

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT NO. 2)
REGULATIONS (NORTHERN IRELAND) 2015

S.R. 2015 No. 162

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1, 3, 11 and 12 of the Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”). The Statutory Rule is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations amend the Local Government Pension Scheme Regulations (Northern Ireland) 2014 (S.R. 2014 No. 188) (“the Principal Regulations”) to comply with the 2014 Act by making provision for the introduction of new cost control arrangements for the Local Government Pension Scheme (Northern Ireland) (LGPS (NI)).
- 2.2. These Regulations also make a number of minor amendments to the Principal Regulations and The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2015. Regulations 3 to 22 and 24(b) to 30 will have retrospective effect to the same operational date as the Principal Regulations, 1 April 2015.
- 2.3. Regulation 3 makes an amendment to regulation 3 (active membership) of the Principal Regulations, to ensure that where a member dies in service before completing 2 years membership, a survivor’s or children’s pension and death grant are payable.
- 2.4. Regulation 11 (contributions) of the Principal Regulations is amended to reflect the original policy intention which was that an employer should vary the member contribution rate to reflect payment of non contractual overtime. The words ‘to the terms and conditions of a member’s employment’ have been deleted because non-contractual overtime is not part of the terms and conditions of employment.
- 2.5. Regulation 12 (temporary reductions in contributions) of the Principal Regulations is amended to correct a drafting error at the end of sub-paragraph (a). Sub-paragraph (b) is amended to expand the reference “sickness or injury” to “illness, injury, ordinary maternity, paternity or ordinary adoption leave”. This clarifies that a member’s election to pay reduced contributions is cancelled if they receive no pay when on child-related leave.
- 2.6. Regulation 13 (contributions during absence from work) of the Principal Regulations is amended to clarify that only those in receipt of pay continue to accrue pension.

- 2.7. Regulation 17 (employing authority contributions during absences) of the Principal Regulations is amended to require the employer to provide a member with details of additional pension contributions and additional voluntary contributions to be paid by the member if they go on reserve forces leave.
- 2.8. Regulation 18 (additional pension contributions) of the Principal Regulations is amended to aid scheme members and employers in situations where a member has taken very short periods of unpaid leave, and would otherwise have to make elections within 30 days of return from leave each time. This amendment gives employers the discretion to extend the period in which members can elect to make contributions for longer than 30 days following a return to work from a period of absence.
- 2.9. Regulation 21 (exclusion of rights to return of contributions) of the Principal Regulations is amended to correct a cross reference.
- 2.10. Regulation 24 (pension accounts) of the principal Regulations is amended to clarify that a person who has opted out of membership and then rejoins the Scheme in the same employment, may not elect to have separate pension accounts.
- 2.11. Regulation 38 (role of the IRMP) of the Principal Regulations is amended to delete the requirement for IRMP to report on how long the member is unlikely to be capable of undertaking any gainful employment. This requirement was included in error. This amendment ensures the same policy on ill-health retirement as applied under the Local Government Pension Scheme (Northern Ireland) 2009 (the 2009 Scheme) continues to apply in the LGPS (NI) 2015.
- 2.12. Regulations 12, 14 and 15 insert a new paragraph into regulations 43(5) (survivor benefits: children of active members), 48(5) (survivor benefits: children of deferred members) and 53(5) (survivor benefits: children of pensioner members) of the Principal Regulations, respectively. This will enable the Committee to pay the whole or part of a children's pension to a person other than the eligible child/children for the benefit of such child/children. This amendment continues a policy which applied under the 2009 Scheme. Regulations 16, 17 and 18 make minor amendments to regulations 68 (actuarial valuations and certificates), 71 (apportionment of liabilities) and 72 (supply of copies of valuations, certificates etc.) of the Principal Regulations, respectively. These amendments replace the term "inheriting employer" with "inheriting body" to ensure that the principal Regulations remain in line with the same provisions contained the 2009 Regulations.
- 2.13. Regulation 19 makes a minor technical amendment to regulation 75(4) (payment by employing authorities to the Committee) to delete ", and at such intervals (not exceeding twelve months)" as the period is set under regulation 75(2)(a). The period set under regulation 75(2)(a) is 22 days if sent electronically or 19 days commencing on the day following the last day of the month in which the payment is to be deducted.
- 2.14. Regulation 20 makes minor technical amendments to regulation 77 (interest on late payments) to correct 2 cross references and make a minor drafting improvement to paragraph (2) to continue same policy as applied in the 2009 Scheme by requiring employing authorities to make payments to the

