

2022 No. 126

PUBLIC SERVICE PENSIONS

**The Public Service (Civil Servants and Others) Pensions
(Amendment) (No. 2) Regulations (Northern Ireland) 2022**

Made - - - - - *18th March 2022*

Coming into operation in accordance with regulation 1(2)

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

In accordance with section 21(1) (b) of the 2014 Act, the Department of Finance has consulted such persons as appear to the Department of Finance to be likely to be affected by these Regulations.

The retrospective provisions contained in these Regulations do not appear to the Department of Finance to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014(c), nor in any other way in relation to members of that scheme. Accordingly, the procedures set out in section 23 of the 2014 Act are not applicable in respect of these Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Public Service (Civil Servants and Others) Pensions (Amendment) (No. 2) Regulations (Northern Ireland) 2022.

(2) These Regulations come into operation on 1st April 2022, except the amendments made by regulation 6(5) to (8)—

- (a) come into operation immediately before 1st April 2022, and
- (b) have effect from 18th December 2014.

Amendment of 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 are amended in accordance with regulations 3 to 6.

(a) 2014 c.2 (N.I.). Section 3 was amended by section 94(12) to (14) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7) (“the 2022 Act”). Section 18(5) is repealed from 1 April 2022 by section 88(5)(c) of the 2022 Act, subject to the savings and transitional provision contained in section 89 of that Act.

(b) Section 21 has been amended by section 94(16) of the 2022 Act.

(c) S.R. 2014 No. 290 as amended by S.R. 2015 Nos. 81 and 181, S.R. 2016 No. 34, S.R. 2019 No 60 and S.R. 2022 No. 67.

Amendment of regulation 121 (payment of lump sum death benefit)

3. In regulation 121—

- (a) in paragraph (1), for “is payable” substitute “may be paid”;
- (b) omit paragraph (4).

Amendment of regulation 173 (information about payment of annual allowance charge)

4. In regulation 173, for paragraph (2) substitute—

“(2) The scheme manager must provide the member with any information the scheme manager considers appropriate to assist the member to arrange payment of the annual allowance charge for a tax year—

- (a) no later than 6th October after the end of that tax year; or
- (b) where regulation 14A(6) (provision of pension savings statement where scheme administrator has not been provided with information about a member) of the Registered Pension Schemes (Provision of Information) Regulations 2006(a) applies in relation to a member, the date determined in accordance with that regulation.”.

Amendment of Schedule 1 (payments for extra pension)

5.—(1) In paragraph 7 (added pension option exercisable by member) of Schedule 1, for sub-paragraph (6) substitute—

“(6) An option to make a lump sum payment for added pension may only be exercised if the member—

- (a) either—
 - (i) has been an active member of this scheme in relation to a continuous period of pensionable service for at least 12 months; or
 - (ii) is a transition member within the meaning of paragraph 1 of Schedule 2; and
- (b) has been provided with a statement of the amount of added pension (if paragraph 18 applies).”.

Amendment of Schedule 2 (transitional provisions)

6.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1 (interpretation - general)—

(a) in the definition of “closing date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS(NI), 31st March 2022;”;

(b) in the definition of “transition date”, before sub-paragraph (a) insert—

“(za) if the member is a full protection member of the PCSPS(NI), 1st April 2022;”.

(3) In sub-paragraph (3) of paragraph 3 (meaning of “tapered protection closing date”), after “is a date” insert “before 1st April 2022”.

(4) For sub-paragraph (2) of paragraph 9 (full protection members of the PCSPS(NI)) substitute—

“(2) P ceases to be a full protection member of the PCSPS(NI) on whichever of the following days occurs first—

- (a) the day on which P ceases to be in pensionable service under the PCSPS(NI) unless sub-paragraph (3) or (4) applies; or

(a) S.I. 2006/567. Regulation 14A was inserted by S.I. 2011/1797, and there are no other relevant amendments.

