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STATUTORY RULES OF NORTHERN IRELAND

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**2015 No. 78**

**The Firefighters' Pension Scheme  
Regulations (Northern Ireland) 2015**

**PART 1**

Preliminary

**Citation and commencement**

1.—(1) These Regulations may be cited as the Firefighters' Pension Scheme Regulations (Northern Ireland) 2015.

(2) These Regulations come into operation on 1st April 2015.

**Establishment of Firefighters' Pension Scheme 2015**

2.—(1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of fire and rescue workers<sup>(1)</sup> who are firefighters in Northern Ireland.

(2) This scheme is to be known as the Firefighters' Pension Scheme 2015.

**Interpretation**

3. In these Regulations—

“the 1971 Act” means the Pensions (Increase) Act (Northern Ireland) 1971<sup>(2)</sup>;

“the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993<sup>(3)</sup>;

“the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999<sup>(4)</sup>;

“the 2004 Act” means the Finance Act 2004<sup>(5)</sup>;

“the 2014 Act” means the Public Service Pensions Act (Northern Ireland) 2014;

“accrued added pension” has the meaning given in regulation 32(4) (calculation of amount of accrued pension for purpose of deferment or full retirement);

“accrued earned pension” has the meaning given in regulation 32(3) (calculation of amount of accrued pension for purpose of deferment or full retirement);

“active member” has the meaning given in regulation 28 (active membership);

“active member's account” means the account established under regulation 40 (establishment of active member's account);

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(1) See paragraph 6 of schedule 1 to the Public Service Pensions Act (Northern Ireland) 2014 for the definition of fire and rescue workers.

(2) 1971 c.35. (NI)

(3) 1993 c.49.

(4) S.I 1999/3147 (NI 11)

(5) 2004 c.12.

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

“actuarial guidance” means actuarial guidance issued by the Department after consultation with the scheme actuary;

“added pension election” means the election to make added pension payments;

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

“additional adoption leave” means leave under Article 107B of the Employment Rights (Northern Ireland) Order 1996(6);

“additional maternity leave” means leave under Article 105 of the Employment Rights (Northern Ireland) Order 1996(7);

“additional paternity leave” means leave under the Additional Paternity Leave Regulations (Northern Ireland) 2010(8);

“age addition” has the meaning given in regulation 35(3) (determination of “the age addition”);

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

“allocation election” means an election under regulation 80(1) (allocation election);

“amount of accrued added pension” has the meaning given in regulation 32(4) (calculation of amount of accrued pension for purpose of deferment or full retirement);

“amount of accrued earned pension” has the meaning given in regulation 32(3) (calculation of amount of accrued pension for purpose of deferment or full retirement);

“amount of added pension” means the amounts credited to the added pension account under paragraph 11 or 14 of Schedule 1;

“annual allowance” has the meaning given in section 228 (annual allowance) of the 2004 Act(9);

“annual allowance charge” has the meaning given in section 227 (annual allowance charge) of the 2004 Act(10);

“assumed age addition” has the meaning given in regulation 36 (determination of “the assumed age addition”);

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

“award” means an award of a benefit under these Regulations;

“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(11);

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- (6) [S.I. 1996/1919 \(NI 16\)](#) Article 107 B was inserted by the Employment (Northern Ireland) Order 2002 ([S.I. 2002/2836 \(NI 2\)](#)), article 3.
- (7) [S.I. 1996/1919 \(NI 16\)](#) Article 105 was substituted by the Employment Relations (Northern Ireland) Order 1999 ([S.I. 1999/2790 \(NI 9\)](#)), article 9 and Schedule 4.
- (8) [S.R. 2010 No.297](#).
- (9) Section 228 was substituted by the Finance Act 2011, Schedule 17, paragraph 4 and was amended by the Finance Act 2013, section 49.
- (10) Section 227 was amended by the Finance Act 2009 (c. 10), Schedule 2, paragraphs 10 and 15 and the Finance Act 2011, Schedule 16, paragraph 45 and Schedule 17, paragraphs 1 and 3.
- (11) Section 8(2) was amended by the Pension (Miscellaneous Provisions) (Northern Ireland) Order 1990 ([S.I. 1990/1509 \(NI 13\)](#)) article 3(5) and Welfare Reform and Pension (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(NI 11\)](#)) 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.

“The Board” means The Northern Ireland Fire and Rescue Service Board established under Part 2, Chapter 1 of the Fire and Rescue Services (Northern Ireland) Order 2006(12);

“child-related leave” means—

- (a) ordinary adoption leave;
- (b) ordinary maternity leave;
- (c) additional maternity or adoption leave;
- (d) paternity leave;
- (e) additional paternity leave; or
- (f) a period of parental leave;

“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 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 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 140 (interpretation in relation to Part);

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

“cohabiting partner” has the meaning given in regulation 84 (meaning of “surviving partner”);

“the commutation amount” in relation to a pension means the amount of the 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 79 (option to commute part of pension) in relation to a retirement pension, or
- (b) exercisable under regulation 117 (commutation of part of pension) in relation to a pension credit member’s pension;

“connected scheme”, means another statutory pension scheme that is connected, within the meaning of section 4(6) of the 2014 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 any of the following—

- (a) a surviving partner’s pension,
- (b) an eligible child’s pension, or
- (c) a lump sum death benefit;

“deferred member” in relation to this scheme, has the meaning given in regulation 29 (deferred membership);

“deferred member’s account” has the meaning given in regulation 53 (establishment of deferred member’s account);

“deferred pension age”, is the same as a person’s state pension age, or 65 if that is higher;

“earned pension” means earned pension payable without actuarial reduction at normal pension age;

“eligible child” has the meaning given in regulation 93 (meaning of “eligible child”);

“eligible child’s pension” has the meaning given in regulation 92 (eligible child’s pension);

“eligible person” has the meaning given in regulation 16 (eligible persons);

“FPS” means the Firefighters’ Pension Scheme Order (Northern Ireland) 2007(13);

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

“Firefighters’ Pension Scheme Advisory Board” means a board established under regulation 10 (Scheme advisory board (SAB): establishment);

“GMP age” means 65 in the case of a man or 60 in the case of a woman;

“guaranteed minimum” means the guaranteed minimum as defined in sections 10(14) (earner’s guaranteed minimum and 13(15) (minimum pensions for widows and widowers) of the Pensions Schemes Act;

(a) as increased in accordance with the requirements of section 105(16) of that Act (annual increase of guaranteed minimum pensions), and

(b) if a reduction has been made under section 11A(17) of that Act (reduction of guaranteed minimum in consequence of pension debit), as reduced in accordance with that section;

“higher tier ill-health pension” means a higher tier ill-health pension payable under regulation 73(2) (entitlement to lower tier ill-health pension and higher tier ill-health pension);

“ill-health award” means—

(a) a lower tier ill-health pension; and

(b) a higher tier ill-health pension where this has also been awarded;

“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;

“independent qualified medical practitioner” (“IQMP”) means a medical practitioner holding a diploma in occupational medicine or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State; and for the

(13) [SR 2007 No 144](#).

(14) Section 10 was amended by the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(NI 22\)](#)) Schedule 3 paragraph 20 and Schedule 5 Part 3, the Social Security contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 ([S.I. 1999/671](#)) schedule 1 paragraph 41 and the Proceeds of Crime Act 2002 ([c. 29](#)) schedule 11 paragraphs 1 and 23.

(15) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 ([S.I. 1999/671](#)) schedule 1 paragraph 42, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 ([c. 4](#)) (NI) Schedule 5 paragraph 1 and Schedule 9 Part 3, the Pensions (Northern Ireland) Order 2005 ([S.I. 2005/255 \(NI 1\)](#)) Article 261(3), the Pensions Act (Northern Ireland) 2008 ([c. 1](#)) (NI) section 12(2), and [S.R. 2005 No.433](#).

(16) Section 105 was amended by the Pension (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(NI 22\)](#)) Article 55 and [S.R. 2005 No.433](#).

(17) Section 11A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(NI 11\)](#)) Article 29(3).

purposes of this definition “a competent authority” has the meaning given by section 55(1) of the Medical Act 1983(18);

“index adjustment” means—

- (a) in relation to the opening balance of earned pension for any scheme year, the change in earnings for the previous scheme year (19), 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;

“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;

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

“lower tier ill-health pension” means a lower tier ill-health pension payable under regulation 73(1) (entitlement to lower tier ill-health pension and higher tier ill-health pension);

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

“member contributions” has the meaning given in regulation 118(8) (member contributions);

“NFPS” means the New Firefighters’ Pension Scheme Order (Northern Ireland) 2007(20);

“normal pension age”—

- (a) in relation to this scheme, is determined in accordance with section 10 of the 2014 Act; and
- (b) in relation to the FPS, has the meaning given in that scheme;
- (c) in relation to the NFPS, has the meaning given to “normal retirement age” in that scheme;

“occupational pension scheme” has the meaning given in section 1 of the Pension Schemes Act;

“opening balance”, in relation to a description of pension for a scheme year other than added pension, has the meaning given in regulation 44 (opening balance, index adjustment and age addition) and in relation to added pension, has the meaning given in regulation 49 (account to specify opening balance and PIA index adjustment);

“ordinary adoption leave” means leave under Article 107A of the Employment Rights (Northern Ireland) Order 1996;

“ordinary maternity leave” means leave under Article 103 of the Employment Rights (Northern Ireland) Order 1996(21);

“parental leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(22);

“partial retirement option” means the option exercisable under regulation 71 (exercise of partial retirement option);

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(18) 1983 c.54; the definition of “competent authority” was inserted by S.I. 2007/3101.

(19) Under section 9 of the 2014 Act the change in earnings to be applied in a period is the percentage increase or decrease as a Department of Finance and Personnel order under that section may specify in relation to the period.

(20) SR 2007 No 215.

(21) S.I. 1996/1919 (NI 16). Article 103 was substituted by the Employment Relations (Northern Ireland) Order 1999 (S.I. 1999/2790 (NI 9)).

(22) S.R. 1999 No.471.

“paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002<sup>(23)</sup>;

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

“Pension Board” means a board established under regulation 5 (Northern Ireland Fire and Rescue Service Pension Board: establishment);

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order;

“pension credit member” has the meaning given by regulation 30 (pension credit member);

“pension credit member’s account” has the meaning given in regulation 63 (establishment of pension credit member’s account);

“pension credit member’s pension” means a pension payable under regulation 113 (entitlement to pension credit member’s pension);

“pension credit rights” has the meaning given in Article 121(1) of the Pensions (Northern Ireland) Order 1995;

“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 of the 1999 Order (reduction of benefit);

“pensionable public service” means pensionable service under an existing scheme <sup>(24)</sup> or an existing public body pension scheme as defined in paragraph 1 of Schedule 2;

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

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

“personal pension scheme” means a personal pension scheme as defined in section 1 of the Pension Schemes Act that is a registered pension scheme;

“PIA index adjustment”, in relation to the opening balance of added pension for any scheme year, means the amount by which the annual rate of a pension of an amount equal to the opening balance would have been increased in that year 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 financial year;

“protected member”, in relation to the FPS or the NFPS, has the meaning given in Schedule 2;

“provisional amount of deferred pension” has the meaning given in regulation 54 (provisional amount of deferred pension);

“qualifying service” has the meaning given in regulation 66 (qualifying service);

“reference pay”, in relation to the pay of a retained or volunteer firefighter for any period, means the whole-time equivalent pensionable pay for that period of a regular firefighter employed in a similar role and with equivalent qualifying service;

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

“regular employment” means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person’s capacity for employment arises;

“regular firefighter” means a person (P) employed (whether whole-time or part-time) by the Board—

<sup>(23)</sup> SR. 2002 No 377.

<sup>(24)</sup> See section 18(2) of the 2014 Act for the meaning of “existing scheme”.

- (a) as a firefighter, but not as a retained or volunteer firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P's role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting); and

(c) otherwise than in a temporary capacity;

“the relevant last day” means—

(a) for a partially retired member, the day on which the partial retirement option was exercised, and

(b) otherwise, the member's last day of pensionable service;

“reserve forces” has the meaning given in section 1(2) of the Reserve Forces Act 1996(25);

“reserve forces service leave” means absence from duty because of being called out or recalled for permanent service in Her Majesty's armed forces pursuant to a call-out notice served, or a call-out or recall order made, under Reserve Forces Act 1996 or absence during training required under section 22 or permitted under 27 of that Act;

“retained firefighter” means a person (P) employed by the Board—

(a) as a firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P's role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives;

“retirement account” has the meaning given in regulation 59 (establishment of retirement account and other adjustments);

“retirement added pension” has the meaning given in regulation 60(3) (account to specify amount of retirement pension (active members));

“retirement amount of deferred pension” has the meaning given in regulation 55(3) (retirement amount of deferred pension);

“retirement benefits” means benefits payable under Part 5 (retirement benefits);

“retirement earned pension” has the meaning given in regulation 60(2) (account to specify amount of retirement pension (active members));

“retirement index adjustment”, in relation to an amount of accrued pension, has the meaning given in regulation 33 (calculation of “retirement index adjustment”);

“retirement pension” means—

(a) in relation to a pensioner member who was an active member at the time of claiming a retirement pension, a retirement earned pension and a retirement added pension (if any),

(b) in relation to a pensioner member who was a deferred member at the time of claiming a retirement pension, the retirement amount of deferred pension;

“retirement PIA index adjustment” in relation to an amount of accrued pension, has the meaning given in regulation 34 (calculation of “retirement PIA index adjustment”);



“role”, in relation to a firefighter, means the role in which the firefighter is for the time being employed, being a role set out in “Fire and Rescue Services Rolemaps” issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005**(26)**;

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

“scheme actuary” means the actuary appointed by the Department under regulation 158 (appointment of scheme actuary and actuarial valuations);

“scheme employer” has the meaning given in regulation 15 (scheme employment);

“scheme employment” means has the meaning given in regulation 15 (scheme employment);

“scheme manager” except where the context otherwise requires, has the meaning given in regulation 4 (scheme manager);

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

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

“specified proportion” has the meaning given in regulation 97 (specified proportion);

“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**(27)**, or
- (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 Act (Northern Ireland) 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**(28)**, or
- (d) additional statutory paternity pay within the meaning of section 167EA(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**(29)**;

“surviving partner” has the meaning given in regulation 84 (meaning of “surviving partner”);

“surviving partner’s pension” means a pension payable to a surviving partner under regulation 86 (surviving partner’s pension payable on death of active member), regulation 87 (surviving partner’s pension payable on death of deferred member) or regulation 88 (surviving partner’s pension payable on death of pensioner member);

“survivor member” has the meaning given in regulation 61 (establishment of a survivor member’s account);

“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 5 (retirement benefits);

**(26)** A copy is available at [http://www.local.gov.uk/c/document\\_library/get\\_file?uuid=326723e9-8192-4798-89bb-d152fb05fa5f&groupId=10180](http://www.local.gov.uk/c/document_library/get_file?uuid=326723e9-8192-4798-89bb-d152fb05fa5f&groupId=10180)

**(27)** 1992 c.7. Section 167ZL was inserted by the Employment (Northern Ireland) Order 2002 (SI 2002/2836 (NI 2)) Article 6.

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

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



“trade dispute” has the meaning given in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995(30);

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

“transfer value” has the meaning given in regulation 140 (interpretation in relation to Part);

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

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

“transition date” has the meaning given in paragraph 1 of Schedule 2;

“transition member” has the meaning given in paragraph 1 of Schedule 2;

“the DFP Order”, in relation to a given period, means the order made by the Department of Finance and Personnel under section 9(2) of the 2014 Act that specifies a percentage increase or decrease in earnings in relation to that period;

“volunteer firefighter” means a person (P) who carries out operational firefighting for the Board—

- (a) as a firefighter, but not as a regular firefighter or a retained firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to P’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting)
- (c) otherwise in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives;

“weekly rate”, in relation to a guaranteed minimum pension, has the meaning given in regulation 55(2) of the Occupational Pension Scheme (Contracting-out) Regulations (Northern Ireland) 1996(31).

## PART 2

### Governance

#### **Scheme manager**

4.—(1) The Northern Ireland Fire and Rescue Service Board is the scheme manager for this scheme and any statutory pension scheme that is connected with it(32).

(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(33) is not connected with this scheme.

#### **Northern Ireland Fire and Rescue Service Pension Board: establishment**

5.—(1) A pension board (“the Pension Board”) is established(34).

(2) The Pension board is responsible for assisting the scheme manager—

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(30) S.I. 1995/1980 (NI 12)

(31) S.R. 1996 No.493; Regulation 55 was amended by SR 1997 No 160 and SR 2005 No 433.

(32) See section 4(6) of the 2014 Act which sets out when statutory pension schemes are “connected”.

(33) See section 34 of the 2014 Act for the meaning of “defined contributions scheme”.

(34) See section 5(8) of the 2014 Act for the meaning of “pension board”.

- (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) to ensure the effective and efficient governance and administration of this scheme and any connected scheme.

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

(4) Subject to paragraph (3) the Pension Board shall have power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions.

### **The Pension Board: membership**

**6.—**(1) The Pension Board is to consist of the following members who are to be entitled to vote in its proceedings—

- (a) a chair appointed by the scheme manager;
- (b) board members, to be appointed by the scheme manager;

(2) The total number of board members shall be determined by the scheme manager.

(3) The Pension Board shall comprise of an equal number of employer representatives and member representatives and for these purposes the scheme manager must be satisfied that—

- (a) a person appointed as an employer representative has the capacity and understanding to represent it as employer;
- (b) a person appointed as a member representative has the capacity and understanding to represent members.

(4) A member of the Pension Board is to hold and vacate office in accordance with the terms of that member's appointment.

### **The Pension Board: conflict of interests**

**7.—**(1) Before appointing any person under regulation 6, the scheme manager must be satisfied that that person does not have a conflict of interest<sup>(35)</sup>.

