

**2022 No. 67**

**PUBLIC SERVICE PENSIONS**

**The Public Service (Civil Servants and Others) Pensions  
(Amendment) Regulations (Northern Ireland) 2022**

*Made* - - - - - *25th February 2022*

*Coming into operation* - *18th March 2022*

The Department of Finance makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1), 3(1), (2), (3), paragraph 1 of Schedule 2 and Schedule 3 to the Public Service Pensions Act (Northern Ireland) 2014(a).

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) Regulations (Northern Ireland) 2022.

(2) These Regulations shall come into operation on 18th March 2022 and shall have effect—

- (a) in respect of regulations 9, 11, 12, 26, 27, 30 and 31 retrospectively from 1st February 2019;
- (b) in all other respects, retrospectively from 1st April 2015.

**Amendments to the Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014**

**2.** The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014(b) are amended as follows.

**Amendment of regulation 2**

**3.** In regulation 2 (Interpretation)—

- (a) in the definition of “accrued club transfer earned pension”, in paragraph (b), for “amount of description” substitute “amount of a description”,
- (b) for the definition of “active member”, substitute ““active member” has the meaning given in regulation 2A;”;

- (c) at the appropriate place insert—  
““additional adoption leave” means additional ordinary adoption leave under Article 107B of The Employment Rights (Northern Ireland) Order 1996(a);”;
- (d) at the appropriate place insert—  
““additional maternity leave” has the meaning given in regulation 2(1) of the Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999(b);”;
- (e) omit the definition of “additional paternity leave”;
- (f) for the definition of “adoption leave”, substitute—  
““adoption leave” means ordinary adoption leave or additional adoption leave;”;
- (g) at the appropriate place insert—  
““child-related leave” means adoption leave, maternity leave, parental leave, paternity leave or shared parental leave;”;
- (h) for the definition of “connected scheme”, substitute—  
““connected scheme” has the meaning given in regulation 2B;”;
- (i) in the definition of “description of added pension”, in paragraph (a) omit “and”,
- (j) in the definition of “index adjustment”—  
(i) in paragraph (a), for “that scheme year” substitute “the previous scheme year”;  
(ii) in paragraph (b), for “that scheme year” substitute “the previous scheme year”;
- (k) in the definition of “maternity leave”, omit the words after “additional maternity leave”;
- (l) at the appropriate place insert—  
““ordinary adoption leave” means ordinary adoption leave under Article 107A of The Employment Rights (Northern Ireland) Order 1996(c);”;
- (m) in the definition of “partial retirement earned pension”, in paragraph (b) after “(if any);” insert “and”
- (n) for the definition of “partnership pension account”, substitute—  
““partnership pension account” has the meaning given in regulation 2C;”;
- (o) at the appropriate place insert—  
““pensionable service”, in relation to a pension scheme, means service which qualifies a person to a pension or other benefits under that scheme;”;
- (p) at the appropriate place insert—  
““PCSPS(NI) partial retirement option” means the option exercisable under rule—  
(a) D.1A of Section I of the PCSPS(NI);  
(b) 3.3b of Section II of the PCSPS(NI); or  
(c) E.4 of Section III of the PCSPS(NI);”;
- (q) at the appropriate place insert—  
““shared parental leave” has the meaning given in regulation 3(1) of The Shared Parental Leave Regulations (Northern Ireland) 2015(d);”;

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- (a) 1996 No. 1919 (N.I. 16) Article 107B was inserted by The Employment (Northern Ireland) Order 2002 (N.I. 2), Article 3, and amended by The Work and Families (Northern Ireland) Order 2006 (N.I. 16), Schedule 1, paragraph 34, and the Work and Families Act (Northern Ireland) 2015 (c. 1), sections 3(1), 3(5) and 10(3).
- (b) Article 105 of The Employment Rights (Northern Ireland) Order 1996 was replaced by The Employment Relations (Northern Ireland) Order 1999 (N.I. 9), Schedule 4, part 1, and amended by The Work and Families (Northern Ireland) Order 2006, Schedule 1, paragraph 31, and the Work and Families Act (Northern Ireland) 2015 (c. 1), section 3(3).
- (c) Article 107A was inserted by The Employment (Northern Ireland) Order 2002, Article 3, and amended by The Work and Families (Northern Ireland) Order 2006, Schedule 1, paragraph 32, and the Work and Families Act (Northern Ireland) 2015, sections 3(1), 3(4), 8(1) and 10(1).
- (d) S.R. 2015/93, to which there are amendments not relevant to these Regulations.

