

**2016 No. 128**

**LOCAL GOVERNMENT**

**The Local Government Pension Scheme (Amendment)  
Regulations (Northern Ireland) 2016**

*Made* - - - - *8th March 2016*

*Coming into operation* - *1st April 2016*

The Department of the Environment, with the consent of the Department of Finance and Personnel, makes these Regulations in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014<sup>(a)</sup>.

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

**Citation, commencement, interpretation and retrospection**

**1.**—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016 and except as provided for by paragraph (2), shall come into operation on 1st April 2016.

(2) These Regulations shall come into effect from 1st April 2015.

(3) In these Regulations—

- (a) “the 2000 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000<sup>(b)</sup>;
- (b) “the 2002 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002<sup>(c)</sup>;
- (c) “the Administration Regulations” means the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009<sup>(d)</sup>;
- (d) “the Benefits Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009<sup>(e)</sup>;

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<sup>(a)</sup> 2014 c. 2 (N.I.).

<sup>(b)</sup> S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, and S.R. 2002 No. 115.

<sup>(c)</sup> S.R. 2002 No. 352 as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R. . 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479, S.R. 2010 No. 164, S.R. 2012 No. 183 and S.R. 2014 No. 189.

<sup>(d)</sup> S.R. 2009 No. 33 as amended by S.R. 2010 No. 164, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 1873

<sup>(e)</sup> S.R. 2009 No. 32 as amended by S.R. 2010 No. 164, S.I. 2010/234, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 85, S.R. 2012 No. 183, S.R. 2013 No. 71 and S.R. 2014 No. 189.

- (e) “the Principal Regulations” means The Local Government Pension Scheme Regulations (Northern Ireland) 2014(a); and
- (f) “the Transitional Regulations” means The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014(b).

### **Amendment of the Principal Regulations**

2. The Principal Regulations shall be amended in accordance with regulations 3 to 26.

3. For regulation 3(3)(b) (active membership) substitute—

“(b) where regulation 7(2) (ending active membership) applies, on the person’s automatic re-enrolment date or if the person applies to become a member on the first day of the first payment period following the application; or”;

4. After regulation 10 (pension credit members and survivor members) insert—

#### **“Separate employments, etc.**

**10A.**—(1) Where a person holds separate employments under one employing authority, these Regulations apply as if each of them were with a different employer.

(2) For the purposes of these Regulations, a clerk of a district council who performs functions under Article 9(2) (conduct of elections) of the Electoral Law (Northern Ireland) Order 1972(c) shall, in relation to those functions, be treated as if that person were employed by that district council and that person’s pay in relation to those functions shall be treated as pensionable pay by that district council.”.

5. For regulation 17(6) (employing authority contributions during absences), substitute—

“(6) The amount that an employing authority can be required to pay under paragraph (5) must not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving pensionable pay for the period of absence from work up to a maximum period of 36 months, which amount shall be calculated in accordance with actuarial guidance issued by the Department where the amount of pensionable remuneration cannot be readily determined.”.

6. In regulation 18(11) (additional pension contributions), at the end of sub-paragraphs (d) and (e) insert “in the employment to which the APC is attached.”.

7. In regulation 19 (additional voluntary contributions)—

(a) after paragraph (5) insert—

“(5A) The maximum a member may specify under paragraph (3)(a) or notify as a varied amount under paragraph (5) in respect of each employment for which the member makes an election is 50% of the pensionable pay of that employment in each pay period or an amount equal to 50% of the pensionable of that employment in each pay period.”;

(b) in paragraph (7)—

(i) after “or regulation 36 (early payment of pension on ill-health grounds: active members)” insert “or regulation 37 (early payment of pension on ill-health grounds: deferred members)”;

(ii) at the end of sub-paragraph (a) for “; or” substitute “; and”;

(c) for paragraph (8), substitute—

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(a) S.R. 2014 No. 188 as amended by S.R. 2015 No. 77 and S.R. 2015 No. 162.

(b) S.R. 2014 No. 189 as amended by S.R. 2015 No. 162.

(c) S.I. 1972/1264 (N.I. 13) as amended by S.I. 1972/1998 (N.I. 21).

“(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of lump sum, that sum shall not result in the total lump sum payable to the member exceeding 25% of the capital value of LGPS benefits taken at that crystallisation event and forms part of the total amount referred to in regulation 34(2) (election for lump sum instead of pension).”;

(d) for paragraph (10) substitute—

“(10) A member may transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme.”; and

(e) in paragraph (12) after “the Committee shall” insert “at its discretion”.