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

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

(4) A member of the 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).

### **The Pension Board: Guidance**

**8.** The scheme manager must have regard to guidance issued by the Department in relation to Pension Board.

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(35) See section 5(6) of the 2014 Act for the meaning of “conflict of interest”.

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

9. The Board may—

- (a) pay fees to or in respect of members of the Pension Board of such amounts as the Department may determine; and
- (b) reimburse members of the 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 (SAB): establishment**

10.—(1) A Firefighters’ Pension Scheme Advisory Board is established<sup>(36)</sup>.

(2) The Firefighters’ Pension 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 Firefighters’ Pension Scheme Advisory Board may determine its own procedures, subject to the approval of the Department.

(4) The Firefighters’ Pension Scheme Advisory Board is also responsible for providing advice to the scheme manager and the Pension Board in relation to the effective and efficient administration and management of this scheme and any connected scheme.

(5) Subject to these Regulations, the Firefighters’ Pension Scheme Advisory Board may determine its own procedures including as to voting rights, the establishment of sub-committees, and the formation of joint committees.

(6) The Department may pay to the members of the Firefighters’ Pension Scheme Advisory Board such reasonable remuneration and expenses as it may determine.

(7) The Firefighters’ Pension Scheme Advisory Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

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

11.—(1) The Firefighters’ Pension Scheme Advisory Board is to consist of the following members—

- (a) a chair appointed by the Department; and
- (b) members appointed by the Department.

(2) The total number of members shall be determined by the Department.

(3) A member of the Firefighters’ Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member’s appointment.

(4) The chairman of the Firefighters’ Pension Scheme Advisory Board may, with the agreement of the Board, appoint persons who are not members of the Firefighters’ Pension Scheme Advisory Board to be members of sub-committees of that Board.

(5) A member of a sub-committee of the Firefighters’ Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member’s appointment.

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

12.—(1) Before appointing any person to be a member of the Firefighters’ Pension Scheme Advisory Board, the Department must be satisfied that the person does not have a conflict of interest.

(2) The Department must be satisfied from time to time that none of the members of the Firefighters’ Pension Scheme Advisory Board has a conflict of interest.

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<sup>(36)</sup> See section 7(6) of the 2014 Act for the meaning of “scheme advisory board”.

(3) If the Department determines that a member of the Firefighters' Pension Scheme Advisory Board has a conflict of interest, the Department must terminate the appointment of the member.

(4) A member of the Firefighters' Pension 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).

#### **Scheme advisory board: funding**

**13.**—(1) The Firefighters' Pension Scheme Advisory Board must prepare an annual budget for approval by the Department.

(2) The expenses of the Firefighters' Pension Scheme Advisory Board are to be defrayed by the Department in such proportions as are determined by the Department based on the approved budget and the number of members of this scheme and connected schemes for which the Northern Ireland Fire and Rescue Service is responsible.

(3) The Department must pay the amount it is required to pay under this regulation at such time or times as the Firefighters' Pension Scheme Advisory Board may determine.

#### **Delegation**

**14.**—(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.

## **PART 3**

### **Scheme membership**

#### **CHAPTER 1**

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

#### **Scheme employment**

**15.**—(1) For the purposes of these Regulations, a person is in scheme employment if that person is employed as a firefighter by the Board and satisfies the requirement in paragraph (2) or paragraph (3).

(2) A person who took up employment on or after 1st April 2015 satisfies the requirement in this paragraph where that person's role on taking up employment includes—

- (a) resolving operational incidents, or
- (b) leading and supporting others in the resolution of operational incidents.

(3) A person who is a transition member satisfies the requirement in this paragraph.

(4) The employer of a person in scheme employment is referred to in these Regulations as the "scheme employer".

#### **Eligible persons**

**16.**—(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 (P) who is in service in a scheme employment is an eligible person in relation to that employment unless in relation to service in that employment—

- (a) P is a protected member of the FPS or the NFPS; or
  - (b) P is a member of any other pension scheme and the Board pays contributions to that scheme in respect of P.
- (3) P is an eligible person whilst on reserve forces service leave.

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

17. If a person is in service in two or more scheme employments, regulation 16 (eligible persons) applies separately in relation to each employment.

## **CHAPTER 2**

### **Pensionable service**

#### **Application of Chapter**

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

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

#### **Interpretation of Chapter**

19. 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>(37)</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”, means the day on which a person becomes an eligible person in relation to that service.

#### **Automatic enrolment**

20.—(1) A person (P) who is not in pensionable service under the 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 (opting out before the end of the first three months) applies; or
- (b) P is a transition member with continuity of service and paragraph (2) applies.

(2) This paragraph applies if—

- (a) P’s first eligible day of service in the scheme employment is the day after P’s transition date; and
- (b) on P’s transition date—
  - (i) P was in service in the same employment, and
  - (ii) P had opted out of the FPS or the NFPS, as the case may be, in relation to that service.

### **Opting into this scheme**

**21.**—(1) A person (P) 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) 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”).

(3) 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.

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

(5) If P opts into this scheme in relation to an employment, P becomes an active member of this scheme in relation to that employment at the beginning of the first pay period beginning after the date on which the option is exercised or at such other time as the scheme manager considers appropriate.

### **Automatic re-enrolment**

**22.**—(1) This regulation applies if, on the automatic re-enrolment date, an eligible person (P) 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(**38**) to make arrangements for P to be an active member of a pension scheme.

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

**23.**—(1) A person (P) opts out of this scheme in relation to service in a scheme employment if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise the option 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.

### **Opting out before the end of the first three months**

**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 three months after P’s first day of a continuous period of service in scheme employment; or

(b) before the end of three months after the automatic re-enrolment date.

(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 the first three months**

**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) three months or more after P’s first day of a continuous period of service in scheme employment; or
- (b) three months 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.

## **CHAPTER 3**

### **Pensionable pay**

#### **Pensionable pay**

**26.**—(1) For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable pay is—

- (a) the member’s pay received for the performance of the duties of the member’s role except any allowance or emoluments paid to that member on a temporary basis;
- (b) the member’s permanent emoluments (including, in the case of a retained firefighter, any retaining allowance);
- (c) the amount foregone where a member has agreed to surrender the right to receive any part of that member’s pensionable pay in exchange for the provision by the Board of any non-cash benefit; and
- (d) the amount paid to the member for continued professional development which the scheme manager determines is pensionable.

(2) The payments in paragraph (1) do not include any payment made by the Board to a member who is on reserve forces service leave.

#### **Meaning of “assumed pensionable pay”**

**27.**—(1) For any period in which the circumstances specified in paragraph (2) apply to an active member of this scheme, the member is treated as receiving pensionable pay (“assumed pensionable pay”) equal to the pensionable pay that the member would have received if those circumstances had not applied.

(2) The circumstances are that the member—

- (a) is on secondment to a different employer under an arrangement providing for the member to continue to be an active member of this scheme in respect of the member’s service although the member is paid for that member’s service by the other employer;
- (b) is on sick leave or injury leave on reduced pay or, where the member has paid the contributions required by regulation 119(2) (contributions during absence from work due to illness, injury, trade dispute or authorised absence), is not receiving pay;
- (c) is receiving pay or statutory pay whilst on adoption leave, additional adoption leave, additional maternity leave, parental leave or additional paternity leave;
- (d) is on ordinary adoption leave, ordinary maternity leave or paternity leave;



- (e) is not receiving pay or statutory pay during part or all of the duration of the period of additional adoption leave, additional maternity leave or additional paternity leave and has paid member contributions in respect of that period;
- (f) is on unpaid leave for a period that does not exceed five years, in circumstances that the scheme manager has agreed can count for the purposes of this paragraph, and has paid contributions required by regulation 119(4) (contributions during absence from work due to authorised absence);
- (g) is absent on reserve forces service leave; or
- (h) is absent due to a trade dispute and has paid the contributions by regulation 119(3) (contributions during absence from work due to trade dispute).

(3) Paragraph (2)(g) does not apply in respect of any period of service which qualifies the member for benefits under any occupational pension scheme in respect of that service.

(4) Where the circumstances in paragraph (2) apply to a member (P) who was employed as a retained firefighter or volunteer firefighter immediately before those circumstances applied and P's pensionable service for that period was 365 days or more, the amount of P's assumed pensionable pay is calculated by dividing the total amount of P's pensionable pay received for that service during the period of 365 days ending with the last day of continuous pensionable service before those circumstances applied, by 365 and multiplying by the number of days in which the circumstances in paragraph (2) applied.

(5) Where the circumstances in paragraph (2) apply to a member (P) who was employed as a retained firefighter or volunteer firefighter immediately before those circumstances applied and P's pensionable service for that period was less than 365 days, the amount of P's assumed pensionable pay is calculated by dividing the total amount of P's pensionable pay received for that service during that period of continuous pensionable service before those circumstances applied, by the number of days of that service and multiplying by the number of days in which the circumstances in paragraph (2) applied.

## CHAPTER 4

### Membership

#### Active membership

- 28.** A person (P) is an active member of this scheme if—
- (a) P is in pensionable service under this scheme;
  - (b) P is not in pensionable service whilst on unpaid sick leave or on unpaid child-related leave or on a trade dispute where P had been an active member immediately before that leave or trade dispute began;
  - (c) P is on unpaid authorised absence and the scheme manager permits P to be treated as an active member; or
  - (d) P is on reserve forces service leave and P was an active member immediately before that leave began.

#### Deferred membership

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

- (a) P ceases to be an active member of this scheme in relation to that period of service before P claims a pension under this scheme in respect of that period of pensionable service;
- (b) P is not a pensioner member of this scheme in relation to that period of service; and

- (c) P has at least three months qualifying service or a transfer value payment other than from another occupational pension scheme has been accepted by this scheme in relation to P.

### **Pension credit member**

**30.** A person is a pension credit member of this scheme if the person has been given a pension credit in the scheme as a consequence of a pension debit created under Article 26 of the 1999 Order in relation to a member of this scheme.

## **PART 4**

### **Pension accounts**

#### **CHAPTER 1**

##### **Preliminary**

### **Description of pension**

**31.** For the purpose of this Part, description of pension means any of the following—

- (a) earned pension;
- (b) transferred pension;
- (c) club transfer earned pension;
- (d) added pension.

#### **CHAPTER 2**

##### **Calculation of accrued pension**

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

**32.—(1)** For the purpose of a retirement account of an active member who retires or partially retires, the amount of accrued pension is the sum of the amount of accrued earned pension calculated in accordance with paragraph (3) and the amount of accrued added pension calculated in accordance with paragraph (4).

(2) For the purpose of a deferred member's account, the amount of accrued earned pension is calculated in accordance with paragraph (3).

(3) The amount of accrued earned pension is the sum 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 for the last active scheme year and the index adjustment for that opening balance;
- (b) the amount of earned pension accrued in the last active scheme year;
- (c) the sum of the opening balance of transferred pension (if any) for the last active scheme year and the index adjustment for that opening balance;
- (d) the amount of transferred pension (if any) for the last active scheme year;
- (e) the sum of the opening balance of club transfer earned pension (if any) for the last active scheme year and the index adjustment for that opening balance; and
- (f) the amount of club transfer earned pension (if any) for the last active scheme year.

(4) The amount of accrued added pension is the sum of the following amounts specified in the added pension account as at the end of the last day of pensionable service—

- (a) the sum of the opening balance of added pension for the last active scheme year and the PIA index adjustment (if any) for that opening balance; and
- (b) the amount of accrued added pension for the last active scheme year.

### CHAPTER 3

#### Calculation of adjustments

##### Calculation of “retirement index adjustment”

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

Amount of accrued pension x retirement index percentage where

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

(2) The retirement index percentage is—

$$A \times B / 12$$

where—

A means—

- (i) for accrued club transfer earned pension, the in-service revaluation index that applies in relation to this scheme for the leaving year,
- (ii) for accrued earned pension other than club transfer earned pension, the index adjustment 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 year.

(3) For the purposes of this regulation, “complete month” includes an incomplete month that consists of at least 16 days.

##### Calculation of “retirement PIA index adjustment”

**34.**—(1) The retirement PIA index adjustment for an amount of accrued added pension is calculated in accordance with paragraph (2).

(2) The retirement PIA index adjustment is the amount by which the annual rate of a pension of an amount equal to the amount of accrued added pension would have been increased in the leaving year under the 1971 Act if—

- (a) that pension were eligible to be so increased; and
- (b) the beginning date for that pension were the day after the relevant last day.

##### Determination of “the age addition”

**35.**—(1) This regulation applies in relation to every scheme year in which an active member’s account and an active member’s added pension account, if any, is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme; and that is not the scheme year in which the account is established under this Part.

(2) 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.

(3) 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 normal pension age under this scheme.

#### **Determination of “the assumed age addition”**

**36.—**(1) This regulation applies on the establishment of a deferred member’s account or retirement account in respect of a member who does not have an active member’s account in connection with another scheme employment.

(2) The scheme manager having regard to actuarial guidance must determine the assumed age addition for the amount of accrued earned pension and accrued added pension (if any) specified in the account.

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

- (a) for an amount of accrued earned pension not attributable to a transferred pension, the age addition that would have been awarded for accrued earned pension if the member had not left pensionable service or exercised the option to partially retire 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 earned pension attributable to a transferred pension, the age addition that would have been awarded for transferred pension if the member had not left pensionable service or exercised the option to partially retire 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 added pension, the age addition that would have been awarded for added pension if the member had not left pensionable service or exercised the option to partially retire 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 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, to the amount actually so specified.

#### **Closure and adjustment of pension accounts on transfer out or repayment of balance of contributions**

**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 the member’s accrued rights under this scheme; or

- (b) all member contributions are refunded to the member under regulation 124 (refund of all member contributions and payments for extra pension made by member).
- (2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer payment does not relate or is not attributable.
- (3) An account that is not closed because of paragraph (2) must be adjusted in such manner as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme<sup>(39)</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 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.

## 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 two 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 the day on which the member begins pensionable service.

(2) For the purposes 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 151(2) (amount of transferred pension).

#### **Receipt of a 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 with an amount of club transfer earned pension calculated under regulation 153(2) (amount of club transfer earned pension).

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<sup>(39)</sup> Regulation 115 (refund of all member contributions and payments for extra pension made by member) provides for extinguishment of rights following the refund of all members contributions and payments for extra pension made by the member. Regulation 137 (effect of transfers-out) provides for extinguishment of rights following the making of a transfer payment.

### **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—
  - (a) the amount of earned pension (if any) for the scheme year;
  - (b) the amount of transferred pension (if any) for the scheme year; and
  - (c) the amount of club transfer earned pension (if any) from each sending scheme for the scheme year.
- (3) The amount is—
  - (a) for earned pension, 1/64.8th of the member's pensionable pay received for that year for the scheme employment in respect of which that member's account is established;
  - (b) for earned pension, 1/64.8th of the member's assumed pensionable pay for the scheme year where the member pays the contributions required by paragraphs (3) and (4) of regulation 119 (contributions during absence from work due to illness, injury, trade dispute or authorised absence) or the contributions required by paragraph (1) of regulation 120 (contributions during absence from work on reserve forces service leave) or the contributions required by paragraph (3) of 121 (contributions during child-related leave);
  - (c) for earned pension, 1/64.8th of the member's assumed pensionable pay during the member's absence due to illness or injury for the period in respect of which the member pays the contributions required by paragraph (2) of regulation 119 (contributions during absence from work due to illness or injury);
  - (d) for earned pension, 1/64.8th of the member's assumed pensionable pay whilst the member is absent on ordinary adoption leave, ordinary maternity leave or paternity leave;
  - (e) for transferred pension, the amount which the member is entitled to count under regulation 151(2) (amount of transferred pension) for that year; and
  - (f) for club transfer earned pension, the amount of all club transfer values received in relation to the member in that year as calculated under regulation 153(2) (amount of club transfer earned pension).

### **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—
  - (a) the opening balance of earned pension for the scheme year and the index adjustment for that opening balance, and if applicable, the age addition awarded at the beginning of the scheme year;
  - (b) the opening balance of club transfer earned pension (if any) for the scheme year and the index adjustment for that opening balance and if applicable, the age addition awarded at the beginning of the scheme year;
  - (c) the opening balance of transferred pension (if any) for the scheme year and the index adjustment for that opening balance and 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, other than added 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 that 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.

### **Ill-health award ceases to be payable**

**45.** This regulation applies when an ill-health award ceases to be payable to a person under regulation 77 (consequences of review) and the pensioner member re-enters pensionable service—

- (a) the scheme manager must close the retirement account;
- (b) the scheme manager must re-establish the active member's account and credit it with an amount equal to the annual rate of lower tier ill-health pension payable when the ill-health award was first made;
- (c) the scheme manager must 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 pay.

### **Closure and re-establishment of active member's account**

**46.—(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 Chapter 7 (deferred member's account); or
- (b) a retirement account under Chapter 8 (retirement account).

(2) The scheme manager must re-establish an active member's account under this Chapter if the scheme manager closes a deferred member's account under Chapter 7.

(3) Where an active member has more than one active member's account and ceases to be in pensionable service in respect of service in one scheme employment without having qualifying service for a period of three months in respect of that account, the active member's account for that employment must be closed and the benefits in that account must be aggregated with the other active member's account.

(4) If an active member has more than one active member's account after the account mentioned in paragraph (3) has been closed, the member may choose which active member's account the benefits from the closed account should be aggregated with.

(5) If the active member fails to make the selection mentioned in paragraph (4), the scheme manager may choose which active member's account the benefits from the closed account should be aggregated with.



## CHAPTER 6

### Added pension account

#### **Establishment of added pension account**

**47.**—(1) A pension account must be established for each active member (P) who makes an added pension election.

(2) If P is an active member in relation to more than one scheme employment, only one added pension account is to be opened.

(3) For the purpose of these Regulations, an account established under paragraph (1) is called an added pension account.