- (r) in the definition of “statutory pay”—
  - (i) in paragraph (c), omit “ordinary”;
  - (ii) for paragraph (d) substitute—
    - “(d) statutory shared parental pay within the meaning of section 167ZU (Entitlement: birth) or section 167ZW (Entitlement: adoption) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a);”;
- (s) omit the definition of “surviving nominated partner”;
- (t) at the appropriate place insert—
  - ““surviving partner” has the meaning given in regulation 101;”;
- (u) in the definition of “transition member”, for “Paragraph” substitute “paragraph”
- (v) for the definition of “weekly rate”, substitute—
  - ““weekly rate”, in relation to a guaranteed minimum pension, means, in cases where the pension is paid otherwise than at weekly intervals, a rate which is equivalent to the earner’s guaranteed minimum having regard to the period in respect of which the pension is paid;”.

#### **New regulations 2A, 2B and 2C**

- 4. After regulation 2 (Interpretation), insert—

##### **“Active Membership**

**2A.**—(1) A person (P) is an active member of this scheme if—

- (a) P is in pensionable service under this scheme; or
- (b) P is not in pensionable service under this scheme and paragraph (2) or (3) applies.

(2) This paragraph applies if P is on unpaid authorised absence.

(3) This paragraph applies if—

- (a) P is in scheme employment;
- (b) P is on unpaid sick leave or on unpaid child-related leave; and
- (c) P was an active member of this scheme, the PCSPS(NI) or another permitted pension scheme immediately before that leave began.

(4) In this regulation “another permitted pension scheme” means, in relation to P, a pension scheme approved by the scheme manager for the purposes of this regulation.

##### **Connected Schemes**

**2B.**—(1) Subject to paragraph (2), “connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) of the Act, with this scheme.

(2) The following schemes are not connected schemes—

- (a) an injury or compensation scheme established under section 1 of the Act;
- (b) an injury or compensation scheme established under Article 3 of the 1972 Order; and
- (c) a statutory pension scheme that is a defined contributions scheme.

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(a) 1992 c.7 Sections 167ZU and 167ZV were inserted by the Work and Families Act (Northern Ireland) 2015, section 5.

## **Partnership Pension Account**

**2C.**—(1) In these Regulations, “partnership pension account”, in relation to a person in scheme employment, means a pension scheme that has been approved by the scheme manager for the purposes of this regulation.

(2) The scheme manager must not approve a pension scheme for the purposes of this regulation unless it is—

- (a) an occupational pension scheme, a stakeholder pension scheme or a personal pension scheme;
- (b) a defined contributions scheme; and
- (c) a pension scheme to which the person’s employer is—
  - (i) paying contributions; or
  - (ii) not paying contributions because the person is not receiving earnings which are pensionable earnings for the purposes of the person’s pension scheme (other than because the person is on an unauthorised absence); or
  - (iii) not paying contributions because the person received benefits under section 2 (Compulsory and Redundancy category (1972 Section members)) of the Civil Service Compensation Scheme or section 3 (Flexible category (1972 Section members)) of that Scheme on the basis that the person’s reckonable service within the meaning of those sections was enhanced and the period by which that service was enhanced exceeds the period beginning with the day on which the person’s retirement under those sections began and ending with the day before the person was re-employed in the scheme employment.”.

### **Amendment of regulation 3**

**5.** In regulation 3 (Establishment and scope)—

- (a) in paragraph (2)(e), for “existing scheme” substitute “PCSPS(NI)”;
- (b) in paragraph (2)(h)(ii), for “is” substitute “was at the time the person ceased to hold that employment”;
- (c) in paragraph (3) for “paragraph (2)(g) or (h)” substitute “paragraph (2)(f) to (h)”.