**8. In regulation 23 (assumed pensionable pay)—**

(a) in paragraph (2)(a) for “sickness” substitute “illness”;

(b) in paragraph (2)(b) after “child related leave” insert “other than any part of that leave period where the pensionable pay received is greater than the assumed pensionable pay that the member would otherwise have been treated as receiving for that part of the leave period”;

(c) in paragraph (4) for “The annual rate of assumed pensionable pay” substitute “Subject to paragraph (4A), the annual rate of assumed pensionable pay”;

(d) in paragraph (4)(a)(i) for “most recent pay periods in which the member received pay” substitute “months”;

(e) in paragraph (4)(b)(i) for “most recent pay periods in which the member received pay” substitute “weeks”;

(f) in paragraph (4)(a)(i) and (4)(b)(i) for “regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members)” substitute “regulations 39(1)(a) (calculation of ill-health pension amounts), 40(3) (death grants: active members), 41(4)(b) (survivor benefits: partners of active members), 44(3)(b), 44(4)(b), 45(3)(b) and 45(4)(b) (survivor benefits: children of active members).”; and

(g) after paragraph (4) insert—

“(4A) If the pensionable pay the member received in the periods specified in paragraph (4)(a)(i) or (4)(b)(i) was reduced as a result of absence due to a trade dispute or absence with permission from the member’s employing authority, such reduction is to be ignored for the purposes of calculating that member’s assumed pensionable pay.”.

**9. In regulation 24 (pension accounts)—**

(a) in paragraph (4) delete “or” after sub-paragraph (e) and for sub-paragraph (f) substitute—

“(f) due to aggregation of benefits in the pension account with a different pension account, it is no longer needed; or

(g) the member’s benefits are commuted under regulation 35 (commutation and small pensions).”;

(b) in paragraph (5) for “deferred account” substitute “deferred refund account”; and

(c) for paragraph (8) substitute—

“(8) Subject to paragraph 8A, where a deferred member again becomes an active member, the member may make an election to aggregate the benefits in the deferred member’s pension account with those in the active member’s pension account within—

(a) twelve months of the active member’s pension account being opened;

(b) twelve months from 1st April 2016; or

(c) such longer period as the employing authority in relation to that active member’s pension account may permit.

(8A) Where a member is entitled to deferred benefits as a consequence of a notice served under regulation 7(2) (ending active membership) and becomes an active member again in

the same employment, that member cannot make an election to aggregate benefits from a deferred member's pension account under paragraph (8).

(8B) But paragraphs (7) and (8) do not apply to a member who is the subject of—

- (a) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the TUPE Regulations”) apply; or
- (b) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.”.

**10.** In regulation 33 (commencement of pensions) after paragraph (5) insert—

“(5A) A notice may be given under paragraph (3) before the date the member fulfils any qualifying criteria for an election so long as that member fulfils the qualifying criteria on the date specified in the notice.”.

**11.** In regulation 34 (election for lump sum instead of pension)—

(a) in paragraph (2)—

- (i) for “excluding” substitute “including any retirement grant, standard retirement grant, retiring allowance and”; and
- (ii) delete “entered into before 1st April 2015 referred to in regulation 19(7)(a) (additional voluntary contributions)”.

(b) delete paragraph (3).

**12.** In regulation 38 (role of the IRMP)—

(a) for paragraph (1)(c) substitute—

“(c) where a member has been working reduced contractual hours or at a lower grade and had reduced pay as a consequence of the reduction in contractual hours or grade, whether that member was wholly or temporarily in part time service as a result of the condition that caused or contributed to the member's ill-health retirement.”; and

(b) after paragraph (4) insert—

“(5) Where an IRMP is part of an occupational health provider, the IRMP is not to be treated as having advised, given an opinion on or otherwise been involved in a particular case because another IRMP from the same occupational health provider has advised, given an opinion on or otherwise been involved in that case.”.

**13.** For regulation 39(7)(a) (calculation of ill-health pension amounts)—

“(a) in calculating assumed pensionable pay in accordance with regulation 23(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member received if an IRMP has certified that the member was working reduced contractual hours or at a lower grade, wholly or temporarily as a result of the condition that caused or contributed to the member's ill-health retirement; and”.