#### **Account to specify amount of added pension**

**48.**—(1) This regulation applies in relation to every scheme year in which an added pension election has effect.

(2) The added pension account must specify in relation to any added pension payments made in that scheme year the amount of added pension determined by the scheme manager under paragraph 11 or under paragraph 14 of Schedule 1 (payments for added pension) to be credited in respect of that scheme year.

#### **Account to specify opening balance and PIA index adjustment**

**49.**—(1) This regulation applies in relation to every scheme year in which an added pension account is open other than the scheme year in which the account is established.

(2) The account must specify—

- (a) the opening balance of added pension for the scheme year and the PIA index adjustment for that opening balance;
- (b) if applicable, the age addition awarded at the beginning of the scheme year.

(3) The “opening balance” of added pension—

- (a) for the scheme year immediately following the scheme year in which the added pension account is established, means the amount of added pension specified in the account 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 added pension for the previous scheme year,
  - (ii) the PIA index adjustment (if any) for that opening balance,
  - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year, and
  - (iv) the amount of added pension for the previous scheme year as at the end of the previous scheme year.

#### **Closure and transfer of added pension account**

**50.**—(1) Where an active member (P) has an added pension account, the added pension account must remain open until—

- (a) P has claimed a retirement pension and the amount of added pension is transferred to the retirement account or the deferred member’s account; or
- (b) a transfer value payment is made in respect of P’s rights to the accrued added pension; or

(c) where a transfer of entries referred to in paragraph (2) has been completed.

(2) Where a scheme manager has provided a certificate under regulation 154 (requirement for scheme manager to provide a certificate) in respect of an added pension account, the new scheme manager must establish an added pension account and transfer the entries from that certificate to that account.

### **Ill-health pension ceases to be payable**

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

- (a) an added pension is payable with an ill-health award; and
- (b) the ill-health award ceases to be payable under regulation 77 (consequences of review).

(2) The added pension account must be re-established and credited with an amount equal to the annual rate of added pension paid to the pensioner member in the last year before the payment of the ill-health award to the member ceased.

## **CHAPTER 7**

### **Deferred member's account**

#### **Application of chapter**

**52.**—(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 two 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**

**53.**—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme.

(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**

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

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

- (a) the amount of accrued earned pension calculated under regulation 32(3) (calculation of amount of accrued pension for purposes of deferment or retirement) ("accrued amount"); and
- (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 the amount of accrued earned 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 earned pension.

(4) The assumed age addition applies in relation to a member who reaches normal pension age under this scheme at least one month before the last day of pensionable service.

#### **Retirement amount of deferred pension**

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

- (2) The deferred member's account must specify the retirement amount of deferred pension
- (3) The retirement amount of deferred pension is the sum of—
  - (a) the amount of any accrued added pension transferred to the deferred member's account,
  - (b) the retirement PIA index adjustment for the accrued added pension,
  - (c) the assumed age addition (if any) for the accrued added pension, and
  - (d) the provisional amount of deferred pension.
- (4) For the retirement amount of deferred pension, the deferred member's account must specify—
  - (a) the commutation amount (if any); and
  - (b) the total allocation amount (if any).

#### **Adjustment of account after early payment of deferred pension ceases**

**56.** When a deferred member who has received the early payment of a deferred pension under regulation 75 (early payment of retirement pension to deferred member) ceases to be entitled to the early payment of the deferred pension under regulation 77(7) (consequences of review), the scheme manager must make the necessary adjustments to the deferred member's account.

#### **Account established after ill-health award ceases to be payable**

**57.** If a lower tier ill-health pension ceases to be payable to a person (P) under regulation 77 (consequences of review) and P does not re-enter pensionable service—

- (a) a deferred member's account must be established; and
- (b) that account must be credited with an amount equal to the annual rate of the lower tier ill-health pension payable immediately before the lower tier ill-health pension ceased to be payable.

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

**58.**—(1) This regulation applies when a deferred member of this scheme re-enters pensionable service under this scheme after a gap in pensionable service not exceeding five 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 pay.

(3) Where a deferred member had more than one deferred member's account which has been opened within five years of the date in paragraph (1) the member may within three months of the date of re-entering scheme employment select which deferred member's accounts should be closed.

(4) If the deferred member fails to make the selection mentioned in paragraph (3), the scheme manager must select which of the deferred member's accounts is to be closed.

## CHAPTER 8

### Retirement account

#### **Establishment of retirement account and other adjustments**

**59.**—(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 retirement pension or an ill-health award, the scheme manager must—

- (a) close all the active member's accounts for that member and any added pension account; 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 and becomes entitled under regulation 67(1) (entitlement to retirement pension) to the immediate payment of a 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;
- (c) close any added pension account and transfer the amount of accrued added pension to the retirement account; and
- (d) establish a new active member's account under Chapter 5 for the member's continuing service as if the first day of pensionable service in the scheme employment is the day after the option date.

(4) When a deferred member becomes entitled to the immediate payment of a retirement pension the scheme manager must—

- (a) close any added pension account; and
- (b) transfer the amount of accrued added pension if any, to the deferred member's account.

(5) For the purpose of these Regulations, an account established for a pensioner member under paragraph (2)(b) or (3)(b) is called a retirement account.

(6) In this regulation—

“continuing service” means pensionable service that continues following the exercise of the partial retirement option in regulation 71 (exercise of partial retirement option) after 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 retirement pension; and

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

#### **Account to specify amount of retirement pension (active members)**

**60.**—(1) The retirement account must specify, for accrued earned pension and accrued added pension, the amount of that retirement pension.

- (2) The amount of retirement earned pension is the sum of—
  - (a) the amount of the accrued earned pension calculated under regulation 32(3) (calculation of amount of accrued pension for purpose of deferment or retirement) (“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 amount of any retirement added pension is the sum of—
  - (a) the amount of the accrued added pension calculated under regulation 32(4) (calculation of amount of accrued pension for purpose of deferment or retirement);
  - (b) the retirement PIA index adjustment for the accrued added pension; and
  - (c) the assumed age addition (if any) for the accrued added pension.
- (4) For the amount of retirement earned pension and the amount of retirement added pension, the retirement account must specify—
  - (a) the commutation amount (if any); and
  - (b) the total allocation amount (if any).
- (5) The assumed age addition applies in relation to a member who reaches normal pension age under this scheme at least one month before the last day of pensionable service.

## CHAPTER 9

### Pension accounts for survivor members

#### **Establishment of survivor member’s account**

**61.**—(1) The scheme manager must establish a pension account for each person who is entitled to a pension under this scheme as a surviving partner or eligible child following the death of an active member, deferred member or pensioner member.

- (2) The scheme manager must—
  - (a) close the active member’s account or the deferred member’s account or the retirement account (as the case maybe) and the added pension account (if any); and
  - (b) establish a pension account for each survivor member.
- (3) For the purpose of these Regulations—
  - (a) a person entitled to a pension in the circumstances mentioned in paragraph (1) is called a survivor member; and
  - (b) an account established under paragraph (2)(b) is called a survivor member’s account.

#### **Amount of pension payable to survivor member**

**62.** The survivor member’s account must be credited with an amount equal to the annual rate of pension payable to the survivor member calculated in accordance with the appropriate regulation in Chapter 2 (pensions for surviving partners) or Chapter 3 (pensions for eligible children) of Part 6 (death benefits), as the case may be, which confers the pension on the survivor member.

## CHAPTER 10

### Pension accounts for pension credit members

#### Establishment of pension credit member's account

**63.**—(1) The scheme manager must establish a pension account for each pension credit member of this scheme.

(2) If a pension credit member has more than one pension credit derived from two 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, 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) For the purpose of these Regulations, an account established for a pension credit member under paragraph (1) is called a pension credit member's account.

(6) 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 (transfer values) of Part 4A (requirements relating to pension credit benefit) of the Pension Schemes Act(40) 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 credits and debits) and 28 (reduction of benefit) of the 1999 Order.

#### Other pension accounts

**64.** If a pension credit member of this scheme is also an active member, deferred member, pensioner member or survivor 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 5

### Retirement benefits

#### CHAPTER 1

##### Interpretation

#### Application of Part

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

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(40) Part 4A was inserted by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (No 3147 (N.I. 11)) article 34.

### **Qualifying service**

66.—(1) In these Regulations, “qualifying service” in relation to a member’s pension account, means the total of—

- (a) any pensionable service under this scheme in relation to the same pension account;
- (b) if a transfer value payment has been accepted under Part 10 (transfers) in respect of a member’s accrued rights under another occupational pension scheme, the member’s period of pensionable service under that scheme; and
- (c) for a transition member with continuity of service, subject to paragraphs (2), (3), (4) and (5), the member’s pensionable service reckonable under article 45 (reckoning of and certificates as to pensionable service) of the FPS (if any) and the member’s qualifying service under the NFPS (if any).

(2) Where a transition member has more than one active member’s account, and was a member of the FPS, the pensionable service reckonable under article 45 of the FPS must be added to the pensionable service for the active member’s account in respect of which the scheme employment is the most similar to the employment which was pensionable under the FPS.

(3) Where a transition member has more active member’s accounts than the number of contracts of employment in respect of which that member was a member of the NFPS, the qualifying service under the NFPS must be added to the pensionable service for the active member’s account in respect of which the scheme employment is most similar to the employment which was pensionable under the NFPS.

(4) Where a transition member was a member of the FPS and the NFPS or had two or more contracts of employment in respect of which that member was a member of the NFPS, the pensionable service reckonable under article 45 of the FPS or the qualifying service under the NFPS, as the case may be, must be added to the pensionable service for the active member’s account in respect of which the scheme employment is most similar to the employment which was pensionable under the FPS or the NFPS.

(5) If the scheme manager is not certain which service pensionable under the FPS or qualifying service under the NFPS is the most similar to the scheme employment for a particular pension account, the member may decide which pensionable service under the FPS or qualifying service under the NFPS is to be added to the pensionable service in relation to a member’s pension account and notify the scheme manager by written notice, in a form required by the scheme manager.

(6) 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;
- (b) any pensionable service under the FPS or the NFPS in respect of which a person’s rights under that scheme are extinguished;
- (c) any unauthorised absence from scheme employment.

## **CHAPTER 2**

### **Retirement benefits**

#### **Entitlement to retirement pension**

67.—(1) Subject to paragraph (2), a member of this scheme (P) is entitled to the immediate payment of a retirement earned pension under this scheme if—

- (a) P—
  - (i) has reached the age of 55,
  - (ii) has at least three months qualifying service,



- (iii) has claimed payment of a retirement pension,
- (iv) is no longer employed in a scheme employment and so is not entitled to be an active member of this scheme; or

(b) P has exercised the partial retirement option.

(2) Where a member is entitled to an ill-health award, the requirement in paragraph (1)(a)(i) does not apply to that member.

(3) On becoming entitled to the immediate payment of a retirement earned pension, P is entitled to immediate payment of a retirement added pension if P had an added pension account in this scheme before becoming so entitled.

(4) The claim for payment of a retirement pension must be made by notice to the scheme manager in a form required by the scheme manager and must be given before the date on which the first payment of the retirement pension is paid.

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

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

(2) The annual rate of a retirement pension payable on the day following the last day of pensionable service to a member to whom this regulation applies is calculated by adding the total of paragraphs (a), (b) and (c)—

- (a) the sum of—
  - (i) the amount of retirement earned pension specified in the member’s retirement account,
  - (ii) subtracting the commutation amount (if any) specified in that account in relation to that amount,
  - (iii) subtracting the total allocation amount (if any) specified in that account in relation to that amount; and
- (b) the sum of—
  - (i) the amount of retirement added pension (if any) specified in the member’s retirement account,
  - (ii) subtracting the commutation amount (if any) specified in that account in relation to that amount,
  - (iii) subtracting the total allocation amount (if any) specified in that account in relation to that amount; and
- (c) the amount of the higher tier ill-health pension (if any) awarded to the member under regulation 73(2) (entitlement to lower tier ill-health pension and higher tier ill-health pension).

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

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

(2) The annual rate of a retirement pension payable to a member to whom this regulation applies is calculated by subtracting from the retirement amount of deferred pension specified in the deferred member’s account—

- (a) the commutation amount (if any) specified in that account in relation to that amount;
- (b) the total allocation amount (if any) specified in that account in relation to that amount.

### **Employer initiated retirement**

70.—(1) Where an active member who has attained the age of 55 (normal pension age) is dismissed from a scheme employment by reason of business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency and the Board makes the determination in paragraph (2), that member's pension is calculated in accordance with regulation 68 (annual rate of retirement pension (active members)).

(2) The Board may only pay a retirement pension of the amount mentioned in paragraph (1) in the circumstances mentioned in that paragraph where it determines that a retirement pension awarded on that basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case.

## **CHAPTER 3**

### **Partial retirement benefits**

#### **Exercise of partial retirement option**

71.—(1) This regulation applies to an active member of this scheme (P) in relation to a continuous period of pensionable service who—

- (a) is aged at least 55; and
- (b) would be entitled to the immediate payment of a 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 under this scheme but claim payment of the whole of P's accrued pension in relation to the pensionable service rendered before the exercise of the partial retirement option.

(3) Where P has more than one active member's account, the partial retirement option may be exercised in respect of some or all of P's active member's accounts.

(4) The partial retirement option may only be exercised by notice to the scheme manager ("option notice") in a form required by the scheme manager and must be given before the date on which the first payment of the retirement pension is claimed.

(5) For the purpose of these Regulations, the partial retirement option is taken to be exercised on such date as the member and the scheme manager agree.

(6) An option notice must specify that P claims the whole of P's pension accrued in respect of P's active member's account in respect of the earlier service of that scheme employment.

#### **Annual rate of retirement pension after exercise of partial retirement option**

72.—(1) An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment of a retirement pension.

(2) The annual rate of a retirement pension is calculated under regulation 68 (annual rate of retirement pension (active members)) by reference to the amount of that description of retirement earned pension and retirement added pension (if any) specified in the member's retirement account.

(3) For the purposes of this Part, where a member exercises the partial retirement option that member's last day of pensionable service in relation to the pensionable service in respect of which the partial retirement option is exercised is the day on which the member exercised the partial retirement option.

## CHAPTER 4

## Ill-health benefits

**Entitlement to lower tier ill-health pension and higher tier ill-health pension**

73.—(1) An active member who has not reached normal pension age of 55 is entitled to immediate payment of a lower tier ill-health pension if the following conditions are met—

- (a) in the opinion of the IQMP the member is incapable of performing any duties of the role in which the member was last employed because of incapacity of mind or body and this incapacity will continue until normal pension age;
- (b) the member has three months of qualifying service;
- (c) consequent on the incapacity in sub-paragraph (a), the member has been dismissed or retired from scheme employment; and
- (d) the scheme manager has determined that the member is entitled to a lower tier ill-health pension.

(2) An active member is entitled to immediate payment of a higher tier ill-health pension in addition to the lower tier ill-health pension if the following conditions are met—

- (a) in the opinion of the IQMP the member is incapable of undertaking regular employment because of incapacity of mind or body and this incapacity will continue until normal pension age;
- (b) the member has at least five years of qualifying service;
- (c) the member is entitled to a lower tier ill-health pension; and
- (d) the scheme manager has determined that the member is entitled to a higher tier ill-health pension.

(3) In these Regulations, an ill-health award means the entitlement to the payment of a lower tier ill-health pension, and in cases where the member is also entitled to a higher tier ill-health pension, the payment of a higher tier ill-health pension.

**Annual rate of ill-health awards**

74.—(1) The annual rate of a lower tier ill-health pension and of a higher tier ill-health pension is calculated as follows.

(2) The annual rate of a lower tier ill-health pension is calculated in accordance with paragraphs (2)(a) and (2)(b) of regulation 68 (annual rate of retirement pension (active members)).

(3) The annual rate of a higher tier ill-health pension is calculated by multiplying the annual amount of the adjusted lower tier ill-health pension by the member's assumed period of pensionable service and by 2%.

(4) In this regulation—

“the adjusted lower tier ill-health pension” means the lower tier ill-health pension payable under paragraph (2) calculated—

- (a) excluding an amount equal to the amount of any added pension which had been included in the calculation of the lower tier ill-health pension, and
- (b) without the deduction for any commuted portion of the pension;

“the member's assumed period of pensionable service” means the period expressed in years—

- (a) beginning with the day after the member's continuous period of pensionable service ceased, and

- (b) ending with the day before the day on which the member will reach normal pension age.

### **Early payment of retirement pension to deferred member**

75. A deferred member who has not reached deferred pension age is entitled to immediate payment of a retirement pension calculated under regulation 69 (annual rate of retirement pension (deferred members)) if the following conditions are satisfied—

- (a) the member has given written notice requesting payment of the pension before deferred pension age to the scheme manager;
- (b) in the opinion of the IQMP the member is incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age; and
- (c) the scheme manager has determined that the member is entitled to the early payment of the pension.

### **Review of ill-health award or early payment of pension of retirement pension**

76.—(1) Where a member (P) has been in receipt of an ill-health award under regulation 73 (entitlement to lower tier ill-health pension and higher tier ill-health pension) for less than 10 years, and is under deferred pension age, the scheme manager must consider, at such intervals as it considers appropriate, whether P has become capable—

- (a) of performing any duty appropriate to the role from which P retired on grounds of ill-health, and
- (b) of undertaking regular employment.

(2) The scheme manager must consider, at such intervals as it considers appropriate before the member reaches deferred pension age, in relation to a pensioner member who was a deferred member and whose pension is being paid early by virtue of regulation 75 (early payment of retirement pension to deferred member), whether the member has become capable of undertaking regular employment.

### **Consequences of review**

77.—(1) If, on such consideration as is mentioned in regulation 76(1) (review of ill-health award or early payment of retirement pension), the scheme manager determines<sup>(41)</sup> that a member (H) who is in receipt of a higher tier ill-health pension has become capable of undertaking regular employment, H's entitlement to that pension must cease with immediate effect.

