given in regulation 26;

“pensionable public service” means pensionable service under an existing scheme(28) or an existing public body pension scheme as defined in paragraph 1 of Schedule 2 (transitional provisions);

“pensioner member” in relation to this scheme, means a person who is entitled to the immediate payment of a retirement pension under this scheme;

“pension sharing order” means any provision or order specified in Article 25 (activation of pension sharing) of the 1999 Order(29);

“period of assumed pay” has the meaning given in regulation 27(1);

“permanent pensionable earnings” has the meaning given in regulation 26(4);

“personal pension scheme” means a personal pension scheme as defined in section 1 (categories of pension schemes) of the 1993 Act that is a registered pension scheme;

“the PCSPS(NI)” means the Principal Civil Service Pension Scheme (Northern Ireland), the pension scheme made under Article 3 (superannuation schemes as respects civil servants etc.) of the 1972 Order which is the principal civil service pension scheme within the meaning of Article 4 further provisions relating to schemes under Article 3 of that Order;

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(26) [S.R. 2002 No .377](#)

(27) The definition of “pension credit” was inserted by paragraph 50(3) of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#))

(28) See section 18(2) of the Act for the meaning of “existing scheme”

(29) Article 25 was amended by the Civil Partnership Act 2004 ([c.33](#)) Schedule 29 paragraph 110



“prospective normal pension age”, in relation to a member’s prospective entitlement to benefits under this scheme, means the normal pension age that the scheme manager, by reference to the Department’s directions under 11(2) of the Act, determines would apply in relation to those benefits;

“protected member”, in relation to the PCSPS(NI), has the meaning given in paragraph 1 of Schedule 2;

“provisional amount”, in relation to any description of deferred pension, has the meaning given in regulation 48(2);

“qualifying service” has the meaning given in regulation 59;

“registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 (registration of pension schemes) of the 2004 Act;

“the relevant last day”, in relation to a continuous period of pensionable service, means—

- (a) for a partially retired member, the day before the day on which the partial retirement option was exercised; and
- (b) otherwise, the member’s last day of pensionable service;

“retirement index adjustment”, in relation to an amount of accrued pension, has the meaning given in regulation 32;

“retirement benefits” means benefits payable under Part 6 (retirement benefits);

“retirement pension” means any of the following—

- (a) a full retirement pension;
- (b) a partial retirement pension;
- (c) an ill health pension (and any full retirement added pension payable with it);

“this scheme” means the scheme established by these Regulations;

“scheme actuary” means the actuary appointed by the Department under regulation 158;

“scheme closing date” means 31st March 2015;

“scheme employment” has the meaning given in regulation 13;

“scheme manager” has the meaning given in regulation 4;

“scheme medical adviser” means the medical adviser appointed by the scheme manager for the time being to provide a consulting service on medical matters relevant to this scheme;

“scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“sending scheme” means a club scheme which pays a club transfer value;

“stakeholder pension scheme” means a scheme which is a stakeholder pension scheme for the purposes of Part 2 (Stakeholder Pension Schemes) of the 1999 Order (see Article 3(30) of that Order);

“standard earned pension” means pension which is earned under this scheme and which is payable without actuarial reduction at normal pension age;

“statutory pay” means—

- (a) statutory adoption pay within the meaning of section 167ZL(1) (entitlement) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(31);

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(30) Article 3 was amended by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)) Arts. 262(2) to (4), Taxation of Pension Schemes (Consequential Amendments) Order 2006 (S.I. 2006/745) Article 16(2), Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)) s.13 and 19, Schedule 4 paragraph 37 and Schedule 6 Part 6

(31) 1992 c.7 Section 167ZL was inserted by Article 6 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2))

- (b) statutory maternity pay within the meaning of section 160(1) (statutory maternity pay – entitlement and liability to pay) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (c) ordinary statutory paternity pay within the meaning of section 167ZA(1) (entitlement: birth) or 167ZB(1) (entitlement: adoption) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(32); or
- (d) additional statutory paternity pay within the meaning of section 167ZEA(1) (entitlement to additional statutory paternity pay: birth) or 167ZEB(1) (entitlement to additional statutory paternity pay: adoption) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(33);

“surviving adult”, in relation to a deceased member of this scheme, has the meaning given in regulation 100;

“surviving adult’s pension” has the meaning given in regulation 102;

“surviving civil partner” has the meaning given in regulation 100;

“surviving nominated partner” has the meaning given in regulation 101;

“surviving spouse” has the meaning given in regulation 100;

“tax year” means a period of one year which is the period of assessment for income tax purposes;

“total allocation amount”, in relation to an amount of retirement pension, means the total amount of that pension allocated under Chapter 6 of Part 6 (retirement benefits);

“transfer payment” means a transfer value payment or a club transfer value payment;

“transfer value” has the meaning given in regulation 141;

“transfer value payment” means payment of a transfer value;

“the transferred services” has the meaning given in regulation 16;

“transferred pension” means pension attributable to the receipt of a transfer value payment;

“transition member” has the meaning given in Paragraph 1 of Schedule 2 (transitional provisions);

“upper tier top up earned pension” means top up earned pension payable if a member meets the upper tier payment threshold.

“upper tier payment threshold” has the meaning given in regulation 73;

“weekly rate”, in relation to a guaranteed minimum pension, has the same meaning as in regulation 55(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(34);

“whole of the member’s accrued pensions” means—

- (a) all the member’s accrued earned pension under this scheme; and
- (b) all the member’s accrued added pension (if any).

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(32) Sections 167ZA and 167ZB were inserted by Article 5 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I. 2)). Subsections (1) of those sections were amended by the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16)) Schedule 1 paragraphs 11 and 12

(33) Sections 167ZEA and 167ZEB were inserted by Articles 8 and 9 of the Work and Families (Northern Ireland) Order 2006 (S.I. 2006/1947 (N.I. 16))

(34) S.R. 1996 No. 493; regulation 55 was amended by S.R. 1997 No. 160 and S.R. 2005 No. 433

## PART 2

### Establishment of scheme

#### Establishment and scope

**3.—(1)** A scheme is established for the payment of pensions and other benefits to or in respect of—

- (a) civil servants<sup>(35)</sup>; and
  - (b) persons to whom this scheme may potentially relate by virtue of paragraph (2) and in respect of whom the Department makes a determination under section 25(5) of the Act.
- (2) This scheme may potentially relate to the following persons—
- (a) a person who holds an employment which is remunerated out of moneys appropriated by a transferred provision or out of a Consolidated Fund;
  - (b) a person who holds an employment which is remunerated out of a fund established by or under an Act of the Northern Ireland Assembly;
  - (c) a person who is employed by a public body specified in an Order made by the Department under section 32(1) of the Act.
  - (d) a person who holds an employment which is listed in Schedule 1 (kinds of employment etc. Referred to in Article 3) to the 1972 Order<sup>(36)</sup>;
  - (e) a person who holds an employment which is specified in an enactment as an employment to which the existing scheme relates or to which this scheme may potentially relate;
  - (f) a person who holds an employment which is specified in a list produced for the purpose of Article 3(3A) (superannuation schemes as respects civil servants etc) of the 1972 Order<sup>(37)</sup>;
  - (g) a person to whom this scheme relates by virtue of sub-paragraphs (a) to (e) and by virtue of a previous determination under section 25(5) of the Act who ceases to hold an employment mentioned in any of sub-paragraphs (a) to (e);
  - (h) a person who, at any time before or after these Regulations come into operation—
    - (i) ceased to be a civil servant; or
    - (ii) ceased to hold an employment which is listed in Schedule 1 to the 1972 Order.

(3) If the Department makes a determination under section 25(5) of the Act in relation to a person mentioned in paragraph (2)(g) or (h), the person is not eligible to be an active member of this scheme unless the person meets the conditions of eligibility set out in regulation 16.

## PART 3

### Governance

#### Scheme manager

**4.—(1)** The Department is the scheme manager for this scheme and any statutory pension scheme that is connected with it<sup>(38)</sup>.

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<sup>(35)</sup> See paragraph 1 of Schedule 1 to the Act for the meaning of “civil servants”

<sup>(36)</sup> Schedule 1 was last amended by [S.R 2013 No. 90](#)

<sup>(37)</sup> Article 3(3A) was inserted by the Public Service Pensions Act (Northern Ireland) 2014 (c.2) Schedule 9 paragraphs 1 and 2

<sup>(38)</sup> ()See section 4(6) of the Act which sets out when statutory pension schemes are “connected”

(2) The scheme manager is responsible for managing and administering this scheme and any statutory pension scheme that is connected with it.

(3) A statutory pension scheme that is a defined contributions scheme<sup>(39)</sup> is not connected with this scheme.

### **Delegation**

5.—(1) The Department may delegate any functions under these Regulations, including this power to delegate.

(2) The scheme manager may delegate any functions under these Regulations, including this power to delegate.

### **Northern Ireland Civil Service Pension Board: establishment**

6.—(1) A pension board (“the Northern Ireland Civil Service Pension Board”) is established<sup>(40)</sup>.

(2) The Northern Ireland Civil Service Pension Board is responsible for assisting the scheme manager—

(a) to secure compliance with—

(i) these Regulations;

(ii) any other legislation relating to the governance and administration of this scheme and any statutory pension scheme that is connected with it; and

(iii) requirements imposed by the Pensions Regulator in relation to this scheme or any statutory pension scheme that is connected with it; and

(b) in the performance of the scheme manager’s functions under these Regulations.

(3) The Northern Ireland Civil Service Pension Board may determine its own procedures, subject to the approval of the scheme manager.

### **Northern Ireland Civil Service Pension Board: membership**

7.—(1) The Northern Ireland Civil Service Pension Board is to consist of the following members who are to be entitled to vote in its proceedings (“voting members”)—

(a) a chair appointed by the scheme manager; and

(b) at least 6, and no more than 16, persons appointed by the chair with the approval of the scheme manager.

(2) The chair cannot be an employer representative or a member representative<sup>(41)</sup>.

(3) Equal numbers of employer representatives and member representatives must be appointed under paragraph (1)(b), including a departmental finance director who is to be treated as an employer representative.

(4) The chair may, with the approval of the scheme manager, appoint up to 4 members of the Northern Ireland Civil Service Pension Board, who are not to be entitled to vote in its proceedings (“non-voting members”).

(5) A non-voting member cannot be an employer representative or a member representative.

(6) A member of the Northern Ireland Civil Service Pension Board is to hold and vacate office in accordance with the terms of that member’s appointment.

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<sup>(39)</sup> ()See section 34 of the Act for the meaning of “defined contributions scheme”

<sup>(40)</sup> ()See section 5(8) of the Act for the meaning of “pension board”

<sup>(41)</sup> ()See section 5(7) of the Act for the meaning of “employer representatives” and “member representatives”

- (7) In this regulation, “departmental finance director” means—
- (a) an accounting officer appointed by the Department under section 9(6) of the Government Resources and Accounts Act (NI) 2001(42); or
  - (b) a civil servant(43) who has responsibility for the financial management of a government department.

#### **Northern Ireland Civil Service Pension Board: conflicts of interest**

8.—(1) Before appointing, or approving the appointment of, any person under regulation 7, the scheme manager must be satisfied that that person does not have a conflict of interest(44).

(2) The scheme manager must be satisfied from time to time that none of the members of the Northern Ireland Civil Service Pension Board has a conflict of interest.

(3) If the scheme manager determines that a member of the Northern Ireland Civil Service Pension Board has a conflict of interest, the scheme manager must terminate the appointment of the member.

(4) A member of the Northern Ireland Civil Service Pension Board, or a person proposed to be appointed as such a member, must provide the scheme manager with any information the scheme manager may reasonably require for the purpose of paragraph (1) or (2).

#### **Payment of fees and expenses**

9. The Department may—
- (a) pay fees to or in respect of members of the Northern Ireland Civil Service Pension Board of such amounts as the Department may determine; and
  - (b) reimburse members of the Northern Ireland Civil Service Pension Board in respect of any reasonable expenses incurred by them in the performance of their duties in relation to this scheme.

#### **Scheme advisory board: establishment**

10.—(1) A scheme advisory board is established(45).

(2) The scheme advisory board is responsible for providing advice to the Department, at the Department’s request, on the desirability of making changes to the scheme.

(3) The scheme advisory board may determine its own procedures, subject to the approval of the Department.

#### **Scheme advisory board: membership**

11.—(1) The scheme advisory board is to consist of the following members—

- (a) a chair appointed by the Department; and
- (b) at least 2, and no more than 16, members appointed by the chair with the approval of the Department.

(2) A member of the scheme advisory board is to hold and vacate office in accordance with the terms of that member’s appointment.

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(42) 2001 c.6

(43) See Schedule 1, paragraph 1 to the Act for the meaning of “civil servants”

(44) See section 5(6) of the Act for the meaning of “conflict of interest”

(45) ()See section 7(6) of the Act for the meaning of “scheme advisory board”

### **Scheme advisory board: conflicts of interest**

12.—(1) Before appointing, or approving the appointment of, any person under regulation 11(1), the Department must be satisfied that that person does not have a conflict of interest<sup>(46)</sup>.

(2) The Department must be satisfied from time to time that none of the members of the scheme advisory board has a conflict of interest.

(3) If the Department determines that a member of the scheme advisory board has a conflict of interest, the Department must terminate the appointment of the member.

(4) A member of the scheme advisory board, or a person proposed to be appointed as such a member, must provide the Department with any information the Department may reasonably require for the purpose of paragraph (1) or (2).

## **PART 4**

### **Scheme membership**

#### **CHAPTER 1**

#### **Eligibility for active membership**

### **Scheme employment**

13.—(1) In these Regulations, “scheme employment” means—

- (a) permanent or fixed term employment as a civil servant;
- (b) permanent or fixed term employment held by a person mentioned in regulation 3(2)(a) to (e) and to whom this scheme relates by virtue of a determination under section 25(5) of the Act, where the scheme relates to P by virtue of that employment;
- (c) permanent or fixed term employment held by a Fair Deal eligible person, where the scheme relates to that person by virtue of that employment.

(2) Any person engaged under a contract for services or engaged locally overseas is not in a scheme employment.

### **Eligible persons**

14.—(1) For the purpose of this Part an eligible person is a person who is eligible to be an active member of this scheme.

(2) A person who is in service in a scheme employment (P) is an eligible person in relation to that service unless paragraph (3) or (4) applies.

(3) This paragraph applies if the terms of the employment exclude P from being an active member of this scheme.

(4) This paragraph applies if, in relation to service in that employment—

- (a) P is a protected member of the PCSPS(NI).
- (b) P has a partnership pension account; or
- (c) P is a member of any other pension scheme and P’s employer pays contributions to that scheme in respect of P.

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<sup>(46)</sup> See section 7(5) of the Act for the meaning of “conflict of interest”

## **Service in 2 or more scheme employments**

15. If a person is in service in 2 or more scheme employments, regulation 14 applies separately in relation to each employment.

## **Fair Deal eligible persons**

- 16.—(1) In these Regulations, “Fair Deal eligible person” means—
- (a) a person mentioned in regulation 3(2)(g)—
    - (i) in respect of whom the Department has made a further determination under section 25(5) of the Act in accordance with regulation 3(1)(b); and
    - (ii) who meets the conditions of eligibility set out in paragraph (2) (“the conditions of eligibility”); or
  - (b) a person mentioned in regulation 3(2)(f) or (h)—
    - (i) in respect of whom the Department has made a determination under section 25(5) of the Act in accordance with regulation 3(1)(b); and
    - (ii) who meets the conditions of eligibility.
- (2) A person (P) meets the conditions of eligibility if—
- (a) P’s employer is a party to an Admission Agreement in respect of the transferred services and the Admission Agreement has not terminated;
  - (b) on the Fair Deal transfer date, P is employed to carry out the transferred services;
  - (c) since the Fair Deal transfer date, P has been continuously employed to carry out the transferred services;
  - (d) P is employed to carry out the transferred services for more than 50% of P’s time working under P’s contract to carry out the transferred services;
  - (e) P is not, in respect of the transferred services, an active member of an occupational pension scheme or a personal pension scheme provided by P’s employer; and
  - (f) P has not signed an agreement with P’s employer to waive voluntarily, P’s eligibility to be an active member of this scheme as a Fair Deal eligible person.
- (3) For the purposes of paragraph 2(c), P has not been continuously employed where P has had gap in service of any period.
- (4) In determining whether P meets the condition in paragraph (2)(d)—
- (a) functions or services carried out by P under another contract are to be disregarded;
  - (b) if the scheme manager has agreed that P may carry out functions or services in another description of employment specified in a published list, those other functions or services must be treated as if they were the transferred services; and
  - (c) time spent carrying out activities associated with the transferred services (such as training relevant to the transferred services) may be treated as time spent carrying out the transferred services.
- (5) A person who ceases to meet the conditions of eligibility ceases to be a Fair Deal eligible person on the date that the person ceases to meet those conditions.
- (6) In these regulations—
- “Admission Agreement” means a contractual agreement between the Department and P’s employer (and if applicable a 3rd party) relating to participation in this scheme;

“Fair Deal transfer date” means the date specified in the published list as the date on which a person, in order to be eligible to be an active member of this scheme in respect of the transferred services, must have been employed to carry out those services;

“published list” means a list of persons to whom the scheme relates published for the purposes of section 25(9) of the Act; and

“the transferred services”, in relation to a person, means the functions or services in the description of employment specified in a published list that relates to that person.

## CHAPTER 2

### Pensionable service

#### Application of Chapter

**17.**—(1) This Chapter applies in relation to a continuous period of service in a scheme employment.

(2) If a person is in service in 2 or more scheme employments at the same time, this Chapter applies separately in relation to each of the employments.

#### Interpretation of Chapter

**18.** In this Chapter—

“automatic re-enrolment date”, in relation to a person in service in a scheme employment, means a date determined under regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010<sup>(47)</sup>;

“continuous period of service”, in relation to scheme employment, means a period of service in scheme employment disregarding any gap in service not exceeding 5 years;

“first eligible day of service”, in relation to a continuous period of service in a scheme employment, means the day on which a person becomes an eligible person in relation to that service.

#### Automatic enrolment

**19.**—(1) Where a person (P) who is in pensionable service under this scheme moves from one scheme employment to another without a gap in service, P continues in pensionable service under this scheme.

(2) A person (P) who is not in pensionable service under this scheme immediately before P’s first eligible day of service in a scheme employment begins pensionable service under this scheme on P’s first eligible day of service in that employment unless—

(a) regulation 24 applies; or

(b) P is a transition member with continuity of service and paragraph (3) applies.

(3) This paragraph applies if—

(a) P’s first eligible day of service in the scheme employment is the day after P’s closing date; and

(b) on P’s closing date—

(i) P was in service in the same employment; and

(ii) P had opted out of the PCSPS(NI) in relation to that service.

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<sup>(47)</sup> S.R. 2010 No. 122; regulation 12 was amended by regulation 2(7) of the Automatic Enrolment (Miscellaneous Amendments) Regulations (Northern Ireland) 2012 (S.R. 2012 No. 232)



### **Opting into this scheme**

**20.**—(1) A person who, in relation to a scheme employment, is an eligible person but is not in pensionable service under this scheme may opt to become an active member of this scheme in relation to service in that employment.

(2) A person who has a partnership pension account in relation to service in a scheme employment is not prevented from opting into this scheme in relation to service in that employment (see regulation 21 for when the option takes effect).

(3) The option under this regulation may only be exercised by notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(4) A person who exercises the option under this regulation in relation to service in a scheme employment opts into this scheme in relation to service in that employment with effect from the date on which the opt-in notice is received by the scheme manager.

(5) The option under this regulation is taken to be exercised on that date.

(6) If P opts out of this scheme within 12 months after opting in, P may not opt in again until after the end of that period of 12 months.

### **When does an option in take effect**

**21.**—(1) If P opts into this scheme in relation to service in a scheme employment for which P has a partnership pension account—

(a) P becomes an active member of this scheme in relation to that service on the first date that is 1st April or 1st October—

(i) after the period of 3 months beginning with the date on which the option is exercised; or

(ii) after any shorter period the scheme manager considers appropriate; and

(b) immediately before that date, P’s partnership pension account is closed.

(2) If P opts into this scheme in relation to service for which P does not have a partnership pension account, P becomes an active member of this scheme in relation to that service—

(a) at the beginning of the first pay period beginning on or after the date on which the option is exercised; or

(b) if the scheme manager considers that pay period inappropriate, at any other time the scheme manager considers appropriate.

### **Automatic re-enrolment**

**22.**—(1) This regulation applies if, on the automatic re-enrolment date, an eligible person in relation to service in a scheme employment is not in pensionable service under this scheme in relation to service in that employment.

(2) On the automatic re-enrolment date, the scheme manager must enrol P in this scheme in relation to service in that employment if the employer is required under section 5 (automatic re-enrolment) of the Pensions (No. 2) Act (Northern Ireland) 2008<sup>(48)</sup> to make arrangements for P to be an active member of a pension scheme.

(3) For the purpose of paragraph (2), the employer is required to make arrangements under that section even if—

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<sup>(48)</sup> 2008 c.13. Section 5 was amended by the Pensions Act (Northern Ireland) 2012 (c.3 (N.I.)) sections 5(2) to (4), 6(3) and (4) and 7(3) and regulation 2(1) of the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order (Northern Ireland) 2014 (S.R. 2014 No. 81)

- (a) P has not reached the age of 22;
- (b) P has reached normal pension age; or
- (c) the earnings requirements under that section are not met.

### **Opting out of this scheme**

**23.**—(1) A person (P) opts out of this scheme in relation to service in a scheme employment if—

- (a) P opts not to be an active member of this scheme in relation to that service; or
- (b) P opens a partnership pension account in relation to that service.

(2) P may only exercise the option under paragraph (1)(a) by notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).

(3) The option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.

(4) If P is subject to a transfer in relation to that service as a result of which P would be eligible to be (or continue to be eligible to be) a member of the scheme as a Fair Deal eligible person, the option ceases to have effect on the Fair Deal transfer date.

### **Opting out before the end of one month**

**24.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in scheme employment—

- (a) before the end of one month after P’s first day of a continuous period of service in scheme employment (or within any longer period the scheme manager considers appropriate); or
- (b) before the end of one month after the automatic re-enrolment date (or within any longer period the scheme manager considers appropriate).

(2) If paragraph (1)(a) applies, P is taken never to have been in pensionable service under this scheme in relation to that continuous period of service in scheme employment.

(3) If paragraph (1)(b) applies, P is taken not to have been in pensionable service under this scheme in relation to that period of service during the period referred to in paragraph (1)(b).

(4) This regulation does not require the scheme manager to pay P any additional amount which becomes payable by P in respect of national insurance contributions because P has not after all been an active member of this scheme during any period.

### **Opting out after one month**

**25.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in scheme employment—

- (a) one month or more after P’s first day of a continuous period of service in scheme employment; or
- (b) one month or more after P’s automatic re-enrolment date.

(2) If P exercises the option under paragraph (1)(a) or (b), P ceases to be in pensionable service under this scheme in relation to that continuous period of service in scheme employment—

- (a) on the first day of the first pay period beginning on or after the date on which the option is exercised; or
- (b) if the scheme manager considers that day inappropriate, on the first day of any later pay period the scheme manager considers appropriate.

(3) If P opens a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that employment on the first date that is 31st March or 30th September—

- (a) after the period of one month beginning with the date on which that account is opened; or
- (b) after any shorter period the scheme manager considers appropriate.

## CHAPTER 3

### Pensionable earnings

#### **Pensionable earnings**

**26.**—(1) For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable earnings for any period are the sum of—

- (a) the member’s permanent pensionable earnings in respect of that period; and
- (b) the member’s fluctuating pensionable earnings in respect of that period.

(2) The money value of any benefit in kind forms part of a member’s pensionable earnings if—

- (a) the benefit is expressly provided on a pensionable basis; or
- (b) the scheme manager determines the benefit forms part of the member’s permanent pensionable earnings or fluctuating pensionable earnings.

(3) If a benefit in kind is expressly provided on a pensionable basis, the scheme manager must determine whether the benefit forms part of the member’s permanent pensionable earnings or fluctuating pensionable earnings.

(4) In this regulation—

“benefit in kind” means anything other than money provided to a member of this scheme in connection with the member’s pensionable service;

“money value”, in relation to a benefit in kind, means—

- (a) an amount determined by the employer in accordance with the arrangement under which the benefit is provided; or
- (b) otherwise, an amount determined by the scheme manager;

“permanent pensionable earnings”, in respect of any period, means—

- (a) basic pay in respect of that period;
- (b) any allowance granted on a permanent basis that the scheme manager determines to be permanent pensionable earnings in respect of that period; and
- (c) the money value of any benefit in kind that the scheme manager determines to be permanent pensionable earnings in respect of that period;

“fluctuating pensionable earnings”, in respect of any period, means any of the following that the scheme manager determines to be fluctuating pensionable earnings in respect of that period—

- (a) any non-consolidated performance-related pay not forming part of basic pay;
- (b) any allowance not granted on a permanent basis; and
- (c) the money value of any benefit in kind.

(5) The total fluctuating pensionable earnings in respect of any period must not exceed one third of the total permanent pensionable earnings in respect of the same period.

### Meaning of “assumed pay”

27.—(1) For the purpose of these Regulations, an active member of this scheme (P) receives assumed pay in respect of any period in which the circumstances in paragraph (3) apply (“period of assumed pay”).

- (2) For the purpose of paragraph (1), “assumed pay” means the sum of—
- (a) an amount equal to the pensionable earnings that P would have received in respect of that period if those circumstances had not applied; and
  - (b) any increase the scheme manager considers appropriate.
- (3) The circumstances are—
- (a) P is on sick leave on reduced pay;
  - (b) P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave;
  - (c) P is receiving statutory pay;
  - (d) P is on secondment to a different employer under an arrangement providing for P to continue to be an active member of this scheme in relation to P’s service although P is paid for it by that employer;
  - (e) P is on unpaid leave in circumstances that the scheme manager has agreed can count for the purpose of this paragraph;
  - (f) P is absent from duty because of being called out, or recalled, for permanent service in Her Majesty’s armed forces in pursuance of a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996<sup>(49)</sup>;
  - (g) P is receiving pensionable earnings at a reduced rate in accordance with arrangements for members required by the scheme manager which apply where the members are entitled to—
    - (i) pension benefits under another occupational pension scheme; or
    - (ii) a payment under a compensation scheme; or
  - (h) P voluntarily surrenders pensionable earnings in whole or in part.