### **Amendment of regulation 4**

**6.** In regulation 4 (Scheme manager), omit paragraph (3).

### **Amendment of regulation 13**

**7.** In regulation 13 (Scheme employment)—

- (a) in paragraph (1)(b), after “person” insert “(P)”;
- (b) in paragraph (2), for “a scheme employment” substitute “scheme employment”.

### **Amendment of regulation 16**

**8.** In regulation 16 (Fair Deal eligible persons)—

- (a) in paragraph (3), for “P has had gap” substitute “P has had a gap”;
- (b) in paragraph (6)—
  - (i) for “regulations” substitute “Regulations”;
  - (ii) for “3rd party” substitute “third party”.

### **Amendment of regulation 21**

- 9.** In regulation 21(1) (When does an option in take effect), for paragraph (a) substitute—
- “(a) P becomes an active member of this scheme in relation to that service on the first day of the first pay period—
- (i) after the period of two months beginning with the date on which the option is exercised; or
  - (ii) after any shorter period the scheme manager considers appropriate;”.

### **Amendment of regulation 22**

**10.** In regulation 22 (Automatic re-enrolment), in paragraph (2) for “section 5 (automatic re-enrolment)” substitute “section 5 (automatic re-enrolment)”.

### **Amendment of regulation 23**

- 11.** In regulation 23 (Opting out of this scheme)—
- (a) in paragraph (1)(b), for “opens” substitute “opts to join”;
  - (b) in paragraph (2), after “(1)(a)” insert “ or (b)”.

### **Amendment of regulation 25**

- 12.** In regulation 25 (Opting out after one month), for paragraph (3) substitute—
- “(3) If P opts to join a partnership pension account, P ceases to be in pensionable service under this scheme in relation to that employment on the last day of the first pay period—
- (a) after the period of two months beginning on the date on which the option is exercised; or
  - (b) after any shorter period the scheme manager considers appropriate.”.

### **Amendment of regulation 26**

- 13.** In regulation 26 (Pensionable Earnings)—
- (a) in paragraph (4), in the definition of “permanent pensionable earnings” at the end of paragraph (a) insert “(not including pay received in respect of a period of sick leave on reduced pay at a rate determined by the member’s employer to be appropriate because it is equivalent to the annual rate of an ill-health pension)”;
  - (b) for regulation 26(5) substitute—
- “(5) In this regulation—
- (a) the total fluctuating pensionable earnings in respect of any period must not exceed one third of the total permanent pensionable earnings in respect of the same period.
  - (b) for the purposes of this regulation “total fluctuating pensionable earnings” applies only to industrial employees of the Northern Ireland Civil Service, and means—
- (i) to the extent (if any) that the Department has determined that they are to be treated as fluctuating pensionable earnings for the purposes of these Regulations, bonuses, and
  - (ii) to that extent (if any) allowances not granted on a permanent basis.”.

### **Amendment of regulation 27**

- 14.** In regulation 27(3) (Meaning of “assumed pay”)—
- (a) for paragraph (b), substitute—
- “(b) P is on ordinary adoption leave, ordinary maternity leave or paternity leave;”;

- (b) in paragraph (c), after “statutory pay” insert “whilst on additional adoption leave, additional maternity leave, shared parental pay or parental leave”.

#### **Amendment of regulation 32 and new regulation 32A**

**15.** In regulation 32 (Calculation of “retirement index adjustment”)—

- (a) for paragraph (1), at the beginning insert “Subject to regulation 32A, the” and omit the first “The”;
- (b) After regulation 32, insert—

#### **“Modification of the retirement index adjustment**

**32A.**—(1). Where this regulation applies, the retirement index adjustment must equal 0.

(2). This regulation applies where—

- (a) the leaving year is the scheme year ending on 31st March 2016; and
- (b) the retirement index adjustment would otherwise be less than 0.”.