(2) Subject to paragraph (3), a lower tier ill-health pension must continue to be paid to a member who ceases to be entitled to a higher tier ill-health pension.

(3) If—

- (a) on such consideration as is mentioned in regulation 76(1) (review of ill-health award or early payment of retirement pension), the scheme manager determines that a member (L) who is in receipt of a lower tier ill-health pension has become capable of performing the duties appropriate to the role from which L retired on grounds of ill-health; and
- (b) the Board makes L an offer of employment in that role (“a paragraph (3)(b) offer”),

L's entitlement to a lower tier ill-health pension must cease whether L accepts or declines the offer.

(4) The Board must by written notice when making a paragraph (3)(b) offer specify a date by which, if the member has not accepted the offer, the member will be taken to have declined it.

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<sup>(41)</sup> Regulation 151 (determinations by the Pension Board) requires the scheme manager to obtain the opinion of the IQMP in certain circumstances.

- (5) A lower tier ill-health pension ceases to be payable on the earlier of the following dates—
- (a) the date on which a member re-enters scheme employment pursuant to a paragraph (3)(b) offer; or
  - (b) such date after the paragraph (3)(b) offer is made as the employer specifies by notice under paragraph (4).

(6) Where a member declines a paragraph (3)(b) offer, a deferred member's account must be established under regulation 57 (account established after ill-health award ceases to be payable) from the date on which that member's ill-health award ceases to be payable in accordance with paragraph (5).

(7) If, on such consideration as is mentioned in regulation 76(2) (review of ill-health award or early payment of retirement pension), the scheme manager has obtained the IQMP's opinion which states that a deferred member (P) whose deferred pension is being paid early has become capable of undertaking regular employment, P's entitlement to early payment of the pension must cease with immediate effect and P's deferred member's account must be adjusted under regulation 56 (adjustment of account after early payment of deferred pension ceases).

## CHAPTER 5

### Payment of retirement benefits

#### **Commencement of pensions**

**78.—**(1) The first period for which any retirement pension which is payable immediately on a member leaving scheme employment, begins with the day after the date on which the employment ends where the member has made a claim for payment of that pension before that date.

(2) Where an active member has not claimed payment of the retirement pension before the date on which that member retires, the pension will be payable from a date after the claim is made as notified to the member by the scheme manager.

(3) Where the employer of an active member has determined to pay that member a retirement pension before the member reaches normal pension age in exercise of the powers in regulation 70 (employer initiated retirement), the first period for which the pension is payable begins on the day after the member's scheme employment ends.

(4) In the case of an active member who exercises the partial retirement option, the first period for which any retirement pension is payable begins on the date after the date on which the partial retirement option is exercised.

(5) In the case of a deferred member, the first period for which payment of a retirement pension is to be payable begins on the date on which the member attains deferred pension age where a deferred member has claimed payment of a retirement pension unless that member gives written notice to the scheme manager before the member reaches deferred pension age—

- (a) requesting to defer payment by notice given to the scheme manager more than three months before the member reaches deferred pension age and any such deferral must not extend beyond the day before the member's 75th birthday; or
- (b) requesting payment of the full retirement pension before deferred pension age after the deduction of the early payment reduction; or
- (c) requesting the early payment of the retirement pension under regulation 75 (early payment of retirement pension to deferred member) on grounds of incapacity to undertake regular employment.

(6) Where an active member is entitled to a lower tier ill-health pension or a higher tier ill-health pension under regulation 73 (entitlement to lower tier ill-health pension and higher tier ill-health

pension) the first period for which a retirement pension is payable is the day after the date on which the member scheme employment is terminated.

(7) Where a deferred member has made a request referred to in paragraph (5)(c) and is entitled to the early payment of a retirement pension, the first period for which the pension is payable begins on the date on which the deferred member became incapable of undertaking regular employment because of infirmity of body or mind, or if that date cannot be ascertained, from the date of the member's request to the scheme manager for early payment.

(8) Where a deferred member has made a request referred to in paragraph (5)(a) or (b), the pension will be payable from a date after the claim for it is made which is notified to the member by the scheme manager.

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

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

(2) The option may only be exercised—

- (a) by written notice to the scheme manager which sets out the amount to be commuted; and
- (b) 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 more than the lesser of—

- (a) 25% of the pension for a lump sum under this regulation; or
- (b) the proportion of the pension to the extent that it would result in a scheme chargeable payment<sup>(42)</sup> for the purposes of Part 4 of the 2004 Act.

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

(6) This regulation does not apply to a higher tier ill-health pension.

## **CHAPTER 6**

### **Allocation of part of pension**

#### **Allocation election**

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

(2) An active member or deferred member may elect to allocate up to a third of the amount of the annual rate of any of the member's retirement pensions under this scheme 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 spouse, civil partner or cohabiting partner of the active member or the deferred member; or
- (b) with the consent of the scheme manager, any other person who is substantially dependent on the active member or deferred member and would have been a dependant of the member

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<sup>(42)</sup> See section 241 of the Finance Act 2004.

for the purposes of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act if the member had died when the election was made.

(4) The scheme manager may withhold consent under paragraph (3)(b) if the scheme manager is not satisfied that the person is substantially dependent on the active member or deferred member.

(5) If a member wishes to allocate pension to more than one beneficiary, a separate election must be made in respect of each beneficiary.

(6) Where more than one portion of a particular pension is allocated, the total of the allocated portions of that pension must not exceed the portion of that pension retained by the active or deferred member.

(7) If paragraph (8) 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 manager having regard to actuarial guidance.

(8) This paragraph applies if the member has a guaranteed minimum under section 10 (earner's guaranteed minimum) of the Pension Schemes 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.

### **Making an allocation election**

**81.**—(1) When an active or deferred member intends to make an allocation election, that member must—

- (a) satisfy the scheme manager that that member is in good health and has a normal life expectancy; and
- (b) give the scheme manager written notice of an allocation election specifying—
  - (i) the portion,
  - (ii) the name and address of the beneficiary,
  - (iii) the sex of the beneficiary, and
  - (iv) the date of birth of the beneficiary.

(2) The notice of allocation, which may be sent by post, must be given not earlier than two months before the pension comes into payment.

(3) Where the requirements in paragraphs (1) and (2) have been satisfied, the scheme manager must notify the member that it has accepted the allocation election.

(4) An election has no effect if the member or the beneficiary dies before the notice of allocation takes effect.

### **Effect of allocation**

**82.**—(1) If an allocation election takes effect, the member's retirement pension is reduced accordingly.

(2) If a notice of allocation takes effect, it does so on the day on which the retirement pension comes into payment.

(3) Where a notice of allocation has taken effect, and the beneficiary survives the pensioner, the scheme manager must, from the date of the pensioner's death, pay the beneficiary a pension for life ("allocated pension") of an amount determined by the scheme manager in accordance with actuarial guidance in force when the notice of allocation takes effect, having regard to—

- (a) the amount of retirement pension allocated under the election; and

- (b) the age of the pensioner and beneficiary at the date when the notice of allocation was given.
- (4) Where more than one portion of a member's retirement pension has been allocated, a separate calculation must be made under paragraph (3) in respect of each allocation.
- (5) Where—
  - (a) a notice of allocation has taken effect; and
  - (b) the beneficiary pre-deceases the pensioner,the scheme manager must pay to the pensioner (distinguishing it from any other pension payable to that pensioner) the portion of pension that had been allocated ("the failed allocation pension").
- (6) Where paragraph (5) applies, the pensioner is not entitled to recover from the scheme manager the amount of any deduction made in respect of the failed allocation pension.
- (7) An allocation ceases to have effect for the purposes of this regulation if it would result in a pension being paid under this regulation to a beneficiary who is neither—
  - (a) the member's spouse or civil partner or cohabiting partner on—
    - (i) the date on which the member becomes entitled to the pension, or
    - (ii) when the member dies; nor
  - (b) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act when the member dies.

#### **Adjustment of allocated benefit**

- 83.**—(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 election 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>(43)</sup>.
- (2) In this regulation, "allocated pension" has the same meaning as that given in regulation 82(3) (effect of allocation).

## **PART 6**

### **Death benefits**

#### **CHAPTER 1**

##### **Interpretation**

#### **Meaning of "surviving partner"**

- 84.**—(1) For the purposes of these Regulations, a person is a surviving partner in relation to a member if, at the date of the member's death, that person is—
- (a) the spouse or civil partner of the member;
  - (b) cohabiting with the member and—
    - (i) is not married or in a civil partnership with that member, and

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<sup>(43)</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.



- (ii) is not the spouse or civil partner of any other person, and
- (iii) could enter into a marriage or civil partnership under the law of Northern Ireland with the member but has not done so,
- (iv) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and
- (v) is in a long-term relationship with the scheme member.

(2) In paragraph (1) “long-term relationship” means a relationship that has continued for a period of at least two years ending with the date on which the question of the person’s status in relation to the member falls to be considered, or such shorter period as the scheme manager may in any particular case think fit.

(3) In these Regulations, “cohabiting partner” means a person who satisfies the requirements in paragraph (1)(b);

### **Meaning of “initial period”**

**85.** For the purposes of this Part, the “initial period” is the period of 13 weeks commencing on the day after the death of the member during which a bereavement pension may be payable to any surviving partner or eligible child.

## **CHAPTER 2**

### **Pensions for surviving partners**

#### **Surviving partner’s pension payable on death of active member**

**86.**—(1) This regulation applies in relation to the surviving partner of a member who dies if, at the date of death, the member is an active member and has qualifying service of more than three months.

(2) A surviving partner to whom this regulation applies is entitled to a surviving partner’s pension.

(3) Subject to regulation 90 (reduction in pensions in cases of wide age disparity), the annual rate of the surviving partner’s pension is an amount equal to half the pension which the member would have been entitled to draw if the member had retired on the grounds of ill-health with the award of a higher tier ill-health pension on the date of the member’s death.

#### **Surviving partner’s pension payable on death of deferred member**

**87.**—(1) This regulation applies in relation to the surviving partner of a member who at the date of death is a deferred member.

(2) A surviving partner to whom this regulation applies is entitled to a surviving partner’s pension.

(3) Subject to regulation 90 (reduction in pensions in cases of wide age disparity), the annual rate of surviving partner’s pension is an amount equal to half of the sum of the provisional amount of deferred pension specified in the deferred member’s account and the amount of the added pension (if any) specified in the added pension account.

#### **Surviving partner’s pension payable on death of pensioner member**

**88.**—(1) This regulation applies in relation to the surviving partner of a member (P) who at the date of death is a pensioner member.

(2) A surviving partner to whom this regulation applies is entitled to a surviving partner’s pension.

(3) Subject to regulation 90 (reduction in pensions in cases of wide age disparity), the annual rate of the surviving partner's pension is equal to half of the annual rate of the retirement pension payable to P immediately before P's death.

(4) Where an early payment reduction had been made on P's retirement, the amount in paragraph (2) is half of the amount of retirement pension that would have been payable to P if that reduction had not been made.

#### **Bereavement pension: surviving partner**

**89.**—(1) Subject to paragraph (2), the surviving partner of an active member, or a pensioner member, is entitled to a bereavement pension for the initial period.

(2) The surviving partner of an active member is only entitled to a bereavement pension if the active member had at least three months qualifying service.

(3) If the member was an active member at the date of the member's death, the weekly amount of the bereavement pension payable under paragraph (1) is equal to the difference between the weekly amount of pensionable pay which the member was paid at the date of the member's death or, where the member was treated as receiving assumed pensionable pay, the weekly amount of assumed pensionable pay, and the weekly amount of the surviving partner's pension.

(4) If the member was a pensioner member at the date of the member's death, the weekly amount of the bereavement pension payable under paragraph (1) is equal to the difference between the weekly amount of the pension to which the member was entitled at the date of the member's death, and the weekly amount of the surviving partner's pension.

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

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

(2) The annual rate of that pension is reduced by the lower of—

(a) 50% of the amount of the annual rate of the pension so calculated; or

(b)  $2.5 \times (N - 12)\%$  of that amount,

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

#### **Survivor's guaranteed minimum pensions**

**91.**—(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(44) of the Pension Schemes 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—

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(44) Section 13 was amended by the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671), Schedule 1 paragraph 42. The child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (NI), Schedule 5 paragraph 1 and Schedule 9 Part 3; the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (NI 1)) article 261(2); the Pensions Act (Northern Ireland) 2008 (c.1) (NI) section 12(2) and SR 2005 No 433.

- (a) no pension would be payable to the surviving 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 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 paragraph (a).
- (5) Paragraph (4) does not apply to a pension—
  - (a) that is forfeited—
    - (i) as a result of a conviction for treason, or
    - (ii) in a case where the relevant offence under regulation 173 (forfeiture: offences committed by members, surviving partners or eligible children) falls under paragraph (b) of the definition in that regulation of “relevant offence” (Official Secrets Acts offences); or
  - (b) where that pension is commuted under regulation 169 (commutation of small pensions) where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out Regulations) (Northern Ireland) 1996<sup>(45)</sup> are met.

## CHAPTER 3

### Pensions for eligible children

#### **Eligible child’s pension**

**92.**—(1) If a member, who has three months qualifying service, dies leaving an eligible child, an eligible child’s pension and, depending on the deceased member’s circumstances, a bereavement pension are payable in respect of the child.

(2) An eligible child’s pension is not payable in respect of any period before a child’s birth.

(3) If the person ceases to be an eligible child after the date of the member’s death, the pension ceases to be payable unless and until the child becomes an eligible child again, but, if the child does not cease to be an eligible child, the pension is payable for life.

#### **Meaning of “eligible child”**

**93.**—(1) In these Regulations, “child”, in relation to a deceased member, means—

- (a) a natural child, step-child or adopted child of the member; or
  - (b) the natural child, step-child or adopted child of the member’s spouse, civil partner or cohabiting partner; or
  - (c) any natural child of the member who was born after the member’s death and with whom the child’s mother was pregnant at the date of the member’s death.
- (2) A child of the deceased member is an “eligible child” if—
- (a) the child was at the date of the deceased member’s death financially dependent on the deceased member;
  - (b) the child is not married or in a civil partnership; and
  - (c) the child satisfies any of the conditions A to C.

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<sup>(45)</sup> SR 1996 No 493. Article 60 was substituted by SR 2006 No 223, SR 2009 No 365 and SR 2010 No 108.

(3) Condition A is that the person has not reached the age of 18.

(4) Condition B is that the person is in full-time education or on a course of at least one year's duration and has not reached the age of 23.

(5) Condition C is that the person is dependent on the member at the date of the deceased's death by reason of permanent incapacity of mind or body.

#### **Eligible child's pension on death of active member**

**94.**—(1) This regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is an active member and has qualifying service of more than three months.

(2) The annual rate of an eligible child's pension to which this regulation applies is an amount equal to the specified proportion of the pension which the member would have been entitled to draw if the member had retired on the grounds of ill-health with the award of a higher tier ill-health pension on the date of the member's death.

#### **Eligible child's pension payable on death of deferred member**

**95.**—(1) This regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is a deferred member.

(2) The annual rate of an eligible child's pension is an amount equal to the specified proportion of the sum of the provisional amount of deferred pension specified in the deferred member's account and the amount of the added pension (if any) specified in the added pension account.

#### **Eligible child's pension payable on death of pensioner member**

**96.**—(1) The regulation applies in relation to an eligible child of a member who dies if, at the date of death, the member is a pensioner member (P).

(2) Subject to paragraph (3), the annual rate of an eligible child's pension is an amount equal to the specified proportion of the amount of full retirement pension payable to P immediately before P's death.

(3) Where an early payment reduction had been made on P's retirement, the amount in paragraph (2) is the specified proportion of the amount of retirement pension that would have been payable if that reduction had not been made.

#### **Specified proportion**

**97.**—(1) The specified proportion is one quarter where there is one eligible child at the date of the member's death.

(2) If there is more than one eligible child at the date of the member's death the specified proportion is half of the pension mentioned in regulations 94 (eligible child's pension on death of active member), 86 (eligible child's pension payable on death of deferred member) and 87 (eligible child's pension payable on death of pensioner member) divided by the number of eligible children so that each eligible child receives an equal share.

(3) If a person ceases to be an eligible child, that person's pension will cease to be paid and where there is still more than one eligible child, the amount of that pension must be distributed between the remaining eligible children (if any).

#### **Increase in eligible child's pension where there is no surviving partner**

**98.**—(1) This regulation applies if at the date of the member's death there was no person who was entitled to a surviving partner's pension.

(2) If this regulation applies and there is an eligible child, that child is also entitled to the amount of pension in accordance with paragraphs (3) or (4) which the surviving partner would have received—

- (a) under regulation 86 (surviving partner's pension payable on death of active member) if the member (P) was an active member at the date of P's death;
- (b) under regulation 87 (surviving partner's pension payable on death of deferred member) if P was a deferred member at the date of P's death;
- (c) under regulation 88 (surviving partner's pension payable on death of pensioner member) if P was a pensioner member at the date of P's death.

(3) If there is only one eligible child, that child receives an additional amount equal to the amount ascertained in accordance with paragraph (2).

(4) If there is more than one eligible child at the date of P's death, the amount ascertained in accordance with paragraph (2) is divided between the number of eligible children so that each eligible child receives an equal share.

(5) If a person ceases to be an eligible child, that person's share of the amount ascertained in accordance with paragraph (2) will cease to be paid and the share must be distributed between the remaining eligible children (if any).

#### **Increase in eligible child's pension where member was a pension debit member**

**99.** If the member's benefits were at the date of death subject to a reduction under Article 28 of the 1999 Order, any eligible child's pension must be calculated as though that reduction had not been made.

#### **Bereavement pension: eligible child**

**100.—(1)** If a surviving partner's pension is not payable on the death of the member, a bereavement pension is payable to an eligible child who is entitled to an eligible child's pension on the death of an active member or a pensioner member.