(4) For the purpose of paragraph (3)(a), a period of sick leave on reduced pay does not include a period of leave in respect of which P is paid at a rate determined by P’s employer to be appropriate because it is equivalent to the annual rate of an ill-health pension.

(5) Paragraph (3)(f) does not apply to any period of permanent service during which P is in pensionable service in—

- (a) an existing scheme that relates to the armed forces or another scheme under section 1 of the Act that relates to the armed forces; or
- (b) any other occupational pension scheme.

## CHAPTER 4

### Deferred membership

#### Meaning of “deferred member”

28. A person (P) becomes a deferred member of this scheme in relation to a continuous period of pensionable service under this scheme if—

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(49) ()1996 c.14

- (a) P ceases to be an active member of this scheme in relation to that period of service before P reaches normal pension age under this scheme;
- (b) P does not become a pensioner member of this scheme in relation to that period of service; and
- (c) P has at least 2 years' qualifying service or a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P.

## PART 5

### Pension accounts

#### CHAPTER 1

##### Preliminary

#### **Descriptions of accrued pension**

**29.** For the purpose of these Regulations, the descriptions of accrued pension are—

- (a) accrued standard earned pension;
- (b) accrued earned pension attributable to an effective pension age option;
- (c) accrued club transfer earned pension;
- (d) accrued added (all beneficiaries) pension; and
- (e) accrued added (self only) pension.

#### **Descriptions of full retirement pension**

**30.** For the purpose of these Regulations, the descriptions of full retirement pension are—

- (a) full retirement standard earned pension;
- (b) full retirement earned pension attributable to an effective pension age option;
- (c) full retirement club transfer earned pension;
- (d) full retirement added (self only) pension; and
- (e) full retirement added (all beneficiaries) pension.

#### **Descriptions of partial retirement pension**

**31.** For the purpose of these Regulations, the descriptions of partial retirement pension are—

- (a) partial retirement standard earned pension;
- (b) partial retirement earned pension attributable to an effective pension age option;
- (c) partial retirement club transfer earned pension;
- (d) partial retirement added (self only) pension; and
- (e) partial retirement added (all beneficiaries) pension.

## CHAPTER 2

### Calculation of adjustments

#### Calculation of “retirement index adjustment”

32.—(1) The retirement index adjustment for an amount of accrued pension is—

*amount of accrued pension* × *retirement index percentage*

where—

“amount of accrued pension” means an amount of any description of accrued pension; and

“retirement index percentage” means the retirement index percentage calculated under paragraph (2) for that description of accrued pension.

(2) The retirement index percentage is—

$$A \times \frac{B}{12}$$

where—

*A* means—

- (a) for accrued club transfer earned pension, the in-service revaluation index that applies in relation to the sending scheme for the leaving year; and
- (b) for any other description of accrued pension, the in-service revaluation index that applies in relation to this scheme for the leaving year;

*B* is the number of complete months in the period between the beginning of the leaving year and the end of the relevant last day; and

“complete month” includes an incomplete month that consists of at least 16 days.

#### Determination of “the age addition”

33.—(1) This regulation applies in relation to every scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme, other than—

- (a) the scheme year in which the account is required to be established under this Part; and
- (b) the scheme year immediately following that.

(2) If the member has exercised an effective pension age option then, for the years for which that option has effect, this regulation applies in relation to every scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches the member’s effective pension age, other than—

- (a) the scheme year in which the account is established under this Part; and
- (b) the scheme year immediately following that.

(3) At the beginning of the scheme year, for each description of pension, the scheme manager having regard to actuarial guidance must determine the age addition to be awarded for that scheme year by reference to the opening balance of that description of pension for the previous scheme year.

(4) In these Regulations, “the age addition” means an additional amount of pension determined by reference to the proportion of the previous scheme year for which a member had reached—

- (a) normal pension age under this scheme; or

- (b) where applicable, the member's effective pension age.

#### **Determination of "the assumed age addition"**

**34.**—(1) This regulation applies if a deferred member's account, full retirement account or partial retirement account is established under this Part for a member who reaches normal pension age under this scheme at least one month before the relevant last day.

(2) For each description of accrued pension specified in the account, the scheme manager having regard to actuarial guidance must determine the assumed age addition to be awarded.

(3) In these Regulations "the assumed age addition" means—

- (a) for an amount of accrued standard earned pension not attributable to a transferred pension, the age addition that would have been awarded for standard earned pension had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (b) for an amount of accrued standard earned pension attributable to a transferred pension or for an amount of club transfer earned pension, the age addition that would have been awarded for transferred pension or club transfer earned pension had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme;
- (c) for an amount of accrued earned pension attributable to an effective pension age option, the age addition that would have been awarded for earned pension attributable to that option had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached the effective normal pension age stated in that option;
- (d) for an amount of any description of accrued added pension, the age addition that would have been awarded for added pension of that description had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

### CHAPTER 3

#### Calculation of accrued pension

#### **Calculation of amount of accrued pension for purpose of deferment or full retirement**

**35.**—(1) For the purpose of calculating the amount of a description of full retirement pension or the provisional amount of each description of deferred pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued club transfer earned pension is calculated separately in relation to each sending scheme.

(3) The amount of accrued standard earned pension is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—

- (a) the sum of the opening balance of standard earned pension for the last active scheme year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the last active scheme year;

- (c) the sum of the opening balance of transferred pension for the last active scheme year and the index adjustment for that opening balance; and
  - (d) the amount of transferred pension for the last active scheme year.
- (4) The amount of accrued earned pension attributable to an effective pension age option is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—
- (a) the sum of the opening balance of earned pension attributable to that option for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of earned pension attributable to that option for the last active scheme year.
- (5) The amount of accrued club transfer earned pension is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—
- (a) the sum of the opening balance of club transfer earned pension for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of club transfer earned pension for the last active scheme year.
- (6) The amount of any description of accrued added pension is the total of the following amounts specified in the active member's account as at the end of the last day of pensionable service—
- (a) the sum of the opening balance of added pension of that description for the last active scheme year and the index adjustment for that opening balance; and
  - (b) the amount of accrued added pension of that description for the last active scheme year.

#### **Calculation of amount of accrued pension for purpose of partial retirement**

**36.**—(1) For the purpose of calculating the amount of a description of partial retirement pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued club transfer earned pension is calculated separately in relation to each sending scheme.

(3) The amount of accrued standard earned pension is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of standard earned pension for the leaving year and the index adjustment for that opening balance;
- (b) the amount of standard earned pension for the leaving year;
- (c) the sum of the opening balance of transferred pension for the leaving year and the index adjustment for that opening balance; and
- (d) the amount of transferred pension for the leaving year.

(4) The amount of accrued earned pension attributable to an effective pension age option is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of earned pension attributable to that option for the leaving year and the index adjustment for that opening balance; and
- (b) the amount of earned pension attributable to that option for the leaving year.

(5) The amount of accrued club transfer earned pension is the option proportion of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of club transfer earned pension for the leaving year and the index adjustment for that opening balance; and
- (b) the amount of club transfer earned pension for the leaving year.



(6) The amount of any description of accrued added pension is the option proportion<sup>(50)</sup> of the total of the following amounts specified in the active member's account as at the end of the relevant last day—

- (a) the sum of the opening balance of added pension of that description for the leaving year and the index adjustment for that opening balance; and
- (b) the amount of added pension of that description for the leaving year.

## CHAPTER 4

### Pension accounts: general

#### **Establishment of pension accounts: general**

**37.**—(1) The scheme manager must establish and maintain one or more pension accounts for each member of this scheme in accordance with this Part.

(2) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(3) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

#### **Closure and adjustment of pension accounts on transfer out**

**38.**—(1) Except as otherwise provided in this regulation, the scheme manager must close all pension accounts relating to a member of this scheme if—

- (a) a transfer payment is made in respect of all of the member's accrued rights under this scheme; or
- (b) all members' contributions and payments for extra pension made by the member are refunded to the member under Part 9 (contributions).

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer payment or the refund does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme<sup>(51)</sup>.

(4) Paragraph (1)(a) does not require the scheme manager to close a pension credit member's account if the transfer payment is made in respect of the accrued rights of a member who is both—

- (a) a pension credit member of this scheme; and
- (b) an active member, deferred member or pensioner member of this scheme.

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<sup>(50)</sup> The same option proportion must be specified for accrued standard earned pension and accrued added pension. See regulation 66

<sup>(51)</sup> Regulation 139 provides for extinguishment of rights following the refund of all members' contributions and payments for extra pension made by the member. Regulation 147 provides for extinguishment of rights following the making of a transfer value payment

## CHAPTER 5

### Active member's account

#### Application of Chapter

**39.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is an active member of this scheme in relation to 2 or more continuous periods of pensionable service at the same time, this Chapter applies separately in relation to each of those periods of service.

#### Establishment of active member's account

**40.**—(1) The scheme manager must establish a pension account for a member who is in pensionable service from the day on which the member begins pensionable service.

(2) For the purpose of these Regulations, an account established under paragraph (1) is called an active member's account.

#### Receipt of a transfer value payment

**41.**—(1) This regulation applies if a transfer value payment is received from another pension scheme (other than a connected scheme) in relation to an active member of this scheme.

(2) On receiving the transfer value payment, the scheme manager must credit the active member's account with the amount of transferred pension calculated under regulation 153.

#### Receipt of club transfer value payment

**42.**—(1) This regulation applies if a club transfer value payment is received from another club scheme in relation to an active member of this scheme.

(2) On receiving the club transfer value payment, the scheme manager must credit the active member's account, in relation to the sending scheme, with an amount of club transfer earned pension the member is entitled to count under regulation 152.

#### Amount of pension for a scheme year

**43.**—(1) This regulation applies in relation to every scheme year in which an active member's account is open.

(2) The active member's account must specify, in relation to each description of pension, the amount of that description of pension for the scheme year.

(3) The amount of club transfer earned pension for a scheme year must be specified separately in relation to each sending scheme.

(4) The amount of earned pension for a scheme year is 2.32% of the member's pensionable earnings for that year

(5) The amount of transferred pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 152 for that year.

(6) The amount of club transfer earned pension for a scheme year is the amount (if any) which the member is entitled to count under regulation 154 for that year.

(7) The amount of added pension of any description for a scheme year is the amount (if any) credited to the active member's account in that scheme year under paragraph 13 or 14 of Schedule 1 (payments for extra pension).

- (8) In this regulation, “earned pension” means the following descriptions of pension—
- (a) standard earned pension (if any); and
  - (b) earned pension attributable to the exercise of an effective pension age option (if any).

#### **Opening balance, index adjustment and age addition**

**44.**—(1) This regulation applies in relation to every scheme year in which an active member’s account is open other than the scheme year in which that account is established.

- (2) The active member’s account must specify for each description of pension—
- (a) the opening balance for the scheme year and the index adjustment for the opening balance; and
  - (b) if applicable, the age addition awarded at the beginning of the scheme year.
- (3) In these Regulations, “opening balance” in relation to a description of pension—
- (a) for the scheme year immediately following the scheme year in which the active member’s account is established, means the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
  - (b) for any subsequent scheme year, means the sum of the following amounts—
    - (i) the opening balance of that pension for the previous scheme year and the index adjustment for that opening balance;
    - (ii) the amount of that pension for the previous scheme year as at the end of the previous scheme year; and
    - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

#### **Closure of active member’s account**

**45.**—(1) The scheme manager must close an active member’s account in relation to a period of service when the scheme manager establishes in relation to that period of service—

- (a) a deferred member’s account under regulation 47; or
- (b) a full retirement account under regulation 51.

(2) The scheme manager must re-establish an active member’s account under this Chapter when the scheme manager closes—

- (a) a deferred member’s account under regulation 50; or
- (b) a full retirement account under regulation 53.

### **CHAPTER 6**

#### **Deferred member’s account**

#### **Application of Chapter**

**46.**—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

### **Establishment of deferred member's account**

**47.**—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme in relation to a continuous period of pensionable service.

(2) The scheme manager must—

- (a) close the active member's account for that period of service; and
- (b) establish a pension account for the deferred member for that period of service.

(3) For the purpose of these Regulations, an account established under paragraph (2)(b) is called a deferred member's account.

### **Provisional amount of deferred pension**

**48.**—(1) The deferred member's account must specify the provisional amount of each description of deferred pension.

(2) The provisional amount of each description of deferred pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 35 ("accrued amount");
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) The retirement index adjustment is not applied in relation to an amount of accrued pension if a transfer payment was made before the end of the last active scheme year in respect of the member's rights to that accrued pension.

(4) In this regulation, "relevant accrued pension" means—

- (a) for a deferred standard earned pension, accrued standard earned pension;
- (b) for a deferred earned pension attributable to an effective pension age option or, accrued earned pension attributable to that option;
- (c) for a deferred club transfer earned pension, accrued club transfer earned pension;
- (d) for a deferred added (self only) pension, accrued added (self only) pension; and
- (e) for a deferred added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

### **Adjustment of provisional amount**

**49.**—(1) This regulation applies when a deferred member of this scheme in relation to a period of service becomes entitled to the immediate payment of a full retirement pension for that period of service.

(2) For the provisional amount of each description of deferred pension, the deferred member's account must specify—

- (a) the late payment supplement (if any);
- (b) the early payment reduction (if any);
- (c) the commutation amount (if any); and
- (d) the total allocation amount (if any).

### **Closure of deferred member's account after gap in pensionable service not exceeding 5 years**

**50.**—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service re-enters pensionable service under this scheme after a gap in pensionable service not exceeding 5 years.

- (2) The scheme manager must—
  - (a) close the deferred member’s account in relation to that period of service and treat the deferred member’s account as if it were never established;
  - (b) re-establish the active member’s account under Chapter 5 in relation to that period of service; and
  - (c) make entries in the active member’s account as if, during the gap in pensionable service, the member—
    - (i) was in pensionable service under this scheme; but
    - (ii) received no pensionable earnings.

## CHAPTER 7

### Full retirement account

#### **Establishment of full retirement account**

**51.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme.

(2) When an active member of this scheme becomes entitled to the immediate payment of a full retirement earned pension or an ill-health pension, the scheme manager must—

- (a) close the active member’s account for that continuous period of pensionable service; and
- (b) establish an account for the pensioner member for that period of service.

(3) When an active member of this scheme exercises the partial retirement option in respect of the whole of the member’s accrued pensions and becomes entitled to the immediate payment of a full retirement pension, the scheme manager must—

- (a) close the active member’s account for the period of earlier service;
- (b) establish an account for the pensioner member for that period of earlier service; and
- (c) establish a new active member’s account under Chapter 5 for the member’s continuing service as if the first day of pensionable service is the day after the option date.

(4) In these Regulations, an account established for a member under paragraph (2)(b) or (3)(b) is called a full retirement account.

(5) In this regulation—

“continuing service” means pensionable service that continues following the exercise of the option in regulation 64(2) from the option date;

“option date” means the date on which the partial retirement option is exercised and the member becomes entitled to the immediate payment of a full retirement pension; and

“period of earlier service” means the continuous period of pensionable service ending on the option date.

#### **Amount of full retirement pension**

**52.**—(1) The full retirement account must specify the amount of each description of full retirement pension.

(2) The amount of each description of full retirement pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 35 (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and

- (c) the assumed age addition (if any) for the accrued amount.
- (3) For each amount of a description of full retirement pension, the full retirement account must specify—
  - (a) the early payment reduction (if any);
  - (b) the commutation amount (if any); and
  - (c) the total allocation amount (if any).
- (4) In this regulation, “relevant accrued pension” means—
  - (a) for a full retirement standard earned pension, accrued standard earned pension;
  - (b) for a full retirement earned pension attributable to an effective pension age option, accrued earned pension attributable to that option;
  - (c) for a full retirement club transfer earned pension, accrued club transfer earned pension;
  - (d) for a full retirement added (self only) pension, accrued added (self only) pension; and
  - (e) for a full retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

#### **Closure of full retirement account**

**53.** The scheme manager must close a full retirement account if a full retirement pension ceases to be payable under regulation 63.

### **CHAPTER 8**

#### **Partial retirement account**

#### **Establishment of partial retirement account**

- 54.—**(1) This regulation applies if an active member of this scheme in relation to a continuous period of pensionable service—
- (a) exercises the partial retirement option in respect of part only of the member’s accrued pensions for that period of service; and
  - (b) becomes entitled under regulation 67(a) to the immediate payment of a partial retirement pension for that period of service.
- (2) The scheme manager must—
- (a) establish a pensioner member’s account (“the partial retirement account”) for that period of service; and
  - (b) adjust the active member’s account in accordance with paragraph (3).
- (3) If the partial retirement option notice specifies an option proportion in relation to a description of accrued pension—
- (a) The scheme manager must reduce that description of accrued pension by the option proportion specified; and
  - (b) Chapter 5 (active member’s account) applies in relation to the member as if the amount of that description of accrued pension had always been so reduced.
- (4) In this regulation, “partial retirement option notice” means an option notice given in accordance with regulation 65.

### **Amount of partial retirement pension**

**55.**—(1) The partial retirement account must specify the amount of each description of partial retirement pension.

(2) The amount of each description of partial retirement pension is the sum of—

- (a) the amount of the relevant accrued pension calculated under regulation 36 (“accrued amount”);
- (b) the retirement index adjustment for the accrued amount; and
- (c) the assumed age addition (if any) for the accrued amount.

(3) For each amount of a description of partial retirement pension, the partial retirement account must specify—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the total allocation amount (if any).

(4) In this regulation, “relevant accrued pension” means—

- (a) for a partial retirement standard earned pension, accrued standard earned pension;
- (b) for a partial retirement earned pension attributable to an effective pension age option, accrued earned pension attributable to that option;
- (c) for a partial retirement club transfer earned pension, accrued club transfer earned pension;
- (d) for a partial retirement added (self only) pension, accrued added (self only) pension; and
- (e) for a partial retirement added (all beneficiaries) pension, accrued added (all beneficiaries) pension.

## **CHAPTER 9**

### **Pension accounts for pension credit members**

#### **Establishment of pension credit member’s account**

**56.**—(1) The scheme manager must establish a pension account for each pension credit member of this scheme (“the pension credit member’s account”).

(2) If a pension credit is derived from 2 or more pension debit members, the scheme manager must establish a pension credit member’s account in relation to each pension debit member.

(3) The pension credit member’s account must specify the amount of credited pension, and for that amount—

- (a) the early payment reduction (if any); and
- (b) the commutation amount (if any).

(4) On the establishment of the pension credit member’s account, the accounts established under this Part for the pension debit member must be reduced by the relevant amount.

(5) In this regulation—

“amount of credited pension” means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 (pension credits: mode of discharge) to the 1999 Order;

“relevant amount” is the amount that the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of the 1993 Act<sup>(52)</sup> in respect of the pension credit member's right to benefits under this scheme attributable (directly or indirectly) to the pension credit; and
- (b) the provisions of Articles 26 (creation of pension debits and credits) and 28 (reduction of benefit) of the 1999 Order.

### Other pension accounts

57. If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the scheme manager must establish a pension credit member's account in addition to any other account established for the member under this Part.

## PART 6

### Retirement benefits

#### CHAPTER 1

##### General

### Application of Part

58. This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

### Qualifying service

- 59.—(1) In these Regulations, “qualifying service” means the total of—
- (a) any continuous period of pensionable service under this scheme;
  - (b) if a transfer payment has been received by this scheme in respect of a member's accrued rights under another occupational pension scheme, the members pensionable service under that scheme; and
  - (c) for a transition member with continuity of service, the member's pensionable service under the PCSPS(NI) before the closing date for that member.
- (2) None of the following counts as qualifying service—
- (a) any pensionable service under this scheme in respect of which a person's rights under this scheme are extinguished<sup>(53)</sup>;
  - (b) any pensionable service under the PCSPS(NI) in respect of which a person's rights under that scheme are extinguished;
  - (c) any unauthorised absence from scheme employment.

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<sup>(52)</sup> Part 4A was inserted by Article 34 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 S.I. 1999/3147 (N.I. 11)

<sup>(53)</sup> Regulation 139 provides for extinguishment of rights following the refund of all members' contributions and payments for extra pension made by the member. Regulation 147 provides for extinguishment of rights following the making of a transfer value payment



## CHAPTER 2

### Full retirement benefits

#### Entitlement to full retirement pension

**60.**—(1) A member of this scheme (P) is entitled to the immediate payment for life of a full retirement earned pension if—

- (a) P has reached normal minimum pension age;
- (b) P has ceased to be in pensionable service under this scheme; and
- (c) P has claimed payment of a full retirement pension.

(2) But if P has not reached normal pension age under this scheme, P is not so entitled unless—

- (a) P has at least 2 years' qualifying service;
- (b) a transfer payment otherwise than from another occupational pension scheme has been received by this scheme in relation to P; or
- (c) the employment of the member was transferred without the member's consent to a new employer and on that transfer the member ceased to be eligible to be an active member of this scheme.

(3) On becoming entitled to the immediate payment for life of a full retirement earned pension, P is entitled to the immediate payment for life of a full retirement added pension of any description as follows—

- (a) for an active member who becomes a pensioner member, if the full retirement account specifies an amount of full retirement added pension of that description;
- (b) for a deferred member who becomes a pensioner member, if the deferred member's account specifies a provisional amount of the relevant deferred added pension.

(4) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in a form required by the scheme manager.

(5) A claim for a full retirement pension to be paid before P reaches normal pension age under this scheme must state if any of the following applies—

- (a) P has opted to buy out the early payment reduction;
- (b) P has exercised an effective pension age option;

(6) In this regulation, "relevant deferred added pension" means—

- (a) for a full retirement added (self only) pension, a deferred added (self only) pension;
- (b) for a full retirement added (all beneficiaries) pension, a deferred added (all beneficiaries) pension.

#### Annual rate of full retirement pension (active members)

**61.**—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of a full retirement pension payable to the member is calculated by—

- (a) taking the amount of that description of full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any), specified in that account in relation to that amount;

- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

### **Annual rate of full retirement pension (deferred members)**

**62.**—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension.

(2) The annual rate of any description of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of the relevant description of deferred pension specified in the deferred member’s account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) The annual rate of any description of full retirement pension is calculated without subtracting the early payment reduction if the member buys out the early payment reduction in relation to that description of full retirement pension.

(4) In this regulation, “the relevant description of deferred pension” means—

- (a) for a full retirement standard earned pension, deferred standard earned pension;
- (b) for a full retirement earned pension attributable to an effective pension age option, deferred earned pension attributable to that option;
- (c) for a full retirement club transfer earned pension, deferred club transfer earned pension;
- (d) for a full retirement added (self only) pension, deferred added (self only) pension; and
- (e) for a full retirement added (all beneficiaries) pension, deferred added (all beneficiaries) pension.

### **Full retirement pension ceases to be payable**

**63.**—(1) A full retirement pension ceases to be payable to a member who re-enters pensionable service under this scheme within 28 days after the last day of the service in relation to which the pension was payable.

(2) If paragraph (1) applies in relation to a member—

- (a) the scheme manager must—
  - (i) cease to pay the pension; and
  - (ii) recover any payment of pension or lump sum made;
- (b) the full retirement account must be closed; and

- (c) the active member's account must be re-established under Part 5 (pension accounts) and treated as if it had never been closed.

## CHAPTER 3

### Partial retirement benefits

#### Exercise of partial retirement option

**64.**—(1) This regulation applies if—

- (a) a person (P) is an active member of this scheme in relation to a continuous period of pensionable service;
- (b) P has reached normal minimum pension age;
- (c) the terms on which P is employed have changed and as a result of that change the annual rate of P's permanent pensionable earnings is reduced to 80% of their amount before the change or less; and
- (d) P would be entitled to the immediate payment of a full retirement pension in relation to that period of service if P left pensionable service and claimed payment of the pension.

(2) P may opt to continue in pensionable service but claim payment of the whole or part only of P's accrued pensions for the continuous period of pensionable service before P's pensionable earnings were reduced ("partial retirement option").

(3) P may not exercise a partial retirement option more than once in relation to a description of accrued pension.

#### Partial retirement option notice

**65.**—(1) A partial retirement option may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager ("option notice"); and
- (b) in the 3 months after P's pensionable earnings are reduced, on a date agreed by the member and the scheme manager.

(2) An option notice must specify—

- (a) whether P claims payment of—
  - (i) the whole of P's accrued pensions; or
  - (ii) part only of P's accrued pensions; and
- (b) if P claims payment of part only—
  - (i) the descriptions of accrued pension for which payment is claimed; and
  - (ii) the proportion of each description of accrued pension for which payment is claimed ("option proportion"), which must comply with regulation 66.

#### Option proportion

**66.**—(1) A partial retirement option which relates to a description of accrued added pension must relate to all of the descriptions of P's accrued added pension.

(2) If P claims payment of accrued standard earned pension P must also claim payment of any of P's accrued added pension.

(3) If P claims payment of P's accrued added pension P must also claim payment of any accrued standard earned pension.

(4) If P claims payment of part only of P's accrued pensions, the following are the option proportions of each description of accrued pension which can be claimed—

- (a) 100% of each of the descriptions of P's accrued pensions for which payment is claimed;
- (b) an option proportion lower than 100% for one description of accrued pension claimed and 100% for each of the other descriptions of P's accrued pension claimed.

(5) For the purposes of paragraph (4)(b), any accrued standard earned pension and accrued added pension claimed is treated together as if it were one description of accrued pension.

#### **Entitlement to partial retirement pension or full retirement pension**

**67.** An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of—

- (a) if P claims payment of part only of P's accrued pensions, a partial retirement pension calculated in accordance with regulation 55; or
- (b) if P claims payment of the whole of P's accrued pensions, a full retirement pension calculated in accordance with regulation 52.

#### **Annual rate of partial retirement pension**

**68.—(1)** This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of part only of P's accrued pensions.

(2) The annual rate of each description of partial retirement pension is calculated under regulation 61 by reference to the amount of each description of full retirement pension specified in the full retirement account.

(3) Regulation 61 applies as if—

- (a) the reference to a full retirement pension were a reference to a partial retirement pension; and
- (b) the reference to the full retirement account were a reference to the partial retirement account.

#### **Annual rate of full retirement pension**

**69.—(1)** This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of the whole of P's accrued pensions.

(2) The annual rate of each description of full retirement pension is calculated under regulation 61 by reference to the amount of that description of full retirement pension specified in the full retirement account.

(3) Regulation 61 applies as if the last day of pensionable service were the day before the day on which the member exercised the partial retirement option.

### **CHAPTER 4**

#### **Ill health benefits**

#### **Meaning of “permanent breakdown in health”**

**70.** For the purpose of these Regulations, a member's breakdown in health is “permanent” if the scheme medical adviser is of the opinion that the breakdown will continue until the member reaches prospective normal pension age.