**14.** In regulation 40 (death grants: active members)—

(a) in paragraph (3) at the end insert “,but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade, as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition”; and

(b) after paragraph (4) insert—

“(5) Where an active member is also a deferred member or a pensioner member of the Scheme or both, the death grant payable upon the death of an active member shall be the higher of—

- (a) a death grant calculated in accordance with regulation 40(3); or
- (b) the aggregate of all death grants payable under regulations 46 (death grants: deferred members and pension credit members) and 51 (death grants: pensioner members),

and no other death grant shall be payable.”.

**15.** At the end of regulation 41(4) (survivor benefits: partners of active members)—

- (a) at the end of sub-paragraph (a)(iv) delete “and”;
- (b) at the end of sub-paragraph (a)(v) insert “and”;
- (c) after sub-paragraph (a)(v) insert—
  - “(vi) the amount of earned pension credited under regulation 21(3) (councillors’ pensions) of the Transitional Regulations had been multiplied by 49/160th;”;
  - and
- (d) in sub-paragraph (b) after “normal pension age” insert “, but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member’s death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.”.

**16.** In regulation 44 (survivor benefits: children of active members where a pension is payable to partner of an active member) at the end of paragraphs (3)(b) and (4)(b), insert “, but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member’s death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.”.

**17.** In regulation 45 (survivor benefits: children of active members where no pension is payable to partner of an active member) at the end of paragraphs (3)(b) and (4)(b), insert “, but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member’s death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.”.

**18.** For regulation 66(2) (statements of policy about the exercise of discretionary functions), substitute—

“(2) Each employing authority shall send a copy of its statement to the Committee and shall publish its statement—

- (a) before 31st July 2015; or
- (b) where the employing authority is admitted to the Scheme after 1st April 2015, within 4 months of its admission.”.

**19.** In regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained)

- (a) in paragraph (10)—
  - (i) at the end of sub-paragraph (b) for “assumptions).” substitute “assumptions); or”
  - (ii) after sub-paragraph (b) insert—
    - “(c) a contributing body has previously ceased to employ active members and no actuarial valuation or rates and adjustments certificate has been obtained by the Committee in accordance with paragraph (12) but where the admission agreement still allows it to employ active members and it once again starts to employ active members.”; and
- (b) after paragraph (13) insert—
  - “(13A) The Committee may determine a nominated calculation date, where it reasonably believes that a contributing body is to cease to employ active members in the near future

but the actual calculation date is unknown, and such date will be the calculation date in substitution for the actual date on which the contributing body ceases to employ active members or its admission agreement otherwise ceases to have effect.

(13B) Where paragraph (13A) applies, the Committee—

- (a) will assess on or as soon as practicable after the date on which the contributing body actually ceases to employ active members or its admission agreement otherwise ceases to have effect whether it should obtain a further revision of the rates and adjustments certificate under regulation 70(2)(c) as at that date; and
- (b) may subsequently ask the fund actuary to revise or withdraw and re-issue the rates adjustments certificate if it considers it reasonable to do so.

(13C) Where a revised rates and adjustments certificate is obtained under paragraph (13B)(a), it will take account of any contributions already received from the contributing body further to the rates and adjustments certificate obtained under paragraph (13A).

(13D) The Committee may, with the approval of the Department, if it thinks necessary to protect the solvency of the fund or prevent liabilities in relation to one contributing body falling onto other contributing bodies, require active members employed by a particular contributing body to cease future accrual with effect from a date specified by the Committee so that the contributing body no longer employs active members.”.

**20.** In regulation 74 (employing authority’s further payment)—

- (a) in paragraph (2), before “31(6)” insert “31(5) (retirement benefits, election for early payment of pension),”; and
- (b) after paragraph (3) insert—

“(4) An employing authority shall pay any payments due to the Committee under this regulation within one month beginning with the relevant date or such longer period as the employing authority and Committee may agree.

(5) In this regulation, the relevant date where—

- (a) paragraph (1) applies, is the date the member becomes entitled to benefits;
- (b) paragraph (2) applies, is the date the employing authority or the Committee agree to waive the actuarial reduction or, as the case may be, the cost arising to the fund as a result of flexible retirement or redundancy etc.; or
- (c) paragraph (3) applies, is the date the resolution is passed by the employing authority”.