(2) If the surviving partner dies before the end of the initial period and a bereavement pension was payable to the surviving partner, a bereavement pension is payable to any eligible child for the remaining part of the initial period or until the child ceases to be eligible for an eligible child's pension if that is earlier.

(3) If the member was an active member at the date of the member's death, the weekly amount of the bereavement pension payable under paragraph (1) or (2) is equal to the difference between the weekly amount of pensionable pay which the member was paid at the date of the member's death or, where the member was treated as receiving assumed pensionable pay, the weekly amount of assumed pensionable pay, and the weekly amount of the surviving partner's pension.

(4) If the member was a pensioner member, the weekly amount of the bereavement pension payable under paragraph (1) or (2) is equal to the difference between the weekly amount of the pension to which the member was entitled at the date of the member's death, and the weekly amount of the surviving partner's pension.

(5) If there is more than one eligible child, the weekly amount of the bereavement pension payable under paragraph (1) or (2) is divided by the number of eligible children so that each receives an equal share.

(6) If a person ceases to be an eligible child before the end of the initial period, that person's share of the bereavement pension will cease to be paid and the share will be distributed between the remaining eligible children (if any).

## CHAPTER 4

### Lump sum death benefits

#### Meaning of “final pay”

- 101.**—(1) In this Chapter, “final pay” means the greater of the following amounts—
- (a) the amount of the member’s pensionable pay during the member’s continuous period of pensionable service in the period of 365 days ending with the last day of pensionable service; and
  - (b) the amount of the member’s pensionable pay during the member’s continuous period of pensionable service in the period of three years ending with the last day of pensionable service, divided by three.
- (2) If the member’s continuous period of pensionable service was less than 365 days, the amount in paragraph (1)(a) is an amount equal to the member’s annualised final pay;
- (3) 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 three years the amount in paragraph (1)(b) is the total pensionable pay received for that service divided by the number of years in pensionable service calculated in accordance with regulation 184 (calculation of periods of membership and service); and
  - (b) if a member is treated as receiving assumed pensionable pay for any period included in paragraph (1)(a) or (1)(b), pensionable pay in this regulation includes that assumed pensionable pay.
- (4) But if the continuous period of pensionable service includes the day 29th February, paragraphs (1)(a) and (2) have effect with the substitution for “365” of “366”.

#### Meaning of “annualised final pay”

- 102.**—(1) For the purpose of this Chapter, a member’s annualised final pay is  $FP \times 365/N$  where—
- (a) FP is the member’s pensionable pay during the member’s continuous period of pensionable service; and
  - (b) N is the number of days in that period.
- (2) But if the continuous period of pensionable service includes the day 29th February, paragraph (1) has effect with the substitution for “365” of “366”.

#### Person to whom lump sum death benefit payable

**103.** The scheme manager may, at its absolute discretion, pay the lump sum death benefit payable under this Chapter to or for the benefit of the member’s nominee, personal representatives or any person appearing to the scheme manager to have been a relative or dependent of the member.

#### Lump sum payable on death of active member

- 104.**—(1) If an active member dies, the amount of the lump sum death benefit.
- (2) The amount of the lump sum death benefit is an amount equal to three times the amount of the member’s final pay.
- (3) Where an active member has more than one active member’s account, a lump sum death benefit is payable in respect of each of those accounts.

**Lump sum payable on death of pensioner member**

**105.**—(1) This regulation applies if a pensioner member dies within 5 years of the pension coming into payment.

(2) If this regulation applies, the scheme manager must pay a lump sum death benefit.

(3) The amount of the lump sum death benefit is equal to—

(a) the total annual amount of the member’s pensions, multiplied by five; less

(b) the total amount of any pension payments made to the member under this scheme.

(4) In paragraph (3)(a), “total annual amount of the member’s pensions” means the total of the annual rate of the retirement pension shown in the member’s pension accounts calculated as if the beginning date for that pension were the date of the member’s death.

(5) 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.

**Lump sum payable on death in certain cases**

**106.** Where a person (P) at the time of P’s death was a pensioner member of this scheme and an active member of this Scheme, the amount of the lump sum death benefit payable is the greater of the amount of lump sum death benefit payable under regulation 104 (lump sum payable on the death of active member) and the amount of the lump sum death benefit payable under regulation 105 (lump sum payable on the death of a pensioner member).

**Lump sum payable on death of pension credit member**

**107.**—(1) If a pension credit member dies before any benefits derived from a pension credit have become payable to the member, the scheme manager must pay a lump sum death benefit in accordance with paragraph (2).

(2) The amount of the lump sum death benefit that is payable under paragraph (1) is equal to the product of 2.25 and the annual rate of the pension credit member’s pension to which that member would have been entitled if that member had been entitled to the immediate payment of the pension at the date of death.

(3) If a pension credit member dies within five years of the pension credit member’s pension becoming payable, and before attaining the age of 75, the scheme manager must pay a lump sum death benefit in accordance with paragraph (4).

(4) The amount of the lump sum death benefit that is payable under paragraph (3) is the difference between—

(a) the amount that is five times the amount of the pension credit member’s pension; and

(b) the instalments of pension that have been paid.

(5) In paragraph (4), “amount of pension credit member’s pension” means the annual amount of that pension at the date of the pension credit member’s pension came into payment.

(6) If the deceased member was a pension credit member entitled to two or more pension credits, the lump sum death benefits under this scheme are payable in respect of the member as if the member were two or more members, each being entitled to one of the pension credits.

## CHAPTER 5

### Payment of death benefits

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

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

(2) An eligible child's pension payable in respect of an eligible child aged under 18 must be paid to such other person as the scheme manager determines and the scheme manager must require the person to apply it for the eligible child's benefit in accordance with the scheme manager's directions.

#### **Surviving partner's pensions and eligible child's pensions: suspension and recovery**

**109.**—(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 the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.

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

**110.**—(1) This regulation applies where after the death of an active member, deferred member or pensioner member—

- (a) 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
- (b) subsequently it appears—
  - (i) that a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
  - (ii) that a further person was an eligible child; or
  - (iii) that a child who was born after the member's death is an eligible child.

(2) The scheme manager may make such adjustments in the amount of the pensions payable in respect of the children in question as are required in view of the facts as they subsequently appear and these adjustments may apply retrospectively.

(3) Paragraph (2) does not affect the scheme manager's right to recover a payment or overpayment in any case where the scheme manager considers it appropriate to do so.

#### **Adjustment of eligible child's awards consequent on re-instatement of pension benefits**

**111.**—(1) This regulation applies where a person (P) who would be eligible to receive benefits as a surviving partner or eligible child following the death of an active member, deferred member or pensioner member, has been convicted of the murder or manslaughter of that member and that conviction has subsequently been quashed on appeal.



(2) If P is then eligible to receive a surviving partner's pension, any increase in an eligible child's pension under regulation 98 (increase in eligible child's pension where there is no surviving partner) ceases to be payable from the date on which the conviction is quashed.

(3) If P is then eligible to receive an eligible child's pension, and if more than one person is receiving an eligible child's pension on the day before the conviction is quashed, the amount of each eligible child's pension is reduced from the date on which the conviction is quashed to an amount of the eligible child's pension determined according to the specified proportion which would have applied to that number of eligible children.

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

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

- (a) a member 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 of the 2004 Act (the pension death benefit rules).

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

## **PART 7**

### **Benefits for pension credit members**

#### **Entitlement to pension credit members' pension**

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

- (a) P has reached deferred pension age;
- (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.

(2) If P is entitled to two or more pension credits, P is entitled to a pension credit member's pension in respect of each pension credit.

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

**114.** 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; and
- (b) subtracting the commutation amount (if any) specified in that account in relation to that amount.

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

**115.** The benefits to which a pension debit member is entitled under these Regulations are subject to the reduction of the relevant amount calculated in accordance with regulation 63 (establishment of pension credit member's account).

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

**116.** 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.

### **Commutation of part of pension**

**117.—(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 may only be exercised by notice —

(a) to the scheme manager not earlier than 4 months before the later of—

(i) the date on which the pension sharing order comes into effect; or

(ii) the date on which the person attains deferred pension age;

(b) in such form as the scheme manager requires; and

(c) 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 is to be paid a lump sum of £12.

(4) The commuted portion must not exceed one quarter of the amount of the pension credit member's pension.

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

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

## **PART 8**

### **Contributions**

#### **CHAPTER 1**

#### **Members contributions**

### **Member contributions**

**118.—(1)** Subject to regulations 119 to 121 (contributions during absences) an active member of this scheme must pay contributions to the scheme in respect of a scheme employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement of that membership).

(2) The contribution rate applicable to a scheme employment is as specified in the following table, with the contribution rate specified in the appropriate column for the year to be considered applicable to the band of pensionable pay specified in the first column into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

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*Status: This is the original version (as it was originally made).*

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<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2015-31st March 2016</i>
Up to £27,000	10.0%
£27,001 to £50,000	12.2%
£50,001 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2016-31st March 2017</i>
Up to £27,270	10.0%
£27,271 to £50,500	12.5%
£50,501 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2017-31st March 2018</i>
Up to £27,543	10.5%
£27,544 to £51,005	12.7%
£51,006 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate from 1st April 2018</i>
Up to £27,818	11.0%
£27,819 to £51,515	12.9%
£51,516 to £142,500	13.5%
£142,501 or more	14.5%

(3) The amount of pensionable pay of a retained or volunteer firefighter for the purpose of the first column of the table must be that firefighter's reference pay.

(4) The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the table must be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

(5) Where there is a change in scheme employment, or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount of the pensionable pay falls into a different contribution rate band the scheme manager must determine that this rate should be applied and the scheme manager must inform the member of the contribution rate applicable and the date from which it is to be applied.

(6) Where the scheme manager has determined under paragraph (5) that a different contribution rate applies, the member must pay contributions at that rate on the pensionable pay that member is receiving at that time.

(7) For the purposes of identifying which is the applicable contribution rate under this regulation, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave;
- (g) absence due to a trade dispute; or
- (h) circumstances specified by the scheme manager in a particular case.

(8) In these Regulations, “member contributions” means contributions which an active member may pay under this regulation and regulations 119 to 121 (contributions during absences from work).

#### **Contributions during absence from work due to illness, injury, trade dispute or authorised absence**

**119.**—(1) An active member away from scheme employment by reason of illness or injury must pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by the amount of any pensionable pay received, including statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period that member may pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by the amount of pay received immediately before the cessation of pay and if required by the Board, pay the amount of employer contribution which it would otherwise be required to pay by regulation 125(3) (employer contributions).

(3) If an active member is absent on a trade dispute, the member may elect to pay the contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by the assumed pensionable pay that member is treated as receiving and if required by the Board, pay the amount of employer contribution which it would otherwise be required to pay by regulation 125(3) (employer contributions).

(4) If an active member is away from work during a period of authorised unpaid absence, the member may elect to pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by the assumed pensionable pay that member is treated as receiving and if required by the Board, pay the amount of employer contributions which it would otherwise be required to pay by regulation 125(3) (employer contributions).

(5) Where paragraph (2), (3) or (4) applies, the contributions must be paid before the end of the period of six months starting with the date on which the member is treated as receiving assumed pensionable pay.

#### **Contributions during absence from work on reserve forces service leave**

**120.**—(1) An active member (P), who is on reserve forces service leave and who is treated as receiving assumed pensionable pay, must pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions).

(2) The amount of the contributions paid is calculated by multiplying the contribution rate by the lesser of the following amounts—

- (a) assumed pensionable pay;
- (b) the total of the actual pay received and any additional payment made by the scheme employer.

### **Contributions during child-related leave**

**121.**—(1) An active member on child-related leave must pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that member is treated for the purposes of these Regulations as if that member had paid contributions for that unpaid period under paragraph (1).

(3) An active member on additional maternity leave, additional paternity leave, additional adoption leave or parental leave who is not entitled to receive any pensionable pay (including statutory pay) for any of the period of child-related leave, may elect to pay contributions at the contribution rate ascertained in accordance with regulation 118 (member contributions) multiplied by the assumed pensionable pay that member is treated as receiving.

(4) An election to pay contributions may only be made before the end of the period of 30 days starting with the date on which that member returns to work after the period of child-related leave, or if the member does not return to work, the day on which the member ceases to be employed by the employer.

### **Deduction and payment of contributions**

**122.**—(1) The contributions required to be paid under regulation 118 (member contributions) may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due unless another method of payment has been agreed between the scheme manager and the member.

(2) Contributions required to be paid under regulation 120(1) (contributions during absence from work on reserve forces service leave) may be deducted from any payment made under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(46), to the extent that they are payable in respect of the same period.

(3) Contributions which the member has elected to pay, or is required to pay, under regulations 119 (contributions during absence from work due to illness, injury, trade dispute or authorised absence) and 121 (contributions during child-related leave) may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the scheme manager and the member.

### **Schedule 1 (payments for added pension)**

**123.** Schedule 1 has effect (including as to the deduction of payments for added pension).

## CHAPTER 2

### Refund of member contributions

### **Refund of all member contributions and payments for extra pension made by member**

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

(2) Any member contributions and payments resulting from the election to make additional pension contributions under Schedule 1 are refundable if —

- (a) regulation 24 (opting out before the end of the first three months) applies; or
- (b) the member ceases to be in pensionable service under this scheme and —
  - (i) the member has less than three months 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 GMP age under this scheme.

(3) If paragraph (2)(b) applies, the member is entitled to be paid an amount equal to the sum of any member contributions and payments for added pension made by the member, less an amount equal to the income tax payable under section 205 of the 2004 Act (short service refund lump sum charge) as a result of a refund of those contributions and payments.

(4) If all member contributions and payments for added pension made by the member are refunded under this regulation, the member's rights under this scheme in relation to the period of pensionable service are extinguished.

## CHAPTER 3

### Employer contributions

#### **Employer contributions**

**125.**—(1) The Department must determine after consultation with the scheme actuary the employer contribution rate.

(2) The Board as the employer of an active member of this scheme must pay contributions at the employer contribution rate on that member's pensionable earnings.

(3) The Board as the employer of an active member who is treated under regulation 27 (meaning of "assumed pensionable pay") as receiving assumed pensionable pay must pay contributions at the employer contribution rate of the assumed pensionable pay that the member is treated as receiving.

(4) The Department must notify the scheme manager of the employer contribution rate and the date from which this will take effect.

(5) In these Regulations, "employer contribution" means the contributions payable under paragraph (2) or (3).

#### **Employer additional contribution: ill health award**

**126.**—(1) Where a member (H) has retired with an entitlement to the immediate payment of a higher tier ill-health pension and a lower tier ill-health pension under regulation 73(2) (entitlement to lower tier ill-health pension and higher tier ill-health pension), the Board must pay a higher tier ill-health additional contribution.

(2) The amount of the higher tier ill-health additional contribution is the amount determined and notified to the Board by the Department.

(3) Where a member (L) has retired with an entitlement to the immediate payment of a lower tier ill-health pension and without any entitlement to a higher tier ill-health pension, the Board must pay a lower tier ill-health additional contribution.

(4) The amount of the lower tier ill-health additional contribution is the amount determined and notified to the Board by the Department.

(5) The Board must pay the higher tier ill health additional contribution or the lower tier ill health additional contribution, as the case may be, in equal instalments due on:

- (a) the date on which the member retires;
- (b) 1st April of the financial year following the financial year in which the first instalment was paid;
- (c) 1st April of the financial year following the financial year in which the second instalment was paid.

### **Refund of employer additional contribution for ill health award following review**

**127.**—(1) Subject to paragraph (2), where the scheme manager has considered the entitlement of a member (P) to an ill-health award under regulation 76 (review of ill-health award or early payment of retirement pension) and as a consequence of that review the entitlement of P to either a higher tier ill-health pension or a lower tier ill-health pension has ceased, or the entitlement of P to both pensions has ceased, the scheme manager must pay the amount in paragraph (3) or (5), as the case may be, to the Board.

(2) Where the Board has paid all the instalments of higher tier ill-health additional contributions required by regulation 126 (employer additional contribution: ill health award), the scheme manager is not required to pay the Board the amount mentioned in paragraph (3).

(3) Where P, as a result of a review under regulation 76 (review of ill-health award or early payment of retirement pension), ceases to be entitled to a higher tier ill-health pension and remains entitled to a lower tier ill-health pension, the scheme manager must pay an amount equal to the difference between the instalments of higher tier ill-health additional contribution which have been paid under regulation 126(1) (employer additional contribution: ill-health award) and the instalments of the lower tier ill-health additional contribution which would have been required to be paid under regulation 126(3) (employer additional contribution: ill-health award) if only the lower tier ill-health pension had been payable (“the notional payment”).

(4) The scheme manager must determine the amount of the notional payment payable under paragraph (3).

(5) Where P, as a result of a review under regulation 76 (review of ill-health award or early payment of retirement pension), ceases to be entitled to a higher tier ill health pension and to a lower tier ill-health pension as the case may be and the Board has not paid all the instalments of higher tier ill-health pension or lower tier ill-health pension as required by regulation 126 (employer additional contribution ill-health award), the scheme manager must repay to the Board any instalments of higher tier ill-health additional contribution or lower tier ill-health additional contribution as the case may be, which have been paid in respect of P and no further instalments will be due in respect of P.

### **Employer additional contribution: employer initiated retirement**

**128.**—(1) Where the Board has made a determination under regulation 70 (employer initiated retirement) to pay an active member who has not attained normal pension age a pension calculated in accordance with regulation 68 (annual rate of retirement pension (active members)) the Board must pay the employer initiated retirement additional contribution.

(2) The amount of the employer initiated retirement additional contribution is calculated in accordance with actuarial guidance and that actuarial guidance must have regard to the difference between the pension that is payable under regulation 70 (employer initiated retirement) and the pension payable under regulation 68 (annual rate of retirement pension (active members)).