### **Meaning of “incapacity for employment” and “total incapacity for employment”**

71. For the purpose of these Regulations—

- (a) a member’s breakdown in health involves “incapacity for employment” if the scheme medical adviser is of the opinion that, as a result of the breakdown, the member is incapable of doing the member’s own or comparable job; and
- (b) a member’s breakdown in health involves “total incapacity for employment” if the scheme medical adviser is of the opinion that, as a result of the breakdown—
  - (i) the member is incapable of doing the member’s own or comparable job; and
  - (ii) the member is incapable of gainful employment.

### **Meaning of “lower tier payment threshold”**

72. An active member of this scheme meets the lower tier threshold for payment of an ill-health pension (“lower tier payment threshold”) if—

- (a) the member’s breakdown in health involves incapacity for employment; or
- (b) if the member is partially retired, the member’s breakdown in health involves total incapacity for employment.

### **Meaning of “upper tier payment threshold”**

73. An active member of this scheme meets the upper tier threshold for payment of an ill-health pension (“upper tier payment threshold”) if—

- (a) the member is not partially retired; and
- (b) the member’s breakdown in health involves total incapacity for employment.

### **Entitlement to ill-health pension**

74.—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to the immediate payment of an ill-health pension under this scheme, in accordance with the provisions of this Chapter, if the conditions in paragraph (2) are met.

(2) The conditions are—

- (a) the member or the member’s employer has claimed payment of an ill-health pension;
- (b) the scheme medical adviser—
  - (i) is of the opinion that the member has suffered a permanent breakdown in health involving incapacity for employment or total incapacity for employment; and
  - (ii) gives the scheme manager and the employer a certificate stating that opinion (“ill-health retirement certificate”);
- (c) the member has at least 2 years’ qualifying service; and
- (d) the employer agrees that the member is entitled to retire on ill health grounds.

(3) If the member meets the lower tier payment threshold, a lower tier earned pension is payable in respect of the member’s continuous period of pensionable service.

(4) If the member meets the upper tier payment threshold—

- (a) a lower tier earned pension is payable in respect of the member’s continuous period of pensionable service; and

- (b) an upper tier top up earned pension is payable in respect of the period that begins when the member becomes entitled to the immediate payment of an ill-health pension and ends when the member reaches prospective normal pension age.

(5) A full retirement added pension of any description is payable with a lower tier earned pension if the full retirement account specifies an amount of full retirement added pension of that description.

### **Provisional award of ill-health pension**

**75.**—(1) This regulation applies if the scheme medical adviser is unable to form an opinion on the following matters—

- (a) whether a member (P) has suffered a permanent breakdown in health involving incapacity for employment or total incapacity for employment;
  - (b) whether P’s breakdown in health involves—
    - (i) incapacity for employment; or
    - (ii) total incapacity for employment.
- (2) The scheme medical adviser may recommend that—
- (a) for a period specified in the recommendation (being a period of not more than 5 years), P is taken to have suffered a permanent breakdown in health involving whichever of the following is specified in the recommendation—
    - (i) incapacity for employment; or
    - (ii) total incapacity for employment; and
  - (b) P’s case should be reviewed by the scheme medical adviser at the end of the period specified in the recommendation.
- (3) If the scheme manager agrees to the recommendation—
- (a) the scheme manager must determine if P meets the lower tier payment threshold or the upper tier payment threshold; and
  - (b) P is entitled to the immediate payment of—
    - (i) an ill-health pension in accordance with regulation 74; and
    - (ii) any full retirement added pension payable with it.
- (4) At the end of the period specified in the recommendation—
- (a) the scheme medical adviser must give the scheme manager an opinion on the matter to which the recommendation related; and
  - (b) regulation 74 applies to P accordingly, subject to paragraph (5).
- (5) If as a result of the opinion P ceases to be entitled to payment of a lower tier earned pension, an upper tier top up earned pension or a full retirement added pension, that pension continues to be payable for a period of 3 months beginning with the date of the opinion.

### **Annual rate of ill health pension**

**76.**—(1) The annual rate of ill-health pension is calculated as follows—

- (a) the annual rate of lower tier earned pension is calculated in the same way as the annual rate of full retirement earned pension<sup>(54)</sup> is calculated under regulation 61, but without subtracting the early payment reduction;

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<sup>(54)</sup> Regulation 35 provides for the calculation of an amount of accrued earned pension. This amount forms the basis for determining the amount of full retirement earned pension under regulation 52. The annual rate of full retirement earned pension in relation to active members is calculated under regulation 61

- (b) the annual rate of upper tier top up earned pension is calculated in the same way as the annual rate of full retirement earned pension is calculated under regulation 61, but—
  - (i) the references to the member’s full retirement earned pension are taken to be references to the enhancement fraction of the earnings-related part of that pension; and
  - (ii) the early payment reduction is not subtracted;
- (2) The annual rate of any full retirement added pension payable with a lower tier earned pension is calculated in the same way as it is calculated under regulation 61, but without subtracting the early payment reduction.

(3) In this regulation—

“the earnings-related part”, in relation to the member’s full retirement earned pension, means the proportion of that pension not attributable to an amount of transferred pension;

“the enhancement fraction” is

$$\frac{A}{B}$$

where—

*A* is the member’s assumed period of pensionable service (expressed in years); and

*B* is the shorter of—

- (a) the member’s period of service (expressed in years); and
- (b) the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account;

“the member’s assumed period of pensionable service” means the period (expressed in years)—

- (a) beginning with the day after the member’s period of service ceased; and
- (b) ending with—
  - (i) for a member employed for a fixed term, the day with which that term ends; or
  - (ii) for a member otherwise employed, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age); and

“period of service” means a continuous period of pensionable service under this scheme.

### **Periodical review of entitlement to upper tier top up earned pension**

**77.**—(1) This regulation applies in relation to a member of this scheme (P) who meets the upper tier payment threshold.

(2) The scheme medical adviser—

- (a) must periodically review whether, as a result of P’s breakdown in health, P remains incapable of gainful employment; and
- (b) after carrying out a review, must give an opinion on that matter to the scheme manager.

(3) A review must be carried out—

- (a) at any time the scheme manager directs; and
- (b) in any event—
  - (i) before the fifth anniversary of the day on which P became entitled to the pension; and

- (ii) subsequently at intervals not exceeding 5 years.
- (4) A review is not required after the member reaches normal pension age under this scheme.
- (5) P ceases to be entitled to an upper tier top up earned pension—
  - (a) at the end of the period of 3 months beginning with the date on which the scheme medical adviser, after carrying out a review, gives an opinion that P is no longer incapable of gainful employment; or
  - (b) if earlier, the day on which P returns to service in a scheme employment.

#### **Deferment of accrued earned pension attributable to a transfer payment**

- 78.**—(1) This regulation applies in relation to a member of this scheme—
- (a) who is entitled to an ill-health pension; and
  - (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued earned pension attributable in whole or in part to a transfer payment received by this scheme in relation to the member in the 24 months before that last day.
- (2) If the scheme manager so directs, the member becomes a deferred member of this scheme in respect of that amount of accrued earned pension and accordingly—
- (a) a deferred member’s account must be established under Part 5 (pension accounts);
  - (b) that amount of accrued earned pension must be specified in the deferred member’s account as the provisional amount of deferred earned pension; and
  - (c) that amount of accrued earned pension is not included in the calculation of the annual rate of full retirement earned pension.

#### **Deferment of added pension attributable to recent payments**

- 79.**—(1) This regulation applies in relation to a member of this scheme—
- (a) who is entitled to payment of an ill-health pension; and
  - (b) whose active member’s account as at the end of the last day of pensionable service specifies an amount of accrued added pension that is attributable in whole or in part to a lump sum payment for added pension made under Schedule 1 within the 12 months before the relevant day.
- (2) The member becomes a deferred member of this scheme in respect of that amount of accrued added pension and accordingly—
- (a) a deferred member’s account must be established under Part 5 (pension accounts);
  - (b) that amount of accrued added pension must be specified in the deferred member’s account as the provisional amount of the relevant description of deferred added pension; and
  - (c) that amount of accrued added pension is not included in the calculation of the annual rate of full retirement added pension payable with the lower tier earned pension.
- (3) In paragraph (1), “the relevant day” means—
- (a) the day on which the member’s employer first asked the scheme medical adviser for the opinion mentioned in regulation 74(2)(b) by virtue of which the member is entitled to payment of the ill-health pension; or
  - (b) if the member was on sick leave on that day and did not return to service from that leave, the day on which that leave began.



## CHAPTER 5

### Payment options

#### Options under this Chapter

**80.** The options under this Chapter are—

- (a) the option under regulation 82 to buy out the early payment reduction;
- (b) the option under regulation 83 to defer payment of a full retirement added pension;
- (c) the option under regulation 84 (option to commute part of pension) to exchange part of a retirement pension for a lump sum;
- (d) the option under regulation 85 to exchange the whole of the member's accrued pensions for a lump sum.

#### Exercising an option under this Chapter

**81.**—(1) A member may exercise an option under this Chapter by notice to the scheme manager in any form the scheme manager requires.

(2) In this Chapter, “option notice” means a notice by which a member exercises an option under this Chapter.

#### Option to buy out early payment reduction

**82.**—(1) This regulation applies if—

- (a) a member of this scheme becomes entitled under Chapter 2 or 3 to the immediate payment of a full retirement pension or a partial retirement pension; and
- (b) the member has not reached—
  - (i) normal pension age under this scheme; or
  - (ii) if applicable, the member's effective pension age.

(2) The member may opt under this regulation to buy out the early payment reduction that would otherwise apply to the calculation of the annual rate of retirement pension.

(3) The cost must be met by way of a special payment to this scheme made by—

- (a) the member;
- (b) the member's employer (“the employer”); or
- (c) both the member and the employer.

(4) The employer may make a special payment using a lump sum payable to the member under a compensation scheme.

(5) Any special payment by the employer must be made—

- (a) in accordance with the compensation scheme; or
- (b) with the consent of the Department.

(6) If the employer makes a special payment under paragraph (5)(a)—

- (a) the lump sum payable to the member under the compensation scheme is reduced by the amount of the special payment; and
- (b) if the amount of the special payment is more than the whole of the lump sum payable to the member under the compensation scheme, any difference is not chargeable to the member.

(7) The cost of buying out the early payment reduction is an amount determined by the scheme manager after consulting the scheme actuary.

### **Option to defer payment of added pension**

**83.**—(1) This regulation applies if a member of this scheme—

- (a) becomes entitled to the immediate payment of a full retirement added pension of any description; and
- (b) has not reached normal pension age under this scheme.

(2) The member may opt under this regulation to defer payment of the full retirement added pension of that description.

(3) A member who exercises the option under this regulation becomes a deferred member of this scheme in respect of the full retirement added pension of that description and accordingly—

- (a) a deferred member's account must be established under Part 5 (pension accounts); and
- (b) the amount of full retirement added pension of that description must be specified in the deferred member's account as the provisional amount of deferred added pension of that description.

(4) The member is entitled to payment of the full retirement added pension of that description when the member gives notice to the scheme manager, in any form the scheme manager requires, that the member wishes to take that full retirement added pension.

(5) The annual rate of the full retirement added pension is calculated in accordance with regulation 62

### **Option to commute part of pension**

**84.**—(1) A member who becomes entitled to the immediate payment of a retirement pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 241 of that Act<sup>(55)</sup>)

(5) If paragraph (6) applies, the member may opt to exchange only so much of the pension (after subtracting the allocation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act<sup>(56)</sup> in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

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<sup>(55)</sup> Section 241 was amended by the Finance Act 2006 (c.25) Schedule 21 paragraphs 2 and 9, the Finance Act 2007 (c.11) Schedule 19 paragraphs 1 and 15 and the Finance Act 2011 (c.11) Schedule 16 paragraphs 62 and 74

<sup>(56)</sup> Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Arts. 147, 168, Sch.3 para. 20, Sch.5 Pt. III, the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1) and Sch.1 para.41 and the Proceeds of Crime Act 2002 (2002 c.29) Sch.11 para.23(3)

### **Option to commute whole of member's accrued pensions (serious ill-health)**

**85.**—(1) This regulation applies in relation to an active member or deferred member of this scheme whom the scheme medical adviser certifies has a life-expectancy of less than 12 months.

(2) The member may opt under this regulation to exchange the whole of the member's accrued pensions for a lump sum.

(3) An option under this regulation ("this option") may only be exercised before the first payment of the pension is made.

(4) The lump sum payable to the member is an amount equal to—

$$(A + B + C) \times 5$$

where—

*A* means the total annual amount of full retirement pension;

*B* means the total annual amount of partial retirement pension; and

*C* means the total annual amount of ill-health pension.

(5) For the purpose of paragraph (4), "total annual amount" means—

(a) in relation to a full retirement pension or partial retirement pension to which the member would be entitled apart from this option, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date the option is exercised, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date; and

(b) in relation to an ill-health pension, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date when payment would first be due, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

(6) The lump sum must be paid to the member as soon as is reasonably practicable after this option is exercised.

## CHAPTER 6

### Allocation of part of pension

#### **Allocation Election**

**86.**—(1) This regulation applies in relation to a full retirement earned pension or a partial retirement earned pension payable in respect of a member's pensionable service under this scheme.

(2) The member may elect to allocate part of the retirement pension to a beneficiary ("allocation election").

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

(a) the member's spouse or civil partner;

(b) financially wholly or mainly dependent on the member; or

(c) financially interdependent with the member.

(4) If the member wishes to allocate pension to more than one beneficiary, the member must make a separate allocation election in respect of each beneficiary.

(5) If paragraph (6) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(6) This paragraph applies if the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the 1993 Act in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

### **Restriction on total amount of pension that may be allocated**

**87.**—(1) The sum of the following must not exceed an amount equal to the annual rate of retirement pension that would be payable to the member (P)—

- (a) the total amount of retirement pension allocated under this regulation (“total allocation amount”); and
- (b) the annual rate of surviving adult's pension that would be payable on P's death.

(2) In determining whether the restriction in paragraph (1) is met, it is assumed that—

- (a) P will have become a pensioner member before P's death;
- (b) P will exercise the commutation option so as to exchange for a lump sum the maximum amount possible of the whole of P's accrued pensions;
- (c) P's spouse or civil partner status will not change before P dies;
- (d) all of P's beneficiaries will survive P; and
- (e) any beneficiary who would have been P's dependant for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions – supplementary) to the 2004 Act<sup>(57)</sup> will be such a dependant when P dies.

(3) If at the time an allocation election is made it would result in the restriction in paragraph (1) not being met, the scheme manager may treat the election (or each of the elections) as allocating a smaller amount that would result in the election (or the elections taken together) complying.

### **Making an allocation election**

**88.**—(1) If requested by a member (P), the scheme manager must advise P of the last day on which P may make an allocation election.

(2) An allocation election may only be made—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the election closing date.

(3) An allocation election must—

- (a) specify the amount of retirement pension to be allocated;
- (b) name the beneficiary;
- (c) be accompanied by a declaration in a form required by the scheme manager stating that—
  - (i) P is in good health; and
  - (ii) the beneficiary is a person who meets the conditions set out in regulation 86 (3); and

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(57) Paragraph 15(3) was amended by [S.I. 2005/3229](#)

- (d) be accompanied by a certificate from the scheme medical adviser giving the opinion that P is in good health.
- (4) Before the election closing date, the member may, by notice to the scheme manager in a form required by the scheme manager—
  - (a) revoke the election; or
  - (b) amend the election by altering the amount of retirement pension to be allocated.
- (5) Unless paragraph (6) or (7) applies, the election takes effect on the election closing date.
- (6) An allocation election has no effect unless the scheme manager is satisfied that when P made the election the matters stated in the declaration were true.
- (7) An allocation election has no effect if P or the beneficiary dies before the election closing date.
- (8) In this regulation, “election closing date” means the earlier of—
  - (a) the date advised by the scheme manager under paragraph (1); or
  - (b) the day before the pension becomes payable.

#### **Effect of allocation election**

- 89.**—(1) If an allocation election takes effect—
- (a) the member’s pension is reduced accordingly (and this reduction applies even if the beneficiary predeceases the member); and
  - (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life (“allocated pension”) of an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to—
    - (i) the amount of retirement pension allocated under the election, and
    - (ii) the beneficiary’s age and gender.
- (2) the scheme manager may withhold payment from the beneficiary if—
- (a) the member dies before the end of the period of 2 years beginning with the date on which the election takes effect; and
  - (b) the scheme manager is satisfied that the member made a false declaration about the member’s state of health when making the election.
- (3) An allocation election in relation to a retirement pension has no effect if it would result in an allocated pension being paid—
- (a) on the member becoming entitled to the retirement pension, to a person who is not—
    - (i) the member’s spouse or civil partner;
    - (ii) financially wholly or mainly dependent on P; or
    - (iii) financially interdependent with P;
  - (b) on the death of the member, to a person who is not—
    - (i) the member’s surviving adult; or
    - (ii) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 (registered pension schemes: authorised pensions – supplementary) to the 2004 Act.

#### **Adjustment of allocated benefit (members who have reached the age 75)**

- 90.**—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—
- (a) the member who made the allocation dies after reaching the age of 75; and

- (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants' scheme pension under section 167 (the pension death benefit rules) of the 2004 Act<sup>(58)</sup>.
- (2) In this regulation, "allocated pension" has the meaning given in regulation 89(1)(b).

## PART 7

### Benefits for pension credit members

#### Entitlement to pension credit members' pension

**91.** A pension credit member (P) of this scheme is entitled to the immediate payment for life of a pension credit member's pension under this scheme if—

- (a) P has reached normal pension age under this scheme;
- (b) the pension sharing order under which P is entitled to the pension credit has taken effect; and
- (c) P has claimed payment of the pension.

#### Claim for early payment

**92.**—(1) This regulation applies in relation to a pension credit member (P) who—

- (a) has reached normal minimum pension age; and
- (b) has not reached normal pension age under this scheme.

(2) P may claim early payment of a pension credit member's pension by notice to the scheme manager in a form required by the scheme manager.

(3) A claim for early payment—

- (a) must state whether P has opted to buy out the early payment reduction under regulation 94; and
- (b) must specify the date on which payment of the pension is claimed ("the claim date").

(4) P is entitled to the immediate payment for life of a pension credit member's pension on the claim date if the scheme manager is satisfied that on that date the requirements of regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000<sup>(59)</sup> are met.

#### Annual rate of pension credit member's pension

**93.**—(1) The annual rate of a pension credit member's pension is calculated by—

- (a) taking the amount of credited pension specified in the pension credit member's account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(2) If a member buys out the early payment reduction<sup>(60)</sup>, the annual rate of pension is calculated without subtracting the early payment reduction.

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<sup>(58)</sup> Section 167 was amended by the Finance Act 2007 (c.11) Schedule 20 paragraph 22 and the Finance Act 2011 (c.11) Schedule 16 paragraph 11. See also Part 2 of Schedule 28 to that Act for the meaning of expressions used in section 167

<sup>(59)</sup> S.R. 2000 No. 146; regulation 7 was amended by S.R. 2009 No. 115

<sup>(60)</sup> ()Regulation 94 provides for the option to buy out early payment reduction

### **Option to buy out early payment reduction**

**94.**—(1) A pension credit member who claims early payment of a pension credit member's pension may opt to buy out the early payment reduction.

(2) The option may only be exercised by notice to the scheme manager in a form required by the scheme manager.

(3) The scheme manager must prepare tables setting out the cost of buying out the early payment reduction, after consulting the scheme actuary.

(4) The member must meet the cost by making a payment to this scheme calculated in accordance with the tables prepared in accordance with paragraph (3).

### **Reduction in pension debit member's benefits**

**95.** The benefits to which a pension debit member is entitled under this Part are subject to the reduction to be made under Article 28 of the 1999 Order.

### **Pension credit member's rights**

**96.**—(1) If regulation 7(5) of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000 applies, the scheme manager must be reasonably satisfied that the requirements of that regulation have been met.

(2) Benefits that are attributable (directly or indirectly) to a pension credit may not be aggregated with any other benefit to which the pension credit member is entitled under this scheme.

(3) If a pension credit member is a dual capacity member, the benefits that are payable to or in respect of the member in each of the member's capacities are treated separately for the purposes of these regulations.

### **Option for pension credit member to commute part of pension**

**97.**—(1) A pension credit member who becomes entitled to payment of a pension credit member's pension under this scheme may opt to exchange part of the pension for a lump sum.

(2) The option under this regulation may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the first payment of the pension is made.

(3) If a pension credit member exercises the option under this regulation, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A pension credit member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 241 of that Act).

(5) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under Part 6 (retirement benefits) before the date on which the pension sharing order takes effect.

### **Option for pension credit member to commute whole pension (serious ill-health)**

**98.**—(1) This regulation applies in relation to a pension credit member whom the scheme medical adviser certifies has a life-expectancy of less than 12 months.

(2) The pension credit member may opt to exchange the whole of the pension credit member's pension under this scheme for a lump sum.

- (3) The option under this regulation (“this option”) may only be exercised—
- (a) by notice to the scheme manager in a form required by the scheme manager; and
  - (b) before the first payment of the pension is made.
- (4) The lump sum—
- (a) is an amount equal to the total annual amount of the pension credit member’s pension, multiplied by 5; and
  - (b) must be paid to the pension credit member as soon as is reasonably practicable after this option is exercised.
- (5) In this regulation, “total annual amount” in relation to a pension credit member’s pension means the total of—
- (a) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date this option is exercised, but without subtracting the early payment reduction (if any); and
  - (b) the amount of increase (if any) in the annual rate of that pension under the 1971 Act calculated as at that date.

#### **Application of Part to pension adjustment orders**

**99.**—(1) Where a pension adjustment order is made in respect of benefits under this scheme, this Part applies with any modifications the scheme manager considers necessary to give effect to that order.

(2) In this regulation, a “pension adjustment order” means an order made under section 12 of the Irish Family Law Act 1995(61).

## **PART 8**

### **Death benefits**

#### **CHAPTER 1**

##### **Pensions for surviving adults**

#### **Surviving adults**

**100.** In these Regulations—

“surviving adult”, in relation to a deceased member of this scheme, means the member’s surviving spouse, surviving civil partner or surviving nominated partner;

“surviving civil partner”, in relation to a deceased member of this scheme, means a person who was in a civil partnership with the member at the date of the member’s death; and

“surviving spouse”, in relation to a deceased member of this scheme, means a person who was married to the member at the date of the member’s death.

#### **Meaning of “surviving nominated partner”**

**101.**—(1) A person (P) is a surviving nominated partner of a deceased member of this scheme if—

- (a) the member nominated P to receive a pension on the member’s death;



- (b) the nomination was made by a written declaration signed by both the member and P in a form required by the scheme manager; and
  - (c) P satisfies the scheme manager that immediately before the member's death—
    - (i) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
    - (ii) P and the member were not prevented from entering into a marriage or a civil partnership; and
    - (iii) either P was financially dependent on the member, or P and the member were financially interdependent.
- (2) The member or P may revoke a declaration under paragraph (1)(b) at any time by signed notice to the scheme manager in any form the scheme manager requires or is willing to accept.

#### **Meaning of “surviving adult’s pension”**

**102.** In these Regulations, “surviving adult’s pension” means any of the following pensions payable to a surviving adult under this Chapter—

- (a) a dependant’s earned pension;
- (b) a dependant’s lower tier earned pension;
- (c) a dependant’s upper tier top up earned pension;
- (d) a dependant’s added pension.

#### **Meaning of dependant’s earned pension**

**103.** A dependant’s earned pension is a pension payable on the death of a member of this scheme if the member was a pensioner member or would have become entitled to a full retirement earned pension had the member not died.

#### **Meaning of dependant’s lower tier earned pension**

**104.** A dependant’s lower tier earned pension is a pension payable on the death of a member of this scheme if the member was entitled to the immediate payment of a lower tier earned pension as at the date of the member’s death.

#### **Meaning of dependant’s upper tier top up earned pension**

**105.** A dependant’s upper tier top up earned pension is a pension payable on the death of a member of this scheme if the member was entitled to the immediate payment of an upper tier top up earned pension as at the date of the member’s death.

#### **Meaning of “dependant’s added pension”**

**106.** A dependant’s added pension is a pension payable on the death of a member of this scheme if the member—

- (a) was entitled to the immediate payment of a full retirement added (all beneficiaries) pension as at the date of the member’s death; or
- (b) would have become entitled to such a pension had the member not died.

#### **Entitlement to surviving adult’s pension**

**107.—**(1) This regulation applies where a member was, at the date of the member’s death,—

- (a) an active member of this scheme in relation to a continuous period of pensionable service of at least 12 months;
  - (b) a deferred member of this scheme; or
  - (c) a pensioner member of this scheme.
- (2) If the member was a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (a) includes the member's period of pensionable service under the PCSPS(NI) before the closing date.
- (3) The surviving adult of the member is entitled to payment for life of a surviving adult's pension as follows—
- (a) if the member was a pensioner member or would have become entitled to a full retirement earned pension had the member not died, a dependant's earned pension;
  - (b) if a lower tier earned pension was payable as at the date of the member's death, a dependant's lower tier earned pension;
  - (c) if an upper tier top up earned pension was payable as at the date of the member's death, a dependant's upper tier top up earned pension;
  - (d) if the member was entitled to the immediate payment of a full retirement added (all beneficiaries) pension as at the date of the member's death or would have become entitled to such a pension had the member not died, a dependant's added pension.
- (4) The scheme manager may withhold a surviving adult's pension where—
- (a) for a pension that would otherwise be payable to the surviving spouse, the member and the surviving spouse were married less than 6 months before the member's death;
  - (b) for a pension that would otherwise be payable to a surviving civil partner, the civil partnership was formed less than 6 months before the member's death.
- (5) Paragraph (4) is subject to regulation 120 (guaranteed minimum pensions for surviving spouses and civil partners).

#### **Annual rate of surviving adult's pensions payable on death of pensioner member**

**108.**—(1) This regulation applies on the death of a pensioner member of this scheme (P).

(2) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the sum of—

- (a) the total amount of full retirement earned pension specified in P's full retirement account as at the date of P's death; and
- (b) the total amount of partial retirement earned pension specified in P's partial retirement account as at the date of P's death.

(3) The annual rate of a dependant's lower tier earned pension is an amount equal to 37.5% of the annual rate of P's lower tier earned pension, calculated without subtracting the commutation amount (if any) and the total allocation amount (if any).

(4) The annual rate of a dependant's upper tier top up earned pension is an amount equal to 37.5% of the amount of the notional annual rate of P's upper tier top up earned pension, calculated without subtracting the commutation amount (if any) and the total allocation amount (if any).