- (b) 31st March 2022.”.
- (5) In paragraph 16 (Fair Deal eligible persons transferred out on or before 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
- “(1) This paragraph applies if—
- (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
- (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 to the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
- (b) in sub-paragraph (2)—
- (i) for paragraph (b) (but not the “and” after it) substitute—
- “(b) P begins service which is pensionable under the PCSPS(NI) as—
- (i) an Article 3(3A) eligible person;
- (ii) a civil servant; or
- (iii) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
- on a date (P’s re-joining date) after 31st March 2012;”;
- (ii) in paragraph (c)(i), after “the PCSPS(NI)” insert “and was continuously employed to carry out functions or services related to P’s pensionable service under the PCSPS(NI) before P’s transfer date”;
- (c) for sub-paragraph (3) substitute—
- “(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
- (a) an Article 3(3A) eligible person;
- (b) a civil servant; or
- (c) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
- continuously after P’s re-joining date.”.
- (6) In paragraph 17 (Fair Deal eligible persons transferred out after 31st March 2012)—
- (a) for sub-paragraph (1) substitute—
- “(1) This paragraph applies if—
- (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
- (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 to the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
- (b) in sub-paragraph (2)—
- (i) for paragraph (d) (but not the “and” after it) substitute—
- “(d) P begins service which is pensionable under the PCSPS(NI) as—
- (i) an Article 3(3A) eligible person;
- (ii) a civil servant; or
- (iii) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
- on a date (P’s re-joining date) after P’s transfer date;”;
- (ii) in (e)(i), after “the PCSPS(NI)” insert “and was continuously employed to carry out functions or services related to P’s pensionable service under the PCSPS(NI) before P’s transfer date”;

- (c) for sub-paragraph (3) substitute—
 - “(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
 - (a) an Article 3(3A) eligible person;
 - (b) a civil servant; or
 - (c) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
 continuously after P’s re-joining date.”.
- (7) In paragraph 25 (Fair Deal eligible persons transferred out on or before 31st March 2012)—
 - (a) for sub-paragraph (1) substitute—
 - “(1) This paragraph applies if—
 - (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
 - (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 to the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
 - (b) in sub-paragraph (2)—
 - (i) for paragraph (b) (but not the “and” after it) substitute—
 - “(b) P begins service which is pensionable under the PCSPS(NI) as—
 - (i) an Article 3(3A) eligible person;
 - (ii) a civil servant; or
 - (iii) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
 on a date (P’s re-joining date) after 31st March 2012;”;
 - (ii) in paragraph (c)(i), after “the PCSPS(NI)” insert “and was continuously employed to carry out functions or services related to P’s pensionable service under the PCSPS(NI) before P’s transfer date”;
- (c) for sub-paragraph (3) substitute—
 - “(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
 - (a) an Article 3(3A) eligible person;
 - (b) a civil servant; or
 - (c) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
 continuously after P’s re-joining date.”.
- (8) In paragraph 26 (Fair Deal eligible persons transferred out after 31st March 2012)—
 - (a) for sub-paragraph (1) substitute—
 - “(1) This paragraph applies if—
 - (a) in the case of a person who is an Article 3(3A) eligible person, sub-paragraphs (2), (3), (4) and (5) apply; or
 - (b) in the case of a person who is a civil servant or a person serving in an employment or office listed in Schedule 1 to the 1972 Order, sub-paragraphs (2), (3) and (5) apply.”;
 - (b) in sub-paragraph (2)—
 - (i) for paragraph (d) (but not the “and” after it) substitute—
 - “(d) P begins service which is pensionable under the PCSPS(NI) as—
 - (i) an Article 3(3A) eligible person;
 - (ii) a civil servant; or

- (iii) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
on a date (P’s re-joining date) after P’s transfer date;”;
- (ii) in paragraph (e)(i), after “the PCSPS(NI)” insert “and was continuously employed to carry out functions or services related to P’s pensionable service under the PCSPS(NI) before P’s transfer date”;
- (c) for sub-paragraph (3) substitute—
“(3) This sub-paragraph applies if P is an active member of the PCSPS(NI) as—
(a) an Article 3(3A) eligible person;
(b) a civil servant; or
(c) a person serving in an employment or office listed in Schedule 1 to the 1972 Order,
continuously after P’s re-joining date.”.
- (9) In paragraph 29(1) (transition member who has not reached normal pension age under the PCSPS(NI)), before paragraph (a) insert—
“(za) is not a person in relation to whom paragraph 29B applies;”.
- (10) After paragraph 29A insert—

