
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 33

Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009

PROSPECTIVE

PART 9 TRANSFERS

Interpretation of Part

73. In this Part—

“Chapters 4 and 5” means Chapters 4 and 5 of Part 4 of the 1993 Act (transfer values and early leavers)

“club scheme” means a registered pension scheme which—

- (a) (except where it is established and maintained in the Channel Islands or the Isle of Man) is a registered scheme;
- (b) provides benefits calculated by reference to final pay;
- (c) is open to new participants, or is a closed scheme the trustees or managers of which also provide an open scheme which is a club scheme for new employees of the same employer and of the same grade or level of post as the participants in the closed scheme; and
- (d) complies with reciprocal arrangements for the payment and receipt of transfer values with the schemes made under Article 9 of the Order of 1972⁽¹⁾.

Commencement Information

II Reg. 73 in operation at 1.4.2009, see [reg. 1](#)

Application of Chapter 4, etc.

74.—(1) For the purposes of—

- (a) sections 8C(2) (requirements as to transfer, commutation, etc. for contracting out), 15 (discharge of liability) and 16 (transfer of accrued rights) of the 1993 Act;
- (b) Chapters 4 and 5; and
- (c) any regulations made under any of those sections or Chapters 4 and 5,

of the 1993 Act, the managers of the Scheme in relation to a member are the Committee.

(1) [S.I. 1972/1073 \(N.I. 10\)](#); Art. 9 was amended by Art. 34 [S.I. 2005/1968 \(N.I. 18\)](#).
(2) [1993 c.49](#); section 8C was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 ([S.I. 1995/3213 \(N.I. 22\)](#)).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) A member with a period of membership of under 3 months shall have the same rights to a cash transfer as if the 3 month condition in section 97AA (1)(b)(i) of the 1993 Act⁽³⁾ were satisfied and Chapter 5 applied to him.

(3) Despite regulation 2 of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996⁽⁴⁾ (pre-1986 leavers), Chapters 4 and 5 shall apply to all members of the Scheme regardless of the date of termination of their pensionable service.

(4) Regulation 5 of those Regulations (treatment of a number of employments as a single employment) only applies if the employments are treated as a single employment for the purposes of the Scheme.

(5) Regulation 10(2)(a) of those Regulations (interest on late payment of cash equivalents) does not apply where the member has required the cash equivalent to be paid to a club scheme.

(6) Regulation 18 (termination of pensionable service in certain circumstances to be disregarded) of those Regulations only applies if, in any case, no election has been made under regulation 12(1) (re-employed and rejoining deferred members) or 13 (concurrent employments) to have the service which terminated aggregated with later or concurrent service or no election has been made under regulation 41(4) (rights to return of contributions).

(7) For this regulation and regulation 75 (rights to payment out of the fund)—

- (a) the Committee, in relation to a member, is the body maintaining the pension fund to which he is contributing immediately before his pensionable service terminated; but
- (b) if that fund has been closed, the Committee is the body which would be liable to pay him his pension for that employment if he had been entitled to receive payment of such a pension when his pensionable service terminated.

(8) In this regulation, “pensionable service” has the same meaning as in section 66 of the 1993 Act.

Commencement Information

I2 Reg. 74 in operation at 1.4.2009, see [reg. 1](#)

Rights to payment out of the fund

75.—(1) A member may apply for a transfer under Chapter 4 or 5 (as modified by regulation 74 (application of Chapter 4, etc.)) and where he does so the amount of any transfer payment (as defined in regulation 77(4)(a) (bulk transfers (transfer of undertakings), etc.) due in respect of the member under the relevant Chapter may only be paid by the Committee from the fund or admission agreement fund if it is a recognised transfer (within the meaning of section 169 of the Finance Act 2004⁽⁵⁾).

(2) Where such a transfer payment is to be or has been paid from the fund, no other payment or transfer of assets may be made from the fund or admission agreement fund as respects the accrued rights covered by the transfer payment.