(5) The annual rate of a dependant's added pension is an amount equal to 37.5% of the total of—

- (a) the amount of full retirement added (all beneficiaries) pension specified in P's full retirement account as at the date of P's death; and
- (b) the amount of partial retirement added (all beneficiaries) pension specified in P's partial retirement account as at the date of P's death.

(6) In this regulation—

“the enhancement fraction” means

$$\frac{X}{Y}$$

where—

*X* is the lower of—

- (a) the number of years in the member’s assumed period of pensionable service; and
- (b) 10;

*Y* is the lower of—

- (a) the number of years for which the member has been an active member of this scheme; and
- (b) if the member was entitled to payment of an ill-health pension, the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account before the member became entitled to payment of that pension<sup>(62)</sup>;

“the member’s assumed period of pensionable service” means the period (expressed in years)

- (a) beginning with the day after the member’s last day of pensionable service; and
- (b) ending with—
  - (i) for a member employed for a fixed term, the day with which that term would have ended; and
  - (ii) for a member otherwise employed, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and

“notional annual rate”, in relation to P’s upper tier top up earned pension, is the lesser of the following amounts—

- (a) the amount of the annual rate of P’s upper tier top up earned pension; and
- (b) the amount of P’s full retirement earned pension or partial retirement earned pension.

(7) In working out the amount of full retirement earned pension or partial retirement earned pension for the purpose of the definition in paragraph (6) of “notional annual rate”—

- (a) Unless sub-paragraph (b) applies, the accrued earned pension is the lesser of—
  - (i) the amount of accrued earned pension not attributable to a transfer payment; and
  - (ii) the enhancement fraction of the amount mentioned in paragraph (i);
- (b) if the member is a transition member with continuity of service, the accrued earned pension is the lesser of—
  - (i) the total amount of accrued earned pension under this scheme which is not attributable to a transfer payment and accrued earned pension under the PCSPS(NI) which is not attributable to a transfer payment; and
  - (ii) the enhancement fraction of the amount mentioned in sub-paragraph (a)(i).

(8) In accordance with section 7(4) of the 1971 Act, for the purposes of this regulation there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

### **Annual rate of surviving adult’s pensions payable on death of deferred member**

**109.**—(1) This regulation applies on the death of a deferred member of this scheme.

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(62) An active member’s account is closed under regulation 45 when a full retirement pension becomes payable

(2) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the sum of the provisional amount of deferred earned pension specified in the deferred member's account.

(3) The annual rate of a dependant's added pension is an amount equal to 37.5% of the provisional amount of deferred added (all beneficiaries) pension specified in the deferred member's account.

**Annual rate of surviving adult's pensions payable on death of active member (death in service)**

**110.**—(1) This regulation applies on the death of an active member of this scheme in relation to a continuous period of pensionable service of at least 12 months.

(2) If the member is a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (1) includes the member's period of pensionable service under the PCSPS(NI) before the closing date.

(3) The annual rate of a dependant's earned pension is an amount equal to 37.5% of the amount of full retirement earned pension that would have been specified in the member's full retirement account under regulation 52(2) had P become entitled to the immediate payment of a full retirement pension on the date of P's death.

(4) The annual rate of a dependant's added pension is an amount equal to 37.5% of the amount of full retirement added (all beneficiaries) pension that would have been specified in the member's full retirement account under regulation 52(2) had P become entitled to the immediate payment of a full retirement pension on the date of P's death.

(5) When calculating the amount of a member's full retirement earned pension (except in relation to a member who at the date of the member's death was entitled under regulation 67(a) to the immediate payment of a partial retirement pension)—

(a) unless sub-paragraph (b) applies, the accrued earned pension under this scheme includes an additional amount equal to the lesser of—

- (i) the amount of accrued earned pension not attributable to a transfer payment; and
- (ii) the enhancement fraction of the amount mentioned in paragraph (i);

(b) if the member is a transition member with continuity of service, the accrued earned pension under this scheme includes an additional amount equal to the lesser of—

- (i) the total amount of accrued earned pension under this scheme which is not attributable to a transfer payment and accrued earned pension under PCSPS(NI) which is not attributable to a transfer payment; and
- (ii) the enhancement fraction of the amount mentioned in sub-paragraph (a)(i); and

(c) the early payment reduction (if any), the commutation amount (if any) and the total allocation amount (if any) are not subtracted.

(6) In this regulation—

“the enhancement fraction” means

$$\frac{X}{Y}$$

where—

*X* is the lower of—

- (a) the member's assumed period of pensionable service (expressed in years); and
- (b) 10;

*Y* is the lower of—

- (a) the number of years for which the member has been an active member of this scheme; and
  - (b) number of scheme years in relation to which an amount of earned pension was specified in the active member's account; and
- “the member's assumed period of pensionable service” means the period (expressed in years)—
- (a) beginning with the day after the date of the member's death; and
  - (b) ending with—
    - (i) for a member employed for a fixed term, the day with which that term would have ended; and
    - (ii) for a member otherwise employed, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age.

### **Reduction in pensions in cases of wide age disparity**

**111.**—(1) This regulation applies if, on the death of a member of this scheme, a surviving adult's pension is payable to a person (“the dependant”) who is more than 12 years younger than the member.

(2) The annual rate of the surviving adult's pension is reduced by the lower of—

- (a) 50% of the amount of the annual rate of the pension calculated under regulation 108, 109 or 110, as applicable; and
- (b)  $2.5 \times (N - 12)\%$  of the amount of the annual rate of the pension so calculated,

where N is the number of whole years by which the dependant is younger than the member.

## CHAPTER 2

### Pensions for eligible children

#### **Meaning of “eligible child's pension”**

**112.** In these Regulations, “eligible child's pension” means any of the following pensions payable under this Part—

- (a) a child's earned pension;
- (b) child's lower tier earned pension;
- (c) a child's upper tier top up earned pension;
- (d) a child's added pension.

#### **Meaning of “eligible child”**

**113.**—(1) In these Regulations, “eligible child”, in relation to a deceased member of this scheme means—

- (a) a natural child of the member where—
  - (i) the child meets any of conditions A to C; and
  - (ii) at the date of the member's death the child was born or the child's mother was pregnant with the child;
- (b) an adopted child of the member who meets any of conditions A to C; or
- (c) any other child or young person who—

- (i) meets any of conditions A to C; and
  - (ii) in the opinion of the scheme manager, was financially dependent on the member as at the date of the member's death.
- (2) Condition A is that the person is under the age of 18.
- (3) Condition B is that the person is in full-time education or vocational training and is under the age of 23.
- (4) Condition C is that in the opinion of the scheme manager the person is unable to engage in gainful employment because of physical or mental impairment and either—
- (a) the person is under the age of 23; or
  - (b) that impairment is in the opinion of the scheme medical adviser likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment.
- (5) For the purpose of Condition B, a person who is under the age of 19 on the date on which the person stops full-time education or vocational training is taken to be in full-time education until the first of the following dates after the person stops full-time education or vocational training—
- (a) the second Monday in January;
  - (b) the second Monday after Easter Monday;
  - (c) the second Monday in September;
  - (d) the date on which the person becomes engaged full-time in gainful employment;
  - (e) the person's 19th birthday.
- (6) For the purpose of Condition B, a person who is under the age of 22 at the date of the member's death is taken to be in full-time education or vocational training if the person has temporarily stopped full-time education or vocational training for a period of up to 15 months ("gap period").
- (7) An eligible child's pension is not payable to a person during a gap period.

### **Eligible child's pension**

- 114.**—(1) This regulation applies if a member of this scheme dies leaving an eligible child.
- (2) An eligible child's pension is only payable in respect of such period or periods during which a child or young person is an eligible child.
- (3) An eligible child's pension is not payable in respect of any period before a child's birth.
- (4) An eligible child's pension is payable in respect of an eligible child as follows—
- (a) a child's earned pension is payable if the member was entitled to the immediate payment of a full retirement pension as at the date of the member's death or the member would have become entitled to such a pension had the member not died;
  - (b) a child's lower tier earned pension is payable if a lower tier earned pension was payable to the member as at the date of the member's death;
  - (c) a child's upper tier top up earned pension is payable if an upper tier top up earned pension was payable to the member as at the date of the member's death;
  - (d) a child's added pension is payable if the member was entitled to the immediate payment of an added (all beneficiaries) pension as at the date of the member's death or would have become entitled to such a pension had the member not died.

### **Annual rate of eligible child's pension**

**115.**—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 111 whether or not a surviving adult's pension is payable on the death of the member.

- (2) For the purposes of this regulation, the corresponding surviving adult's pensions are—
- (a) for a child's earned pension, a dependant's earned pension;
  - (b) for a child's lower tier earned pension, a dependant's lower tier earned pension;
  - (c) for a child's upper tier top up earned pension, a dependant's upper tier top up earned pension; and
  - (d) for a child's added pension, a dependant's added pension.
- (3) If a surviving adult's pension is payable on the death of the member—
- (a) if an eligible child's pension is payable in respect of only one eligible child, the annual rate of eligible child's pension is equal to 80% of the annual rate of the corresponding surviving adult's pension; and
  - (b) if an eligible child's pension is payable in respect of 2 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 80% of the annual rate of the corresponding surviving adult's pension.
- (4) If a surviving adult's pension is not payable on the death of the member—
- (a) if an eligible child's pension is payable in respect of only one eligible child, the annual rate of eligible child's pension is equal to the annual rate of the corresponding surviving adult's pension multiplied by 4 and divided by 3; and
  - (b) if an eligible child's pension is payable in respect of 2 or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of the annual rate of the corresponding surviving adult's pension multiplied by 4 and divided by 3.
- (5) In this regulation, "the appropriate fraction" means

$$\frac{2}{Y}$$

where—

*Y* is the number of eligible children in respect of whom an eligible child's pension is payable immediately after the date of the member's death.

## **CHAPTER 3**

### **Payment of pensions for surviving adults and eligible children**

#### **Payment of pensions under this Part**

**116.**—(1) A surviving adult's pension or eligible child's pension is payable from the day after the date of the member's death.

(2) Unless the scheme manager directs otherwise, an eligible child's pension payable in respect of an eligible child aged under 18 must be paid—

- (a) if the child is in the care of the member's surviving adult, to the surviving adult; and
- (b) in any other case, to the child's guardian.

### **Suspension and recovery of pensions paid under this Part**

117.—(1) This regulation applies if—

- (a) on a member's death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) cease paying the pension; and
- (b) recover any payment made under the award.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

### **Provisional awards of eligible child's pensions: later adjustments**

118.—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children as at the date of the member's death and that there were then no other eligible children; and
- (c) it later appears that—
  - (i) a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
  - (ii) on that date a further person was an eligible child; or
  - (iii) a child who was born after the member's death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of the matters referred to in paragraph 1(c), as applicable.

(3) Paragraph (2) does not affect any right the scheme manager has to recover a payment or an overpayment.

### **Adjustment of benefits to comply with the 2004 Act where members die over 75**

119.—(1) This regulation applies if—

- (a) a member of this scheme dies after reaching the age of 75; and
- (b) apart from this regulation, any part of a pension to which any person becomes entitled under this Part on the death would not qualify as a dependants' scheme pension for the purposes of section 167 (the pension death benefit rules) of the 2004 Act.

(2) The benefit payable to the person may be adjusted in any way as determined by the scheme manager so that it qualifies as a dependants' scheme pension for the purposes of section 167 of the 2004 Act.



### **Guaranteed minimum pensions for surviving spouses and civil partners**

**120.**—(1) If a person who is the surviving spouse or civil partner of a deceased active, deferred or pensioner member has a guaranteed minimum under section 13(63) of the 1993 Act in relation to benefits in respect of the deceased member under this scheme—

- (a) nothing in these regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a person and such a person's rights under a scheme not to be met in the case of the person;
  - (b) nothing in these regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of the person.
- (2) Paragraphs (3) and (4) are without prejudice to the generality of paragraph(1).
- (3) This paragraph applies if apart from this regulation—
- (a) no pension would be payable to the surviving spouse or civil partner under this Part; or
  - (b) the weekly rate of the pensions payable would be less than the guaranteed minimum.
- (4) If paragraph (3) applies—
- (a) a pension the weekly rate of which is equal to the guaranteed minimum is payable to the surviving spouse or civil partner for life or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable; or
  - (b) if paragraph (3)(b) applies, the pensions payable are increased to the amount specified in sub-paragraph (a).
- (5) Paragraph (4) does not apply to a pension that is forfeited—
- (a) as a result of a conviction for treason; or
  - (b) under regulation 165, in a case where the relevant offence within the meaning of regulation 165 is an offence under the Official Secrets Acts 1911 to 1989(64).

## **CHAPTER 4**

### **Payment of lump sum death benefits**

#### **Payment of lump sum death benefit**

- 121.**—(1) A lump sum death benefit is payable where—
- (a) an active, deferred or pensioner member of this scheme dies; or
  - (b) a pension credit member of this scheme dies before any benefits attributable (directly or indirectly) to a pension credit become payable.
- (2) But a lump sum death benefit is not payable where—
- (a) a pensioner member who is not also an active member dies more than 5 years after the member's full retirement pension or ill-health pension becomes payable; or
  - (b) a member who dies had reached the age of 75.
- (3) The lump sum death benefit must be paid within the period of 2 years beginning with the earlier of—
- (a) the day on which the scheme manager first knew of the member's death; and

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(63) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch.1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.3 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.R. 2005 No. 255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1. (N.I.))

(64) (1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989"

- (b) the day on which the scheme manager could reasonably be expected to have known of the member's death.
- (4) The scheme manager may decide not to pay a lump sum death benefit if it is impracticable to pay it.

#### **Nominations for lump sum death benefits**

**122.**—(1) A member of this scheme may nominate a person or persons to receive a lump sum death benefit.

- (2) The member may nominate—
  - (a) one or more individuals;
  - (b) one incorporated or unincorporated body; or
  - (c) one or more individuals and one incorporated or unincorporated body.
- (3) A nomination may specify how payments are to be apportioned between—
  - (a) 2 or more individuals; or
  - (b) one or more individuals and one incorporated or unincorporated body.

(4) A nomination may only be made by signed notice to the scheme manager in a form the scheme manager requires or is willing to accept.

(5) A member may revoke or alter a nomination by a further signed notice to the scheme manager in a form the scheme manager requires or is willing to accept.

#### **Invalid nominations of individuals**

**123.**—(1) If the nomination of an individual is invalid, any lump sum death benefit that would have been payable to the individual is payable to the member's personal representatives.

- (2) A nomination of an individual is invalid if—
  - (a) the individual nominated is the member's spouse or civil partner and the individual is not the member's spouse or civil partner when the member dies;
  - (b) the individual predeceases the member; or
  - (c) the individual is convicted of the offence of murder of the member.

(3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of manslaughter of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

#### **Payment of lump sum death benefit to nominees or personal representatives**

- 124.**—(1) The scheme manager may pay a lump sum death benefit to—
  - (a) the person or persons nominated by the member under regulation 122 ("the nominees");
  - (b) the member's personal representatives; or
  - (c) both the nominees and the member's personal representatives.

(2) If the scheme manager decides to pay all or part of the lump sum death benefit to the nominees and more than one individual has been nominated, the payment is to be made to them—

- (a) in the proportions specified by the member in the nomination; or
- (b) if the member has not specified proportions, in the proportions the scheme manager considers appropriate.

(3) If the scheme manager decides to pay the lump sum death benefit to both the nominees and the personal representatives, the payment is to be made to them in the proportions the scheme manager considers appropriate.

### **Pension protection lump sum death benefit**

**125.**—(1) A lump sum death benefit is treated for the purposes of the 2004 Act as a pension protection lump sum death benefit if and to the extent that—

- (a) the member has given written notice to the scheme manager that the lump sum death benefit is to be so treated; and
- (b) the lump sum death benefit meets all of the conditions required by the 2004 Act for it to be treated as a pension protection lump sum death benefit (see paragraph 14 of Part 2 (lump sum death benefit rule) of Schedule 29 to the 2004 Act<sup>(65)</sup>).

(2) Tax may be deducted from the lump sum death benefit if the scheme manager is liable for tax under section 206 (special lump sum death benefits charge) of the 2004 Act<sup>(66)</sup> in respect of a pension protection lump sum death benefit.

### **Recovery of payments**

**126.**—(1) The scheme manager may recover a lump sum death benefit paid to any person if the person's nomination is subsequently found to be invalid.

(2) Paragraph (1) does not affect any other right the scheme manager has to recover a payment or an overpayment.

### **Payment of pension instead of lump sum for members who have reached 75**

**127.**—(1) This regulation applies if a member dies—

- (a) after reaching the age of 75; and
- (b) before the fifth anniversary of the date on which a pension became payable to the member.

(2) The scheme manager may pay the pension to—

- (a) the person or persons nominated by the member under regulation 122 (“the nominees”);
- (b) the member's personal representatives; or
- (c) both the nominees and the member's personal representatives.

(3) The scheme manager is to pay the pension in the proportions the scheme manager considers appropriate if—

- (a) the scheme manager decides to pay all or part of the pension to the nominees and more than one individual has been nominated; or
- (b) the scheme manager decides to pay the pension to both the nominees and the personal representatives.

(4) A pension payable under this regulation—

- (a) is payable for the pension protection period; and
- (b) must be equal to the sum of—
  - (i) the pension that would have been payable to the member had the member lived until the end of the pension protection period; and

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<sup>(65)</sup> Paragraph 14 was amended by the Finance Act 2011 (c.11) Schedule 16 paragraphs 32 and 34

<sup>(66)</sup> Section 206 was amended by the Finance Act 2011 (c.11) Schedule 16 paragraph 41 and the Finance Act 2013 (c.29) Schedule 46 paragraphs 119 and 123

(ii) any increases in the annual rate of that pension under the 1971 Act during that period.

(5) In this regulation “the pension protection period” means the period beginning with the day of the member’s death and ending with the day before the fifth anniversary of the date on which the member’s pension became payable.

## CHAPTER 5

### Amount of lump sum death benefits

#### Meaning of “final pay”

**128.**—(1) In this Chapter, “final pay” in relation to a continuous period of pensionable service means the greater of the following amounts—

- (a) the amount of a member’s permanent pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
- (b) the amount of a member’s pensionable earnings payable in respect of any scheme year in the 10 scheme years immediately before the last active scheme year (“the earnings year”).

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater

- (a) if the member’s continuous period of pensionable service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member’s annualised final pay; and
- (b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under the 1971 Act by the day following the last day of pensionable service if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) In this regulation, if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the PCSPS(NI) before the closing date.

#### Meaning of “annualised final pay”

**129.**—(1) For the purposes of this Chapter, for a continuous period of pensionable service that is less than 12 months, a member’s annualised final pay is—

$$FP \times \frac{365}{N}$$

where—

*FP* is the amount of the member’s permanent pensionable earnings during that period of service; and

*N* is the number of days in that period.

(2) But if the continuous period of pensionable service includes 29th February, paragraph (1) has effect with the substitution for “365” of “366”.

(3) In this regulation, if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes the member’s pensionable earnings under the PCSPS(NI) before the closing date.

**Amount payable on death of active member (death in service)**

**130.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

(2) If the member is a transition member with continuity of service, the period of service includes the member’s period of pensionable service under the PCSPS(NI) before the closing date.

(3) For the purpose of this regulation, a person dies in service if the person dies while an active member of this scheme in relation to a period of service.

(4) The amount of the lump sum death benefit payable in respect of a person who dies in service (P) is the amount in paragraph (5) or (6), whichever is the greater.

(5) The amount in this paragraph is an amount equal to

$$X - Y$$

where—

(a) *X* is—

- (i) if P’s period of service was at least 12 months, twice the amount that would have been P’s final pay if P had ceased to be in pensionable service at the time of death; or
- (ii) if P’s period of service was less than 12 months, twice P’s annualised final pay; and

(b) *Y* is the total of—

- (i) any lump sum paid under this scheme to P before P’s death; and
- (ii) any lump sum death benefit payable under this scheme or under the partnership pension account death benefits scheme in respect of P after P’s death.

(6) The amount in this paragraph is an amount equal to

$$X - Y$$

where—

*X* is the total annual amount of P’s full retirement pensions in relation to that period of service, multiplied by 5;

*Y* is the total amount of any payments of retirement pension made to P under this scheme; and “total annual amount” in relation to P’s full retirement pensions means the total of—

- (a) the annual rate of each description of full retirement pension calculated as if the beginning date for that pension were the date of P’s death, but without subtracting any of the early payment reduction; and
- (b) the amount of any increase in the annual rate of that pension under the 1971 Act payable as at the date of P’s death.

(7) For the purpose of this regulation, any amounts paid or payable to or in respect of P in the capacity of a pension credit member are disregarded.

**Amount payable on death of deferred member or pensioner member (death out of service)**

**131.**—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme (“period of service”).

- (2) If the member is a transition member with continuity of service, the period of service includes the member's period of pensionable service under the PCSPS(NI) before the closing date.
- (3) For the purpose of this regulation, a person dies out of service if the person—
- (a) dies while a deferred member or pensioner member of this scheme in relation to that period of service; and
  - (b) is not an active member of the scheme when the person dies (67).
- (4) The amount of the lump sum death benefit payable in respect of a person who dies out of service is equal to—
- (a) the total annual amount of P's full retirement pensions in relation to that period of service, multiplied by 5; less
  - (b) the total amount of any payments of retirement pension made to P under this scheme.
- (5) In paragraph (4)(a), "total annual amount" in relation to P's full retirement pensions means the total of—
- (a) the annual rate of each description of full retirement pension calculated as if the beginning date for that pension were—
    - (i) if P died while a deferred member of the scheme, the date of P's death; or
    - (ii) if P died while a pensioner member of the scheme, the day P's pension was deemed to begin for the purposes of section 8(2) (meaning of "pension" and other supplementary provisions) of the 1971 Act(68); and
  - (b) the amount of any increase in the annual rate of that pension under the 1971 Act payable as the date of P's death.
- (6) The calculation in paragraph (5)(a) is carried out without subtracting any early payment reduction.
- (7) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are disregarded.

### **Amount payable on death of pension credit member**

**132.**—(1) Paragraph (2) applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death benefit is equal to 25% of the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of the 1993 Act(69) in respect of the member's right to benefits under this scheme attributable (directly or indirectly) to a pension credit if—

- (a) the member had been entitled to require the payment of that amount; and
- (b) the amount had been payable as at the date of the member's death.

(3) Paragraph (4) applies if a pension credit member dies after the pension credit member's pension becomes payable.

(4) The amount of the lump sum death benefit is equal to the amount of pension credit member's pension that would have been payable to the member during so much of the period of 5 years

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(67) Note: if P is a partial retiree, a lump sum death benefit is payable only under regulation 130 (death in service)

(68) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (S.I. 1990/1509 (N.I. 13)) Art.3(5) and the Welfare Reform and Pensions (Northern Ireland) Order 1999 (1999 N.I. 11) Art.36(1) and (3)(b). Section 8(2) of the Pensions (Increase) Act (Northern Ireland) 1971 may be applied subject to modifications, adaptations and exceptions as may be specified in regulations under section 5(3) of that Act

(69) Part 4A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 34

beginning with the date on which the pension became payable as falls after the date of the member's death.

- (5) In paragraph (4), “amount of pension credit member's pension” means the total of—
- (a) the amount of the annual rate of that pension as at the date the pension was deemed to begin for the purposes of section 8(2A) (meaning of “pension” and other supplementary provisions) of the 1971 Act(70); and
  - (b) the amount of any increase in the annual rate of that pension under that Act payable as at the date of the member's death.

### **Amount payable under court order to former spouse or civil partner**

**133.**—(1) This regulation applies if on the death of a member of this scheme the scheme manager is required under a court order to pay any part of a lump sum death benefit to the member's former spouse or civil partner.

(2) The amount of the lump sum death benefit is first determined as if no such order had been made, and then this Part applies as if the amount of the lump sum death benefit were reduced by the amount payable under the court order.

## **PART 9**

### **Contributions**

#### **Rate of member contributions**

**134.**—(1) An active member of this scheme must pay contributions to this scheme (“member contributions”) on the member's pensionable earnings for each pay period at a rate determined under this regulation (“member contributions rate”).

(2) The member contributions rate which applies to a member's pensionable earnings is the rate which applies when the member's pensionable earnings are paid.

(3) For the purposes of paragraph (2),

- (i) assumed pay for any pay period is treated as having been paid when pensionable earnings for that period would have been paid had the circumstances in regulation 27(3) which apply to the member not applied; and
- (ii) payment of the money value of any benefit in kind which forms part of a member's pensionable earnings is treated as having been made at a time or apportioned across a period of time as determined by the scheme manager.

(4) The member contributions rate during a scheme year to which a table set out in this regulation applies is the percentage, set out in the table, which applies to a member's annualised rate of pensionable earnings calculated in relation to each payment of a member's pensionable earnings.

(5) Where the member's pensionable earnings for a scheme year are payable to the member in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

#### **12P**

where *P* is the amount of a payment of the member's pensionable earnings.

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(70) Subsection (2A) was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Article 36(3)(c)

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(6) Where the member's pensionable earnings for a scheme year are payable otherwise than in 12 instalments, the member's annualised rate of pensionable earnings is calculated as follows, rounded down to the nearest whole pound—

$$P \times \frac{365}{N}$$

where—

*P* is the amount of a payment of the member's pensionable earnings; and

*N* is the number of days in the applicable payment period.

(7) For the purposes of paragraph (6) the applicable payment period is—

- (a) if it is the member's first payment of pensionable earnings in relation to a continuous period of pensionable service in a scheme employment, the number of days in the period beginning on the day the member commenced the period of pensionable service in the scheme employment and ending on the day before the day that this payment was made; or
- (b) in any other case, the period beginning on the day the previous payment of the member's pensionable earnings was made and ending on the day before the day that this payment was made.

(8) If the scheme year in which the payment of pensionable earnings is made includes 29<sup>th</sup> February, paragraph (6) has effect with the substitution for "365" of "366".