“Transition member who made an application for ill-health pension under the PCSPS(NI) on or before 31st March 2022 which is determined after that date

- 29B.—**(1) This paragraph applies in relation to a transition member (“M”)—
- (a) with continuity of service;
 - (b) who before the transition date—
(i) had made an application for an ill-health pension under the PCSPS(NI) (their “ill-health pension application”); and
(ii) had not reached normal pension age under the PCSPS(NI);
 - (c) whose ill-health pension application is determined on or after the transition date; and
 - (d) who would have been entitled to payment of an ill-health pension under the PCSPS(NI) if their ill-health pension application had been determined on 31st March 2022.
- (2) Where this paragraph applies—
- (a) an ill-health pension and lump sum are not payable under the PCSPS(NI);
 - (b) an ill-health pension is payable under this scheme in accordance with this paragraph;
 - (c) M becomes a deferred member of the PCSPS(NI);
 - (d) M is entitled to payment of a lump sum of the amount which would have been payable to M under the PCSPS(NI).
- (3) Where M was not a member of Section II of the PCSPS(NI) immediately before the transition date and—
- (a) M would have met a payment threshold in the PCSPS(NI) and M meets the equivalent payment threshold in this scheme, the annual rate of ill-health pension payable under this scheme in respect of the payment threshold is the greater of—
(i) the rate calculated in accordance with paragraph 29(3) (in respect of the lower tier payment threshold) or, if it applies, (4) (in respect of the upper tier payment threshold); and
(ii) the rate which would have been payable to M under the PCSPS(NI) in respect of that payment threshold; or

- (b) M would have met a payment threshold in the PCSPS(NI) and M does not meet the equivalent payment threshold in this scheme, the annual rate of ill-health pension payable under this scheme in respect of the payment threshold is the rate which would have been payable to M under the PCSPS(NI) in respect of that payment threshold.

(4) Where M was a member of Section II of the PCSPS(NI) immediately before the transition date, the annual rate of ill-health pension payable under this scheme is—

- (a) where M meets a payment threshold in this scheme, the greater of—
 - (i) the rate calculated in accordance with paragraph 29(3) (in respect of the lower tier payment threshold) or, if it applies, (4) (in respect of the upper tier payment threshold); and
 - (ii) the rate which would have been payable to M under the PCSPS(NI); or
- (b) where M does not meet a payment threshold in this scheme, the rate which would have been payable to M under the PCSPS(NI).

(5) If the full retirement account specifies an amount of full retirement added pension of any description, the rate payable is the annual rate of full retirement added pension that would, if the member was entitled to payment of an ill-health pension under the PCSPS(NI), be payable to the member with that pension under the PCSPS(NI).

(6) Any rate or amount payable under this paragraph which is determined by reference to a rate or an amount that would have been payable under the PCSPS(NI) is subject to the same conditions, and ceases to be payable in the same circumstances, as the rate or amount which would have been payable under the PCSPS(NI) in accordance with the rules of that scheme.

(7) The following provisions of the PCSPS(NI) apply in relation to a transition member with continuity of service who is receiving payment of an ill-health pension in accordance with this paragraph as they apply in relation to such a member who is receiving payment of an ill-health pension in accordance with paragraph 29—

- (a) rule N.9 of Section I;
- (b) rule 18.13 of Section II;
- (c) rule M.9 of Section III.

(8) In this paragraph—

- (a) the question of whether M would have met a payment threshold in the PCSPS(NI) is the question of whether M would have met the lower tier payment threshold or the upper tier payment threshold in the PCSPS(NI) if their ill-health pension application had been determined on 31st March 2022;
- (b) M only meets a payment threshold in this scheme if, in addition to meeting the criteria for that threshold, M would be entitled to payment of an ill-health pension under this scheme (disregarding this paragraph);
- (c) a reference to an amount or a rate which would have been payable to M under the PCSPS(NI) is a reference to the amount or the rate which would have been payable to M under the PCSPS(NI) if their ill health application had been determined on 31st March 2022;
- (d) terms which are defined for the purpose of paragraph 29 have the same meaning as in that paragraph.”.