**21.** In regulation 75(1) (payment by employing authorities to the committee)—

- (a) at the end of sub-paragraph (c) delete “and”; and
- (b) for sub-paragraph (d), substitute—
  - “(d) any amount specified in a notice given in accordance with regulation 76 (additional costs arising from employing authority’s level of performance); and
  - (e) all amounts received from time to time from the Ministry of Defence in respect of all contributions for a member on reserve forces service leave.”.

**22.** In regulation 90(3) (exchange of information) for “Within three months” substitute “Within one month”.

**23.** In regulation 99 (annual benefit statements)—

- (a) in paragraphs (2) and (3) for “six” substitute “five”;
- (b) for paragraph (4) substitute—

“(4) The statement for an active member must be provided in accordance with section 14 of the 2014 Act(a).” and

(c) delete paragraph (5).

**24.** In regulation 105 (adjustments of accounts following forfeiture, etc)—

(a) at the end of paragraph (1) insert “and pay the relevant employing authority an amount determined by an actuary as representing the capital value of those benefits”; and

(b) after paragraph (3) insert—

“(4) But if a contributions equivalent premium or a payment in lieu of contributions is due or has been made in respect of the former employee, the Committee may reduce an amount retained or a payment under paragraphs (1) or (2) by the amount of the contributions equivalent premium and by half the amount of any payment in lieu of contributions.”.

**25.** At the end of regulation 108(3) (rights to payment out of the pension fund) insert—

“(4) For the purposes of this regulation, where a member applies for a transfer under paragraph (1), that member’s normal pension age is to be construed as having the same meaning as that expression has in Schedule 1 (interpretation).”.

**26.** In Schedule 1 (interpretation)—

(a) after the definition of “the 1999 Order” insert—

““the 2000 Regulations” means the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(b);”;

(b) after the definition of “reserve forces service leave” insert—

““retirement grant” has the meaning given in regulation 19 (calculations) of the 2002 Regulations(c);”;

(c) after the definition of “retirement pension” insert—

““retiring allowance” means a retiring allowance payable under regulation E2 (entitlement to retirement pension and retiring allowance) of the Local Government (Superannuation) Regulations (Northern Ireland) 1992(d);”;

(d) in the definition of “revaluation adjustment” for “the consumer prices index of annual inflation published by the Office of National Statistics for the September preceding the end of the Scheme year” substitute “the percentage specified as the change in prices in the relevant Order made under section 9(2) (revaluation) of the 2014 Act”; and

(e) after the definition of “shared parental leave” insert—

““standard retirement grant” has the meaning given in regulation D2 (“standard retirement pension” and “standard retirement grant”) of the Local Government Pension Scheme Regulations (Northern Ireland) 2000(e);”.

## **Amendment of the Transitional Regulations**

**27.** The Transitional Regulations shall be amended in accordance with regulations 28 to 31.

**28.** After regulation 9 (transfers) insert—

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(a) 2014 c. 2 (N.I.).

(b) S.R. 2000 No.178 as amended by S.R. 2001 No. 62, S.R. 2003 No. 433, S.R. 2004 No. 260 and S.R. 2006 No. 400.

(c) S.R. 2002 No. 352 as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R. 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479, S.R. 2010 No. 164, S.R. 2012 No. 183 and S.R. 2014 No. 189.

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

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

**“Aggregation adjustments etc.**

**9A.**—(1) Paragraph (2) applies to a member in the fund—

- (a) who became an active member of the Scheme by virtue of regulation 5(1) (membership of the scheme);
- (b) who subsequently became a deferred member or deferred refund member of the Scheme;
- (c) who becomes again an active member of the Scheme with no continuous break in active membership of any public service pension scheme of more than five years; and
- (d) where the deferred benefits or deferred refund benefits pursuant to sub-paragraph (b) are aggregated with the benefits accruing pursuant to sub-paragraph (c).

(2) A member falling within the description in paragraph (1) is entitled, notwithstanding the revocations effected by regulation 2 (revocation of regulations) to have the pension rights accrued in respect of service before 1st April 2015 preserved by regulation 3 (membership before 1st April 2015) calculated as final salary benefits with final pay calculated under regulations 8 to 11 (calculation of final pay) of the Benefits Regulations as if they were still in force.