#### **Scheme Year 1st April 2015 to 31st March 2016**

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>	
	Transition members from Section II of the PCSPS(NI)	Other transition members and non-transition members
Up to but not including £15,001	3%	4.6%
£15,001 to but not including £21,001	4.6%	4.6%
£21,001 to but not including £47,001	5.45%	5.45%
£47,001 to but not including £150,001	7.35%	7.35%
£150,001 and above	8.05%	8.05%

#### **Scheme Year 1st April 2016 to 31st March 2017**

<i>Annualised rate of pensionable earnings</i>	<i>Member contributions rate</i>	
	Transition members from Section II of the PCSPS(NI)	Other transition members and non-transition members
Up to but not including £15,001	3.8%	4.6%
£15,001 to but not including £21,211	4.6%	4.6%



*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

<i>Annualised rate of pensionable earnings</i>		<i>Member contributions rate</i>
£21,211 to but not including £48,472	5.45%	5.45%
£48,472 to but not including £150,001	7.35%	7.35%
£150,001 and above	8.05%	8.05%

#### **Scheme Year 1st April 2017 to 31st March 2018**

<i>Annualised rate of pensionable earnings</i>		<i>Member contributions rate</i>	
	Transition members from Section II of the PCSPS(NI)	Other transition members and non-transition members	
Up to but not including £15,001	4.6%	4.6%	
£15,001 to but not including £21,423	4.6%	4.6%	
£21,423 to but not including £51,006	5.45%	5.45%	
£51,006 to but not including £150,001	7.35%	7.35%	
£150,001 and above	8.05%	8.05%	

#### **Scheme Year 1st April 2018 to 31st March 2019**

<i>Annualised rate of pensionable earnings</i>		<i>Member contributions rate</i>	
	Transition members from Section II of the PCSPS(NI)	Other transition members and non-transition members	
Up to but not including £15,001	4.6%	4.6%	
£15,001 to but not including £21,637	4.6%	4.6%	
£21,637 to but not including £51,516	5.45%	5.45%	
£51,516 to but not including £150,001	7.35%	7.35%	
£150,001 and above	8.05%	8.05%	

#### **Amount of pensionable earnings**

**135.**—(1) For the purpose of regulation 134, the amount of a member's pensionable earnings for any pay period is determined in accordance with this regulation.

(2) Unless paragraph (3) or (4) applies, the amount of the member's pensionable earnings during any period of assumed pay is equal to the member's assumed pay.

(3) For any period of assumed pay under regulation 27(3)(a), the amount of the member's pensionable earnings is equal to the member's reduced pay while on sick leave.

(4) For any period of assumed pay under regulation 27(3)(b) or (c), the amount of the member's pensionable earnings is the amount of contractual remuneration or statutory pay actually paid to or for the member in respect of the period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave.

### **Payment of members' contributions**

**136.**—(1) Member contributions are to be deducted by the member's employer from the member's pensionable earnings in each pay period.

(2) A member's employer—

- (a) may make contributions on the member's behalf in circumstances determined by the scheme manager; and
- (b) unless paragraph (3)(b) applies, must do so for any period of assumed pay under regulation 27(3)(e) (unpaid leave).

(3) A member is not required to pay member contributions—

- (a) while the member is on unpaid adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave; or
- (b) with the employer's approval, while the member is on unpaid leave.

### **Employers' contributions**

**137.**—(1) Each employer of an active member of this scheme must pay contributions to this scheme in respect of the member at the rate and at the intervals the scheme manager may for the time being determine after consultation with the scheme actuary ("employers' contributions").

(2) Each employer of an active member of this scheme must in addition pay to this scheme—

- (a) annual administration charges; and
- (b) any other administrative charges,

at such intervals and at such rates as the scheme manager may from time to time determine which must, where the employer is the employer of a Fair Deal eligible person, be as provided for in the Admission Agreement.

(3) Where the Admission Agreement provides for an employer of a Fair Deal eligible person to pay additional payments or charges to this scheme, that employer must make such additional payments or charges as required by the Admission Agreement.

### **Deduction of payments for extra pension under Schedule 1**

**138.** Schedule 1 has effect for the purpose of enabling deductions of payments for—

- (a) added pension; and
- (b) an effective pension age.

### **Refund of all member contributions and payments for extra pension made by the member**

**139.**—(1) This regulation applies in relation to a continuous period of pensionable service under the scheme.

(2) All member contributions and payments resulting from the exercise of an option under Schedule 1 (“Payments for extra pension”) made by the member in relation to the period of pensionable service are only refundable if—

- (a) regulation 24 (opting out before the end of one month) applies; or
- (b) the member’s pensionable service ceases and—
  - (i) the member has less than 2 years’ qualifying service;
  - (ii) if a transfer payment has been received by this scheme in relation to the member, it was from another occupational pension scheme; and
  - (iii) the member has not reached normal pension age under this scheme.

(3) If paragraph (2)(b) applies, the member is entitled to be paid an amount equal to the sum of all member contributions and payments for extra pension made by the member, less an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of the 2004 Act(71) as a result of a refund of those contributions and payments.

(4) If all members’ contributions and payments for extra pension made by the member are refunded under this regulation, the member’s rights under this scheme in relation to the period or pensionable service are extinguished.

## PART 10

### Transfers

#### CHAPTER 1

##### Preliminary

#### **Application of Part**

**140.** This Part—

- (a) supplements the rights conferred by or under Chapter 4 of Part 4 of the 1993 Act (transfer values) and is without prejudice to that Chapter; and
- (b) supplements the rights conferred by or under Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds)(72) and is without prejudice to that Chapter.

#### **Interpretation in relation to Part**

**141.** In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act(73);

“club transfer value” means, in relation to an amount of accrued earned pension under this scheme or under another club scheme, an amount calculated by the scheme manager—

- (a) in accordance with the club transfer arrangements; and
- (b) by reference to the guidance and tables provided by the Government Actuary for this purpose that are in use on the date used for the calculation;

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(71) Section 205 was amended by Finance Act 2013 (c.29) Schedule 46 paragraphs 119 and 121 and [S.I. 2010/536](#)

(72) Chapter 5 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 was inserted by Article 241 of the [Pensions \(Northern Ireland\) Order 2005 \(S.I. 2005/255\)](#)

(73) Section 93 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.165 Sch.4 para.6 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4) section 52 and Sch.5 para.5(1)

“guarantee date” has the meaning given in regulation 144;

“guaranteed cash equivalent” means, in relation to calculating the transfer value of accrued rights to benefits under this scheme, the cash equivalent of those benefits as at the guarantee date, as specified in a statement of entitlement;

“statement of entitlement”, in relation to an active or deferred member’s accrued rights to benefits under this scheme, means a statement by the scheme manager of the cash equivalent or club transfer value of those benefits as at the guarantee date;

“transfer value” means, for accrued rights to benefits other than accrued earned pension which is the subject of a club transfer—

- (a) for accrued rights to benefits under this scheme, an amount equal to—
  - (i) the guaranteed cash equivalent of those benefits; or
  - (ii) the guaranteed cash equivalent together with any increase payable under regulation 146; and
- (b) for accrued rights to benefits under another pension scheme, an amount—
  - (i) determined by the scheme actuary of that scheme; and
  - (ii) specified in a statement of accrued rights provided by the scheme manager of that scheme.

## CHAPTER 2

### Transfers out

#### **Transfer payments made to other schemes or pension arrangements**

**142.**—(1) A transfer payment may only be made in respect of the accrued rights to benefits of an active or deferred member of this scheme.

(2) A transfer payment may only be made to—

- (a) a registered pension scheme that is not a connected scheme; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see section 169(2)(74) (recognised transfers) of the Act).

(3) A transfer payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer payment in a way specified in section 91(2) (ways of taking right to cash equivalent) of the 1993 Act(75).

(5) A member may only require the scheme manager to make a club transfer value payment during the period of 12 months beginning with the day on which the member becomes eligible to be an active member of the scheme to which the payment is to be made.

(6) The whole of the transfer payment must be made in accordance with the provisions of this regulation.

(7) If section 92(2) (further provisions concerning exercise of option under section 91) of the 1993 Act(76) applies, benefits attributable to the following may be excluded from the transfer payment—

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(74) Section 169(2) was amended by Finance Act 2013 (c.29) section 53(2) and (3)

(75) Section 91(2)(c) was amended by S.I. 2001/3649, Arts.133

(76) Section 92(2) was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) Art.147 and Sch.3 para.53(a), the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147) Arts.17,76, Sch.2 para.2(2)(b) and Sch.10 Pt 1, the Pensions Act (Northern Ireland) 2008 (2008 c.1) sections 13,19 ,Sch.4 para.29 and Sch.6 Pt.6 and the Pensions (2008 No.2 Act) (Abolition of Protected Rights) (Consequential Provisions) Order (Northern Ireland) 2012 (S.R. 2012 No. 124) Art.4(14)(a)

- (a) the member's accrued rights to a guaranteed minimum pension; or
- (b) the member's accrued rights attributable to service in contracted-out employment within the meaning of Part 3 (certification of pension schemes and effects on members' state scheme rights and duties) of the 1993 Act, on or after 6 April 1997.

### **Application for a statement of entitlement**

**143.**—(1) This regulation applies in relation to an active or deferred member of this scheme (P) who requires a transfer payment to be made in respect of P's accrued rights to benefits under this scheme.

(2) Before requesting the transfer payment, P must apply for a statement of entitlement by notice to the scheme manager.

(3) P may withdraw the application by notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by notice to the scheme manager in the period of 12 months beginning with the date of the first application<sup>(77)</sup>.

### **Statement of entitlement**

**144.**—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent or club transfer value is calculated ("guarantee date").

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

- (a) the 3 months beginning with the date of the member's application for the statement of entitlement ("the 3 month period"); and
- (b) the 10 days ending with the date on which the member is provided with that statement ("the 10 day period").

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member's application for the statement of entitlement if, for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent or club transfer value cannot be obtained before the end of the 3 month period.

### **Request for transfer payment to be made**

**145.**—(1) An active or deferred member of this scheme who is provided with a statement of entitlement may request a transfer payment to be made in respect of the member's accrued rights to benefits under this scheme.

(2) The request for the transfer payment must—

- (a) be made by notice to the scheme manager;
- (b) specify the pension scheme or other pension arrangement to which the transfer payment is to be made; and
- (c) meet any other conditions the scheme manager requires.

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<sup>(77)</sup> Regulation 6(3) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (S.R. 1996 No. 619) provides that a member may not make a second application within this period unless the rules of the scheme provide otherwise.

(3) The member may, by notice to the scheme manager withdraw the request at any time before the transfer payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer payment has already been entered into with a third party.

### **Calculating the amount of a transfer value or club transfer value**

**146.**—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 93 (calculation of cash equivalents) of the 1993 Act.

(2) If a club transfer value is paid later than 6 months after the guarantee date, the amount of the club transfer value as specified in the statement of entitlement must be increased if necessary so that it is equal to the amount it would have been if the guarantee date had been the date on which the payment is made.

(3) If the transfer value or club transfer value is less than the minimum transfer value, the amount of the transfer value or club transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(4) In this regulation—

“minimum transfer value” means the total of—

- (a) the sum of all member contributions and payments for extra pension made by the member; and
- (b) the sum of all transfer payments received by this scheme in relation to the member;

“member contributions” has the meaning given in regulation 134; and

“payments for extra pension” has the meaning given in regulation 139.

### **Effect of transfers-out**

**147.** If a transfer payment is made under this Chapter in respect of a member’s accrued rights to benefits under this scheme, those rights are extinguished.

## **CHAPTER 3**

### **Transfers in**

### **Application of Chapter**

**148.** This Chapter applies in relation to an active member of this scheme who has accrued rights under another pension scheme (P).

### **Interpretation of Chapter**

**149.** In this Chapter—

“accrued rights” does not include rights accrued under the Northern Ireland Civil Service Additional Voluntary Contribution Scheme if the scheme manager considers that the amount to which the member is entitled under that Scheme is sufficient for the purchase of an annuity for the member;

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a personal pension scheme; or

- (c) the Northern Ireland Civil Service Additional Voluntary Contribution Scheme;  
“Northern Ireland Civil Service Additional Voluntary Contribution Scheme” means the scheme which was made on 23rd March 1989 under Article 3 of the 1972 Order, as amended from time to time;  
“club transfer value statement” means a statement under regulation 153 of the amount of club transfer earned pension;  
“transfer date” means the earlier of—
- (a) if the scheme manager has provided a transfer statement or a club transfer value statement, the last day of the period of 2 months beginning with the date of the statement;  
or
- (b) the day on which the transfer payment is received by the scheme manager;  
“transfer payment request” means a request to the scheme manager under this Chapter that a transfer payment be accepted from another pension scheme;  
“transfer statement” means a statement under regulation 151(2).

### **Request for acceptance of a transfer payment**

**150.**—(1) P may by notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P’s accrued rights to benefits under another pension scheme.

(2) A transfer payment request—

- (a) must specify—
- (i) the pension scheme from which the transfer payment is requested to be made; and  
(ii) the anticipated amount of the transfer payment;
- (b) must meet any other conditions the scheme manager requires; and  
(c) subject to paragraph (3), must be made during the period of 12 months beginning with the day on which P becomes eligible to be an active member of this scheme.

(3) A request that a transfer payment be accepted from the Northern Ireland Civil Service Additional Voluntary Contribution Scheme must be made—

- (a) within the period of 3 months ending with the day on which P is first entitled to receive retirement benefits under this scheme; or  
(b) if the scheme manager considers it reasonable in the circumstances, within any longer period the scheme manager directs.

(4) The scheme manager may direct that a transfer payment request is to be treated as having been made earlier than it was if the scheme manager considers it reasonable to do so in the circumstances.

(5) Subject to paragraph (6) on receiving a transfer payment request, the scheme manager may accept the transfer payment if all of such conditions as the scheme manager may have required are met.

(6) The scheme manager may not accept a transfer value payment if—

- (a) it would be applied in whole or in part in respect of—
- (i) the member’s entitlement to a guaranteed minimum pension; or  
(ii) the entitlement of the member’s spouse to a guaranteed minimum pension; and
- (b) it is less than the amount required for that purpose, as calculated in accordance with guidance and tables determined by the Department for the purposes of this paragraph, after consultation with the scheme actuary.

### **Transfer statement**

**151.**—(1) This regulation applies in relation to a request by P for a transfer value payment to be accepted from another pension scheme

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager to provide a statement of the amount of transferred pension that P will be entitled to count under regulation 152 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount specified in the transfer statement must be an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2 month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

### **Amount of transferred pension**

**152.**—(1) This regulation applies in relation to a transfer value payment received from another pension scheme in relation to P.

(2) For the scheme year in which the transfer date falls, the amount of transferred pension P is entitled to count in respect of the transfer value payment is—

- (a) the amount specified in the transfer statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

(3) The amount of transferred pension P is entitled to count in a scheme year must not be more than 50% of P's annual rate of pensionable earnings as at the day P becomes an active member of this scheme.

### **Club Transfer value statement**

**153.**—(1) This regulation applies in relation to a request by P for a club transfer value payment to be accepted from another club scheme.

(2) The scheme manager may require that, before making the transfer payment request, P must ask the scheme manager to provide a statement of the amount of club transfer earned pension that P will be entitled to count under regulation 154 if the transfer date falls within the period of 2 months beginning with the date of that statement.

(3) The amount of club transfer earned pension specified in the statement must be calculated by the scheme manager in accordance with actuarial guidance and tables by reference to—

- (a) factors relating to P's circumstances as at the end of that 2 month period; and
- (b) any other factors as at the date of the statement that the scheme actuary considers should apply.

(4) The statement must specify the basis on which an amount of accrued earned pension is revalued under the sending scheme while a member is in pensionable service under that scheme.

### **Amount of club transfer earned pension**

**154.**—(1) This regulation applies in relation to a club transfer value payment received from another club scheme in relation to P.



(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count in respect of a club transfer value payment is—

- (a) the amount specified in the club transfer value statement; or
- (b) if such a statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance and tables by reference to any factors as at the transfer date that the scheme actuary considers should apply.

## CHAPTER 4

### Bulk transfers

#### **Bulk transfers out**

**155.**—(1) This regulation applies if—

- (a) the employment of one or more active members (“the transferring employees”) is transferred without their consent to a new employer,
- (b) on that transfer, the transferring employees—
  - (i) cease to be eligible to be active members of this scheme, and
  - (ii) become active members of another occupational pension scheme (“the new employer’s scheme”),
- (c) the scheme manager has agreed special terms for making transfer payments to the new employer’s scheme in respect of the rights of the transferring employees, after consultation with the scheme actuary, and
- (d) the transferring employees have consented in writing to their rights being transferred in accordance with those terms.

(2) This regulation also applies if—

- (a) the rights of one or more members (“the transferred members”) are transferred to another occupational pension scheme (“the new scheme”) from this scheme without their consent in accordance with section 69(2)(a)(i) and (4)(b) (form of short service benefit and its alternatives) of the 1993 Act, and
- (b) the scheme manager has agreed special terms for the making of transfer payments to the new scheme in respect of the rights of the transferred members, after consultation with the scheme actuary.

(3) The transfer payment to be made in respect of the rights of the transferring employees or the transferred members is an amount that the scheme manager determines to be appropriate under the special terms, after consulting the scheme actuary.

(4) This Part has effect with any modifications the scheme manager considers necessary to give effect to those terms.

(5) If the Department gives an undertaking concerning the pension rights of the transferring employees or the transferred members, this Part has effect with any modifications the scheme manager considers necessary to reflect the terms of the undertaking.

(6) If the transfer is directly or indirectly attributable to an enactment, this Part has effect with any modifications the scheme manager considers necessary in consequence of the transfer.

#### **Bulk transfers in**

**156.**—(1) This regulation applies if—

- (a) the employment of one or more persons (“the transferred employees”) is transferred without their consent to a new employer;

- (b) on that transfer, the transferred employees—
    - (i) cease to be active members of an occupational pension scheme (“the former employer’s scheme”); and
    - (ii) become active members of this scheme;
  - (c) the scheme manager has agreed special terms for the acceptance of transfer payments from the former employer’s scheme in respect of the rights of the transferred employees, after consulting the scheme actuary, and
  - (d) the transferred employees have consented in writing to their rights being transferred in accordance with those terms.
- (2) This regulation also applies if—
- (a) the rights of one or more persons (“the transferred members”) are transferred from an occupational pension scheme (“the former scheme”) to this scheme without their consent in accordance with section 69(2)(a)(i) and (4)(b) (form of short service benefit and its alternatives) of the 1993 Act; and
  - (b) the scheme manager has agreed special terms for the acceptance of transfer payments from the former scheme in respect of the rights of the transferred members, after consultation with the scheme actuary.
- (3) This scheme has effect with any modifications the scheme manager considers necessary to give effect to the special terms.
- (4) If the Department gives an undertaking concerning the pension rights of the transferred employees or the transferred members, this scheme has effect with any modifications the scheme manager considers necessary to reflect the terms of the undertaking.
- (5) If the transfer is directly or indirectly attributable to an enactment, this scheme has effect with any modifications the scheme manager considers necessary in consequence of the transfer.

## CHAPTER 5

### Miscellaneous transfers

#### **EU and overseas transfers**

- 157.**—(1) This regulation applies in the case of a member whose transfer is subject to transfer arrangements concluded with—
- (a) the Communities Pension Scheme of the Institutions of the European Communities; or
  - (b) any other scheme for the provision of retirement benefits established outside the United Kingdom.
- (2) This scheme applies in relation to the member with any modifications the scheme manager considers necessary to comply with—
- (a) the terms of those arrangements;
  - (b) any applicable provision contained in or made under any enactment; and
  - (c) the requirements to be met by a registered pension scheme.

## PART 11

### Actuarial valuations and employer cost cap

#### **Appointment of scheme actuary and actuarial valuations**

**158.**—(1) The Department must appoint an individual (the “scheme actuary”) to provide a consulting service on actuarial matters in relation to this scheme and any connected scheme.

(2) The scheme actuary is responsible for—

- (a) carrying out valuations of the scheme and any connected scheme; and
- (b) preparing a report on such a valuation.

(3) Before appointing an individual as scheme actuary the Department must be satisfied that the individual is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with Department directions under section 11 of the Act (the Department directions).

(4) The scheme administrator is responsible for providing the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and prepare a report on the valuation.

(5) A valuation of the scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Department directions.

(6) Valuations of the scheme must be carried out within a time-frame which enables requirements in the Department directions regarding dates which are applicable to the valuation to be met.

#### **Employer cost cap**

**159.**—(1) The employer cost cap for this scheme is 18.3% of pensionable earnings of members of this scheme.

(2) In the circumstances specified in paragraph (4), the Department must consult such persons (or those appearing to the Department to represent such persons) as appear to the Department likely to be affected by any steps that will be taken, with a view to reaching agreement on the steps required to achieve the target cost for this scheme.

(3) If, following such consultation, agreement is not reached the percentage of the member’s pensionable earnings specified in regulation 43(4) as the amount of earned pension for a scheme year must be adjusted for pensionable earnings after the date of the adjustment, so that the target cost for this scheme is achieved.

(4) The circumstances are that the cost of this scheme goes beyond the margin either side of the employer cost cap for this scheme specified in regulations under section 12(5)(a) of the Act.

(5) In this regulation—

- (a) “cost of this scheme” means the cost of this scheme calculated following a valuation in accordance with regulation 158; and
- (b) “target cost for this scheme” means the target cost for this scheme specified in regulations under section 12(5)(b) of the Act.

## PART 12

### Supplementary

#### CHAPTER 1

##### Dual capacity members

##### Meaning of “dual capacity member”

- 160.**—(1) A person (P) is a dual capacity member of this scheme if—
- (a) P is a member of this scheme in 2 or more of the following capacities—
    - (i) an active member;
    - (ii) a deferred member;
    - (iii) a pensioner member;
  - (b) P is both a pension credit member of this scheme and a member of this scheme in one or more of the following capacities—
    - (i) an active member;
    - (ii) a deferred member;
    - (iii) a pensioner member;
  - (c) P is a member of this scheme in relation to 2 or more continuous periods of pensionable service; or
  - (d) P is a pension credit member of this scheme entitled to 2 or more pension credits.
- (2) For the purpose of paragraph (1)(a) or (b)—
- (a) in determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person’s rights in that capacity are to be disregarded<sup>(78)</sup>; and
  - (b) in determining whether a person who is an active member or pensioner member is also a deferred member, the fact that the person is an active member or pensioner member and the person’s rights in that capacity are to be disregarded.

##### Payment of benefits to or in respect of a dual capacity member

- 161.**—(1) If a person is a dual capacity member of this scheme—
- (a) the benefits that are payable to or in respect of the member in each of the member’s capacities are treated separately for the purposes of these regulations; and
  - (b) the amounts payable to or in respect of the member in each of the member’s capacities are determined accordingly.
- (2) In relation to payment of retirement benefits, paragraph (1) does not affect the interpretation of regulation 64 (exercise of partial retirement option) if a member is both an active member and a pensioner member by virtue of that regulation.
- (3) In relation to payment of death benefits, paragraph (1) does not prevent—
- (a) the calculation under regulation 130 of a lump sum payable on the death of an active member of this scheme being made by reference to amounts that are relevant to the member in another capacity;

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<sup>(78)</sup> (i) See regulation 64 (exercise of partial retirement option). A member who is partially retired may be both an active member and a pensioner member

- (b) the calculation under regulation 131 of a lump sum payable on the death of a pensioner member or deferred member of this scheme being made by reference to amounts that are relevant to the member in both of those capacities; or
- (c) the calculation under regulation 131 of a lump sum payable on the death of—
  - (i) a deferred member of this scheme in relation to 2 or more continuous periods of pensionable service; or
  - (ii) a pensioner member of this scheme in relation to 2 or more continuous periods of pensionable service.

## CHAPTER 2

### Payment of benefits: general

#### **Late payment of retirement index adjustment**

**162.** Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment to be paid before the end of the last active scheme year.

#### **Commutation of small pensions**

- 163.**—(1) This regulation applies if—
- (a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member’s beneficiary does not exceed the small pensions commutation maximum; or
  - (b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member’s beneficiary does not exceed the small pensions commutation maximum.
- (2) Unless the member has reached state pension age, this regulation does not apply if—
- (a) the pension entitlement of the member or the member’s beneficiary under paragraph (1) (a) is equal to or exceeds the member’s guaranteed minimum; or
  - (b) the total pension entitlement of the member or the member’s beneficiary under paragraph (1)(b) is equal to or exceeds the member’s guaranteed minimum.
- (3) The scheme manager may pay the member or the member’s beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—
- (a) the member or the member’s beneficiary consents to receipt of a lump sum in place of the pension; and
  - (b) the requirements of the commutation provisions that apply in the circumstances are met.
- (4) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.
- (5) In this regulation—
- “the commutation provisions” means the provisions permitting the commutation of pensions set out in—
- (a) regulation 2 of the Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations (Northern Ireland) 1997(79);

- (b) paragraph 7 of Schedule 29 (authorised lump sums – supplementary) to the 2004 Act (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)(**80**) and, in relation to a pension payable under Part 8 (death benefits), by paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(**81**); and
- (c) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**82**);

“single capacity member” means a member of this scheme who is not a dual capacity member; and

“the small pensions commutation maximum” means the amount that is permitted to be commuted having regard to the commutation provisions that apply in the circumstances.

### Guaranteed minimum pensions

**164.**—(1) If a member has a guaranteed minimum under section 10 (earner’s guaranteed minimum) of the 1993 Act(**83**) in relation to benefits under this scheme—

- (a) nothing in these Regulations permits or requires anything that would cause requirements made by or under that Act in relation to such a member and such a member’s rights under this scheme not to be met in the case of the member;
- (b) nothing in these Regulations prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of the member; and
- (c) the following provisions are without prejudice to the generality of this paragraph.

(2) If apart from this regulation—

- (a) no pension would be payable to the member under this scheme; or
- (b) the weekly rate of the pensions payable would be less than the guaranteed minimum,

a pension at a weekly rate equal to the guaranteed minimum is payable to the member for life from the date on which the member reaches state pension age or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(3) If—

- (a) on reaching state pension age the member is still in employment (whether or not it is scheme employment); and
- (b) if it is not scheme employment, the member consents to a postponement of the member’s entitlement under paragraph (2),

paragraph (2) does not apply until the member leaves employment.

This is subject to paragraph (4).

(4) If the member continues in employment for a further 5 years after reaching state pension age and does not then leave employment, the member is entitled from the end of that period to so much of the member’s pension under Parts 6 and 7 as equals the member’s guaranteed minimum (or, as the case may be, to so much of the member’s pensions under Parts 6 and 7 as together have a

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(80) Paragraph 7 was amended by Finance Act 2011 (c.11 ) Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and S.I. 2006/572

(81) Paragraph 20 was amended by Finance Act 2011 (c.11) Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6

(82) S.R. 2000 No. 146; regulation 3 was substituted by S.R. 2009 No. 365

(83) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Arts.147, 168, Sch.3 para. 20, Sch.5 Pt. III, the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1) and Sch.1 para.41, the Proceeds of Crime Act 2002 (2002 c.29) Section 456, Schedule.2 para 23(3)

weekly rate equal to the member's guaranteed minimum), unless the member consents to a further postponement of the entitlement.