Sealed with the Official Seal of the Department of Finance on 18th March 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 No. 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”).

As part of the 2015 pension reforms, those members of the civil service (defined benefit) pension schemes who were within 10 years of their Normal Pension Age (NPA) on 31 March 2012 and who had active status at that point and on 1 April 2015 remained in the appropriate Section of the PCSPS(NI); this was referred to as transitional protection. In December 2018, the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters’ pension schemes in particular, as transitional protection was only offered to older scheme members. The courts required that this unlawful discrimination be remedied by the Government. In July 2019, the Government confirmed that it accepted that the Court of Appeal’s judgment had implications for the other public service schemes that had similar transitional arrangements, including the Civil Service Pension Arrangements.

The Public Service Pensions and Judicial Offices Act 2022 (c. 7) (“the 2022 Act”) calls for all civil servants who continue in service from 1 April 2022 onwards to do so as members of alpha. The legacy PCSPS(NI) will be closed in relation to service after 31 March 2022, closing the remedy period, during which members in scope have a choice of benefits. This is known as the prospective remedy.

These Regulations make the amendments required to implement the prospective remedy, which requires moving all active members of the PCSPS(NI) (including partial retirees in active service) to alpha on 1 April 2022 and making consequential changes to the regulations, pursuant to the requirements of the 2022 Act.

Regulation 3 amends regulation 121 to clarify that payment of a lump sum death benefit is discretionary. This will bring alpha provisions into line with existing practice, the PCSPS(NI) and other public service pension schemes, and will achieve the intended effect in relation to inheritance tax. This amendment is not considered to have an adverse effect on members.

Regulation 4 amends regulation 173 of the 2014 Regulations to bring provisions about the time when information about the payment of the annual allowance charge into line with the provisions of regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006 (S.I. 2006/567).

Regulation 5 amends Schedule 1 to the 2014 Regulations to allow certain transition members to exercise an option to make a lump sum payment for added pension.

Regulation 6 amends Schedule 2 to the 2014 Regulations for the following purposes—

- paragraphs (2), (3), (4) and (9) make amendments in consequence of provision made by the Public Service Pensions and Judicial Offices Act 2022 (c. 7). The amendments ensure that the existing Principal Civil Service Pension Scheme (Northern Ireland) (“the PCSPS(NI)”) established under Article 3 of the Superannuation (Northern Ireland) Order 1972 (1972 No. 1073 (N.I. 10)) will be closed to future service accrual on and after 1st April 2022, and that any members currently in pensionable service under the PCSPS(NI) will, on that date, begin accruing benefits in alpha. In particular—
 - the definitions of “closing date” and “transition date” in paragraph 1 are amended to insert dates in respect of those terms that apply to full protection members so that provisions which refer to those terms operate as intended in respect of such members;
 - paragraph 3(3) is amended so that the tapered protection closing date for certain tapered protection members cannot be determined by the scheme manager to be on or after 1st April 2022;

- paragraph 9(2) is amended so that protection ceases for a full protection member on the earlier of the day on which they leave pensionable service under the PCSPS(NI), or 31st March 2022;
 - new paragraph 29B is inserted to ensure that members of the PCSPS(NI) who make an application for ill-health pension on or before 31st March 2022 which is not determined on or before that date receive no less generous ill-health benefits than they would have received had the application been determined on that date;
- paragraphs (5) to (8) make (in reliance in particular on section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014 (2014 c.2 (N.I.))) retrospective amendments to paragraphs 16, 17, 25 and 26 of Schedule 2 to bring certain Fair Deal members within the scope of transitional protection.

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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£6.90

<http://www.legislation.gov.uk/id/nisr/2022/126>

ISBN 978-0-33-801913-4



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