#### **Amendment of regulation 41**

**16.** In regulation 41(2) (Receipt of a transfer value payment), for “153” substitute “152”.

#### **Amendment of regulation 42**

**17.** In regulation 42 (Receipt of club transfer value payment)—

- (a) in the heading “Receipt of club transfer value payment”, insert “a” after “of”;
- (b) in paragraph (2), for “152” substitute “153”.

#### **Amendment of regulation 43**

**18.** In regulation 43 (Amount of pension for a scheme year)—

- (a) in paragraph (4), at the end insert “.”
- (b) after paragraph (8), insert—

“(9) For the purpose of paragraph (4), in respect of a period of assumed pay under this scheme, “pensionable earnings” means the member’s assumed pay.”.

#### **Amendment of regulation 54**

**19.** In regulation 54(3)(a) (Establishment of partial retirement account), at the beginning, for “The” substitute “the”.

#### **Amendment of regulation 59**

**20.** In regulation 59(1) (Qualifying service)—

- (a) in paragraph (a), for “pensionable service under” substitute “active membership of”;
- (b) after (a), insert—

“(aa) the member’s service in another occupational pension scheme that the Department has determined should be counted for the purposes of this regulation;”.

#### **Amendment of PART 6, CHAPTER 4 main heading**

**21.** In the Chapter 4 heading, after regulation 69, for “Ill Health” substitute “Ill-Health”.

### **Amendment of regulation 72**

22. In regulation 72(b) (Meaning of “lower tier payment threshold”), omit “if”.

### **New regulation 73A**

23. After regulation 73 (Meaning of “upper tier payment threshold”), insert—

#### **“Payment thresholds: further interpretation**

73A. In regulations 72 and 73, a reference to a member who is partially retired includes a reference to a transition member with continuity of service who has exercised the PCSPS(NI) partial retirement option.”.

### **Amendment of regulation 74**

24. In regulation 74(2)(d) (Entitlement to ill-health pension), for “ill health” substitute “ill-health”.

### **Amendment of regulation 76 heading**

25. In the heading for regulation 76 (Annual rate of ill health pension), for “ill health” substitute “ill-health”.

### **Amendment of regulation 80**

26. In regulation 80 (Options under this Chapter), after paragraph (a) insert—

“(aa) the option under regulation 82A to partially buy out the early payment reduction;  
”

### **New regulation 82A**

27. After regulation 82 (Option to buy out early payment reduction), insert—

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

82A.—(1). This regulation applies if—

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

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

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

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

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

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

- (a) in accordance with the compensation scheme; or

(b) with the consent of the Department.

(6) If the employer makes a special payment under paragraph (5)(a), the lump sum payable to the member under the compensation scheme is reduced by the amount of the special payment.

(7) The scheme manager, after consulting the scheme actuary, must determine the actuarial reduction that would apply if a member exercises the option under this regulation.

(8) Where a member exercises the option under this regulation, references in these Regulations to the early payment reduction apply as if the reference were to the actuarial reduction determined under this regulation.”.

#### **Amendment of regulation 89**

28. In regulation 89(2) (Effect of allocation election), for “the scheme” substitute “The scheme”.

#### **Amendment of regulation 96**

29. In regulation 96(3) (Pension credit member’s rights), for “regulations” substitute “Regulations”.

#### **Amendment of regulation 100**

30. In regulation 100 (Surviving adults), in the definition of “surviving adult”, omit “nominated”.

#### **Amendment of regulation 101**

31. For regulation 101 (Meaning of “surviving nominated partner”), substitute—

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

101.—(1) A person (P) is a surviving partner of a deceased member of this scheme if P satisfies the scheme manager that immediately before the member’s death—

- (a) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
- (b) P and the member were not prevented from entering into a marriage or a civil partnership; and
- (c) either P was financially dependent on the member, or P and the member were financially interdependent.”.

#### **Amendment of regulation 103 heading**

32. In the heading for regulation 103 (Meaning of dependant’s earned pension), for “dependant’s earned pension” substitute ““dependant’s earned pension””.