(5) In the circumstances provided for in paragraph (3) or (4), the amount of the guaranteed minimum to which the member is entitled under this regulation is increased in accordance with section 11 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) of the 1993 Act.

(6) If—

- (a) before state pension age the member becomes entitled to the immediate payment of a pension; and
- (b) the member has a guaranteed minimum under section 10 of the 1993 Act in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum,

the weekly rate of the pension, so far as attributable to that service, must not be less than the guaranteed minimum, multiplied by such factor as is indicated in actuarial tables for a person of the member's age and sex at the date on which the pension becomes payable.

(7) This paragraph applies if a person has ceased to be in employment that is contracted-out employment, within the meaning of Part 3 of the 1993 Act (certification of pension schemes and effects on members' state scheme rights and duties), by reference to this scheme and either—

- (a) a transfer payment in respect of all the person's rights to benefits under this scheme, except the person's rights in respect of the person's guaranteed minimum or rights under section 5(2B) (requirements for certification of schemes: general) of the 1993 Act<sup>(84)</sup> ("the person's contracting-out rights") has been made; or
- (b) the person has no rights to benefits under this scheme apart from the person's contracting-out rights.

(8) If paragraph (7) applies—

- (a) from the date on which the person reaches state pension age the person is entitled to a pension payable for life at a weekly rate equal to the person's guaranteed minimum, if any; and
- (b) from the date on which the person reaches normal pension age under this scheme the person is entitled to a lump sum and pension in respect of the person's rights under section 5(2B) of the 1993 Act,

but a person falling within paragraph (7) is not to be regarded as a pensioner for the purposes of Part 8 (death benefits).

(9) Paragraphs (2) to (8) do not apply to—

- (a) a pension that is forfeited—
  - (i) as a result of a conviction for treason; or
  - (ii) under regulation 165, in a case where the relevant offence within the meaning of regulation 165 is an offence under the Official Secrets Acts 1911 to 1989<sup>(85)</sup>;
- (b) a pension that is commuted under regulation 85 or 98 (serious ill-health: commutation of whole pension); or

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<sup>(84)</sup> Subsection 5(2B) was inserted by the Pensions (Northern Ireland) Order 1995, (S.I. 1995/3213 (N.I. 22)) Article 133(3) and amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999, No. 671, Sch.1 paragraph 38(2)

<sup>(85)</sup> 1989 c.6; see section 16(2) for the meaning of "Official Secrets Acts 1911 to 1989"

(c) a pension that is commuted under regulation 163 where the conditions in regulation 60 (payment of a guaranteed minimum pension as a lump sum) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(86)</sup> are met, but if any other provision of this scheme is inconsistent with this regulation, this regulation prevails.

(10) In this regulation, references to the amount of a pension are to its amount after the subtraction of the commutation amount, if any (but before the subtraction of the allocation amount, if any (see regulation 86(5)).

## CHAPTER 3

### Forfeiture and set-off

#### **Forfeiture: offences committed by members**

**165.**—(1) If a member is convicted of a relevant offence, the scheme manager may to the extent the scheme manager considers appropriate withhold benefits payable under this scheme to or in respect of the member.

(2) Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of “relevant offence”.

(3) The scheme manager may only withhold that part of a person’s pension that exceeds any guaranteed minimum to which the person is entitled under—

- (a) section 10 of the 1993 Act (earner’s guaranteed minimum); or
- (b) section 13<sup>(87)</sup> of that Act (minimum pensions for widows and widowers).

(4) In this regulation—

“forfeiture certificate” means a certificate stating that the Department issuing the certificate considers that the offence—

- (a) has been gravely injurious to the interests of the State or
- (b) is liable to lead to serious loss of confidence in the public service; and

“relevant offence” means—

- (c) one or more offences under the Official Secrets Acts 1911 to 1989<sup>(88)</sup> for which the member has been sentenced on the same occasion to—
  - (i) a term of imprisonment of at least 10 years; or
  - (ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;
- (d) An offence committed in connection with service as a public servant and in respect of which the Department has issued a forfeiture certificate.

#### **Forfeiture: offences committed by a member’s beneficiary**

**166.**—(1) If the beneficiary of a deceased member of this scheme (D) is convicted of a relevant criminal offence, the scheme manager may withhold benefits payable to the beneficiary in respect of D.

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<sup>(86)</sup> S.R. 1996 No. 493. Regulation 60 was substituted by S.I. 2006/744 and amended by S.R. 2006 No. 223, S.R. 2009 No. 365 and S.R. 2010 No. 108

<sup>(87)</sup> Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) Art.3(1), Sch. 1 para.42, the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.I. 2005/433) Sch.1 para.5, the Child Support, Pensions and Social Security Act (Northern Ireland) (2000 c.4) sections.52, 67, Sch. 5 Pt. 1 para.1 and Sch.3 Pt.3(4), the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255) Art.261(2) and the Pensions Act (Northern Ireland) 2008 (c.1.(N.I.))

<sup>(88)</sup> 1989 c.6; see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”



(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 13 of the 1993 Act.

(3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 8 (death benefits) applies as if the beneficiary had died before D.

(4) In this regulation, “relevant criminal offence” means—

- (a) the murder of D;
- (b) the manslaughter of D; or
- (c) any other offence of which the unlawful killing of D is an element.

### **Forfeiture: relevant monetary obligations and relevant monetary losses**

**167.**—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may withhold benefits payable to P under this scheme.

(2) The scheme manager may withhold benefits to the extent the scheme manager considers appropriate but may only withhold that part of P’s pension that exceeds any guaranteed minimum to which P is entitled under section 10 of the 1993 Act.

(3) The scheme manager may not withhold more than the lesser of—

- (a) the amount of the relevant monetary obligation or relevant monetary loss; and
- (b) the value of P’s entitlement to benefits.

(4) The scheme manager may only withhold benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
- (b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—
  - (i) under an order of a competent court; or
  - (ii) in consequence of an award of an arbitrator.

(5) In this regulation—

“relevant monetary obligation” means a monetary obligation which—

- (a) was incurred to the Department or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme;
- (c) arose out of P’s criminal, negligent or fraudulent act or omission; and
- (d) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme; and

“relevant monetary loss” means a monetary loss which—

- (e) was caused to this scheme; and
- (f) arose as a result of P’s criminal, negligent or fraudulent act or omission.

### **Set-off**

**168.**—(1) The scheme manager may set off a relevant monetary obligation against a member’s entitlement to benefits under this scheme.

(2) In this regulation, a “relevant monetary obligation” is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions are that the monetary obligation—

- (a) was incurred to the Department or P's employer (if different);
  - (b) was incurred after P became an active member of this scheme; and
  - (c) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme.
- (4) The conditions are that the monetary obligation—
- (a) was incurred to this scheme; and
  - (b) arose out of P's criminal, negligent or fraudulent act or omission.
- (5) The conditions are that the monetary obligation—
- (a) was incurred to this scheme; and
  - (b) arose out of a payment made to P in error by the scheme manager.
- (6) Paragraph (7) applies if a set-off is to be applied as a result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).
- (7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P's entitlement to benefits that represents transfer credits within the meaning of Article 121(1) (interpretation of Part 2) of the 1995 Order<sup>(89)</sup> (other than prescribed transfer credits for the purposes of Article 89(5)(d) (exceptions from the inalienability of occupational pensions) of the 1995 Order<sup>(90)</sup>).
- (8) The scheme manager may only apply a set-off against that part of a member's pension that exceeds any guaranteed minimum to which the member is entitled under section 10 of the 1993 Act.
- (9) The value of the set-off applied must not exceed the lesser of—
- (a) the amount of the relevant monetary obligation;
  - (b) the value of P's entitlement to benefits.
- (10) The scheme manager may only set-off a relevant monetary obligation against P's entitlement to benefits if—
- (a) there is no dispute as to the amount of the relevant monetary obligation; or
  - (b) the relevant monetary obligation is enforceable—
    - (i) under an order of a competent court; or
    - (ii) in consequence of an award of an arbitrator.

### **Forfeiture and set-off: procedure and appeals**

**169.**—(1) If the scheme manager proposes to withhold benefits or apply a set-off against a person's entitlement to benefits, the scheme manager must notify the person of the proposal in writing.

(2) If the scheme manager withholds benefits under regulation 167 or applies a set-off against an entitlement to benefits under regulation 168, the scheme manager must give the member a certificate showing—

- (a) the amount withheld or set off; and
- (b) the effect of the withholding or set-off on the member's benefits under this scheme.

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<sup>(89)</sup> The definition of "transfer credits" in Article 121(1) was amended by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1)), Art.290(1), Sch.10 para. 63(1) and (2)

<sup>(90)</sup> Article 89(5)(d) was amended by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) Schedule 9 para.46(1) and (4). See S.R. 1997 No. 153 which prescribes the transfer credits

(3) If the scheme manager proposes to withhold a person's benefits under regulation 165 to 167, the person may appeal against the scheme manager's proposal to the Northern Ireland Civil Service Appeal Board.

(4) On an appeal made under paragraph (3) the Northern Ireland Civil Service Appeal Board may—

- (a) confirm or reject the scheme manager's proposal; or
- (b) amend it so as to reduce the extent to which the benefits are withheld.

(5) The scheme manager must comply with the Northern Ireland Civil Service Appeal Board's decision.

## CHAPTER 4

### Payment and deduction of tax

#### **Scheme manager to be scheme administrator for purposes of Part 4 of Finance Act 2004**

**170.** The scheme manager is appointed to be responsible for all functions that are functions conferred or imposed on the scheme administrator by or under Part 4 of the 2004 Act (pension schemes etc).

#### **Payment on behalf of members of lifetime allowance charge**

**171.**—(1) A member of this scheme may request the scheme manager to pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the 2004 Act ("the amount") if—

- (a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of the 2004 Act<sup>(91)</sup> occurs in relation to the member; and
- (b) the member and the scheme manager are jointly and severally liable in relation to the event.

(2) A request may only be made by notice given to the scheme manager before the event occurs.

(3) The scheme manager may only comply with a request if the member pays the amount to the scheme manager on or before the date on which the event occurs.

#### **Reduction of benefits where lifetime allowance charge payable**

**172.**—(1) This regulation applies if—

- (a) an event that is a benefit crystallisation event ("the event") listed in the table in section 216(1) of the 2004 Act ("the table") occurs in relation to a member;
- (b) the member and the scheme manager are jointly and severally liable in relation to the event; and
- (c) no request has been duly made under regulation 171 in relation to the event or, if such a request has been made, the scheme manager is prevented from complying with it by paragraph (3) of that regulation.

(2) If this regulation applies—

- (a) the scheme manager must pay the tax payable on the event;

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<sup>(91)</sup> Section 216(1) was amended by the Finance Act 2005 (c.7) Schedule 10 paragraphs 1, 31 and 42; the Finance Act 2006 (c.25) Schedule 23 paragraphs 1 and 30; the Finance Act 2008 (c.9) Schedule 29 paragraphs 1, 4 and 5; and the Finance Act 2011 (c.11) Schedule 16 paragraphs 43, 62, 73 and 104

- (b) if the event is benefit crystallisation event 8 in the table (transfer to qualifying recognised overseas pension scheme), the amount or value of the sums or assets transferred must be reduced; and
  - (c) in the case of any other event in the table, the amount or value of the benefits payable to or in respect of the member must be reduced.
- (3) The amount or value of the reduction—
- (a) must fully reflect the amount of the tax so paid;
  - (b) must be determined in accordance with guidance provided by the scheme manager; and
  - (c) in the case of any reduction to pension benefits, must be consistent with normal actuarial practice.

### **Information about payment of annual allowance charge**

**173.**—(1) If a member’s pension scheme input amount for this scheme for a tax year exceeds the amount of the annual allowance for that tax year, paragraph (2) applies in respect of the member for that tax year.

(2) The scheme manager must, no later than 31st July after the end of the tax year, provide the member with any information the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year.

(3) In this regulation, “pension scheme input amount” has the meaning given in section 237B(2) (liability of scheme administrator) of the 2004 Act<sup>(92)</sup>.

### **Reduction of benefits where annual allowance charge paid by scheme manager**

**174.**—(1) This regulation applies where—

- (a) a member gives valid notice to the scheme manager of joint and several liability for an annual allowance charge under section 237B(3) of the 2004 Act; and
- (b) the scheme manager satisfies the liability specified in the notice.

(2) The amount or value of the benefits payable to or in respect of the member for the tax year to which the notice relates must be reduced by the scheme manager in accordance with paragraph (3).

(3) Subject to paragraph (4), the amount or value of the reduction of benefits—

- (a) must fully reflect the amount paid by the scheme manager; and
- (b) must be consistent with normal actuarial practice.

(4) Benefits may only be reduced under this regulation to the extent that the reduction would not result in the loss of any part of a guaranteed minimum pension to which a person is entitled under section 10 (earner’s guaranteed minimum) or 13 (minimum pensions for widows and widowers) of the 1993 Act.

## **CHAPTER 5**

### **General**

#### **General prohibition on unauthorised payments**

**175.** Nothing in these Regulations requires or authorises the making of any payment, which, if made, would be an unauthorised payment for the purposes of Part 4 of the 2004 Act (pension schemes etc.) (see section 160(5) of that Act).

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(92) 2004 c.12; section 237B was inserted by the Finance Act 2011 (c.11), Schedule 17, paragraph 15 and was amended by the Finance Act 2013 (c.29), Schedule 46, paragraphs 119 and 129

### **Calculation of periods of membership and service**

**176.**—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days and fractions of a day, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

This is subject to paragraph (3).

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

This is subject to paragraph (3).

(3) If membership or service is referred to in these Regulations as membership or service in years—

- (a) the days referred to in paragraph (1); and
- (b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to 4 decimal places.

(4) If a period of membership or service is less than one year, this regulation applies as if the words “whole years, and” were omitted from paragraph (1) and the words “in excess of the period of whole years” were omitted from paragraph (3).

### **Determination of questions**

**177.** Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager, whose decision on it is final.

### **Evidence of entitlement**

**178.**—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

- (a) the person’s identity; and
- (b) the person’s continuing entitlement to payment of any amount.

(2) If the person does not provide the required evidence, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

### **Provision of benefit information statements to members**

**179.**—(1) The scheme manager must provide benefit information statements to each active member of this scheme in accordance with—

- (a) section 14 of the Act (information about benefits); and
- (b) directions made under that section (Department directions).

### **Information to be provided by employers**

**180.**—(1) An employer of a member of this scheme must, by such date as the scheme manager may specify, provide the scheme manager with such information as the scheme manager may request

- (a) in connection with the scheme manager’s or scheme administrator’s functions in relation to this scheme; or

- (b) to enable the scheme manager or Department to fulfil any obligations on the scheme manager or Department set out in or under legislation.
- (2) An employer of a Fair Deal eligible person must provide to the scheme manager within 30 days after the end of each complete scheme year during which the employer is an employer of a Fair Deal eligible person—
  - (a) a list of the Fair Deal eligible persons employed by the employer, stating whether they are active members of this scheme or have opted-out of active scheme membership; and
  - (b) a statement confirming that the persons listed are eligible to be active members of this scheme.
- (3) An employer of a Fair Deal eligible person (P) must inform the scheme manager promptly and in any event within 28 days—
  - (a) if P opts out of this scheme; or
  - (b) of any changes to P's eligibility to be an active member of this scheme including where P ceases to be eligible to be an active member of this scheme.
- (4) (a) An employer of a Fair Deal eligible person who is an active member of this scheme (M) must inform the scheme manager promptly and in any event within 28 days of any change in the matters set out in sub-paragraph (b) where the change affects M's entitlement to benefits under or membership of this scheme.
  - (b) The matters are—
    - (i) M's terms and conditions of employment including terms and conditions relating to any work done by M on functions or services other than the transferred services;
    - (ii) M's working pattern or hours; and
    - (iii) M's attendance at work, including any long term sick leave or other absences.
- (5) An employer of a Fair Deal eligible person must inform the scheme manager immediately the employer becomes aware of any circumstance (including any actual or proposed change in the employer's status) which is one which may give rise to the termination of the Admission Agreement.

### **Protections for the scheme in relation to employers of Fair Deal eligible persons**

**181.**—(1) Where an employer of a Fair Deal eligible person increases the pensionable earnings of a member of this scheme employed by the employer in a way which the scheme manager has determined is one where the resulting costs to this scheme or any connected scheme are costs which should be paid by the employer, the employer must pay to this scheme on demand the amount of the increase in this or the connected scheme's costs or liabilities resulting from the increase.

(2) Where a Fair Deal eligible person exercises a choice available to the person under this scheme which leads to an increase in the contributions that the person's employer is required to pay under this scheme, the employer must pay to this scheme the amount of the increase in contributions.

(3) Where an employer of a Fair Deal eligible person has breached any of the provisions of this scheme or any provision of the Admission Agreement the employer must pay to this scheme on demand the sum, as determined by the scheme manager, which is required to compensate this scheme for—

- (a) any increase in this scheme's costs or liabilities resulting from the breach; and
- (b) any resulting additional administration expenses incurred by or on behalf of this scheme.

(4) Where an employer of a Fair Deal eligible person has entered into a contractual agreement (whether in the Admission Agreement or otherwise) with the scheme manager or the Department to lodge a bond with the scheme, the scheme manager or Department may call on the bond in the circumstances provided for in the contractual agreement.

(5) Where a person has entered into an agreement (whether in the Admission Agreement or otherwise) to indemnify this scheme in respect of contributions and other payments due to this scheme from an employer of a Fair Deal eligible person, that person must pay to this scheme on demand by the scheme manager or the Department the sums due under the indemnity, in accordance with the provisions of the agreement.

**Transitional provisions**

**182.** Schedule 2 has effect.

Sealed with the Official Seal of the Department of Finance and Personnel on 26th November 2014.

*Mike Brennan*  
A senior officer of the  
Department of Finance and Personnel

## SCHEDULE 1

Regulation 138

### Payments for extra pension

## PART 1

### General

#### Interpretation

1. In this Schedule—

“added pension option” means the option to make added pension payments;

“amount of accrued added pension” means the total of—

(a) the amount of accrued added (self only) pension (if any); and

(b) the amount of accrued added (all beneficiaries) pension (if any);

“amount of extra pension” has the meaning given in paragraph 2;

“appropriate pay period” means the pay period that the scheme manager considers appropriate;

“effective pension age option” means the option to make effective pension age payments;

“effective pension age payments” means periodical payments for an effective pension age made to this scheme;

“eligible employment” has the meaning given in paragraph 34;

“overall limit of extra pension” has the meaning given in paragraph 3;

“periodical payment period” means the period for which periodical payments for added pension or an effective pension age are payable;

“period of service”, in relation to this scheme, means a continuous period of pensionable service under this scheme;

“the relevant day”, in relation to a lump sum payment for added pension, means—

(a) if the scheme manager provides a statement of the amount of added pension, the first day after the period of one month beginning with the date of the statement; or

(b) otherwise, the day on which the lump sum payment is received by the scheme manager;

“the relevant scheme year” means the scheme year in which the relevant day falls;

“statement of the amount of added pension” means the statement referred to in paragraph 18;

“third party” means a third party approved by the scheme manager to make payments for extra pension in respect of an active member of this scheme; and

“value”, in relation to an effective pension age option, means a value determined by the scheme manager under Part 3 or 4 of this Schedule.

#### Meaning of “amount of extra pension”

2. The amount of extra pension at any given time is the total of the following—

(a) the amount of accrued added pension at that time;

(b) if the member has exercised one or more effective pension age options, the value of each option as at that time.



### **Meaning of “overall limit of extra pension”**

- 3.—(1) The overall limit of extra pension is—
- (a) £6,500 for any scheme year ending before 1st April 2016; and
  - (b) for any scheme year beginning on or after 1st April 2016—
    - (i) the overall limit of extra pension determined by the Department in respect of that scheme year as published before the start of that scheme year; or
    - (ii) if no such determination is made, the amount calculated under paragraph (2).
- (2) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of extra pension for the previous scheme year would have been increased under the 1971 Act if—
- (a) that pension were eligible to be so increased; and
  - (b) the beginning date for that pension were the first day of the previous scheme year.

### **Limit on elections**

4. An added pension option may not be exercised in relation to a member if the member has exercised an effective pension age option and—
- (a) the value of the effective pension age option exceeds the overall limit of extra pension; or
  - (b) if the added pension option is exercised, the amount of extra pension would exceed the overall limit of extra pension.

### **Amount of accrued added pension may not exceed overall limit of extra pension**

- 5.—(1) At any given time, the total amount of accrued added pension in all the active member’s accounts established for a member under Part 5 may not exceed the overall limit of extra pension.
- (2) If a member has opted to make periodical payments for added pension under this scheme, the scheme manager may by notice to the member cancel the added pension option if it appears to the scheme manager that the overall limit of extra pension will be exceeded if the member continues to make the periodical payments.
- (3) If the scheme manager cancels the option, the periodical payments cease to be payable from the next pay period beginning after the date specified in the notice of cancellation.
- (4) For the purpose of this paragraph, “amount of accrued added pension” does not include any amount attributable to a lump sum payable to a member under a compensation scheme.

### **Actuarial advice**

6. The scheme manager must take advice from the scheme actuary before determining any amount under this Schedule.

## PART 2

### Payments for added pension

#### CHAPTER 1

##### Exercising the added pension option

###### **Added pension option exercisable by member**

- 7.—(1) An active member of this scheme may opt to make added pension payments to increase—
- (a) the member’s retirement benefits<sup>(93)</sup> for a period of service; or
  - (b) the member’s retirement benefits and death benefits payable in respect of the member for a period of service.
- (2) A member may exercise the added pension option by notice to the scheme manager in a form required by the scheme manager (“the option notice”).
- (3) The option notice must state whether the added pension payments are to be made by—
- (a) periodical payments; or
  - (b) a lump sum payment.
- (4) If the whole or part of any lump sum payable to the member under a compensation scheme is to be used as a lump sum payment for added pension the option notice must specify this.
- (5) A member may exercise the added pension option more than once but an option to make a lump sum payment for added pension may only be exercised once in any scheme year.
- (6) An option to make a lump sum payment for added pension may only be exercised if the member—
- (a) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; and
  - (b) has been provided with a statement of the amount of added pension (if paragraph 18 applies).

###### **Added pension option exercisable by employer or third party**

- 8.—(1) A third party or the employer of an active member of this scheme may, if the scheme manager approves, opt to make a lump sum payment for added pension to increase—
- (a) the member’s retirement benefits for a period of service; or
  - (b) both the member’s retirement benefits and death benefits payable in respect of the member for a period of service.
- (2) The employer or third party may exercise an added pension option by notice to the scheme manager in a form required by the scheme manager (“the option notice”).
- (3) The employer or third party may exercise an added pension option more than once but only once in any scheme year.
- (4) If an active member opts for the whole or part of any lump sum payable to the member under a compensation scheme to be used to make a lump sum payment for added pension, the member’s employer may opt to make a lump sum payment under this regulation.

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(93) () Added pension which increases the member’s retirement benefits is payable to the member as part of the member’s full retirement pension or partial retirement pension in accordance with the provisions of Part 6 of these Regulations

## CHAPTER 2

### Periodical payments for added pension

#### **Application of Chapter**

9. This Chapter applies in relation to an active member of this scheme who opts to make periodical payments for added pension under this scheme.

#### **Member's option to make periodical payments for added pension**

- 10.—(1) The option notice must specify—
- (a) the periodical payment period; and
  - (b) the amount of the periodical payment to be deducted by the member's employer from the member's pensionable earnings in each pay period.
- (2) The amount of the periodical payment may be expressed as—
- (a) a percentage of the member's pensionable earnings; or
  - (b) a fixed sum.
- (3) The amount of the periodical payment must not be less than any minimum amount determined by the scheme manager.

#### **Cancellation of option by member**

- 11.—(1) The member may, by notice to the scheme manager, cancel the option at any time during the periodical payment period.
- (2) If the member cancels the option, the periodical payments cease to be payable from the beginning of the next scheme year after the scheme manager receives the notice of cancellation.

#### **Periodical payments**

- 12.—(1) The periodical payments are payable by deduction by the member's employer from the member's pensionable earnings during the periodical payment period.
- (2) The periodical payment period—
- (a) begins with—
    - (i) if the member exercises the option within 3 months after joining this scheme, the first appropriate pay period beginning on or after the date on which the scheme manager receives the option notice; or
    - (ii) in any other case, the first appropriate pay period of the scheme year beginning on or after the date on which the scheme manager receives the option notice; and
  - (b) ends on the earlier of—
    - (i) the date on which the member ceases to be an active member of this scheme; and
    - (ii) the date specified in the option notice.
- (3) Subject to sub-paragraph (4), during a period of assumed pay the member may—
- (a) stop the periodical payments; or
  - (b) continue the periodical payments as if the member were receiving pensionable earnings at the full rate.

(4) During any period in which the member is receiving statutory maternity pay within the meaning of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(94)</sup> or is on paid ordinary maternity leave, paid adoption leave or paid paternity leave, the member may—

- (a) stop the periodical payments; or
- (b) make periodical payments of an amount determined by reference to the member's actual pay during that period.

(5) If a member stops the periodical payments during a period of assumed pay, the member may, by notice to the scheme manager in a form required by the scheme manager, resume the periodical payments in the next pay period after the period of assumed pay ends.

#### **Amount of added (self only) pension for a scheme year (periodical payments)**

13.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase the member's retirement benefits only.

(2) An amount of added (self only) pension is credited to the active member's account for that scheme year.

(3) The amount is determined by the scheme manager by reference to published actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to a person of the member's age and gender.

#### **Amount of added (all beneficiaries) pension for a scheme year (periodical payments)**

14.—(1) This paragraph applies in relation to each scheme year during which a member makes periodical payments to increase—

- (a) the member's retirement benefits; and
- (b) death benefits payable in respect of the member.

(2) An amount of added (all beneficiaries) pension is credited to the active member's account for that scheme year.

(3) The amount is determined by the scheme manager by reference to published actuarial tables, having regard to the cost in the scheme year of providing retirement benefits to—

- (a) a person of the member's age; and
- (b) dependants of a person of that age.

### CHAPTER 3

#### Lump sum payments for added pension made by member

##### **Application of Chapter**

15. This Chapter applies in relation to an active member of this scheme who opts to make a lump sum payment for added pension under this scheme..

