
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 120

**The Health and Social Care Pension Scheme
Regulations (Northern Ireland) 2015**

PART 5

Member's benefits

CHAPTER 5

Ill-Health pension

Member's incapacity

90.—(1) For the purpose of determining whether a member (M) is permanently incapable of discharging the duties of M's employment efficiently the scheme manager must—

- (a) have regard to the factors in paragraph (2), no one of which is to be decisive; and
- (b) disregard M's personal preference for or against engaging in the employment.

(2) The factors mentioned in paragraph (1)(a) are—

- (a) whether M has received appropriate medical treatment in respect of the infirmity;
- (b) M's mental capacity;
- (c) M's physical capacity;
- (d) the type and period of rehabilitation it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the rehabilitation; and
- (e) any other matter the scheme manager thinks appropriate.

(3) For the purpose of determining whether M is permanently incapable of engaging in regular employment of like duration as mentioned in paragraph (3)(b) of regulation 89, the scheme manager must—

- (a) have regard to the factors in paragraph (4), no one of which is to be decisive; and
- (b) disregard the factors in paragraph (5).

(4) The factors mentioned in paragraph (3)(a) are—

- (a) whether M has received appropriate medical treatment in respect of the infirmity;
- (b) such reasonable employment as M would be capable of engaging in if due regard is given to—

- (i) M's mental capacity;
 - (ii) M's physical capacity;
 - (iii) M's previous training; and
 - (iv) M's previous practical, professional and vocational experience,
- irrespective of whether or not such employment is available to M;

- (c) the type and period of rehabilitation it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the rehabilitation, having regard to—
 - (i) M's mental capacity; and
 - (ii) M's physical capacity;
 - (d) the type and period of training it would be reasonable for M to undergo in respect of the infirmity, regardless of whether M has undergone the training, having regard to—
 - (i) M's mental capacity;
 - (ii) M's physical capacity;
 - (iii) M's previous training; and
 - (iv) M's previous practical, professional and vocational experience; and
 - (e) any other matter the scheme manager thinks appropriate.
- (5) The factors mentioned in paragraph (3)(b) are—
- (a) M's personal preference for or against engaging in any particular employment; and
 - (b) the geographical location of M.
- (6) In this regulation—
- “appropriate medical treatment” means such medical treatment as it would be normal to receive in respect of the infirmity, but does not include any treatment that the scheme manager considers—
- (a) that it would be reasonable for M to refuse;
 - (b) would provide no benefit to restoring M's capacity for—
 - (i) discharging the duties of M's employment efficiently for the purposes of paragraph (2)(c) of regulation 89; or
 - (ii) engaging in regular employment of like duration for the purposes of paragraph (3)(b) of that regulation;
 - (c) that through no fault on the part of M, it is not possible for M to receive before M reaches normal pension age.
- “permanently” means until M attains M's prospective normal pension age; and
- “regular employment of like duration” has the same meaning as in regulation 89.

Changes to legislation:

There are currently no known outstanding effects for the The Health and Social Care Pension Scheme Regulations (Northern Ireland) 2015, Section 90.