(3) Paragraph (2) overrides anything to the contrary in—

- (a) the former Regulations;
- (b) the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002⁽⁶⁾; or

(3) 1993 c. 49; section 97AA was inserted by Art. 241 of S.I. 2005/255 (N.I. 1).

(4) S.R. 1996 No. 619.

(5) 2004 c. 12.

(6) S.R. 2002 No. 353; as amended by S.R. 2006 No. 6.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (c) any other provision under these Regulations, the Benefits Regulations or the Transitional Regulations.

Commencement Information

I3 Reg. 75 in operation at 1.4.2009, see [reg. 1](#)

Contracting-out requirements affecting transfers out

76.—(1) There must be a deduction from the transfer payment to be made in respect of any person—

- (a) the amount of any contributions equivalent premium payable pursuant to section 51 of the 1993 Act; or
- (b) an amount sufficient to meet the liability in respect of his contracted-out rights.

(2) But the amount mentioned in paragraph (1) may not be deducted where the transfer payment is made to a registered pension scheme which is contracted out.

(3) Where the amount mentioned in paragraph (1)(a) is deducted, the Committee must use that amount to pay the premium.

(4) Where the amount mentioned in paragraph (1)(b) is deducted, the Committee may use the amount in preserving the liability mentioned in that paragraph in the fund or admission agreement fund, unless the member wishes a transfer payment in respect of it to be paid to the trustees or managers of a non-contracted-out registered pension scheme.

(5) Contracted-out rights, in relation to a member, are—

- (a) his and his surviving spouse's, civil partner's or nominated co-habiting partner's rights to guaranteed minimum pensions; and
- (b) his section 5(2B) rights (as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(7)).

Commencement Information

I4 Reg. 76 in operation at 1.4.2009, see [reg. 1](#)

Bulk transfers (transfer of undertakings), etc.

77.—(1) This regulation applies where—

- (a) two or more members' active membership ends on their joining a registered non-local government scheme ("the new scheme");
- (b) it is agreed by—
 - (i) the Committee;
 - (ii) the members employing authorities (if different); and
 - (iii) the trustees or managers of the new scheme,

that a payment should be made under this regulation; and

- (c) the members—

(7) [S.R. 1996 No. 493](#); the definition of "section 5(2B) rights" was substituted by [S.R. 1997 No. 160](#) Schedule 1, paragraph 5.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(i) agree in writing that that payment should be made instead of any payment which they otherwise might require to be made under Chapter 4 or 5; and

(ii) waive any rights they might have under those Chapters by virtue of the cessation of their active membership.

(2) The Committee must not give its agreement under paragraph (1)(b) unless it is satisfied that the rights that each of the members will acquire under the new scheme are at least equivalent to those which he would have obtained if the transfer value had been paid to the same scheme under Chapter 4 or 5, as it applies by virtue of regulation 74 (application of Chapter 4, etc.) (assuming in any case where the member would not be entitled to such a payment that he was).

(3) The Committee must provide each member with sufficient information in writing to check that the requirement of paragraph (2) is satisfied before he agrees as mentioned in paragraph (1)(c).

(4) The Committee must—

(a) set aside (whether in cash or in assets or both) such part of the fund or admission agreement fund (“the transfer payment”) as an actuary appointed by it and an actuary appointed by the trustees or managers of the new scheme for the purpose may agree as appropriate for the acquisition of such rights in that scheme as they may so agree; and

(b) pay or transfer it to the trustees or managers of the new scheme for the benefit of the relevant members.

(5) The Committee must certify to the new scheme’s trustees or managers the amount included in the transfer payment which represents each member’s contributions and interest on them.

(6) Where a transfer payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made from the fund or admission agreement fund by reason of membership covered by the transfer payment.

(7) Paragraph (6) overrides anything to the contrary in—

(a) the former Regulations;

(b) the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002; or

(c) these Regulations, or the Benefits Regulations.