##### **Member's option to make a lump sum payment for added pension**

16.—(1) The option notice must specify the amount of the lump sum which must not be less than any minimum amount determined by the scheme manager.

(2) The lump sum is payable immediately to the scheme manager by deduction by the member's employer from the member's pensionable earnings or otherwise.

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(94) (1992 c.7

### **Payment by lump sum from a compensation scheme**

17.—(1) This paragraph applies if the member specifies in the option notice that the whole or part of any lump sum payable to the member under a compensation scheme is to be used as a lump sum payment for added pension.

(2) The member's employer may make a lump sum payment for added pension in relation to the member using the whole or part of the lump sum specified in the option notice.

### **Statement of amount of added pension**

18.—(1) If the scheme manager so requires, the member before exercising the option must ask the scheme manager to provide a statement of the amount of added pension.

(2) A statement of the amount of added pension must set out the amount that would be credited to the active member's account if the lump sum is received by the scheme manager within one month after the date of the statement.

(3) The statement must also—

- (a) specify the overall limit of extra pension; and
- (b) inform the member if it appears to the scheme manager that the overall limit of extra pension would be exceeded if the active member's account is credited with the amount of added pension set out in the statement.

### **Amount of added (self only) pension (lump sum payment)**

19.—(1) This paragraph applies if a member opts to make a lump sum payment to increase the member's retirement benefits only.

(2) Following payment of the lump sum by the member an amount of added (self only) pension is credited to the active member's account for the relevant scheme year.

(3) The amount credited to the account is—

- (a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or
- (b) otherwise, an amount determined by the scheme manager by reference to published actuarial tables, having regard to—
  - (i) the amount of the lump sum;
  - (ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and gender;
  - (iii) factors relating to the member's circumstances as at the relevant day; and
  - (iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

### **Amount of added (all beneficiaries) pension (lump sum payment)**

20.—(1) This paragraph applies if a member opts to pay a lump sum to increase—

- (a) the member's retirement benefits; and
- (b) death benefits payable in respect of the member.

(2) On payment of the lump sum by the member an amount of added (all beneficiaries) pension is credited to the active member's account in the relevant scheme year.

(3) The amount credited to the account is—

- (a) if the scheme manager has provided a statement of the amount of added pension and the lump sum is received by the scheme manager within one month after the date of the statement, the amount specified in the statement; or
- (b) otherwise, an amount determined by the scheme manager by reference to published actuarial tables, having regard to—
  - (i) the amount of the lump sum;
  - (ii) the cost as at the relevant day of providing retirement benefits to a person of the member's age and dependants of a person of that age;
  - (iii) factors relating to the member's circumstances as at the relevant day; and
  - (iv) any other factors as at the date of the statement of the amount of added pension to which the scheme actuary considers regard should be had.

#### CHAPTER 4

#### Lump sum payments for added pension made by employer or third party

##### **Application of Chapter**

21. This Chapter applies in relation to an employer or third party who opts to make a lump sum payment for added pension in relation to an active member of this scheme.

##### **Employer or third party option to make a lump sum payment for added pension**

22.—(1) The option notice must specify the amount by which the member's added (self only) pension or added (all beneficiaries) pension for the relevant scheme year is to be increased.

(2) The amount of the lump sum payment is—

- (a) if the option notice specifies an increase in the member's added (self only) pension, an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the cost as at the relevant day of providing retirement benefits to a person of the member's age and gender; and
- (b) if the option notice specifies an increase in the member's added (all beneficiaries) pension an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the cost as at the relevant day of providing retirement benefits to—
  - (i) a person of the member's age; and
  - (ii) the dependants of such a person.

(3) The lump sum payment must be paid in a manner determined by the scheme manager after consultation with the scheme actuary.

(4) The scheme manager must notify the employer or third party of the amount of the lump sum and the manner in which it is to be paid.

##### **Amount of added (self only) pension (lump sum payment)**

23.—(1) This paragraph applies if an employer or third party opts to make a lump sum payment to increase the member's added (self only) pension.

(2) On payment of the lump sum by the employer or third party an amount of added (self only) pension is credited to the active member's account in the relevant scheme year.

(3) The amount credited to the account is an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the amount of the lump sum payment.

### **Amount of added (all beneficiaries) pension (lump sum payment)**

24.—(1) This paragraph applies if an employer or third party opts to pay a lump sum to increase the member's added (all beneficiaries) pension.

(2) On payment of the lump sum by the employer or third party an amount of added (all beneficiaries) pension is credited to the active member's account in the relevant scheme year.

(3) The amount credited to the account is an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to the amount of the lump sum payment.

## **PART 3**

### **Effective pension age payments**

#### **CHAPTER 1**

#### **Exercising the effective pension age option**

#### **Effective pension age option exercisable by member**

25.—(1) This paragraph applies if an active member of this scheme in relation to a continuous period of pensionable service has a normal pension age above 65 years.

(2) Subject to sub-paragraphs (3) and (4), the member may opt to make periodical payments for an effective pension age of 1, 2 or 3 years below the member's normal pension age ("effective pension age option").

(3) An effective pension age option may not be exercised to achieve an effective pension age below 65 years.

(4) The member may opt to make periodical payments for an effective pension age of any period up to 3 years below the member's normal pension age if that would achieve an effective pension age of 65 years.

(5) An effective pension age is—

- (a) relative to normal pension age; and
- (b) automatically adjusted to reflect any change in normal pension age.

#### **Exercising the effective pension age option**

26.—(1) A member may exercise an effective pension age option by notice to the scheme manager in any form the scheme manager may require ("the option notice").

(2) The option notice must state the effective pension age which is to apply under the option.

(3) A member may exercise an effective pension age option more than once.

(4) A member may not exercise an effective pension age option during—

- (a) a period of assumed pay; or
- (b) any scheme year in which the member has reached the overall limit of extra pension for that year.

#### **Payment of pension at effective pension age**

27.—(1) For any part of a scheme year in which a member makes periodical payments for an effective pension age option, the member is entitled to payment of a full retirement earned pension

or partial retirement earned pension attributable to the option at the effective pension age stated in the option without actuarial reduction.

(2) The amount of pension attributable to the option is reduced if the periodical payments are stopped before the end of the periodical payment period.

(3) For any period in which the periodical payments are stopped, an amount of standard earned pension is credited to the active member's account instead of an amount of earned pension attributable to the option.

### **Member ceases to be in pensionable service under this scheme**

28.—(1) An effective pension age option in relation to a continuous period of pensionable service under this scheme ceases to have effect when the member ceases to be in that pensionable service.

(2) Periodical payments cease to be payable from the member's last day of pensionable service.

(3) In the circumstances provided for in regulation 139(2), the member is entitled to a refund under that regulation of the periodical payments.

(4) If the member re-enters pensionable service under this scheme after a gap in pensionable service not exceeding 5 years, the periodical payments resume in the first pay period after the member re-enters pensionable service unless—

- (a) the periodical payments have been refunded to the member under regulation 139; or
- (b) a transfer payment has been made to another scheme in respect of the member's accrued rights under this scheme.

(5) The periodical payments resume under sub-paragraph (4) even if the member has reached the overall limit of extra pension for the scheme year in which the payments resume.

### **Cancellation of option**

29.—(1) A member may, by notice to the scheme manager, cancel an effective pension age option at any time during the periodical payment period.

(2) If the member cancels the option, the periodical payments cease to be payable from the beginning of the next scheme year after the scheme manager receives notice of the cancellation.

(3) If the member exercises an effective pension age option again within a period not exceeding 5 years, the periodical payments resume from the first pay period of the next scheme year beginning after the date on which the member exercises the option again.

(4) The periodical payments resume under sub-paragraph (3) even if the member has reached the overall limit of extra pension for the scheme year in which the payments resume.

### **Value of an effective pension age option**

30.—(1) The value of an effective pension age option at any time is a value determined by the scheme manager as at that time<sup>(95)</sup>.

(2) A member who has exercised an effective pension age option—

- (a) may at any time ask the scheme manager to provide a statement of the value of the effective pension age option; and
- (b) must ask the scheme manager to provide a statement of the value of the effective pension age option before an added pension option may be exercised in relation to the member.

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<sup>(95)</sup> (Under paragraph 4(a) (limit on elections), a member may not exercise an added pension option if the value of an effective pension age option exceeds the overall limit of extra pension



## CHAPTER 2

### Making effective pension age payments

#### Amount of periodical payments

31.—(1) Periodical payments for an effective pension age are payable by deduction by the member's employer from the member's pensionable earnings in every pay period during the periodical payment period.

(2) The amount of the periodical payments is an amount—

- (a) determined by the scheme manager; and
- (b) set out in a notice to the member.

(3) The scheme manager must determine the amount by reference to published actuarial tables having regard to—

- (a) the member's age and gender; and
- (b) the number of years before the member will reach normal pension age.

(4) Before the start of every scheme year, the scheme manager must—

- (a) review the amount of the periodical payments; and
- (b) if the scheme manager re-determines the amount, send the member notice of the amount payable from the start of the next scheme year.

#### Periodical payment period

32. The periodical payment period—

(a) begins with—

- (i) if the member exercises the option within 3 months after joining this scheme, the first appropriate pay period beginning on or after the date on which the scheme manager receives the option notice; or
- (ii) in any other case, the first appropriate pay period of the scheme year beginning on or after the date on which the scheme manager receives the option notice; and

(b) ends on the earlier of—

- (i) the date on which the member ceases to be in pensionable service in the eligible employment to which the option relates; and
- (ii) the date on which the member reaches the effective pension age.

#### Periodical payments during period of assumed pay

33.—(1) Subject to sub-paragraph (2), during a period of assumed pay the member may—

- (a) stop the periodical payments; or
- (b) continue the periodical payments as if the member were receiving pensionable earnings at the full rate.

(2) During any period in which the member is receiving statutory maternity pay within the meaning of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(96)</sup> or is on paid ordinary maternity leave, paid adoption leave or paid paternity leave, the member may—

- (a) stop the periodical payments; or

(b) make periodical payments of an amount determined by reference to the member's actual pay during that period.

(3) If a member stops the periodical payments during a period of assumed pay, the member may, by notice to the scheme manager in a form required by the scheme manager, resume the periodical payments in the next pay period after the period of assumed pay ends.

## SCHEDULE 2

Regulation 182

### Transitional provisions

## PART 1

### General

#### Interpretation-general

1. In this Schedule—

“Article 3(3A) eligible person” means a person who is eligible to be an active member of the PCSPS(NI) by virtue of being a person who is in service in an office or employment specified in a list produced for the purposes of Article 3(3A) (superannuation schemes as respects civil servants, etc) of the 1972 Order<sup>(97)</sup>;

“closing date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of the PCSPS(NI), the tapered protection closing date for that member; or
- (b) if the member is not a protected member of that scheme, the scheme closing date;

“existing public body pension scheme” means a public body pension scheme specified on a list published by the Department for the purpose of this Schedule;

“full protection member”, in relation to the PCSPS(NI), has the meaning given in paragraph 9;

“protected member”, in relation to the PCSPS(NI), means a full protection member or tapered protection member of that scheme;

“protection period”—

- (a) for a full protection member of the PCSPS(NI), has the meaning given in paragraph 10;
- (b) for a tapered protection member of the PCSPS(NI), has the meaning given in paragraph 20;

“tapered protection closing date”, in relation to a tapered protection member of the PCSPS(NI), has the meaning given in paragraph 3;

“tapered protection member”, in relation to the PCSPS(NI), has the meaning given in paragraph 19;

“transition date”, in relation to a transition member, means—

- (a) if the member is a tapered protection member of the PCSPS(NI), the day after the tapered protection closing date for that member;

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<sup>(97)</sup> Article 3(3A) was inserted by the Public Service Pensions Act (Northern Ireland) 2014 (c.2) section.29; Schedule 9 paragraphs 1 and 2

- (b) if the member is not a protected member of that scheme, the day after the scheme closing date or, if later, the day the person ceased to be a protected member of the scheme;
- “transition member” means a person—
- (a) who is a member of the PCSPS(NI) by virtue of the person’s pensionable service under that scheme before the transition date; and
  - (b) who is a member of this scheme by virtue of the person’s pensionable service under this scheme.

#### **Meaning of “continuity of service”**

2.—(1) For the purposes of this Schedule, a transition member (T) has continuity of service between pensionable service in the PCSPS(NI) and pensionable service in this scheme (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before T’s closing date; and
- (b) ends on the day on which T becomes an active member of this scheme.

(2) For the purpose of sub-paragraph (1), after the scheme closing date T is not on a gap in service while T is in service which is pensionable under an existing scheme, an existing public body pension scheme, a scheme under section 1 of the Act or a new public body pension scheme.

#### **Meaning of “tapered protection closing date”**

3.—(1) The tapered protection closing date for a tapered protection member of the PCSPS(NI) other than a member to whom paragraph 9(5) or 27 applies is—

- (a) if the member exercises the option under Part 4 of this Schedule, the scheme closing date; or
- (b) if the member does not exercise that option, a date between 31st May 2015 and 31st January 2022 (inclusive) determined by the scheme manager by reference to a table published for that purpose.

(2) A tapered protection closing date determined under sub-paragraph (1)(b) must fall on the last day of a month.

(3) The tapered protection closing date for a tapered protection member of the PCSPS(NI) to whom paragraph 9(5) or 27 applies is a date determined by the scheme manager.

#### **Meaning of “active member of the PCSPS(NI)”**

4.—(1) This paragraph applies to a person (P) who is an active member of the PCSPS(NI) other than as an Article 3(3A) eligible person.

(2) For the purpose of Parts 2 and 3 of this Schedule, P is an active member of the PCSPS(NI) on a given date if on that date—

- (a) P is in pensionable service under that scheme; or
- (b) if P is on a gap in service not exceeding 5 years.

(3) For the purpose of sub-paragraph (2)(b), after the scheme closing date P is not on a gap in service while P is in pensionable public service.

#### **Meaning of “active member of an existing scheme”**

5.—(1) For the purpose of Parts 2 and 3 of this Schedule, a person (P) is an active member of an existing scheme (other than the PCSPS(NI)) on a given date if on that date—

- (a) P is in pensionable service under that scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1)(b), after the closing date for the existing scheme P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), “the closing date for the existing scheme” means the date referred to in section 18(4) of the Act, as applicable.

### **Meaning of “active member of an existing public body pension scheme”**

6.—(1) For the purpose of Parts 2 and 3 of this Schedule, a person (P) is an active member of an existing public body pension scheme on a given date if on that date—

- (a) P is in pensionable service under that scheme; or
- (b) P is on a gap in service not exceeding 5 years.

(2) For the purpose of sub-paragraph (1)(b), after the closing date for the existing public body pension scheme, P is not on a gap in service while P is in pensionable public service.

(3) In sub-paragraph (2), “the closing date for the existing public body pension scheme” means the date determined under section 32(2) of the Act by the public authority responsible for that scheme.

### **Commencement of active membership of this scheme**

7.—(1) A person who is a transition member on entering pensionable service under this scheme who does not have continuity of service becomes an active member of this scheme on the day the person begins pensionable service in a scheme employment.

(2) A person who is a transition member on entering pensionable service under this scheme who has continuity of service (T) becomes an active member of this scheme—

- (a) if T is in pensionable service in a scheme employment on the transition date, on that date; or
- (b) if T is not in pensionable service in a scheme employment on the transition date, on the day T enters pensionable service in a scheme employment after that date.

## **PART 2**

Exceptions to section 18(1) of the Act: full protection members of the PCSPS(NI)

### **Interpretation of Part**

8. In this Part—

“active member of an existing public body pension scheme” has the meaning given in paragraph 6;

“active member of an existing scheme” has the meaning given in paragraph 5; and

“active member of the PCSPS(NI)” has the meaning given in paragraph 4

### **Full protection members of the PCSPS(NI)**

9.—(1) A person (P) to whom any of paragraphs 12 to 17 applies is a full protection member of the PCSPS(NI).

(2) P ceases to be a full protection member of the PCSPS(NI) when P ceases to be in pensionable service under that scheme unless sub-paragraph (3) or (4) applies.

- (3) This sub-paragraph applies if—
- (a) P returns to service which is pensionable under the PCSPS(NI) from service which is pensionable under an existing scheme or an existing public body pension scheme; and
  - (b) P would have been a fully protected member of that existing scheme or existing public body pension scheme had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the PCSPS(NI).
- (4) This sub-paragraph applies if—
- (a) P returns to service which is pensionable under the PCSPS(NI) otherwise than from service which is pensionable under an existing scheme or an existing public body pension scheme; and
  - (b) P returns to service which is pensionable under the PCSPS(NI) after a gap in service not exceeding 5 years.
- (5) If P returns to service which is pensionable under the PCSPS(NI) in circumstances where sub-paragraph (6) applies, P is a tapered protection member of the PCSPS(NI) when P returns to that service.
- (6) This sub-paragraph applies if—
- (a) P returns to service which is pensionable under the PCSPS(NI) from service which is pensionable under an existing scheme or an existing public body pension scheme; and
  - (b) P would have been a protected member of the existing scheme or existing public body pension scheme by virtue of an exception to which section 18(8)(a) and (b) of the Act (or that section as applied by section 32(4)) applies had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the PCSPS(NI).
- (7) In this paragraph—
- “exception” means—
- (a) in relation to an existing scheme, an exception under section 18(5) or 18(6) of the Act provided for in the scheme regulations for that scheme;
  - (b) in relation to an existing public body pension scheme, an exception under section 32(4) of the Act provided for by the public authority responsible for that scheme;
- “fully protected member” of an existing scheme or an existing public body scheme means a person in respect of whom an exception applies, which exception is one to which section 18(7) of the Act (or that section as applied by section 32(4)) applies for the purposes of that scheme.
- (8) For the purpose of paragraph (4)(b), after the scheme closing date P is not on a gap in service while P is in pensionable public service.

### **Exception for full protection members during protection period**

- 10.—(1) The protection period for a person (P) who is a full protection member of the PCSPS(NI) is the period which—
- (a) begins on the day after the scheme closing date (or if paragraph 15(3) applies, the day after the existing public body pension scheme closed to all members); and
  - (b) ends when P ceases to be a full protection member of the PCSPS(NI) (unless P is a tapered protection member by virtue of paragraph 9(5)).
- (2) During the protection period—
- (a) P is eligible to be in pensionable service under the PCSPS(NI);
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service; and

- (c) benefits are to be provided under the PCSPS(NI) to or in respect of P in relation to that pensionable service.

### **Full protection member not eligible to join this scheme**

11. While a person (P) is a full protection member of the PCSPS(NI), P is not eligible to be an active member of this scheme.

### **Members of the PCSPS(NI) on scheme closing date**

- 12.—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies.
- (2) This sub-paragraph applies if—
- (a) P was an active member of the PCSPS(NI) on the scheme closing date and on 31st March 2012; and
  - (b) P would, unless P dies, reach normal pension age under that scheme on or before 1st April 2022.
- (3) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme other than the PCSPS(NI) or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
  - (b) P was an active member of the PCSPS(NI) on the scheme closing date; and
  - (c) P would, unless P dies, reach normal pension age under the PCSPS(NI) and P’s transitional scheme on or before 1st April 2022.

### **Pre-fresh start prison officers**

13.—(1) This paragraph applies if P was in service as a pre-fresh start prison officer under Section II of the PCSPS(NI) on—

- (a) 31st March 2012;
- (b) the scheme closing date; and
- (c) 1st April 2015.

(2) For the purposes of this paragraph, P is in service as a pre-fresh start prison officer if P is in service as a prison officer to whom rule 2.26 of Section II of the PCSPS(NI) applies.

(3) In sub-paragraph (2), “in service as a prison officer” has the meaning given in rule 2.25 of Section II of the PCSPS(NI).

### **Members of an existing scheme**

- 14.—(1) This paragraph applies if—
- (a) P was an active member of an existing scheme other than the PCSPS(NI) or an existing public body pension scheme on the closing date for that scheme;
  - (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
  - (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing scheme other than the PCSPS(NI);
  - (d) P would have been a fully protected member of the existing scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS(NI); and

- (e) P would, unless P dies, reach normal pension age under the PCSPS(NI) and P's transitional scheme on or before 1st April 2022.
- (2) For the purposes of this paragraph—
  - (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act, as applicable;
  - (b) the closing date for an existing public body pension scheme is the date determined under section 32(2) of the Act by the public authority responsible for that scheme;
  - (c) “exception”, in relation to an existing scheme, means an exception under section 18(5) or 18(6) of the Act provided for in the scheme regulations for that scheme; and
  - (d) “fully protected member” of an existing scheme means a person in respect of whom an exception applies, which exception is one to which section 18(7) of the Act applies for the purposes of that scheme.

### **Members of an existing public body pension scheme**

- 15.—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies.
- (2) This sub-paragraph applies if—
    - (a) P was an active member of an existing scheme other than the PCSPS(NI) or an existing public body pension scheme on the closing date for that scheme;
    - (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
    - (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing public body pension scheme;
    - (d) P would have been a fully protected member of the existing public body pension scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS(NI); and
    - (e) P would, unless P dies, reach normal pension age under the PCSPS(NI) and P’s transitional scheme on or before 1st April 2022.
  - (3) This sub-paragraph applies if—
    - (a) P was an active member of an existing public body pension scheme on a date that the scheme closed to any further accrual by members of benefits under the scheme, whether under section 32 of the Act or otherwise;
    - (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
    - (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under the existing public body pension scheme referred to in paragraph (a); and
    - (d) P would, unless P dies, reach normal pension age under the PCSPS(NI) and P’s transitional scheme on or before 1st April 2022.
  - (4) For the purposes of this paragraph—
    - (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act, as applicable;
    - (b) the closing date for an existing public body pension scheme is the date determined under section 32(2) of the Act by the public authority responsible for that scheme;

- (c) “exception”, in relation to an existing public body pension scheme, means an exception under section 32(4) of the Act provided for by the public authority responsible for that scheme; and
- (d) “fully protected member” of an existing public body pension scheme means a person in respect of whom an exception applies, which exception is one to which section 18(7) of the Act, as applied by section 32(4), applies for the purposes of that scheme.

### **Fair Deal eligible persons transferred out on or before 31st March 2012**

16.—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.

(2) This sub-paragraph applies if—

- (a) P ceased to be an active member of the PCSPS(NI) on a date (P’s transfer date) on or before 31st March 2012;
- (b) P begins service which is pensionable under the PCSPS(NI) as an Article 3(3A) eligible person on a date (P’s re-joining date) after 31st March 2012; and
- (c) Between P’s transfer date and P’s re-joining date—
  - (i) P was not eligible to be in pensionable service under the PCSPS(NI); or
  - (ii) P was only eligible to be in pensionable service under the PCSPS(NI) as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS(NI) as a result of the transfer P was—
    - (aa) an active member of the PCSPS(NI); and
    - (bb) continuously employed to carry out the transferred services whilst P was eligible to be in pensionable service under the PCSPS(NI).

(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as an Article 3(3A) eligible person continuously after P’s re-joining date.

(4) This sub-paragraph applies if P is a Fair Deal eligible person.

(5) This sub-paragraph applies if P would, unless P dies, reach normal pension age under the PCSPS(NI) before 2nd April 2022.

(6) In this paragraph, “continuously” means without a gap of any period.

### **Fair Deal eligible persons transferred out after 31st March 2012**

17.—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.

(2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P ceased to be an active member of the PCSPS(NI) or of this scheme on a date (P’s transfer date) after 31st March 2012;
- (c) P was an active member of an existing scheme or an existing public body pension scheme throughout the period between 31st March 2012 and P’s transfer date;
- (d) P begins service which is pensionable under the PCSPS(NI) as a section 3(3)(a) eligible person on a date (P’s re-joining date) after P’s transfer date; and
- (e) Between P’s transfer date and P’s re-joining date—
  - (i) P was not eligible to be in pensionable service under the PCSPS(NI); or



- (ii) P was only eligible to be in pensionable service under the PCSPS(NI) as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS(NI) as a result of the transfer P was—
  - (aa) an active member of the PCSPS(NI); and
  - (bb) continuously employed to carry out the transferred services whilst P was eligible to be an active member of the PCSPS(NI).
- (3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as an Article 3(3A) eligible person continuously after P's re-joining date.
- (4) This sub-paragraph applies if P is a Fair Deal eligible person.
- (5) This sub-paragraph applies if P would, unless P dies, reach normal pension age under the PCSPS(NI) and P's transitional scheme before 2nd April 2022.
- (6) In this paragraph, "continuously" means without a gap of any period.

### PART 3

Exceptions to section 18(1) of the Act: tapered protection members of the PCSPS(NI)

#### Interpretation of Part

18. In this Part—

"active member of an existing public body pension scheme" has the meaning given in paragraph 6;

"active member of an existing scheme" has the meaning given in paragraph 5; and "active member of the PCSPS(NI)" has the meaning given in paragraph 4.

#### Tapered protection members of the PCSPS(NI)

19.—(1) A person (P) to whom any of paragraphs 22 to 27 applies is a tapered protection member of the PCSPS(NI).

(2) P ceases to be a tapered protection member of the PCSPS(NI) on whichever of the following days occurs first—

- (a) P's tapered protection closing date; or
  - (b) the day on which P ceases to be in pensionable service under the PCSPS(NI), unless sub-paragraph (3) or sub-paragraph (4) applies.
- (3) This sub-paragraph applies if—
- (a) Before P's transition date P returns to service which is pensionable under the PCSPS(NI) from service which is pensionable under an existing scheme or an existing public body pension scheme; and
  - (b) P would have been a protected member of that existing scheme or existing public body pension scheme had P re-entered service which is pensionable under that scheme on the date P returns to service which is pensionable under the PCSPS(NI).
- (4) This sub-paragraph applies if—
- (a) Before P's transition date P returns to service which is pensionable under the PCSPS(NI) otherwise than from service which is pensionable under an existing scheme or an existing public body pension scheme; and

- (b) P returns to service which is pensionable under the PCSPS(NI) after a gap in service not exceeding 5 years.
- (5) In this paragraph— “exception” means—
  - (a) in relation to an existing scheme, an exception under section 18(5) or 18(6) of the Act provided for in the scheme regulations for that scheme;
  - (b) in relation to an existing public body pension scheme, an exception under section 32(4) of the Act provided for by the public authority responsible for that scheme; and
- (6) “protected member” of an existing scheme or an existing public body scheme means a person in respect of whom an exception applies for the purposes of that scheme.
- (7) For the purpose of paragraph (4)(b), after the scheme closing date P is not on a gap in service while P is in pensionable public service.