(3) Paragraph (4) applies to a member of the fund—

- (a) who became an active member of the Scheme by virtue of regulation 5(1) (membership of the Scheme);
- (b) who subsequently became a deferred member of the Scheme;
- (c) who becomes again an active member of the Scheme with a continuous break in active membership of any public service pension scheme of more than five years; and
- (d) where the deferred benefits pursuant to paragraph 3(b) are aggregated with the benefits accruing pursuant to paragraph 3(c).

(4) A member falling within the description in paragraph (3) is entitled to a transfer value payment in relation to the deferred benefits to be credited to the member’s active member account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Department.

(5) A member entitled to a refund of contributions from the earlier Schemes, who becomes an active member of the Scheme, is entitled to a transfer value payment in relation to the benefits in respect of that membership, which is to be credited to the member’s active member account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Department.

(6) A member with deferred benefits relating to the earlier Schemes, who did not become a member of the Scheme by virtue of regulation 5(1) (membership of the Scheme), but who subsequently becomes a member of the Scheme, may elect to receive a transfer value payment in relation to the deferred benefits to be credited to the member’s active member account to purchase earned pension, with the transfer value payment and the amount of purchased earned pension being calculated in accordance with actuarial guidance issued by the Department.

(7) Where the earned pension is purchased by a transfer value payment under paragraphs (4) to (6), regulation 3(1)(a) (membership before 1st April 2015) ceases to apply to the membership to which that transfer value payment relates.

(8) Where deferred benefits or a deferred refund under paragraph (1) arise from the cessation of a concurrent employment and the member continues as an active member in a continuing employment in which the member became an active member by virtue of regulation 5(1) (membership of the Scheme), the formula in regulation 13(3) (concurrent employments) or, as the case may be, regulation 41(4) (rights to return of contributions) of



the Administration Regulations must be applied in order to determine the rights the member is entitled to for the purposes of paragraph (2).

(9) Where there is more than one continuing employment to which paragraph (8) applies, the member may, within 12 months of the date active membership in the concurrent employment ceased, make an election to the Committee specifying which of the continuing employments the rights from the concurrent employment that has ceased are to be aggregated and, in the absence of an election from the member, the Committee must make the determination on the member's behalf."

**29.** In regulation 17 (survivor benefits)—

- (a) in paragraph (1) for "Survivor benefits" substitute "Except where regulation 9A(4) (aggregation adjustments etc.) applies, survivor benefits"; and
- (b) for paragraph (9) substitute—

"(9) Membership for the purposes of paragraphs (6) and (8) includes any relevant additional membership that would have counted as membership for the purposes of regulations 44 and 44A (reduction of some surviving spouses' pension and civil partner's pension) of the 2002 Regulations and any membership purchased under regulation 14A(a) (election to pay additional contributions: survivor benefits) of the Benefits Regulations."

**30.** In regulation 21 (councillors' pensions)—

- (a) in paragraph (5) after "paragraph" insert "3 and"; and
- (b) after paragraph (7) insert—

"(8) Where pension accrued under the 2009 Scheme is credited to a councillor's active member pension account under the Scheme, that pension is payable when the councillor member is aged 65."

**31.** In Schedule 3 (the 85 year rule: transitional provisions and savings)—

- (a) after paragraph 2(1) insert—

"(1A) A member's employing authority may determine to waive the reduction referred to in paragraph 1(3)(b) where paragraph 1(1)(c) applies in relation to that paragraph."; and

- (b) in paragraph 6(1) for "or regulation 12 (re-employed and rejoining members) of the Administration Regulations" substitute " , regulation 12 (re-employed and rejoining members) of the Administration Regulations or regulation 9A(1) (aggregation adjustments etc.)".

### **Amendment of the Benefits Regulations**

**32.** In the Benefits Regulations, delete regulation 30(2) (choice of early payment of pension).

### **Amendment of the Administration Regulations**

**33.** In the Administration Regulations, in regulation 91(4) (payment of benefits) for "age 60" substitute "age 55".

### **Amendment of the 2002 Regulations**

**34.** In the 2002 Regulations, in regulation 33(2) (other early leavers: deferred retirement benefits and elections for early payment) for "60" substitute "55".

### **Amendment of the 2000 Regulations**

**35.** The 2000 Regulations will be amended in accordance with regulation 36.

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(a) Regulation 14A was inserted by regulation 15 of S.R 2010 No. 410.

36. In regulation D11 (entitlement to deferred retirement benefits (“preserved benefits”))—

- (a) in paragraph (2)(e) for “60” substitute “55”;
- (b) delete paragraph (3); and
- (c) in paragraph 4(a) for “60” substitute “55”.