#### **Amendment of regulation 104 heading**

33. In the heading for regulation 104 (Meaning of dependant’s lower tier earned pension), for “dependant’s lower tier earned pension” substitute ““dependant’s lower tier earned pension””.

#### **Amendment of regulation 105 heading**

34. In the heading for regulation 105 (Meaning of dependant’s upper tier top up earned pension), for “dependant’s upper tier top up earned pension” substitute ““dependant’s upper tier top up earned pension””.



### **Amendment of regulation 108**

35. In regulation 108(7)(a) (Annual rate of surviving adult's pensions payable on death of a pensioner member), for "Unless" substitute "unless".

### **Amendment of regulation 110**

36. In regulation 110 (Annual rate of surviving adult's pensions payable on death of active member (death in service))—

- (a) in paragraph (2), for "is" substitute "was";
- (b) in paragraph (5)(b), for "is" substitute "was";
- (c) in paragraph (6), in the definition of "the member's assumed period of pensionable service" in paragraph (b)(i) for "with" substitute "on".

### **Amendment of regulation 120**

37. In regulations 120(1)(a) and 120(1)(b) (Guaranteed minimum pensions for surviving spouses and civil partners), for "regulations" substitute "Regulations".

### **Amendment of regulation 128**

38. In regulation 128 (Meaning of "final pay"), for paragraph (4), substitute—

"(4) In this regulation—

- (a) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the PCSPS(NI) before the transition date for that member; and
- (b) in respect of a period of assumed pay, "pensionable earnings" means the member's assumed pay."

### **Amendment of regulation 129**

39. In regulation 129 (Meaning of "annualised final pay")—

- (a) in paragraph (1), for "during" substitute "payable in respect of";
- (b) for paragraph (3), substitute—

"(3) In this regulation—

- (a) if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes the member's pensionable earnings under the PCSPS(NI) before the transition date for that member; and
- (b) in respect of a period of assumed pay, "pensionable earnings" means the member's assumed pay."

### **Amendment of regulation 131**

40. In regulation 131 (Amount payable on death of deferred member or pensioner member (death out of service))—

- (a) omit paragraph (2);
- (b) in paragraph (5)(b), for "as the" substitute "as at the".

### **Amendment of regulation 134**

41. In regulation 134 (Rate of member contributions)—

- (a) in paragraph (3)(i), for "(i)" substitute "(a)";
- (b) in paragraph (3)(ii), for "(ii)" substitute "(b)".

#### **Amendment of regulation 135**

42. In regulation 135(4) (Amount of pensionable earnings), for “additional paternity” substitute “shared parental”.

#### **Amendment of regulation 136**

43. In regulation 136 (Payment of members’ contributions)—
- (a) in the heading for regulation 136 (Payment of members’ contributions), for “members” substitute “member”;
  - (b) in paragraph (3)(a), for “additional paternity” substitute “shared parental”.

#### **Amendment of regulation 139**

44. In regulation 139(4) (Refund of all member contributions and payments for extra pension made by the member), for “members” substitute “member” and for “or” substitute “of”.

#### **Amendment of regulation 140**

45. In regulation 140 (Application of Part)—
- (a) in paragraph (a), for “Chapter 4 of Part 4” substitute “Chapter 1 of Part 4ZA” and for “(transfer values)” substitute “(transfer rights: general)”;
  - (b) in paragraph (b), for “Chapter 5” substitute “Chapter 2”.
  - (c) for footnote (b) substitute “Chapter 2, as amended by paragraph 50 of Schedule 4 Part 2 of the Pension Schemes Act 2015 (c.8)”.

#### **Amendment of regulation 142**

46. In regulation 142(7)(b) (Transfer payments made to other schemes or pension arrangements), for “6 April 1997” substitute “6th April 1997”.

#### **Amendment of regulation 147 heading**

47. In the heading for regulation 147 (Effect of transfers-out), for “transfers-out” substitute “a transfer out”.

#### **Amendment of regulation 153 heading**

48. In the heading for regulation 153 (Club Transfer value statement), for “Transfer” substitute “transfer”.

#### **Amendment of regulation 158**

49. In regulation 158(2)(b) (Appointment of scheme actuary and actuarial valuations), for “a report on such a valuation” substitute “reports on the valuations”.