#### **Exception for tapered protection members during protection period**

- 20.—(1) The protection period for a tapered protection member of the PCSPS(NI) is the period which—
- (a) begins on the day after the scheme closing date (or if paragraph 24(3) applies, the day after the day that the existing public body pension scheme closed to any further accrual by members of benefits under the scheme); and
  - (b) ends when P ceases to be a tapered protection member of the PCSPS(NI).
- (2) During the protection period—
- (a) P is eligible to be in pensionable service under the PCSPS(NI);
  - (b) section 18(1) of the Act does not apply in respect of that pensionable service; and
  - (c) benefits are to be provided under the PCSPS(NI) to or in respect of P in relation to that pensionable service.

#### **Tapered protection member not eligible to join this scheme**

21. While a person (P) is a tapered protection member of the PCSPS(NI), P is not eligible to be an active member of this scheme.

#### **Members of the PCSPS(NI) on scheme closing date**

- 22.—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies.
- (2) This sub-paragraph applies if—
- (a) P was an active member of the PCSPS(NI) on the scheme closing date and on 31st March 2012; and
  - (b) P would, unless P dies, reach normal pension age under the PCSPS(NI) between 2nd April 2022 and 1st September 2025 (inclusive).
- (3) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme other than the PCSPS(NI), or of an existing public body pension scheme, (“P’s transitional scheme”) on 31st March 2012;
  - (b) P was an active member of the PCSPS(NI) on the scheme closing date; and
  - (c) P would, unless P dies, reach normal pension age under—
    - (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
    - (ii) P’s transitional scheme on or before 1st September 2025.

### **Members of an existing scheme**

23.—(1) This paragraph applies if—

- (a) P was an active member of an existing scheme other than the PCSPS(NI) or an existing public body pension scheme on the closing date for that scheme;
- (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing scheme other than the PCSPS(NI);
- (d) P would have been a protected member of the existing scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS(NI); and
- (e) P would, unless P dies, reach normal pension age under—
  - (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.

(2) For the purposes of this paragraph—

- (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act, as applicable;
- (b) the closing date for an existing public body pension scheme is the date determined under section 32(2) of the Act by the public authority responsible for that scheme;
- (c) “exception”, in relation to an existing scheme, means an exception under section 18(5) or 18(6) of the Act provided for in the scheme regulations for that scheme; and
- (d) “protected member of the existing scheme” means a person in respect of whom an exception applies for the purposes of that scheme.

### **Members of an existing public body pension scheme**

24.—(1) This paragraph applies if sub-paragraph (2) or sub-paragraph (3) applies.

(2) This sub-paragraph applies if—

- (a) P was an active member of an existing scheme other than the PCSPS(NI) or an existing public body pension scheme on the closing date for that scheme;
- (b) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing public body pension scheme;
- (d) P would have been a protected member of the existing public body pension scheme referred to in paragraph (c) had P re-entered service which is pensionable under that scheme on the date P begins service which is pensionable under the PCSPS(NI); and
- (e) P would, unless P dies, reach normal pension age under—
  - (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.

(3) This sub-paragraph applies if—

- (a) P was an active member of an existing public body pension scheme on a date that the scheme closed to any further accrual by members of benefits under the scheme, whether under section 32 of the Act or otherwise;
  - (b) P was an active member of an existing scheme or an existing public body pension scheme (P’s transitional scheme) on 31st March 2012;
  - (c) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under the existing public body pension scheme referred to in paragraph (a); and
  - (d) P would, unless P dies, reach normal pension age under—
    - (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
    - (ii) P’s transitional scheme on or before 1st September 2025.
- (4) For the purposes of this paragraph—
- (a) the closing date for an existing scheme is the date referred to in section 18(4) of the Act, as applicable;
  - (b) the closing date for an existing public body pension scheme is the date determined under section 32(2) of the Act by the public authority responsible for that scheme;
  - (c) “exception”, in relation to an existing public body pension scheme, means an exception under section 32(4) of the Act provided for by the public authority responsible for that scheme; and
  - (d) “protected member of the existing public body pension scheme” means a person in respect of whom an exception applies for the purposes of that scheme.

### **Fair Deal eligible persons transferred out on or before 31st March 2012**

- 25.—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.
- (2) This sub-paragraph applies if—
- (a) P ceased to be an active member of the PCSPS(NI) on a date (P’s transfer date) on or before 31st March 2012;
  - (b) P begins service which is pensionable under the PCSPS(NI) as an Article 3(3A) eligible person on a date (P’s re-joining date) after 31st March 2012; and
  - (c) Between P’s transfer date and P’s re-joining date—
    - (i) P was not eligible to be in pensionable service under the PCSPS(NI); or
    - (ii) P was only eligible to be in pensionable service under the PCSPS(NI) as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS(NI) as a result of the transfer P was—
      - (aa) an active member of the PCSPS(NI); and
      - (bb) continuously employed to carry out the transferred services whilst P was eligible to be in pensionable service under the PCSPS(NI).
- (3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as an Article 3(3A) eligible person continuously after P’s re-joining date.
- (4) This sub-paragraph applies if P is a Fair Deal eligible person.
- (5) This sub-paragraph applies if P would, unless P dies, reach normal pension age under the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025.
- (6) In this paragraph, “continuously” means without a gap of any period.

### **Fair Deal eligible persons transferred out after 31st March 2012**

- 26.—(1) This paragraph applies if sub-paragraphs (2), (3), (4) and (5) apply.
- (2) This sub-paragraph applies if—
- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
  - (b) P ceased to be an active member of the PCSPS(NI) or of this scheme on a date (P’s transfer date) after 31st March 2012;
  - (c) P was an active member of an existing scheme or an existing public body pension scheme throughout the period between 31st March 2012 and P’s transfer date;
  - (d) P begins service which is pensionable under the PCSPS(NI) as an Article 3(3)(a) eligible person on a date (P’s re-joining date) after P’s transfer date; and
  - (e) Between P’s transfer date and P’s re-joining date—
    - (i) P was not eligible to be in pensionable service under the PCSPS(NI); or
    - (ii) P was only eligible to be in pensionable service under the PCSPS(NI) as a result of a transfer of the transferred services, and during such period that P would have been eligible to be in pensionable service under the PCSPS(NI) as a result of the transfer P was—
      - (aa) an active member of the PCSPS(NI); and
      - (bb) continuously employed to carry out the transferred services whilst P was eligible to be in pensionable service under the PCSPS(NI).
- (3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as an Article 3(3A) eligible person continuously after P’s re-joining date.
- (4) This sub-paragraph applies if P is a Fair Deal eligible person.
- (5) This sub-paragraph applies if, P would, unless P dies, reach normal pension age under—
- (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.
- (6) In this paragraph, “continuously” means without a gap of any period.

### **Tapered protection members of an existing scheme or an existing public body pension scheme**

- 27.—(1) This paragraph applies if—
- (a) paragraph 14 or 15 of this Schedule would have applied but for the fact that P would not have been a fully protected member of the existing scheme or existing public body pension scheme referred to in paragraph 14(1)(c) or 15(2)(c), as applicable (“the transferring scheme”) on the date P begins service which is pensionable under the PCSPS(NI); and
  - (b) P would have been a protected member of the transferring scheme by virtue of an exception to which section 18(8)(a) and (b) of the Act (or that section as applied by section 32(4)) applies had P re-entered service which is pensionable under the transferring scheme on the date P returns to service which is pensionable under the PCSPS(NI).
- (2) In this paragraph— “exception” means—
- (a) in relation to an existing scheme, an exception under section 18(5) or 18(6) of the Act provided for in the scheme regulations for that scheme;

(b) in relation to an existing public body pension scheme, an exception under section 32(4) of the Act provided for by the public authority responsible for that scheme; and  
 “fully protected member” of an existing scheme or an existing public body scheme means a person in respect of whom an exception applies, which exception is one to which section 18(7) of the Act (or that section as applied by section 32(4)) applies for the purposes of that scheme.

## PART 4

### Option for tapered protection members of the PCSPS(NI)

#### **Option to begin pensionable service before the transition date**

28.—(1) This paragraph applies in relation to a tapered protection member (P) of the PCSPS(NI) who is in pensionable service in the PCSPS(NI) at any time during—

- (a) the period beginning with 15th August 2014 and ending with 30th September 2014; or
- (b) any other period determined by the scheme manager.

(2) Not later than 31st October 2014 (or within any longer period determined by the scheme manager), the scheme manager may offer P the option to begin pensionable service under this scheme on the day after the scheme closing date.

(3) If P does not exercise the option within 3 months after the date of the offer (or within any longer period determined by the scheme manager), P begins pensionable service under this scheme on P’s transition date.

## PART 5

### Payment of ill-health benefits to transition members with continuity of service

#### **Transition member who has not reached normal pension age under the PCSPS(NI)**

29.—(1) This paragraph applies in relation to a transition member with continuity of service who—

- (a) becomes entitled to an ill-health pension under this scheme; and
- (b) has not reached normal pension age under the PCSPS(NI).

(2) If this paragraph applies—

- (a) an ill-health pension and lump sum are not payable under the PCSPS(NI);
- (b) an ill-health pension is payable under this scheme in accordance with this paragraph; and
- (c) the member becomes a deferred member of the PCSPS(NI).

(3) If the member meets the lower tier payment threshold only, the annual rate of ill-health pension payable under this scheme is the sum of—

- (a) the annual rate of a lower tier earned pension payable under this scheme;
- (b) the annual rate of full retirement earned pension that would, if the member was entitled to payment of an ill-health pension under the PCSPS(NI), be payable to the member at normal pension age under the PCSPS(NI); and
- (c) an amount of pension which is equivalent to the lump sum that would, if the member was entitled to payment of the lump sum, be payable to the member under—

- (i) rule L.10(2) of Section I of the PCSPS(NI); or

(ii) rule 3.1(b) of Section II of that scheme.

(4) If the member meets the upper tier payment threshold, the annual rate of ill-health pension payable under this scheme is the sum of—

- (a) the annual rate of a lower tier earned pension payable under this scheme;
- (b) the annual rate of an upper tier top up earned pension payable under this scheme;
- (c) the annual rate of full retirement earned pension that would, if the member was entitled to payment of an ill-health pension under the PCSPS(NI), be payable to the member at normal pension age under the PCSPS(NI); and
- (d) an amount of pension which is equivalent to the lump sum that would, if the member was entitled to payment of the lump sum, be payable under—
  - (i) rule L.10(2) of Section I of the PCSPS(NI); or
  - (ii) rule 3.1(b) of Section II of that scheme.

(5) If, after the ill-health pension becomes payable under this paragraph, a transfer payment is made from the PCSPS(NI) in respect of the member's rights under that scheme, the scheme manager must deduct from the amount of ill-health pension payable under this paragraph in respect of service in the PCSPS(NI) an amount which is equal to the value of the pension represented by that transfer payment.

(6) If the full retirement account specifies an amount of full retirement added pension of any description, the following pensions are payable with the lower tier earned pension—

- (a) the annual rate of full retirement added pension of that description payable under this scheme; and
- (b) the annual rate of full retirement added pension that would, if the member was entitled to payment of an ill-health pension under the PCSPS(NI), be payable to the member with that pension under the PCSPS(NI).

(7) The amount of pension payable under this paragraph which represents the amount that would have been payable under the PCSPS(NI) is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension to which the member would have been entitled under the PCSPS(NI) in accordance with the rules of that scheme.

(8) In this paragraph—

- (a) a reference to the annual rate of a full retirement earned pension payable under the PCSPS(NI) means the annual pension payable under the following provisions—
  - (i) if the member was an active member of Section I of the PCSPS(NI) before becoming an active member of this scheme, rule D1 of that Section;
  - (ii) if the member was an active member of Section II of the PCSPS(NI) before becoming an active member of this scheme, rules 3.1 to 3.3a of that Section;
  - (iii) if the member was an active member of Section III of the PCSPS(NI) before becoming an active member of this scheme, rule E.2 of that Section;
- (b) a reference to full retirement added pension payable under the PCSPS(NI) means added pension payable under the following provisions—
  - (i) if the member was an active member of Section I of the PCSPS(NI) before becoming an active member of this scheme, rule C1.11 of that Section;
  - (ii) if the member was an active member of Section II of the PCSPS(NI) before becoming an active member of this scheme, rule 14.13 of that Section;
  - (iii) if the member was an active member of Section III of the PCSPS(NI) before becoming an active member of this scheme, rule E.2 of that Section; and

- (c) a reference to an ill-health pension payable under the PCSPS(NI) means a pension payable under the following provisions—
- (i) if the member was an active member of Section I of the PCSPS(NI) before becoming an active member of this scheme, rule D4 of that Section;
  - (ii) if the member was an active member of Section II of the PCSPS(NI) before becoming an active member of this scheme, rules 3.4 to 3.7 of that Section;
  - (iii) if the member was an active member of Section III of the PCSPS(NI) before becoming an active member of this scheme, rules E.7 to E.9 of that Section.

**Transition member who has reached normal pension age under the PCSPS(NI)**

30.—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving payment of an ill-health pension in accordance with paragraph 29.

(2) When the member reaches normal pension age under the PCSPS(NI)—

- (a) the benefits payable under paragraph 29 in respect of service in the PCSPS(NI) cease to be payable under this scheme; and
- (b) the member becomes entitled under the PCSPS(NI) to the immediate payment of a full retirement earned pension within the meaning of paragraph 29, in accordance with the rules of that scheme.

(3) In calculating the annual rate of full retirement earned pension payable under the PCSPS(NI) for the purposes of sub-paragraph (2)(b), the following are subtracted—

- (a) the commutation amount (if any);
- (b) the amount of pension which is equivalent to a lump sum, paid under paragraph 29(3)(c) or 29(4)(d); and
- (c) an amount equal to any transfer payment made to another scheme before the member reached normal pension age under the PCSPS(NI).

(4) Before the amounts in sub-paragraph (3)(a) and (b) are subtracted they must be increased by the amount by which the annual rate of a pension of that amount would have been increased under the 1971 Act if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the date that ill-health pension became payable under this scheme.

## PART 6

Payment of death benefits in respect of transition members with continuity of service

**Annual rate of surviving adult's pensions payable under this scheme when a transition member dies in service**

31.—(1) This paragraph applies in relation to a transition member with continuity of service—

- (a) who dies as an active member of this scheme; and
- (b) whose period of service is at least 12 months.

(2) Benefits for surviving spouses, surviving civil partners or other adult dependants are not payable under the PCSPS(NI) in respect of the member.



(3) The annual rate of dependant's earned pension payable under regulation 107(3)(a) is the sum of—

- (a) the amount calculated under regulation 110 including the additional amount under regulation 110(5)(b) for a transition member with continuity of service; and
- (b) the amount of annual pension which would have been payable under the PCSPS(NI) to the member's surviving spouse, surviving civil partner or other adult dependant had those benefits been payable under the PCSPS(NI) in respect of the member.

(4) The amount of pension payable in accordance with sub-paragraph (3) which represents the amount that would have been payable under the PCSPS(NI) is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension to which the member's surviving spouse, surviving civil partner or other adult dependant would have been entitled under the PCSPS(NI) in accordance with the rules of that scheme.

(5) In this paragraph, "period of service" means—

- (a) the member's continuous period of pensionable service under this scheme; and
- (b) the member's pensionable service under the PCSPS(NI) before the closing date.

#### **Annual rate of eligible child's pension payable under this scheme when a transition member dies in service**

32.—(1) This paragraph applies in relation to a transition member with continuity of service—

- (a) who dies as an active member of this scheme; and
- (b) whose period of service is at least 12 months.

(2) Benefits for eligible children are not payable under the PCSPS(NI) in respect of the member.

(3) The annual rate of child's earned pension payable under regulation 114(4)(a) is the sum of—

- (a) the annual rate of child's earned pension calculated under regulation 115 (annual rate of eligible child's pension); and
- (b) the amount of annual pension which would have been payable under the PCSPS(NI) to any eligible children of the member had those benefits been payable under the PCSPS(NI) in respect of the member.

(4) The amount of pension payable in accordance with sub-paragraph (3) which represents the amount that would have been payable under the PCSPS(NI) is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension to which the eligible child would have been entitled under the PCSPS(NI) in accordance with the rules of that scheme.

(5) In this paragraph, "period of service" means—

- (a) the member's continuous period of pensionable service under this scheme; and
- (b) the member's pensionable service under the PCSPS(NI) before the closing date.

#### **Death in service lump sum**

33.—(1) This paragraph applies in relation to a transition member with continuity of service who dies in service within the meaning of regulation 130 (death in service).

(2) On the death of the member—

- (a) a lump sum death benefit is payable under regulation 130; but
- (b) a death in service lump sum death benefit is not payable under the PCSPS(NI)

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(3) Where the member was an active member of Section I of the PCSPS(NI) before becoming an active member of this scheme, the member is entitled to an additional payment calculated in accordance with the table.

(4) In the table, “final pay” means the member’s final pay calculated under regulation 128 (meaning of “final pay”).

<i>Member dies in scheme year beginning on</i>	<i>Additional payment</i>
1st April 2015	1 x final pay
1st April 2016	0.9 x final pay
1st April 2017	0.8 x final pay
1st April 2018	0.7 x final pay
1st April 2019	0.6 x final pay
1st April 2020	0.5 x final pay
1st April 2021	0.4 x final pay
1st April 2022	0.3 x final pay
1st April 2023	0.2 x final pay
1st April 2024	0.1 x final pay
1st April 2025 or any subsequent 1st April	0 x final pay

### **Death out of service lump sum**

34.—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a deferred member or pensioner member of this scheme dies out of service under this scheme and the PCSPS(NI).

(2) On the death of a deferred member or pensioner member of this scheme—

- (a) if regulation 131 (death out of service) applies to the member, a lump sum death benefit is payable under that regulation; and
- (b) if the member is a deferred member or pensioner member of the PCSPS(NI) and the conditions for payment of a death out of service lump sum death benefit under the rules of the PCSPS(NI) are met, a death out of service lump sum death benefit is payable under the PCSPS(NI).

## **PART 7**

### **Transitional provisions relating to the PCSPS(NI)**

#### **Pensionable service under the PCSPS(NI)**

35.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under this scheme.

(2) The following provisions of the PCSPS(NI) continue to apply after the closing date as if T continued in pensionable service under that scheme—

- (a) the provisions relating to payment of contributions for added pension and added years; and

(b) if T is a member of Section III of the PCSPS(NI), the provisions in that Section relating to the indexation of pension accounts for an active member.

(3) In determining whether T qualifies under the PCSPS(NI) for retirement benefits (other than an ill-health pension), T's pensionable service under that scheme terminates when T's pensionable service under this scheme terminates.

(4) In determining T's final salary for any purposes of the PCSPS(NI) under Schedule 7 (final salary link) to the Act, pensionable earnings derived from service under this scheme are to be regarded as derived from service under the PCSPS(NI).

### **Ill health retirement certificate not given**

36.—(1) This paragraph applies if a member of the PCSPS(NI) (or the member's employer on behalf of the member)—

- (a) claimed payment of an ill-health pension under that scheme before the member's transition date; and
- (b) the pension does not become payable before the member's transition date.

(2) If the member is not entitled to immediate payment of an ill-health pension under the PCSPS(NI), the member joins this scheme on whichever is the later of—

- (a) the member's transition date; and
- (b) the day after all relevant appeal rights in relation to the scheme medical adviser's decision not to give an ill-health retirement certificate are exhausted.

(3) In this paragraph—

“all relevant appeal rights” includes the member's appeal rights under section 2.04 (Early Retirement on Medical Grounds) of the Northern Ireland Civil Service HR Handbook; and  
“ill-health retirement certificate” means a certificate given by the scheme medical adviser under the PCSPS(NI) stating that, in the opinion of the scheme medical adviser, the member has suffered a permanent breakdown in health involving incapacity for employment or total incapacity for employment.

### **Deferred membership of the PCSPS(NI)**

37.—(1) A transition member with continuity of service (T) does not become a deferred member of the PCSPS(NI) unless T becomes a deferred member of this scheme.

(2) If T opts out of this scheme in relation to service in a scheme employment and T has at least 2 years' qualifying service—

- (a) T becomes a deferred member of the PCSPS(NI) in relation to that service; and
- (b) any periodical payments for added pension or added years paid under the PCSPS(NI) cease to be payable.

(3) If T re-enters pensionable service under this scheme after a gap in service not exceeding 5 years, T ceases to be a deferred member of the PCSPS(NI).

(4) After the scheme closing date T is not on a gap in service while T is in service which is pensionable under an existing scheme, an existing public body pension scheme, a scheme under section 1 of the Act or a new public body pension scheme.

### **Repayment of contributions under the PCSPS(NI)**

38. If a transition member with continuity of service (T) opts out of this scheme and T has less than 2 years' qualifying service—

- (a) T must be repaid members' contributions under the PCSPS(NI); and
- (b) any periodical payments for added pension or added years under the PCSPS(NI) cease to be payable.

#### **Qualifying for retirement benefits under the PCSPS(NI)**

39. In determining whether a transition member with continuity of service qualifies for retirement benefits under the PCSPS(NI), the member's qualifying service includes the total of—

- (a) the member's qualifying service under the PCSPS(NI); and
- (b) the member's qualifying service under this scheme.

#### **Final salary link not to apply again to a pension in payment**

40. Where any element of a pension under the PCSPS(NI) which is in payment has been calculated by reference to Schedule 7 (final salary link) to the Act, that element of the pension is not recalculated by reference to Schedule 7 in consequence of a subsequent period of pensionable public service (within the meaning of paragraph 3 of Schedule 7 to the Act) unless the further period of pension is aggregated under the rules of the PCSPS(NI) applicable to the member.

## PART 8

### Miscellaneous transitional provisions

#### **Declaration continues to have effect**

41.—(1) This paragraph applies if a transition member with continuity of service has not made a declaration under these Regulations that another adult is the dependant of the member for the purpose of death benefits under this scheme.

(2) An existing declaration has effect as if made under these Regulations until the transition member makes a declaration under these Regulations.

- (3) In this paragraph, "existing declaration" means a declaration which—
  - (a) was made for the purpose of the PCSPS(NI); and
  - (b) as at the closing date, had effect under that scheme.

#### **Nomination under the PCSPS(NI) continues to have effect**

42.—(1) This paragraph applies if a transition member with continuity of service has not nominated a person under these Regulations to receive a lump sum death benefit under this scheme.

(2) An existing nomination has effect as if made under these Regulations until the transition member makes a nomination under these Regulations.

- (3) In this paragraph, "existing nomination" means a nomination which—
  - (a) was made for the purpose of the PCSPS(NI); and
  - (b) as at the closing date, had effect under that scheme.

## PART 9

### Transfer of final salary benefits

#### Meaning of “final salary benefit”

43.—(1) In this Part, “final salary benefit” means benefit accrued under a final salary scheme, subject to sub-paragraph (2).

(2) Where only part of the pension entitlement payable under a final salary scheme to or in respect of a person which is based on the pensionable service of that person is or may be determined by reference to the person’s final salary, “final salary benefit” means the benefit in respect of which the pension entitlement is so determined.

#### Acceptance of club transfer value payments and bulk transfers

44.—(1) If, in circumstances where regulation 156 applies, the special terms agreed for the acceptance of transfer payments require such part of a transfer value payment as relates to a member’s final salary benefit to be paid into the PCSPS(NI), that part of the transfer value payment must be paid into the PCSPS(NI).

(2) Any part of a club transfer value payment from another scheme that relates to a member’s final salary benefit must be paid into the PCSPS(NI).

#### Member of this scheme or the PCSPS(NI)

45.—(1) This paragraph applies to a person who transfers final salary benefits into the PCSPS(NI)

(2) Unless the person is a protected member of the PCSPS(NI), the person—

- (a) becomes a member of this scheme; and
- (b) is taken to be a transitional member with continuity of service.

(3) If the person is a protected member of the PCSPS(NI), the scheme manager must determine, by reference to the rules of the PCSPS(NI), which Section of the PCSPS(NI) the person joins.

## PART 10

### Civil Service Compensation Scheme (Northern Ireland)

#### Quarantine

46.—(1) This paragraph applies if—

- (a) a member (P) left service in an employment to which the Civil Service Compensation Scheme (Northern Ireland) applies in circumstances where P received benefits under rule 2.2, 2A.3, 3.1, 3.2a or 7.2 of the Civil Service Compensation Scheme (Northern Ireland) which were enhanced to take account of a period after P left service (“the period of prospective service”);
- (b) P subsequently begins service in a scheme employment; and
- (c) the period beginning with the day after P’s last day of service as referred to in paragraph and ending with the day before P subsequently begins service as referred to in paragraph (b) is less than the period of prospective service.

(2) During the period of prospective service—

- (a) P does not accrue any earned pension under this scheme; and

- (b) the rules of the PCSPS(NI) apply, with the exception of rules relating to payment of contributions by the employer and the member.
- (3) Despite sub-paragraph (2)—
  - (a) P is treated as an active member of this scheme during the period of prospective service; and
  - (b) the period of prospective service counts as qualifying service.

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### **EXPLANATORY NOTE**

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

Part 2 of these Regulations establishes a scheme for the payment of pensions and other benefits to civil servants and other persons as determined by the Department under section 25(5) of the Public Service Pensions Act (Northern Ireland) 2014 (c.2). The scheme so established is a career average revalued earnings scheme.

Part 3 contains governance provisions including delegation of the scheme manager's functions and establishment of the Northern Ireland Civil Service Pension Board and a scheme advisory board.

Part 4 provides for scheme membership. It sets out the key concepts of scheme employment and pensionable earnings. It contains eligibility and auto-enrolment provisions.

Part 5 provides for the establishment of a member's pension accounts in relation to a continuous period of pensionable service under this scheme. It also provides for the establishment of a pension credit member's account.

Part 6 provides for a member's entitlement to payment of retirement benefits including partial retirement benefits and ill-health benefits. It also provides for the assignment of benefits. It sets out the key concept of qualifying service.

Part 7 provides for benefits for pension credit members.

Part 8 provides for death benefits payable to surviving adults and eligible children and for payment of lump sum benefits. It also provides for the recovery and suspension of the payments in certain cases.

Part 9 provides for the payment of contributions by members and employers.

Part 10 provides for making and receiving transfer payments.

Part 11 provides for actuarial valuations and employer cost cap.

Part 12 contains supplementary provisions on payment of pensions, forfeiture and set off, payment and deduction of tax and miscellaneous provisions including the determination of questions.

Schedule 1 makes provision for payments for extra pension.

Schedule 2 makes transitional provision.

An impact assessment has not been prepared for this rule as no impact on the costs of business or the voluntary sector is foreseen.