Commencement Information

I5 Reg. 77 in operation at 1.4.2009, see [reg. 1](#)

Calculation of amount of transfer payment under regulation 77

78.—(1) The amount of the transfer payment to be paid under regulation 77 (bulk transfers (transfer of undertakings), etc.) is the amount determined by an actuary appointed by the Committee to be equal to the value at the date the members join the new scheme—

(a) of the actual and potential liabilities payable from the fund or admission agreement fund which have then accrued in respect of the members and the persons who are or may become entitled to benefits under the Scheme through them; or

(b) is the balance of the employing authority’s assets after ensuring that its deferred members and pensioner members liabilities which are not transferred, are fully funded.

(2) The actuary may make such adjustments as he thinks fit in calculating that amount and, in particular, as respects the period from that date to the date of actual payment of the transfer value.

(3) He must specify in his valuation the actuarial assumptions he has used in making it.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) The employing authority shall bear the costs of determining the appropriate part of the fund or admission agreement fund and apportioning that fund.

(5) But if there is more than one employing authority involved, each shall bear such part of the costs as the actuary determines to be appropriate.

Commencement Information

I6 Reg. 78 in operation at 1.4.2009, see [reg. 1](#)

Inward transfers of pension rights

79.—(1) If a person who becomes an active member has relevant pension rights, he may request the Committee to accept a transfer value for some or all those rights from the relevant transferor.

(2) Relevant pension rights are accrued rights under a registered scheme but do not include rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit.

(3) Accrued rights include rights to preserved benefits and rights appropriately secured under section 19 of the 1993 Act.

(4) The relevant transferor is the trustees or managers of the scheme under which the transferring person's relevant pension rights arise.

(5) But the relevant transferor for the rights specified in paragraph (3) is the trustees or managers of the scheme, or the insurance company, to which a payment in respect of his accrued rights has been made.

(6) A request from a transferring person under paragraph (1) must be made by notice in writing.

(7) That notice must be given before the expiry of the period of 12 months beginning with the date he became an active member (or such longer period as the Committee may allow).

(8) Where a request under paragraph (1) is duly made the Committee may accept the transfer value and credit it to the fund or admission agreement fund.

Commencement Information

I7 Reg. 79 in operation at 1.4.2009, see [reg. 1](#)

Right to count credited period

80.—(1) Where the transfer value has been accepted under regulation [79](#) (inward transfers of pension rights), the member may count the credited period as a period of membership for these Regulations and the Benefits Regulations(8).

(2) If the transfer value—

(a) is paid by the trustees or managers of a club scheme and the member has made the request under regulation [79](#) before the expiry of 12 months beginning with the date he became an active member;

(b) represents all the rights relating to the member in that scheme; and

(c) has been calculated—

(i) in a case where Chapter 4 or 5 applies, in accordance with that Chapter; and

(ii) otherwise, in a manner consistent with that prescribed under the relevant Chapter,

(8) See also regulation 6(c) of the Benefits Regulations.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

the credited period is the period which, if used to calculate a transfer value to be paid by the Scheme, would produce an amount equal to the transfer value received.

(3) If paragraph (2) does not apply, the credited period must be calculated in a manner consistent with Chapter 4 or 5.

(4) In calculating the credited period under paragraph (3) due allowance must be given for the expected increase in the member's pensionable pay between the date he became a member (or, if more than 12 months later, the date on which the transfer value is received) and his normal retirement age.

(5) The Committee must give the member a written notice—

- (a) stating the period of membership he may count under paragraph (1); and
- (b) containing a conspicuous statement giving the address from which further information may be obtained.

Commencement Information

18 Reg. 80 in operation at 1.4.2009, see [reg. 1](#)

Community scheme transferees

81.—(1) The persons mentioned in paragraph (2) are entitled to such rights under the Scheme as are specified in guidance issued by the Government Actuary.