- 2.15. Regulation 21 makes an amendment to regulation 93 (payments for persons incapable of managing their own affairs) of the Principal Regulations, to remove the exclusion of an eligible child from the application of this regulation and is in line with amendments made by regulations 12, 14 and 15 of these Regulations.
- 2.16. Regulation 22 amends regulation 111 (calculation of amount of transfer value payment) of the Principal Regulations, to enable the Committee, as was the case under the 2009 Regulations, to fully fund those liabilities relating to deferred and pensioner members which remain with the fund before the balance of the employing authority's assets are transferred.
- 2.17. Regulation 23 inserts new regulations 123 and 124 at Part 3 of the Principal Regulations which provide the detail of the cost control arrangements. A brief explanation of each regulation is given below.
 - 2.17.1. Regulation 123 provides that the Department shall appoint a suitably qualified person to carry out valuations of the Scheme in accordance with DFP directions and to report on the valuations.
 - 2.17.2. Regulation 124 sets out the employer cost cap of the Scheme at 17% and the steps required to achieve the target cost of the Scheme where the margins of two percentage points (as specified in the Public Service Pensions (Employer Cost Cap) Regulations (Northern Ireland) 2015) either side of the employer cost cap are breached.
- 2.18. Regulation 24 inserts a definition for the Public Service Pensions Act (Northern Ireland) 2014 into Schedule 1 (interpretation) of the Principal Regulations and makes minor amendments to other definitions.
- 2.19. Regulation 25 makes a minor amendment to regulation 36 (early payment of retirement pension on ill-health grounds: active members) of the Principal Regulations as modified to apply to councillors' membership of the Scheme within part 4 (ill-health retirement) of Schedule 4 (councillor members) to ensure the ill-health provisions for councillor members maintain the same eligibility conditions as those which applied under the 2009 Scheme.
- 2.20. Regulation 26 introduces amendments to the Local Government Pension Scheme (Amendment and Transitional) Regulations (Northern Ireland) 2014 (S.R. 2014 No.189) – (the Transitional Regulations)
- 2.21. Regulation 27 amends regulation 3 (membership before 1st April 2015) of the Transitional Regulations to ensure continuity of membership between the 2009 Scheme and the 2015 Scheme for councillor members by including a reference to a councillor member's career average benefits.
- 2.22. Regulation 28 corrects spelling and cross references in regulation 4 (statutory underpin) of the Transitional Regulations.
- 2.23. Regulation 29 deletes unnecessary wording from regulation 6 (admission agreements) of the Transitional Regulations.

- 2.24. Regulation 30 deletes paragraph (5) of regulation 9 (transfers) of the Transitional Regulations, to remove the requirement that transfer payments are calculated in accordance with guidance issued by the Department.

3. Background

- 3.1. The Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”) sets out the framework for public service pensions from 1 April 2015. The 2014 Act includes a number of provisions on the cost control arrangements of the public sector schemes including the requirement to provide in regulations an employer cost cap (expressed as a percentage of pensionable earnings of members of the Scheme) for the purpose of measuring changes in the cost of the Scheme. The preliminary valuation has calculated the employer cost cap to be 17.0%.
- 3.2. The Public Service Pensions (Employer Cost Cap) Regulations 2015 (the Cost Cap Regulations) specify that scheme costs must remain within 2% either side of the employer cost cap. The employer cost cap is, in effect, the target cost of the Scheme.
- 3.3. Section 12 of the 2014 Act allows for scheme regulations to specify a procedure for the Department, the administering authority, employers and members to reach agreement on the action to be taken if the cost of the Scheme does not fall within the specified margins, and the steps to be taken where an agreement is not reached.
- 3.4. The Department proposes that the scheme advisory board (which is responsible for providing advice on the desirability of changes to the scheme) should be consulted about future employer cost cap valuations and asked to agree the action to be taken if the cost of the Scheme does not fall within the specified margins. The 2014 Act provides that the action taken to bring the scheme costs within the margins may include an increase or decrease in members’ benefits or contributions.
- 3.5. Where it is not possible to achieve agreement with the scheme advisory board on the corrective steps, the default mechanism is that the Department would adjust the accrual rate to ensure that the Scheme remains within the employer cost cap margins.
- 3.6. The Principal Regulations were made under Article 9 of, and Schedule 3 to the Superannuation (Northern Ireland) Order 1972 (“the 1972 Order”). Section 28 of the 2014 Act provides for regulations made under Article 9 of the 1972 Order in respect of a person’s pensionable service on or after 1 April 2015, to have effect as if they were scheme regulations under the 2014 Act, provided the Regulations could have been made under the powers contained in the 2014 Act. Article 9 of the 1972 Order provide that regulations may include all or any of the provisions (including transitional provisions) referred to in Schedule 3 to that Order.

4. Consultation

- 4.1. As required by section 21 of the 2014 Act, the Department has consulted with such persons or representatives of such persons as appeared to the Department to be appropriate. A total of 7 responses were received. Of the 7 responses 3

- 4.2. Copies of the consultation paper and the Department's Response can be found at:

http://www.doeni.gov.uk/index/local_government/local_government_pension_scheme_2015.htm

5. Equality Impact

- 5.1. The Department, having carried out its own screening exercise, is satisfied that these Regulations will not lead to a significant discriminatory or negative differential impact on any particular Section 75 group.

6. Regulatory Impact

- 6.1. The Department has carried out a preliminary screening exercise in terms of the regulatory impact of the new cost control arrangements, and has determined that they will have no direct or indirect adverse impact on businesses, the voluntary/community sector (including charities) and the social economy sector.

7. Financial Implications

- 7.1. No Executive expenditure required.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department is satisfied that the Regulations comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. Not applicable.