## PART 9

### Firefighters' Pension Fund

#### Interpretation of Part

**129.** In this Part—

“FPF” has the meaning given in regulation 130 (establishment of Firefighters' Pension Fund);

“estimate” means the information referred to in regulation 133(1)(a) and (b) (information to be provided to the Department);

“relevant financial year” means a financial year ending on or after 31st March 2016 in respect of which the scheme manager is required by regulation 133(1) to provide information to the Department;

“revised estimate” means the revised information referred to in regulation 133(4);

“the audited information” means—

- (a) the audited accounts referred to in regulation 133(1)(d),
- (b) any report by the auditor in relation to those accounts, and
- (c) if the scheme manager revises the information referred to in regulation 133(1)(e) and (f), that revised information;

“the un-audited information” means the information referred to in regulation 133(1)(c), (e) and (f).

#### Establishment of Firefighters' Pension Fund

**130.** The Firefighters' Pension Fund (“FPF”) established and maintained by the scheme manager for the purposes of the FPS, and used by the scheme manager for payments and receipts required or authorised to be made under the NFPS must also be used for the purpose of payments and receipts required or authorised to be made under these Regulations.

#### Payments into the Firefighters' Pension Fund

**131.** The scheme manager must pay into the FPF—

- (a) any employer contribution paid by the Board which is required by regulation 125 (employer contributions);
- (b) any employer additional contribution by the Board in respect of a higher tier ill health pension which is required by regulation 126(1) (employer additional contribution: ill-health award);
- (c) any employer additional contribution paid by the Board in respect of a lower tier ill health pension which is required by regulation 126(3) (employer additional contribution: ill-health award);
- (d) any employer additional contribution paid by the Board in respect of an employer initiated retirement which is required by regulation 128(1) (employer additional contribution: employer initiated retirement);
- (e) any member contributions paid under regulation 118 (member contributions), regulation 119 (contributions during absence from work due to illness, injury, trade dispute or authorised absence), regulation 120 (contributions during absence from work on reserve forces service leave), or regulation 121 (contributions during child-related leave);



- (f) any member contributions for added pension paid under Schedule 1 (payments for added pension);
- (g) any club transfer value payment received; and
- (h) any transfer value payment received.

### **Payments to be made from the Firefighters' Pension Fund**

**132.** The scheme manager must make payments out of the FPF in respect of the following:

- (a) any repayment of a member's contributions and payments required by regulation 124 (refund of all member contributions and payments for extra pension made by member);
- (b) any refund of the amount of the employer additional contribution for an ill health award under regulation 127 (refund of employer additional contribution for ill health award following review);
- (c) any pension or award payable under this scheme;
- (d) any club transfer value payment to be paid in respect of a member's accrued benefits in this scheme; and
- (e) any transfer value payment required to be paid in respect of a member's accrued benefits in this scheme.

### **Information to be provided to the Department**

**133.—(1)** The scheme manager must for each financial year ending on or after 31 March 2016 ("relevant financial year") send the following information in writing to the Department—

- (a) the total amount that the scheme manager estimates will be payable out of the FPF in that financial year;
- (b) the total amount that the scheme manager estimates will be payable into the FPF in that financial year;
- (c) the un-audited accounts relating to the FPF for that financial year;
- (d) the audited accounts relating to the FPF for that financial year;
- (e) the total amount paid out of the FPF in that financial year;
- (f) the total amount paid into the FPF in that financial year.

(2) The information in paragraph (1) must be sent in the form specified in writing by the Department.

(3) Subject to paragraph (7), the scheme manager must send the estimate for each relevant financial year to the Department by such date before the start of the relevant financial year as the Department, may, in writing, specify.

(4) If the scheme manager revises any of the information sent in the estimate, the scheme manager may send the revised information ("the revised estimate") to the Department by such date during the relevant financial year as the Department may, in writing, specify.

(5) The scheme manager must send the un-audited information to the Department by such date after the end of the relevant financial year as the Department may, in writing, specify.

(6) The scheme manager must send the audited information to the Department by such date after the end of the financial year as the Department may, in writing, specify.

(7) In relation to the relevant financial year ending on 31 March 2016 the scheme manager must send the estimate to the Department as soon as practicable after the start of that financial year.

### **Estimated deficits**

**134.**—(1) Where, having taken into account the estimate, and any other relevant information, it appears to the Department that the total amount likely to be payable out of the FPF in the relevant financial year will exceed the total amount likely to be payable into that FPF in that year, the Department must pay an amount to the scheme manager equal to 80% of the likely deficit.

(2) Where, having taken into account any revised estimate and any other relevant information, it appears to the Department that—

- (a) the total amount likely to be payable out of the FPF in the relevant financial year will exceed the total amount likely to be paid into the FPF in that year; and
- (b) 80% of the likely deficit is more than—
  - (i) the amount paid or payable by the Department to the scheme manager under paragraph (1) of this regulation in relation to the relevant financial year, or
  - (ii) where no such amount was paid or payable by the Department, zero,

the Department may pay to the scheme manager such amount as the Department thinks fit.

(3) Where the Department has paid an amount to a scheme manager under paragraphs (1) and (2), the total of these amounts must not exceed 80% of the deficit of the FPF for that year.

(4) Where the Department pays an amount to a scheme manager under paragraph (2), any amount paid or payable by that scheme manager to the Department in relation to the relevant financial year under regulation 135(1) (estimated surpluses) must not be paid, or if paid, the Department must repay it.

(5) The Department must make the payment to the scheme manager under paragraph (1) before the end of July of the relevant financial year or as soon as practicable thereafter.

(6) Where the Department makes a payment under paragraph (2) or a repayment under paragraph (4), the payment or repayment must be made before the end of the relevant financial year or as soon as reasonably practicable thereafter.

### **Estimated surpluses**

**135.**—(1) Where, having taken into account the estimate, and any other relevant information, it appears to the Department that the total amount likely to be paid into the FPF in the relevant financial year will exceed the total amount likely to be payable out of that FPF in that year, the Department must require the scheme manager to pay to the Department an amount equal to 80% of the likely surplus.

(2) Where, having taken into account any revised estimate and any other relevant information available, it appears to the Department that—

- (a) the total amount likely to be paid into the FPF in the relevant financial year will exceed the total amount likely to be payable out of the FPF in that year; and
- (b) 80% of the likely surplus is more than—
  - (i) the amount paid or payable by the scheme manager to the Department under paragraph (1) in relation to the relevant financial year; or
  - (ii) where no such amount was paid or payable by the scheme manager, zero,

the Department may require the scheme manager to pay to the Department such amount as the Department may by notice in writing specify.

(3) Where the scheme manager has paid an amount to Department under paragraphs (1) and (2), the total of these amounts must not exceed 80% of the likely surplus of the FPF for that year.

(4) Where the Department requires the scheme manager to pay an amount under paragraph (2), any amount paid or payable by the Department to the scheme manager in relation to the relevant financial year under regulation 134(1) (estimated deficits) must not be paid, or if paid, the scheme manager must repay it.

(5) The Department must give to the scheme manager, on or before 3rd March of the relevant financial year, written notice of the amount of any payment or repayment that the Department requires the scheme manager to make under paragraph (1), (2) or (4).

(6) Where the scheme manager is required to make a payment under paragraphs (1) or (2) or to make a repayment under paragraph (4), the payments must be made before the end of the relevant financial year or as soon as reasonably practicable thereafter.

### **Actual deficits**

**136.**—(1) Where, having taken into account the un-audited information, and any other relevant information available, it appears to the Department that the total amount likely to be payable out of the FPF in the relevant financial year exceeds the total amount likely to be paid or payable to the FPF in that year—

- (a) where the likely deficit (“the un-audited deficit”) exceeds the total of any amount paid or payable to the scheme manager in relation to that year under of regulation 134(1) or (2) (estimated deficits) (“the regulation 134 total”), the Department must pay to the scheme manager the amount of the un-audited deficit less the regulation 134 total;
- (b) where the un-audited deficit is less than the regulation 134 total, the amount of the regulation 134 total less the un-audited deficit is not payable under of regulation 134(1) or (2) and, if already paid, the scheme manager must repay that amount to the Department;
- (c) where no amount was paid or payable by the Department to the scheme manager in relation to the relevant financial year under regulation 134(1) or (2), the Department must pay to the scheme manager the amount of the un-audited deficit; and
- (d) any amount paid or payable to the Department in relation to that year under regulation 135(1) or (2), is not payable and, if already paid, the Department must repay it to the scheme manager.

(2) Where, having taken into account the audited information and any other relevant information available, it appears to the Department that the total amount paid or payable out of the FPF in the relevant year exceeds the total amount paid or payable into that FPF in that year—

- (a) where the difference between those total amounts (“the audited deficit”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to the scheme manager in relation to that year under paragraph (1)(a) or (c) or regulation 134(1) or (2) (“the un-audited total”), the Department must pay to the scheme manager the amount of the audited deficit less the un-audited total;
- (b) where the audited deficit is less than the un-audited total, the amount of the un-audited total less the audited deficit is not payable under paragraphs (1)(a) or (c) or regulation 134(1) or (2) (estimated deficits) and, if already paid, the scheme manager must repay it to the Department ;
- (c) where no amount was paid or payable by the Department to the scheme manager in relation to the relevant financial year under paragraphs (1)(a) or (c) or regulation 134(1) or (2), the Department must pay to the scheme manager the amount of the audited deficit, and
- (d) any amount paid or payable to the Department in relation to the relevant financial year under regulation 135(1) or (2) or regulation 137(1)(a) or (c) is not payable and, if already paid, the Department must repay it to the scheme manager.

(3) Where the Department, or the scheme manager, as the case may be, is required to make a payment or repayment under paragraph (1), it must be made before the end of July in the financial year following the relevant financial year (“the second year”) or as soon as reasonably practicable thereafter.

(4) Where the Department or the scheme manager, as the case may be, is required to make a payment or repayment under paragraph (2), it must be made before the end of July in the financial year following the second year or as soon as reasonably practicable thereafter.

### **Actual surpluses**

**137.**—(1) Where, having taken into account the un-audited information, and any other relevant information available, it appears to the Department that the total amount paid into the FPF in the relevant financial year exceeds the total amount paid out of that FPF in that year—

- (a) where the difference between those total amounts (“the un-audited surplus”) exceeds the total of any amounts paid or payable to the Department by the scheme manager in relation to that year under regulation 135(1) or (2) (“the regulation 135 total”), the Department must require the scheme manager to pay to the Department the amount of the un-audited surplus less the regulation 135 total.
- (b) where the un-audited surplus is less than the regulation 135 total, the amount of the regulation 135 total less the un-audited surplus is not payable under regulation 135(1) or (2) and, if already paid, the Department must repay it to the scheme manager;
- (c) where no amount was paid or payable to the Department by the scheme manager in relation to the relevant financial year under regulation 135(1) or (2), the Department must require the scheme manager to pay to the Department the amount of the un-audited surplus; and
- (d) any amount paid or payable by the Department to the scheme manager in relation to that year under regulation 134(1) or (2), is not payable and, if already paid, the scheme manager must repay it to the Department.

(2) Where, having taken into account the audited information and any other relevant information available, it appears to the Department that the total amount paid into the FPF in the relevant financial year exceeds the total amount payable out of that FPF in that year—

- (a) where the difference between those total amounts (“the audited surplus”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to the Department by the scheme manager in relation to that year under paragraph (1)(a) or (c) or regulation 135(1) or (2) (estimated surpluses) (“the un-audited regulation 135 total”), the Department must require the scheme manager to pay to the Department out of the FPF the amount of the audited surplus less the un-audited regulation 135 total;
- (b) where the audited surplus is less than the un-audited regulation 135 total, the amount of the un-audited regulation 135 total less the audited surplus is not payable under paragraphs (1)(a) or (c) or regulation 135(1) or (2) and, if already paid, the Department must repay it to the scheme manager;
- (c) where no amount was paid or payable to the Department by the scheme manager in relation to the relevant financial year under paragraphs (1)(a) or (c) or regulation 135(1) or (2), the Department must require the scheme manager to pay to the Department the amount of the audited surplus; and
- (d) any amount paid or payable by the Department to the scheme manager in relation to that year under regulation 134(1) or (2) (estimated deficits), or regulation 136(1)(a) or (c) (actual deficits) is not payable and, if already paid, the scheme manager must repay it to the Department.

(3) The Department must give to the scheme manager, on or before 3rd July in the financial year after the relevant financial year (“the second year”), written notice of the amount of the payment that the Department requires the scheme manager to make under paragraph (1)(a) or (c).

(4) Where the Department or the scheme manager, as the case may be, is required to make a payment or repayment under paragraph (1), it must be made before the end of July in the second year or as soon as reasonably practicable thereafter.

(5) The Department must give to the scheme manager, on or before 3rd July in the financial year that is the second financial year after the relevant financial year (“the third year”), written notice of the amount of any payment that the Department requires the scheme manager to make under paragraph (2)(a) or (c).

(6) Where the Department or the scheme manager, as the case may be, is required to make a payment or repayment under paragraph (2), it must be made before the end of July in the third year or as soon as reasonably practicable thereafter.

### **Duty to provide information**

**138.**—(1) The scheme manager must provide the Department with such information relevant to the exercise of the Department’s functions under this Part as it may, by written notice, require.

(2) The scheme manager must provide the information required within the period of time specified by the Department in that notice or within such additional period as may be allowed by the Department.

## **PART 10**

### **Transfers**

#### **CHAPTER 1**

##### **Preliminary**

### **Application of Part**

**139.** This Part—

- (a) supplements the rights conferred by or under chapter 4 of Part 4 of the Pension Schemes Act (transfer values); and
- (b) supplements the rights conferred by or under Chapter 5 of that Part (early leavers: cash transfer sums and contribution refunds)<sup>(47)</sup> and is without prejudice to that Chapter.

### **Interpretation in relation to Part**

**140.** In this Part—

“another authority” means a fire authority in England, Wales or Scotland;

“cash equivalent” means an amount calculated in accordance with regulations made under section 93 of the Pension Schemes Act;

“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

(47) Chapter 5 of Part IV of the Pension Schemes (Northern Ireland) Act 1993 was inserted by [S.I. 2005/255 \(NI 1\)](#) article 241.

- (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;
- “guarantee date” has the meaning given in regulation 143 (statement of entitlement);
- “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 145 (calculating amount of a transfer value or club transfer value), 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**

**141.**—(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 of the 2004 Act (see section 169(2) of that 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) of the Pension Schemes Act.

(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) of the Pension Schemes Act (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member’s other rights) applies, benefits attributable to the following may be excluded from the transfer payment—

- (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 of the Pension Schemes Act, on or after 6th April 1997.

**Application for a statement of entitlement**

**142.**—(1) This regulation applies 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 this transfer payment, P must apply for a statement of entitlement by written notice to the scheme manager.

(3) P may withdraw the application by written notice to the scheme manager at any time before the statement is provided.

(4) P may make other applications in the period of 12 months beginning with the date of the first application.

**Statement of entitlement**

**143.**—(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 (“the guarantee date”)

(2) Unless paragraph (4) applies, the guarantee date must fall within both the following periods—

(a) the three months beginning with the date of the member’s application for the statement of entitlement (“the three 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, and New Year’s Day are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the six months beginning with the date of the member’s application for the statement of entitlement if—

(a) 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 three month period; and

(b) the scheme manager considers it reasonable to specify a guarantee date that falls outside the three month period.

**Request for transfer payment to be made**

**144.**—(1) An active or a 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 transfer payment must be made by written notice to the scheme manager and specify the pension scheme or other pension arrangement to which the transfer value is to be made.

(3) A deferred member must exercise the right to apply for the payment of a club transfer value on the earlier of the day before the deferred member attains the deferred pension age and the end of the period of 12 months beginning with the date on which the deferred member ceased to be an active member of the scheme.

(4) A deferred member must exercise the right to apply for the payment of a transfer value on or before the day before the deferred member attains the deferred pension age.

(5) Subject to paragraph (6), the member by written notice to the scheme manager may withdraw the request at any time before the transfer payment is made.

(6) 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**

**145.**—(1) Subject to paragraphs (2) and (3), the amount of the transfer value is to be calculated in accordance with actuarial guidance as at the guarantee date.

(2) If a transfer value is paid later than six 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 Pension Schemes Act.

(3) If a club transfer value is paid later than six 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.

(4) 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.

(5) In this regulation—

“the minimum transfer value” means the total of—

- (a) the sum of all member contributions and added pension payments made by the member; and
- (b) the sum of all transfer value payments received by this scheme in relation to the member.

### **Effect of transfers-out**

**146.** 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**

**147.** This Chapter applies in relation to an active member of this scheme who has accrued rights under another pension scheme (P).

### **Interpretation of Chapter**

**148.** In this Chapter—

“another pension scheme” means—

- (a) another occupational pension scheme that is a registered pension scheme but is not a connected scheme;
- (b) a qualifying recognised overseas pension scheme for the purposes of Part 4 of the 2004 Act, or
- (c) a personal pension scheme;

“club transfer value statement” means a statement under regulation 152 (club transfer value statement) 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 two 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 150 (transfer statement).

### **Request for acceptance of a transfer payment**

**149.**—(1) P may by written notice to the scheme manager request that a transfer payment be accepted in respect of some or all of P’s accrued rights 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; and

(b) subject to paragraph (3), must be made before the beginning of the period of one year ending with the date on which the member reaches normal pension age.

(3) A request that a transfer payment be accepted from a non-occupational pension scheme must be made during the period of one year beginning with the day on which the member becomes an active member or such longer period as the scheme manager may allow.

(4) On receiving a transfer request, the scheme manager may accept the transfer payment.

### **Transfer statement**

**150.**—(1) This regulation applies in relation to—

(a) a request for a transfer payment to be accepted from another pension scheme that is not a club scheme; and

(b) a request for a transfer payment of added pension to be accepted from another club scheme.