Sealed with the Official Seal of the Department of the Environment on 8th March 2016



*Nichola Creagh*  
A senior officer of the Department of the Environment

The Department of Finance and Personnel consents to these Regulations  
Sealed with the Official Seal of the Department of Finance and Personnel on 8th March 2016



*Joanne McBurney*  
A senior officer of the Department of Finance and Personnel

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend:

The Local Government Pension Scheme Regulations (Northern Ireland) 2014 (“the principal Regulations”);

The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 (“the Transitional Regulations”);

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (“the Benefits Regulations”);

The Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (“the Administration Regulations”);

The Local Government Pension Scheme Regulations (Northern Ireland) 2002 (“the 2002 Regulations”); and

The Local Government Pension Scheme Regulations (Northern Ireland) 2000 (“the 2000 Regulations”).

The principle Regulations and the Transitional Regulations came into operation on 1st April 2015 and the amendments in these Regulations will take effect from that date. Section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014 provides that scheme regulations may make retrospective provision.

Regulation 2 introduces amendments to the principal Regulations by regulations 3 to 26 of these Regulations.

Regulation 3 clarifies regulation 3 (active membership) of the principal Regulations that automatic re-enrolment applies to all those who would be entitled to be a member but who have opted out of the Scheme.

Regulation 4 inserts regulation 10A (separate employments) which ensures that separate employments with the same employing authority are treated in the same way as employments with different employers. New regulation 10A also specifies that pay received by the clerk of a council for the performance of functions under Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 will be treated as pensionable pay and in relation to those functions the clerk of the council will be treated as if employed by that district council.

Regulation 5 amends regulation 17 (employing authority contributions during absences) to clarify the regulatory basis on which lost pension for absences is calculated.

Regulation 6 amends regulation 18 (additional pension contributions) to clarify the circumstances in which such arrangements cease to have effect.

Regulations 7 and 11 amend regulations 19 (additional voluntary contributions) and 34 (election for lump sum instead of pension) to apply the same policy for additional voluntary contributions to that which applied under the 2009 Regulations. Regulation 7 also gives the administering authority the discretion, in the event of the member’s death, to pay any sum from a member’s AVC pot to a member’s nominee, personal representative or relative/dependant.

Regulation 8 makes a number of amendments to regulation 23 (assumed pensionable pay) to ensure that members on child-related leave who receive pay which is greater than their assumed pensionable pay accrue benefits on that higher level of pay.

Regulation 9 amends regulation 24 (pension accounts) to ensure that where a deferred member becomes an active member again, the benefits in the deferred member’s pension account will not

be automatically aggregated with those in the active member's pension account unless the member makes an election to the Committee to aggregate them. However where a person who has opted out of active membership, becomes entitled to deferred benefits and then re-joins the Scheme in the same employment thereby creating a new active member pension account, that member cannot aggregate the respective pension accounts associated with that employment.

Regulation 10 amends regulation 33 (commencement of pensions) to clarify that a notice can be served before a member fulfils the criteria to make an election, for example, so that the member can give notice 3 months before reaching the age of 55 of an intention to draw benefits from that age.

Regulation 12 amends regulation 38 (role of the IRMP) to clarify that the independent registered medical practitioner (IRMP) must certify that where a member has been working reduced contractual hours or at a lower grade and as a consequence has had reduced pay whether that member was wholly or temporarily in part time service as a result of that condition that caused or contributed to that member's ill-health retirement. This regulation also clarifies that the IRMP is not to be considered to have acted in a case merely because a different member of the same occupational health provider has acted in that case.

Regulation 13 amends regulation 39 (calculation of ill-health pension amounts) to clarify that reductions in the number of contractual hours worked or working at a lower grade due to ill-health should not affect the calculation of benefit entitlement.

Regulation 14 amends provisions relating to death grants payable to persons who have separate categories of membership in addition to active membership. That regulation and regulations 15, 16 and 17 also ensure that benefits payable to survivors are not reduced in cases where members spend some period of time working reduced hours or at a lower grade as a result of the condition from which they died. Regulation 14 also makes a minor amendment to clarify the calculation of councillors' survivor benefits.

Regulation 18 amends regulation 66 (statements of policy about the exercise of discretionary functions) to ensure that employers who are admitted to the Scheme after 1 April 2015 shall publish a policy statement on its discretionary functions within 4 months of admission. This is consistent with the requirement for those employers in the Scheme before that date.