#### **Amendment of regulation 161**

50. In regulation 161(1)(a) (Payment of benefits to or in respect of a dual capacity member), for “regulations” substitute “Regulations”.

#### **Amendment of regulation 163**

51. In regulation 163(5)(b) (Commutation of small pensions), omit “by”.

### **Amendment of regulation 165**

**52.** In regulation 165 (Forfeiture: offences committed by members)—

- (a) in paragraph (3)(b), for “(minimum pensions for widows and widowers)” substitute “(minimum pensions for widows, widowers and surviving civil partners)”;
- (b) in paragraph (4), in the definition of “forfeiture certificate”, for “Department” substitute “Minister of the Crown”
- (c) in paragraph (4)(c), for “(c)” substitute “(a)”;
- (d) in paragraph (4)(d), for “(d)” substitute “(b)”, for “An” substitute “an” and for “Department” substitute “Minister of the Crown”.

### **Amendment of regulation 167**

**53.** In regulation 167 (Forfeiture: relevant monetary obligations and relevant monetary losses)—

- (a) in paragraph (5)(e), for “(e)” substitute “(a)”;
- (b) in paragraph (5)(f), for “(f)” substitute “(b)”.

### **Amendment of regulation 173**

**54.** In regulation 173(2) (Information about payment of annual allowance charge), for “no later than 31st July after the end of the tax year” substitute “by the regulatory deadline set by regulation 14A or 14B of The Registered Pension Schemes (Provision of Information) Regulations 2006(a)”.

### **Amendment of regulation 174**

**55.** In regulation 174(4) (Reduction of benefits where annual allowance charge paid by scheme manager), for “(minimum pensions for widows and widowers)” substitute “(minimum pensions for widows, widowers and surviving civil partners)”.

### **Amendment of regulation 183**

**56.** In regulation 183 (Ill health benefits for persons who have a partnership pension account)—

- (a) in the heading (Ill health benefits for persons who have a partnership pension account), for “Ill health” substitute “Ill-health”;
- (b) for “ill health” substitute “ill-health”.

### **Amendment of Schedule 1**

**57.**—(1) Schedule 1 (Payments for extra pension) is amended as follows.

(2) In sub-paragraph (4) of paragraph 12, after “adoption leave” insert “, paid shared parental leave”.

(3) In the heading of paragraph 25, after “by” insert “the”.

(4) In sub-paragraph (2) of paragraph 33, after “adoption leave” insert “, paid shared parental leave”.

### **Amendment of Schedule 2**

**58.**—(1) Schedule 2 (Transitional provisions) is amended as follows.

(2) Omit paragraph 7.

(3) For paragraph 15, substitute

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(a) 2006 No. 567 regulations 14A and 14B were inserted by regulation 8 of The Registered Pension Schemes (Provision of Information) (Amendment) (No.2) Regulations 2011, (S.I. 2011/1797).

**“15.** This paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing public body pension scheme; and
- (c) P would, unless P dies, reach normal pension age under the PCSPS(NI) and P’s transitional scheme on or before 1st April 2022.”.

(4) In paragraph 17, sub-paragraph (2)(d), for “a section 3(3)(a)” substitute “an Article 3(3A)”.

(5) For paragraph 24, substitute—

**“24.** This paragraph applies if—

- (a) P was an active member of an existing scheme or an existing public body pension scheme (“P’s transitional scheme”) on 31st March 2012;
- (b) P begins service which is pensionable under the PCSPS(NI) not more than 5 years after leaving pensionable service under an existing public body pension scheme; and
- (c) P would, unless P dies, reach normal pension age under—
  - (i) the PCSPS(NI) during the period beginning with 2nd April 2022 and ending with 1st September 2025; and
  - (ii) P’s transitional scheme on or before 1st September 2025.”.

(6) In paragraph 26, sub-paragraph (2)(d), for “Article 3(3)(a)” substitute Article 3(3A)”.