(2) The scheme manager may require that, before making a transfer payment request, P must ask the scheme manager of the other scheme to provide a statement of the amount of transferred pension, calculated in accordance with actuarial guidance, that P will be entitled to count under regulation 151 (amount of transferred pension) provided that the transfer date falls within the period of two months beginning with the date of that statement.

### **Amount of transferred pension**

**151.**—(1) This regulation applies in relation to—

(a) any transfer payment received in relation to P from another pension scheme that is not a club scheme; and

(b) a transfer payment in respect of added pension received in relation to P from another club scheme.

(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 payment is—

(a) the amount specified in the transfer statement; or

(b) if such a statement is not provided or is not calculated in accordance with actuarial guidance, an amount calculated by the scheme manager in accordance with actuarial guidance.

### **Club transfer value statement**

**152.**—(1) This regulation applies in relation to a request 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 of the sending scheme to provide a statement of the amount of club transfer earned pension, calculated in accordance with actuarial guidance, that P will be entitled to count under regulation 153 (amount of club transfer earned pension) if the transfer date falls within the period of two months beginning with the date of that statement.

(3) 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**

**153.**—(1) This regulation applies in relation to a club transfer value payment received from another club scheme.

(2) For the scheme year in which the transfer date falls, the amount of club transfer earned pension P is entitled to count is—

- (a) the amount specified in the club transfer value statement; or
- (b) if that statement is not provided, an amount calculated by the scheme manager in accordance with actuarial guidance.

## **CHAPTER 4**

### **Transfer of pension account entries to another scheme manager**

#### **Requirement for scheme manager to provide a certificate**

**154.**—(1) The scheme manager must provide an active member who has ceased to be employed by the Board in scheme employment and has taken up scheme employment with another authority with a certificate stating—

- (a) the entries in the pension account, or pension accounts if more than one, at the date of the certificate;
- (b) the period of pensionable service in the scheme employment, or employments, with the Board; and
- (c) the date on which the certificate is given.

(2) Where a deferred member has taken up scheme employment with another authority after a gap in pensionable service not exceeding 5 years, that member must request the scheme manager in relation to the earlier period of pensionable service to provide the member with a certificate stating—

- (a) the entries in the pension account, or pension accounts if more than one, at the date of the certificate;
- (b) the period of pensionable service in the scheme employment, or employments, with the Board;
- (c) the date on which the member had ceased to be employed in scheme employment by the Board; and
- (d) the date on which the certificate is given.

(3) Where the scheme manager is required to provide a certificate under paragraph (1), and the scheme manager had established an added pension account for that member the scheme manager must provide the member with a certificate stating—

- (a) the entries in the added pension account at the date of the certificate;

- (b) the date on which the certificate is given; and
- (c) details of the member's added pension election where the contributions period has not ended.

(4) Where a scheme manager is required to provide a certificate under paragraph (2), or where a deferred member intends to make an added pension election having taken up scheme employment after a gap in pensionable service exceeding 5 years, and the scheme manager in relation to a previous period of pensionable service had established an added pension account, that scheme manager must provide the member with a certificate, where the member requests one, stating—

- (a) the entries in the pension account at the date of the certificate;
- (b) the date on which the member had ceased to be employed in scheme employment by that employer; and
- (c) the date on which the certificate is given.

(5) Where an active member has two or more active member's accounts, and that member intends to make, or has made an added pension election, that member may request a certificate from the scheme manager who established the added pension account so that that certificate may be provided to the scheme manager for another authority in respect of a different active member's account so that the entries may be transferred to an added pension account established by the scheme manager.

(6) The scheme manager must provide a certificate under this regulation—

- (a) within three months of the date on which the active member leaves scheme employment; or
- (b) within three months of the date on which the deferred member notifies the scheme manager for another authority.

#### **Request to confirm details on certificate**

**155.** Where a member has been provided with a certificate under regulation 154 (requirement for scheme manager to provide a certificate) and is dissatisfied with the information stated on the certificate, that member may within the period of three months commencing on the date on which the certificate was received, request the scheme manager to confirm the accuracy of the information contained in it or to provide an amended certificate.

#### **Dispute concerning entries on the certificate**

**156.—**(1) Where a member (P) is not satisfied with the entries on the certificate, or amended certificate, after P has made a request under regulation 155 (request to confirm details on certificate), P may, by written notice given to the scheme manager within 28 days of the notification date, require the scheme manager to deal with the disagreement by means of arrangements implemented by it pursuant to the requirements of Article 50 (resolution of disputes) of the Pensions (Northern Ireland) Order 1995<sup>(48)</sup> and the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008<sup>(49)</sup>.

(2) In paragraph (1) “the notification date” is the date on which P is treated as having received from the scheme manager confirmation of the certificate provided or provision of an amended certificate following P's request under regulation 155 (request to confirm details on certificate).

<sup>(48)</sup> S.I. 1995/3213 (NI 22)

<sup>(49)</sup> SR 2008 No 116.

### **Transfer of pension account entries**

**157.**—(1) A member who has been provided with a certificate under paragraph (1), (2), (3) or (4) of regulation 154 (requirement for scheme manager to provide a certificate) must give the certificate to that member’s new employer.

(2) If the number of pension accounts in respect of which details have been provided by the former scheme manager under paragraph (1) or (2) of regulation 154 (requirement for scheme manager to provide a certificate) is greater than the number of active member’s accounts established by the scheme manager for another authority, the member must decide, following consultation with that scheme manager, from which pension account entries should be transferred to the new active member’s account of that other authority or accounts and notify that scheme manager of this.

(3) Where paragraph (2) applies and there are one or more pension accounts from which entries are not transferred, those accounts must be closed and the scheme manager must establish a deferred member’s account in respect of each of those accounts.

(4) Where a member has taken up scheme employment with the Board and one or more other authorities and intends to make an added pension election, the member may choose to which scheme manager the certificate provided under paragraph (3) or (4) of regulation 154 (requirement for scheme manager to provide a certificate) is to be given.

(5) The scheme manager is not required to make any payment to the scheme manager of another authority in connection with the transfer of pension account.

## **PART 11**

### **Actuarial valuations**

#### **Appointment of scheme actuary and actuarial valuations**

**158.**—(1) The Department must appoint an individual 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 this scheme and any connected scheme; and
- (b) preparing reports on the valuations.

(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 of Finance and Personnel directions made under section 11 of the 2014 Act (the “Department of Finance and Personnel directions”).

(4) The scheme manager must provide 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 of Finance and Personnel directions.

(6) Valuations of the scheme must be carried out within a time-frame which enables requirements in the Department of Finance and Personnel 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) Where the cost of this scheme, calculated following a valuation in accordance with Department of Finance and Personnel directions under section 11 of the 2014 Act is more than the margins specified in regulations made under section 12(5) of the 2014 Act<sup>(50)</sup> (“the cost Cap Regulations”) above or below the employer cost cap, the Department must follow the procedure specified in paragraph (3) for reaching agreement with scheme managers, employers and members (or representatives of employers and members) as to the steps required to achieve the target cost specified in the cost cap Regulations.

(3) The procedure specified for the purposes of section 12(6)(a) of the 2014 Act is consultation for such period as the Department considers appropriate with the Firefighters’ Pension Scheme Advisory Board with a view to reaching an agreement endorsed by all members of that Board.

(4) If, following such consultation, agreement is not reached with 3 months of the end of the consultation period the Department must take steps to adjust the rate at which benefits accrue under regulation 43 (amount of pension for a scheme year) so that the target cost for this scheme is achieved.

## PART 12

### Determination of Questions of Appeals

#### CHAPTER 1

##### **Determinations by the scheme manager**

**160.** The scheme manager must determine in the first instance whether a person is entitled to an award or to retain an award.

##### **Determinations by the Pension Board**

**161.**—(1) Where the scheme manager is unable to make a determination under regulation 160, the question of that person’s entitlement shall be determined by the Pension Board.

(2) Subject to paragraph (3), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether a person has been disabled;
- (b) whether any disablement is likely to be permanent;
- (c) whether the person would be able to undertake regular employment;
- (d) whether a person is capable of performing the duties of a regular firefighter; or
- (e) any other issue wholly or partly of a medical nature,

the Pension Board shall obtain the written opinion of an independent qualified medical practitioner selected by it and the opinion of that practitioner shall be binding on it.

(3) If by reason of the person’s refusal or wilful or negligent failure to submit to medical examination by the practitioner selected by it the Pension Board is unable to obtain the opinion mentioned in paragraph (2), it may—

- (a) on such other medical evidence as it thinks fit; or
- (b) without medical evidence,

give such decision on the issue as it may choose to give.

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<sup>(50)</sup> See Regulation 3 of [S.R. 2015/12](#).

### **Appeal against opinion on a medical issue**

**162.**—(1) Where—

- (a) an opinion of the kind mentioned in regulation 161(2) has been obtained; and
- (b) within 14 days of his being notified of the Pension Board’s decision on the issue the person concerned applies to it for a copy of the opinion,

the Pension Board shall supply him with a copy, together with a statement informing the person concerned that, if he wishes to appeal against the opinion, he must give the Pension Board written notice of his grounds of appeal, together with his name and address, within 14 days beginning with the date on which he is so supplied.

(2) If the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the Pension Board in accordance with regulation 164(1) and (2).

(3) The Pension Board shall be bound by any decision on a medical issue duly given on an appeal under this regulation. A decision given under this regulation overrules that of the qualified medical practitioner selected by the Pension Board under regulation 161.

(4) In this regulation, “medical issue” means any issue referred to in regulation 161(2).

(5) Further provisions as to appeals under this regulation are contained in regulation 164.

### **Appeals against decision of the Pension Board**

**163.**—(1) Where a person claims that he is entitled to an award or to any payment in respect of an award and the Pension Board—

- (a) does not admit the claim at all; or
- (b) does not admit the claim to its full extent,

the Pension Board shall reconsider the case if he applies to it to do so.

(2) If a person is dissatisfied with any determination given by the Pension Board on reconsidering the case he may, within 2 months of being informed by the Pension Board of the decision, appeal to the Department against the decision of the Pension Board.

(3) The Department shall, unless it appears to it that the case is of such a nature that it can properly be determined without taking oral evidence, arrange for the hearing of the appeal, and at any such hearing the appellant shall be entitled to have an opportunity of submitting statements relating to the subject matter of the appeal, calling witnesses, giving evidence and making such representations as he desires, and shall be entitled to have the assistance in presenting his case of a person selected by himself.

(4) After considering in accordance with the foregoing provisions of this regulation all the circumstances of the case the Department shall either allow the claim to such extent as it thinks fit or dismiss the appeal.

(5) Nothing in this paragraph shall authorise the Department to:-

- (a) control or restrict the exercise of any discretion which is by this Scheme vested in the Pension Board other than the discretion so vested by the following;
  - (i) Subject to sub-paragraph (iv), in the circumstances specified in sub-paragraph (ii), the Pension Board may withdraw a pension in whole or in part, and permanently or temporarily as it may specify.
  - (ii) The circumstances are—

- (aa) that the person entitled to the pension (“the pensioner”) has been convicted of an offence falling within sub-paragraph (iii), and in the case of a pension

under Part C of the FPS that the offence was committed after the death on which the pensioner became entitled to it; or

- (bb) that the pensioner has been convicted of an offence committed in connection with his service as a member of the fire and rescue service which is certified by a Minister of the Crown either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(iii) The offences mentioned in sub-paragraph (ii)(aa) are—

- (aa) an offence of treason; and
- (bb) one or more offences under the Official Secrets Act 1911 to 1989<sup>(51)</sup> for which the pensioner has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

(iv) In determining whether the withdrawal of a pension should—

- (aa) be permanent or temporary; and
- (bb) affect the pension in whole or in part,

the Pension Board may make different determinations in respect of the secured and unsecured portions of the pension; but the secured portion may not be withdrawn permanently and may only be withdrawn temporarily for a period ending before the pensioner attains state pensionable age or one during which he is imprisoned or otherwise detained in legal custody.

(v) The Pension Board may, to such extent as it thinks fit—

- (aa) apply for the benefit of any dependant of the pensioner's; or
- (bb) restore to the pensioner'

so much of any pension as has been withdrawn under this regulation.

- (b) reopen any medical issue decided on appeal under regulation 162; or
- (c) question any certificate as to pensionable service which has become conclusive and states that if he does not appeal, the certificate as supplied, and if he does appeal, the certificate as confirmed or varied, is conclusive as to the pensionable service he was entitled to reckon on the material date.

(6) The decision of the Department on an appeal under paragraph (2) shall be final and binding on both parties.

## CHAPTER 2

### Appeal to Independent Medical Referee

**164.**—(1) Subject to paragraph (2) written notice of appeal against an opinion of the kind mentioned in regulation 162(2) stating—

- (i) the grounds of the appeal; and
- (ii) the appellant's name and his address,

must be given to the Pension Board within 14 days beginning with the date on which he is supplied by it with a copy of the opinion.

(2) Where—

- (a) notice of appeal is not given within the period specified in paragraph (1); but

<sup>(51)</sup> 1911 c. 28, 1920 c. 75, 1939 c. 121, 1989 c. 6

- (b) the Pension Board is of the opinion that the person's failure to give it within that period was not due to his own default,

it may extend the period for giving notice to such length, not exceeding 6 months from the date mentioned in paragraph (1), as it thinks fit.

(3) On receiving a notice of appeal the Pension Board shall supply the Department with two copies of the notice and two copies of the opinion.

(4) The Department shall refer an appeal to an independent medical referee appointed by it and shall supply him with a copy of the notice and a copy of the opinion.

(5) The independent medical referee shall secure that the appellant and the Pension Board ("the Parties") have been informed—

- (a) that the appeal is to be determined by him; and
- (b) of an address to which communications relating to the appeal may be delivered.

(6) Subject to paragraph (9), the independent medical referee—

- (a) shall interview and medically examine the appellant at least once; and
- (b) may interview or medically examine him or cause him to be interviewed or medically examined on such further occasions as the independent medical referee thinks necessary for the purpose of deciding the appeal.

(7) The independent medical referee shall—

- (a) appoint, and
- (b) give the appellant and the Pension Board not less than 21 days' notice of,

the time and place for every interview and medical examination; if the independent medical referee is satisfied that the appellant is unable to travel, the place shall be the appellant's place of residence.

(8) The appellant shall attend at the time and place appointed for any interview or medical examination by the independent medical referee.

(9) If—

- (a) the appellant fails to comply with paragraph (8); and
- (b) the independent medical referee is not satisfied that there was reasonable cause for the failure,

the independent medical referee may dispense with the interview or medical examination required by sub-paragraph (6)(a) or, as the case may be, with any further interview or medical examination required by sub-paragraph (6)(b), and may decide the appeal on such information as is then available.

(10) Any interview under paragraphs (6) to (10) may be attended by persons appointed for the purpose by the Pension Board or by the appellant or by each of them.

(11) Where either party to the appeal intends to submit written evidence or a written statement at an interview held under paragraph (6), the party shall, subject to paragraph (12), submit it to the independent medical referee and to the other party not less than 7 days before the date appointed for the interview.

(12) Where any written evidence or statement has been submitted under paragraph (11) less than 7 days before the date appointed for the interview, any written evidence or statement in response may be submitted by the other party to the independent medical referee and the party submitting the first-mentioned evidence or statement at any time up to, and including, that date.

(13) Where any written evidence or statement is submitted in contravention of paragraph (11), the independent medical referee may postpone the date appointed for the interview and require the party who submitted the evidence or statement to pay such reasonable costs of the independent medical referee and of the other party as arise from the postponement.



(14) The independent medical referee shall supply the Department with a written report of his decision on the relevant medical issues and the Department shall supply a copy of the report to the appellant and to the Pension Board.

(15) There shall be paid to the independent medical referee—

- (a) such fees as are determined in accordance with arrangements made by the Department; or
- (b) where no such arrangement have been made, such fees and allowances as the Department may from time to time determine

(16) Any fees and allowances payable to the independent medical referee under paragraph (15) shall—

- (i) be paid by the Pension Board; and
- (ii) be treated for the purposes of paragraph (17) as part of the Pension Board's expenses.

(17) Subject to paragraph (13) and paragraphs (18) to (22), the expenses of each party to the appeal shall be borne by that party.

(18) Where the independent medical referee—

- (a) decides in favour of the Pension Board; and
- (b) reports that in his opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the Pension Board may require the appellant to pay them such sum, not exceeding the amount of the fees and allowances payable to the independent medical referee under paragraph (15), as it thinks fit.

(19) Where the appellant gives notice to the independent medical referee of withdrawing the appeal within 21 days beginning with the date appointed for an interview by the independent medical referee under paragraph (7), the Pension Board may require the appellant to pay it such sum, not exceeding the total amount of fees and allowances payable to the independent medical referee under paragraph (15) as it thinks fit.

(20) Where the independent medical referee—

- (a) decides in favour of the appellant, and
- (b) does not otherwise direct,

the Pension Board shall refund to the appellant the amount specified in paragraph (21).

(21) The amount is the total of—

- (a) any personal expenses actually and reasonably incurred by the appellant in respect of any interview under paragraph (6); and
- (b) if any such interview was attended by a qualified medical practitioner appointed by the appellant, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(22) For the purpose of paragraphs (18) and (20) any question arising as to whether the independent medical referee's decision is in favour of the Pension Board or of the appellant shall be decided by the independent medical referee, or in default by the Department.

(23) Any notice, information or document which an appellant is entitled to receive for the purposes of this regulation shall be deemed to have been received by him if it was duly posted in a letter addressed to him at his last known place of residence.

### CHAPTER 3

#### Dispute Resolution

#### **Disputes on other issues**

165. Where—

- (a) a member (P) disagrees with a scheme manager's determination under regulation 160 (determinations by the scheme manager); and
- (b) the disagreement does not involve a question mentioned in regulation 161(2),

P may, by written notice given to the scheme manager within 28 days beginning with the receipt of the determination, require the scheme manager to deal with the disagreement by means of the arrangements implemented by it pursuant to the requirements of Article 50 of the Pensions (Northern Ireland) Order 1995<sup>(52)</sup> (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008<sup>(53)</sup>.