Regulation 19 inserts a new paragraphs (13A), (13B), (13C) and (13D) to regulation 70 (special circumstances where revised actuarial valuations and certificates can be obtained) to give the Committee the discretion, subject to the approval of the Department, to specify a date on which the future accrual of benefits will cease in respect of active members employed by a particular contributing body where the Committee considers it necessary to protect the solvency of the fund or to prevent liabilities in relation to one contributing body falling onto other contributing bodies.

Regulation 20 amends regulation 74 (employing authority's further payments) to clarify that the Committee has the power to require an additional payment from an employer who has waived reductions in pension, where a member aged 55 or more, but who has not yet reached normal retirement age, elects to receive early payment of pension. It also inserts new paragraphs which require payments to be made by employers within one month of the relevant date or such longer period as the employer and Committee may agree. The relevant date changes depending on the circumstances under which the need for an additional payment from the employing authority to the Committee arises and is now defined within regulation 74.

Regulation 21 amends regulation 75 (payments by employing authorities to the Committee) for occasions when the Ministry of Defence makes payments to employers in regard to members to members on reserve forces leave.

Regulations 22 and 23 make amendments to regulations 90 (exchange of information) and 99 (annual benefit statements), respectively, to ensure the principal Regulations comply with the Public Service Pension Act (Northern Ireland) 2014.

Regulation 24 amends regulation 105 (adjustment of accounts following forfeiture, etc.) to continue a provision relating to contributions equivalent premium which applied under the 2009

Regulations. A minor technical amendment is also made to ensure the relevant employing authority receives payment of any forfeited pension rights.

Regulation 25 amends regulation 108 (rights to payment out of the fund) to ensure that where a member applies for transfer under this regulation, that member's normal pension age is defined as that contained in Schedule 1 (interpretation) of the principal Regulations and not defined as that contained in the Pension Schemes (Northern Ireland) Act 1993.

Regulation 26 inserts the definitions of "the 2000 Regulations", "retirement grant", "retiring allowance" and "standard retirement grant" in to Schedule 1 (interpretation). It also amends the definition of "revaluation adjustment" to refer the relevant Order made by the Department of the Finance and Personnel.

Regulation 27 introduces amendments to the Transitional Regulations by regulations 28 to 31 of these Regulations.

Regulation 28 inserts regulation 9A (aggregation adjustment, etc.) to enable the aggregation of continuing former final salary benefits under the earlier Schemes with benefits under the 2015 Scheme.

Regulation 29 amends regulation 17 (survivor benefits) by extending additional membership counted for the purposes of calculating survivor pensions to cover membership created by all types of voluntary contributions. A minor amendment consequent on the introduction of regulation 9A is also made.

Regulation 30 amends regulation 21 (councillors' pensions) to ensure that a councillor who transfers from the 2009 Scheme to new Scheme (i.e. already elected to the new council) under regulation 21(3) has the appropriate amount of pension credited to their new active member pension account. The amendment made by regulation 14 of these Regulations to Regulation 41(4)(a) (survivor benefits) of the Principal Regulations also refers.

Regulation 31 inserts a paragraph into Schedule 3 (the 85 year rule: transitional provisions and savings) to enable an employing authority to waive actuarial reductions in cases where members apply for flexible retirement before satisfying the 85 year rule.

Regulation 32 amends regulation 30 (choice of early payment of pension) to ensure that deferred members who left under Benefits Regulations can access their benefits before age 60 without employer consent subject to appropriate actuarial reduction.

Regulation 33 amends regulation 91(4) (payment of benefits) to ensure that pension credit members can access their benefits, subject to the appropriate actuarial reduction, at or after age 55.

Regulation 34 amends regulation 33(2) (other early leavers: deferred retirement benefits and elections for early payment) of the 2002 Regulations to ensure that deferred members who left under those Regulations can access their benefits from age 55 without employer consent subject to the appropriate actuarial reduction.

Regulation 35 introduces an amendment to the 2000 Regulations by regulation 36 of these Regulations.

Regulation 36 amends regulation D11 (entitlement to deferred retirement benefits ("preserved benefits")) of the 2000 Regulations to ensure that deferred members who left under those Regulations can access their benefits from age 55 without employer consent subject to the appropriate actuarial reduction.





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