(7) In paragraph 29—

- (a) in sub-paragraph (4), at the beginning insert “Subject to sub-paragraphs (4A) and (4B) and paragraph 29A,”;
- (b) after sub-paragraph (4), insert—

“(4A) Where the conditions in sub-paragraph (4B) are met, the annual rate of an upper tier top up earned pension payable under this scheme is determined in accordance with paragraph 29A.

(4B) The conditions are—

- (a) In the period of 12 months beginning with the day on which M became an active member of this scheme—
  - (i) M was on a period of unpaid sick leave; or
  - (ii) M was on a period of sick leave on reduced pay in respect of which M was paid at a rate determined by M’s employer to be appropriate because it is equivalent to the annual rate of an ill-health pension;
- (b) The latest period of leave mentioned in sub-paragraph (a) ended less than 12 months before M became entitled to an ill-health pension under this scheme.”.

(8) After paragraph 29, insert—

**“29A.—**(1) Where this paragraph applies, the annual rate of upper tier top up earned pension payable under this scheme is the greater of the annual rates of upper tier top up earned pension calculated in accordance with—

- (a) regulation 76; and
- (b) sub-paragraph (2).

(2) The annual rate of upper tier top up earned pension calculated in accordance with this sub-paragraph is calculated in the same way as the annual rate of full retirement earned pension is calculated under regulation 61, but—

- (a) the references to the member’s full retirement earned pension are taken to be references to the enhancement fraction of the deemed pension; and

(b) the early payment reduction is not subtracted.

(3) In this paragraph—

“deemed pension” means the amount of earned pension the member would have accrued in the member’s deemed period of pensionable service if the circumstances in paragraph 29(4B)(a) had not applied;

“the enhancement fraction” is—

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

where—

A is the member’s assumed period of pensionable service; and

B is the shorter of—

(a) the member’s deemed period of pensionable service;

(b) the number of scheme years in relation to which an amount of earned pension was specified in the active member’s account, or would have been if the circumstances in paragraph 29(4B)(a) had not applied;

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

(a) beginning with the day after the member’s period of service ceased; and

(b) ending with—

(i) for a member employed for a fixed term, the day with which that term ends;  
or

(ii) for a member otherwise employed, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age);

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

(a) beginning with the day the member became an active member of this scheme; and

(b) ending with the day on which the member became entitled to an ill-health pension under this scheme.”.

(9) In paragraph 36, sub-paragraph (3), omit “Early”.

(10) In paragraph 38—

(a) in sub-paragraph (a), after “contributions” insert “paid”;

(b) in sub-paragraph (b), after “added years” insert “paid”.

(11) In paragraph 46, sub-paragraph (1)(c), after “last day of service as referred to in paragraph” insert “(a)”.

### **Amendment of Schedule 3**

**59.**—(1) Schedule 3 (The Partnership Pension Account Ill Health Benefits Arrangements) is amended as follows.

(2) In the main heading for Schedule 3, for “Ill Health” substitute “Ill-Health”.

(3) In paragraph 1, in the definition of “partnership ill-health benefits arrangements”, for “ill health” substitute “ill-health”.

(4) In paragraph 2—

(a) in sub-paragraph (1), for “sub paragraph (2)” substitute “sub-paragraph (2)”;

(b) in sub-paragraph (4), for “sub paragraph (2)” substitute “sub-paragraph (2)”.

(5) In paragraph 10—

(a) in sub-paragraph (a), for “ill health” substitute “ill-health”;

(b) in sub-paragraph (b), for “ill health” substitute “ill-health”.

(6) In paragraph 13, in the heading “False statements about ill health”, for “ill health” substitute “ill-health”.

Sealed with the Official Seal of the Department of Finance on 25th February 2022.

(L.S.)