## PART 13

### Supplementary

#### CHAPTER 1

##### Payment of pensions

#### **Late payment of retirement index adjustment**

**166.** 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.

#### **Recovery of overpayment of benefits**

**167.—(1)** This regulation applies in respect of a financial year for which a percentage decrease in earnings is specified in an order made under section 9 of the 2014 Act<sup>(54)</sup>.

(2) The scheme manager must recover any overpayment of benefits that has occurred as a result of the application of the retirement index adjustment for that year.

(3) When this regulation applies the scheme manager must notify the member in writing that the amount of the overpayment is to be recovered by reducing the amount of each instalment of pension until the amount of the overpayment is recovered or by omitting to pay any increase in the amount of any pension due until the amount of the overpayment is recovered.

#### **Guaranteed minimum pension**

**168.—(1)** If a member has a guaranteed minimum in relation to benefits under this scheme—

- (a) nothing in these Regulations permits or requires anything that would cause requirements made by or under the Pension Schemes 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 subject 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

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<sup>(52)</sup> *S.I. 1995/3213 (NI 22)*. Section 50 was substituted by the Pensions (Northern Ireland) Order 2005 (*S.I. 2005/255 (NI 1)*) article 250 and amended by the Pensions Act (Northern Ireland) 2008 (c. 1) (NI) section 14.

<sup>(53)</sup> *SR. 2008 No 116*.

<sup>(54)</sup> Under section 9 of the 2014 Act (c. 2) the change in earnings to be applied in a period is the percentage increase or decrease as a Treasury order under that section may specify in relation to the period.

(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 GMP age or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(3) Subject to paragraph (4) if—

(a) on reaching GMP 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.

(4) If the member continues in employment for a further five years after reaching GMP 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 Part 5 (retirement benefits) and Part 7 (benefits for pension credit members) as equals the member's guaranteed minimum (or, as the case may be, to so much of the member's pensions under Part 5 and Part 7 as together have a 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 Pension Schemes Act.

(6) If—

(a) before reaching the age of 65 the member becomes entitled to the immediate payment of a pension; and

(b) the member has a guaranteed minimum 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 tables included in actuarial guidance 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 Pension Schemes Act (certification of pension schemes and effects on member's 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 for 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 Pension Schemes Act<sup>(55)</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 GMP 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

<sup>(55)</sup> Subsection (2B) was inserted by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/ 3213 (NI 22)), section 133(3) and amended by the Social Security Contributions (Transfer of Functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671), Schedule 1 paragraph 38.

- (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 that person's rights under section 5(2B) of the Pension Schemes Act,

but a person falling within paragraph (7) is not to be regarded as a pensioner member for the purposes of Part 6 (death benefits).

(9) Paragraphs (2) to (8) do not apply to a pension—

(a) that is forfeited—

- (i) as a result of a conviction for treason, or
- (ii) in a case where the relevant offence under regulation 173 (forfeiture: offences committed by members, surviving partners or eligible children) falls under paragraph (b) of the definition in that regulation of “relevant offence” (Official Secrets Acts offences);

- (b) where that pension is commuted under regulation 169 (commutation of small pensions) and where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(56) are met,

and 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).

### **Commutation of small pensions**

**169.**—(1) This regulation applies if the pension entitlement of a member of the scheme or the pension entitlement of a member's beneficiary does not exceed the small pensions commutation maximum.

(2) Unless the member has reached deferred pension age, this regulation does not apply if the pension entitlement of the member or the member's beneficiary is equal to or exceeds the member's guaranteed minimum.

(3) The scheme manager may pay the member, surviving partner or eligible child a lump sum of an amount as represents the cash value of the pension calculated in accordance with actuarial guidance if—

- (a) the person consents to receipt of a lump sum in respect 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(57);
- (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)(58) and, in relation to a pension payable under Part 6 (death benefits), paragraph 20 of that

(56) SR 1996 No 493. Regulation 60 was amended by SR 2006 No 223, SR 2009 No 365 and SR 2010 No 108.

(57) SR 1997 No 153. Regulation 2 was amended by SR 2002 No 109, SR 2005 No 171, SR 2006 No 141 and SR 2009 No 365.

(58) 2004 (c. 12). Paragraph 7 was amended by the Finance Act 2011 (c. 11), Schedule 16 paragraph 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and SI 2006/572.

Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(**59**); and

- (c) regulation 3 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000(**60**); 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.

### **Payments for persons incapable of managing their affairs**

**170.** If it appears to the scheme manager that a person other than an eligible child is entitled to payment of benefits under this scheme but is, by reason of mental incapacity or otherwise, incapable of managing his or her affairs—

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

### **Payments due in respect of deceased persons**

**171.**—(1) Paragraph (2) applies if, when a person dies, the total amount due to that person’s personal representatives under this scheme (including anything due at that person’s death) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967(**61**) and applying in relation to that person’s death.

(2) A scheme manager may pay the whole or part of the amount due to—

- (a) a person’s personal representatives, or
- (b) any person or persons appearing to the scheme manager to be beneficially entitled to the estate,

without the production of probate or letters of administration of the person’s estate.

### **Limitation on assignment of benefits**

**172.** An assignment of an award under these Regulations is void to the extent that it is in favour of a person other than a dependant of the person entitled to the award.

## **CHAPTER 2**

### **Forfeiture**

#### **Forfeiture: offences committed by members, surviving partners or eligible children**

**173.**—(1) If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager may, to such extent and for such duration as it considers appropriate, withhold pensions payable under this scheme to—

- (a) the member;

(59) Paragraph 20 was amended by the Finance Act 2011 (c. 11), Schedule 16 paragraph 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.

(60) SR 2000 No 146. Regulation 3 was amended by SR 2009 No 365.

(61) 1967 (c. 5) (NI); there are amendments to section 6 which are not relevant to this instrument.

- (b) any person in respect of the member;
- (c) a surviving partner; or
- (d) an eligible child.

(2) Where a surviving partner's or an eligible child's pensions under Part 6 (death benefits) is to be withheld under paragraph (1) as a result of a relevant offence falling under paragraph (a) or (b) of the definition of that expression in paragraph (5), the offence must have been committed after the death on which the person became entitled to the surviving partner or eligible child's pension, as the case may be.

(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 Pension Schemes Act (earner's guaranteed minimum); or
- (b) section 13 (minimum pensions for widows and widowers)(62) of that Act.

(4) The scheme manager may, at any time and to such extent and for such duration as it thinks fit—

- (a) apply for the benefit of any dependant of the member; or
- (b) restore to the member,

so much of any pension as has been withdrawn under this regulation.

(5) 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;

“relevant offence” means—

- (a) offences of treason,
- (b) offences under the Official Secrets Acts 1911 to 1989(63) for which the member has been sentenced on the same occasion—
  - (i) to a term of imprisonment of at least 10 years,
  - (ii) to two or more consecutive terms amounting in the aggregate to at least 10 years, or
- (c) offences—
  - (i) committed in connection with the member's scheme employment; and
  - (ii) in respect of which the Department has issued a forfeiture certificate.

### **Forfeiture of pensions: offences committed by other persons**

**174.**—(1) If a person (P) is convicted of the murder of a member, the scheme manager must withhold all of any surviving partner or eligible child's pension otherwise payable to P in respect of the member under Part 6 (death benefits).

(2) If P is convicted of a relevant offence, the scheme manager may, to such extent as it considers consider appropriate, withhold any surviving partner or eligible child's pension payable to P in respect of a member under Part 6 (death benefits).

(3) If paragraph (1) applies, Part 6 (death benefits) applies as if P had died before the member.

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(62) 1993 (c. 49). Section 13 was amended by the Social Security Contribution (Transfer of functions, etc) (Northern Ireland) Order 1999 (S.I. 1999/671) Schedule 1 paragraph 42; the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (NI) Schedule 5 paragraph 1 and Schedule 9 Part 3; the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (NI 1)) article 261(3); the Pensions Act (Northern Ireland) 2008 (c. 1) (NI) section 12(2) and SR 2005 No 433.

(63) 1989 c.6, see section 16(2) for the meaning of “Official Secrets Acts 1911 to 1989”.

(4) Under paragraph (2), the scheme manager may only withhold such part of P's pension as exceeds any guaranteed minimum to which P is entitled under section 13 of the Pension Schemes Act.

(5) If P is convicted of the murder of a member and the conviction is subsequently quashed on appeal, any surviving partner or eligible child's pension withheld is to be payable from the day after that on which the member died, and the scheme manager must, as soon as reasonably practicable after the conviction is quashed, pay the arrears of the pension accrued.

(6) If P is convicted of a relevant offence and the conviction is subsequently quashed on appeal any decision under paragraph (2) is to be treated as revoked and the scheme manager must, as soon as reasonably practicable after the conviction is quashed, pay the arrears of the pension accrued from the day after that on which the member died.

(7) Nothing in paragraphs (5) or (6) is to affect the application of paragraphs (1) or (2) if the person whose conviction is quashed is subsequently convicted of the murder of the member or of a relevant offence.

(8) In this regulation, relevant offence means—

- (a) the manslaughter of the member; or
- (b) any other offence, apart from murder, of which the unlawful killing of the member is an element.

#### **Forfeiture of lump sum death benefit: offences committed by other persons**

**175.**—(1) If a person is convicted of a relevant offence, the scheme manager must withhold all of any lump sum death benefit payable to that person in respect of a member under Chapter 4 of Part 6 (death benefits).

(2) In this regulation, relevant offence means—

- (a) the murder of the member;
- (b) the manslaughter of the member; or
- (c) any other offence of which the unlawful killing of the member is an element.

(3) If paragraph (1) applies and the scheme manager withholds all benefits, Part 6 (death benefits) applies as if that person had died before the member.

(4) If a person is convicted of a relevant offence and their conviction is subsequently quashed on appeal the scheme manager may, to such extent and for such duration as it thinks fit, restore to that person so much of any benefit as has been withheld under this regulation.

(5) Nothing in paragraph (4) is to affect the application of paragraph (1) if the person whose conviction is quashed is subsequently convicted of a relevant offence.

#### **Forfeiture: relevant monetary obligations and relevant monetary losses**

**176.**—(1) If a member (P) has a relevant monetary obligation or has caused a relevant monetary loss the scheme manager may, to such extent and for such duration as they consider appropriate, 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 as exceeds any guaranteed minimum to which P is entitled under section 10 of the Pension Schemes 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 statutory obligation which—
- (a) was incurred to the Board,
  - (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 the scheme employment in respect of which P is a member of this scheme; and
- “relevant monetary loss” means a monetary loss which—
- (a) was caused to this scheme, and
  - (b) arose as a result of P’s criminal, negligent or fraudulent act or omission.

### Set-off

**177.**—(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 paragraphs (3), (4) or (5).

- (3) The conditions in this paragraph are that the monetary obligation—
- (a) was incurred to the Board;
  - (b) was incurred after P became an active member of this scheme;
  - (c) arose out of or was connected with the service in the scheme employment in respect of which P is a member of this scheme; and
  - (d) arose out of P’s criminal, negligent or fraudulent act or omission.
- (4) The conditions in this paragraph 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 in this paragraph 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 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 such part of P’s entitlement to benefits that represents transfer credits within the meaning of article 121(1) (interpretation of Part 2) of the Pensions (Northern Ireland) Order 1995<sup>(64)</sup> other than prescribed

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<sup>(64)</sup> *S.I. 1995/3213 (NI 22)*. Article 121(1) was amended by The Welfare Reform and Pensions (Northern Ireland) Order 1999 Schedule 9 paragraph 17 and 50, the Child support, Pensions and Social security Act (Northern Ireland) 2000 (c. 4) (NI) Schedule 5 paragraph 5, the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (NI 1)) section 6(2), Schedule 10 paragraph 63(2), SR 2005 No 434 and SI 2006/745.



transfer credits for the purposes of section 89(5)(d) (inalienability of occupational pension) of the Pensions (Northern Ireland) Order 1995<sup>(65)</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 that member is entitled under section 10 of the Pension Schemes 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**

**178.**—(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 176 (forfeiture; relevant monetary obligations and relevant monetary losses) or applies a set-off against an entitlement to benefits under regulation 177 (set-off), 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, surviving partner or eligible child's benefits under this scheme.

## **CHAPTER 3**

### **Payment and deduction of tax**

#### **Scheme administrator for the purposes of the 2004 Act**

**179.** The scheme manager is appointed to be responsible for all liabilities and responsibilities connected with the functions conferred or imposed on the scheme administrator by or under Part 4 of the 2004 Act which the scheme manager assumes as sub-scheme administrator under regulation 3 of, and Schedule 3 to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006<sup>(66)</sup>.

#### **Payment on behalf of members of lifetime allowance charge**

**180.**—(1) A member 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 when—

- (a) an event that is a benefit crystallisation event listed in the table in section 216(1) of the 2004 Act occurs in relation to the member; and

<sup>(65)</sup> S.I. 1995/3213 (NI 22). Article 89(5)(d) was amended by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (NI 11)) Schedule 9 paragraphs 32 and 46. See SR 1997 No 153 which prescribes the transfer credits.

<sup>(66)</sup> S.I.2006/569; amended by S.I. 2013/1114.

- (b) the member and the scheme manager are jointly and severally liable in relation to that event.
- (2) Such a request may only be made by notice to the scheme manager given before the event occurs.
- (3) The scheme manager may only comply with such a request if—
  - (a) the member pays it the amount in question on or before the date on which the event occurs; or
  - (b) the member authorises the deduction of the amount in question from a lump sum becoming payable to the member under this scheme at the same time as the event occurs.

### **Reduction of benefits where lifetime allowance charge payable**

- 181.**—(1) This regulation applies if—
- (a) an event that is a benefit crystallisation 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 that event; and
  - (c) no request has been duly made under regulation 180 (payment on behalf of members of lifetime allowance charge) 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;
  - (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 that 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 be such that it fully reflects the amount of tax so paid; and
  - (b) in the case of any reduction to pension benefits, must be calculated according to actuarial guidance.

### **Information about payment of annual allowance charge**

- 182.**—(1) If a member’s pension scheme input amount for this scheme for a pension input period exceeds the amount of the annual allowance for the tax year in which the pension input period ends, paragraph (2) applies in respect of the member for that tax year.
- (2) The scheme manager must, no later than 6th October after the end of the tax year, provide the member with such information as the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for that tax year and with the information required by regulation 14A of the Registered Pension Scheme (Provision of Information) Regulations 2006<sup>(67)</sup>.
- (3) In this regulation—

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<sup>(67)</sup> [S.I.2006/567](#); regulation 14A was inserted by regulations 2 and 8 of [S.I.2011/1797](#).

“pension scheme input amount” has the meaning given in section 237B(2) (Liability of scheme administrator) of the 2004 Act<sup>(68)</sup>;

“pension input period” has the meaning given in section 238 of the 2004 Act.

### **Reduction of benefits where annual allowance charge paid by scheme manager**

**183.**—(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 be such that it fully reflects the amount paid by the scheme manager; and
- (b) must be determined in accordance with actuarial guidance.

(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.

## CHAPTER 4

### General

### **Calculation of periods of membership and service**

**184.**—(1) Subject to paragraph (3), for the purposes of this scheme, periods of membership and service must be expressed in the first instance in whole years, and days or fractions of a day, and the initial aggregation of periods that require to be aggregated is done by reference to periods so expressed.

(2) Subject to paragraph (3), 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.

(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),

must be converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to four 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).

### **Annual benefit information statements**

**185.**—(1) The scheme manager must provide an annual benefit information statement to each of its members who are not pensioner members in respect of the pension account for which the statement is to be provided.

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<sup>(68)</sup> 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.

(2) The first such statements must be provided on or before 31st August 2016.

(3) Subject to paragraph (4), subsequent statements must be provided at least once per year on or before 31st August of each year that follows.

(4) If a member requests in writing that a statement is provided to them after the end of a scheme year but before 31st August of the following scheme year, the scheme manager must provide an annual benefit information statement as soon as reasonably practicable in accordance with the member's request, unless the relevant data to enable them to do so is not available.

(5) The statement provided to active members of this scheme must be in accordance with section 14 of the 2014 Act (information about benefits).

### **Evidence of entitlement**

**186.**—(1) A scheme manager may by written notice require any person who is in receipt of a pension or may have an entitlement to a pension or a lump sum under this scheme to provide it with such supporting evidence as it may reasonably require to establish—

- (a) the identity of that person; and
- (b) that person's continuing or future entitlement to the payment of any amount under this scheme.

(2) A notice under paragraph (1) must specify the date by which the supporting evidence is to be provided.

(3) Where a person fails to comply with the requirements of a notice given in accordance with paragraph (1), the scheme manager may withhold the whole or part of any amount that it otherwise considers to be payable under this scheme.

### **Information to be provided to a member before reserve forces service leave**

**187.** The scheme manager must give a member who is about to start on a period of reserve forces service leave a statement stating—

- (a) the assumed pensionable pay for that member whilst on reserve forces service leave;
- (b) the member contribution rate to apply during that period;
- (c) details of any payments to be paid by the employer to the member whilst on reserve forces service leave; and
- (d) the employer contribution which applies during that period.

### **Transitional provisions**

**188.** Schedule 2 has effect.

### **Duty to have regard to guidance**

**189.** The scheme manager must have regard to any guidance issued by the Department for the purposes of this Part.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 24 February 2015



*Sharon Gallagher*  
A senior officer of the  
Department of Health, Social Services and  
Public Safety

The Department of Finance and Personnel consents to the foregoing Regulations.  
Sealed with the Official Seal of the Department of Finance and Personnel on 24 February 2015



*Joanne McBurney*  
A senior officer of the  
Department of Finance and Personnel