(2) Those persons are—

- (a) a person who became employed by a Community institution after having been employed in local government employment; or
- (b) a surviving spouse, civil partner, nominated cohabiting partner, dependant or an eligible child of such a person.

(3) In this regulation—

- (a) “Community institution” means a body treated as one of the Communities’ institutions for the purposes of the Communities’ scheme; and
- (b) “the Communities’ scheme” means the pension scheme provided for officials and other servants of the Communities in accordance with regulations adopted by the Council of the European Communities.

Commencement Information

19 Reg. 81 in operation at 1.4.2009, see [reg. 1](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations continued by [S.R. 2014/189 reg. 13\(1\)](#)
- Regulations revoked in pt. by [S.R. 2014/189 reg. 2Sch. 2](#)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- Sch. 2 para. 2A inserted by [S.R. 2013/71 reg. 24\(d\)](#)
- Sch. 4 inserted by [S.R. 2011/117 Sch. 2](#)
- reg. 3(1)(a)-(c) substituted for reg. 3(1)(a)(b) by [S.R. 2010/410 reg. 22](#)
- reg. 003A words inserted by [S.R. 2011/117 reg. 3\(2\)](#)
- reg. 5(3A) inserted by [S.R. 2013/71 reg. 13\(a\)](#)
- reg. 11(6)-(7) inserted by [S.R. 2012/183 reg. 18](#)
- reg. 11(6)(a) word deleted by [S.R. 2016/329 reg. 10\(a\)\(i\)](#) (W/E as mentioned in reg. 2(a))
- reg. 11(6)(b) words inserted by [S.R. 2016/329 reg. 10\(a\)\(ii\)](#) (W/E as mentioned in reg. 2(a))
- reg. 11(6)(c) inserted by [S.R. 2016/329 reg. 10\(a\)\(iii\)](#) (W/E as mentioned in reg. 2(a))
- reg. 11(7) words inserted by [S.R. 2016/329 reg. 10\(b\)](#) (W/E as mentioned in reg. 2(a))
- reg. 20A continued (with modifications) by [S.R. 2014/189 reg. 14\(1\)\(d\)](#)
- regs. 20A-20B inserted by [S.R. 2010/410 reg. 32](#)
- reg. 20B continued (with modifications) by [S.R. 2014/189 reg. 14\(1\)\(d\)](#)
- reg. 22(9)-(10) inserted by [S.R. 2012/183 reg. 20\(e\)](#)
- reg. 22(10) omitted by [S.R. 2019/206 reg. 55](#)
- reg. 31(8)(a)-(c) substituted for reg. 31(8)(a)(b) by [S.R. 2010/410 reg. 33\(d\)](#)
- reg. 33(3)(a)-(c) substituted for reg. 33(3)(a)(b) by [S.R. 2013/71 reg. 18](#)
- reg. 33(7)-(9) inserted by [S.R. 2010/410 reg. 35\(e\)](#)
- reg. 33A inserted by [S.R. 2010/410 reg. 36](#)
- reg. 33A(2)(b) words deleted by [S.R. 2013/71 reg. 19](#)
- reg. 42(1)(b)-(d) substituted for reg. 42(1)(b)(c) by [S.R. 2010/410 reg. 39](#)
- regs. 45A-45B inserted by [S.R. 2010/410 reg. 40](#)
- reg. 45B(1) word omitted by [S.R. 2019/206 reg. 11](#)
- reg. 45C inserted by [S.R. 2013/71 reg. 20](#)
- reg. 47A inserted by [S.R. 2012/183 reg. 21](#)
- reg. 64A inserted by [S.R. 2013/71 reg. 21](#)
- reg. 71A inserted by [S.R. 2010/410 reg. 42](#)
- reg. 91(4)(5) inserted by [S.R. 2010/410 reg. 43\(b\)](#)
- reg. 91(4) words substituted by [S.R. 2016/128 reg. 33](#)