*Barry Armstrong*  
A senior officer of the  
Department of Finance

## EXPLANATORY NOTE

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

These Regulations amend The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014 (the 2014 Regulations) (S.R. 2014/290). The 2014 Regulations established a scheme for the payment of pensions and other benefits to civil servants and other eligible persons (“the alpha scheme”). This is the fifth set of Regulations to amend the provisions of the 2014 Regulations, and correct minor and technical issues that have been identified during the operation of the scheme and provide for the interaction of the alpha scheme with the Partnership Pension scheme (a defined contributions scheme that is available as an alternative to the alpha Scheme). These Regulations also make other minor typographical and grammatical corrections to The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014 (S.R. 2014 No. 290).

The Regulations come into operation on 18th March 2022, but regulation 1 provides for provisions to take effect from 1st April 2015 or 1st February 2019. Section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014 (“the Act”) provides authority for the Regulations to take effect as from a date earlier than the making of these Regulations.

Regulations 3(b) and 4 provide for a new definition of “active member” to ensure that those on unpaid leave can continue to be treated as active members of the scheme rather than as deferred members.

Regulations 3(h), 4 and 6 provide for a new definition of “connected scheme”. The new definition clarifies that injury and compensation schemes are not connected to the alpha scheme.

Regulations 9, 11 and 12 relax the time limits imposed by the 2014 Regulations on switching between the alpha scheme and the Partnership Pension scheme. The definition of “Partnership Pension Account” is also updated to reflect the changing governance structure of that scheme.

Regulation 13(a) clarifies that pay equivalent to the annual rate of an ill-health pension that is received in respect of a period of sick leave is not pensionable and 13(b) clarifies that the restriction of fluctuating pensionable earnings to one third of the total permanent pensionable earnings for the same period only applies to industrial staff.

Regulations 14, 42, 43(b) and 57 amend various provisions in respect of child related leave following the introduction of shared parental leave. These amendments implement the new definitions introduced by regulation 3.

Regulation 15 provides for the calculation of the “retirement index adjustment” to be modified in respect of the scheme year starting in 2015. The retirement index adjustment is used to revalue pensions in the final year of scheme membership, and the modification provides that the revaluation in the scheme year starting in 2015 cannot be less than zero.

Regulations 16 and 17(b) correct a drafting error whereby references in two regulations were transposed.

Regulations 18(b), 38 and 39(b) clarify that where a member is receiving “assumed pay” certain calculations are made by reference to that assumed pay rather than their pensionable earnings.

Regulation 20 amends the definition of “qualifying service” to give the scheme manager discretion to deem service in another occupational pension scheme as qualifying service for the alpha scheme.

Regulation 23 corrects an error whereby an upper tier top up earned pension was available to those who had taken partial retirement from the Principal Civil Service Pension Scheme (Northern Ireland) [“PCSPS(NI)”] but not to those who had partially retired from the alpha Scheme.

Regulations 26 and 27 introduce the ability for the scheme manager to allow a member to partially reduce an actuarial reduction that would otherwise apply to their benefits by making a special payment to the scheme.

Regulations 30 and 31 remove the requirement to nominate an unmarried partner in order for them to receive a pension as a surviving adult. This amendment is made following the decision of the Supreme Court in the case of Brewster [2017] UKSC 8.

Regulation 40(a) removes an unnecessary reference to service in the PCSPS(NI) from the calculation of death benefits for members who die out of service.

Regulation 45 updates references to the Pension Schemes (Northern Ireland) Act 1993 following amendments to that Act.

Regulation 58 amends the circumstances where a member of an existing pension scheme will be given transitional protection when joining the alpha scheme by removing the requirement that the individual be an active member on the date their existing scheme is closed. Regulation 58 also provides for certain transition members to receive an enhanced rate of upper tier top up earned pension if they were on a period of sick leave at nil or reduced pay in the first twelve months of their membership of the alpha scheme before taking ill-health retirement. This amendment is required to remedy an issue whereby such members would not otherwise be entitled to the same level of enhancement owing to their reduced period of service in the alpha scheme.

An impact assessment has not been produced for this Statutory Rule as no impact on the costs of business or the voluntary sector is foreseen.

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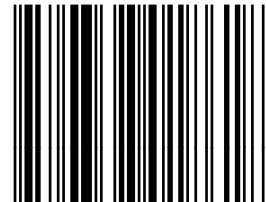
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