
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

**Local Government Pension Scheme
Regulations (Northern Ireland) 2002**

PART IV

ADMINISTRATION

CHAPTER II

MEMBERS' CONTRIBUTIONS

Discontinuance of additional contributions

84.—(1) A member paying additional contributions under regulation 57 may elect to stop payment and must do so if he ceases to be an active member.

(2) Such an election must be made by notice in writing to the Committee and the employing authority.

(3) If a member stops paying such contributions before his normal retirement date on leaving his employment because of such permanent incapacity as mentioned in regulation 29(1) or on his death, he is to be treated as having completed payment of those contributions.

(4) If a member stops paying such contributions before his normal retirement date on leaving his employment by reason of redundancy at least 12 months after he elected to pay them, he may elect to make a lump sum payment to the fund.

(5) Such an election must be made by notice in writing to the Committee given not later than the expiry of the period of three months beginning on the day after he leaves his employment (or such longer period as it may allow).

(6) The amount of that payment must be calculated by an actuary appointed by the Committee as representing the capital value of the unpaid contributions.

(7) If the member duly makes that payment before the expiry of the period of one month beginning with the date on which he is notified of its amount, he must be treated as having completed paying his additional contributions under regulation 57.

(8) If a member stops paying such contributions before his normal retirement date and neither paragraph (3) nor (4) applies, such proportion of the original additional period covered by the election may be counted as part of his total membership as the length of the period during which he paid such contributions bears to the length of the full period during which they were to have been paid.

(9) If a member –

- (a) stops paying such contributions before his normal retirement date on leaving his employment;
- (b) has not become entitled to the payment of any benefit under the Scheme for that employment and has not made an election under regulation 31;

- (c) is not treated under this regulation as having completed paying his contributions; and
- (d) within 12 months after leaving that employment again enters local government employment, without having received any payment under regulation 88 or 89,

he may pay his employing authority in his new employment an amount equal to the additional contributions that would have been payable if he had not stopped contributing.

(10) If he pays that amount within three months after re-entering local government employment the election under regulation 57 continues in effect and the break in payments must be disregarded.

(11) This regulation does not apply if the member who stops paying contributions receives a return of contributions which includes additional contributions under regulation 57.

(12) In paragraph (4) “redundancy” includes retirement in the interests of efficiency or because the member held a joint appointment which has been ended because the other holder has left it.

Separate treatment of AVCs and SCAVCs from other contributions

85.—(1) Regulations 88 and 89 (return of contributions) do not apply to AVCs or SCAVCs payable under (or interest on late payments which relate to AVCs or SCAVCs under) Chapter IV of Part III or under any pension policy or agreement made for the payment of AVCs before the commencement date.

(2) The regulations mentioned in paragraph (3) do not apply in relation to benefits under such a policy or agreement.

(3) Those regulations are –

- (a) regulation 98 (first instance decisions);
- (b) regulation 114 (forfeiture);
- (c) regulation 115 (interim payments directions); and
- (d) regulation 116 (recovery and retention in cases of misconduct).

Over-provision: calculation and return of surplus AVC and SCAVC funds

86.—(1) The Committee must comply with the requirements of regulation 5 of the AVC Regulations.

(2) If the Scheme is the leading scheme in relation to a member, the Committee must also comply with the requirements of regulation 6 of those Regulations, so far as they concern main schemes.

(3) Where surplus funds fall to be repaid under that regulation because of over-provision relating to death benefits, the Committee must repay the member (or, if he has died, his personal representatives) out of the accumulated value of the payments made by the Committee with respect to the pension policy under regulation 65 or 72(1).

(4) Where any other benefit is abated, the repayment must be made out of the accumulated value of the additional contributions mentioned in regulation 66(2).

(5) In this regulation –

“AVC Regulations” are the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Additional Voluntary Contributions) Regulations 1993(1);

“leading scheme” and “main schemes” have the respective meanings given in regulation 2 of those Regulations; and

“surplus funds” has the meaning given in regulation 6 of those Regulations.

Cost of calculations for transfer of AVCs or SCAVCs into the Scheme where no transfer is requested

87. Where –

- (a) at a member's request the Committee gives him information concerning the amount payable if he elects under regulation 68(4) (including that regulation as applied by regulation 74(1)) for the accumulated value of his invested additional contributions to be used to provide additional pension for him under the Scheme, but
- (b) he does not make such an election before the expiry of the period of three months beginning with the date it gives him the information,

it may deduct the cost of calculating the additional pension from the accumulated value of the additional contributions mentioned in regulation 66(2).

Rights to return of contributions

88.—(1) If a member with less than 2 years' membership –

- (a) ceases to be employed by a Scheme employer or to be an active member without becoming entitled to a retirement pension; or
- (b) ceases to be an active member by reason of a notification under regulation 7(2),

he is entitled to be repaid his contributions from the fund with interest calculated to the date he ceased to be employed.

(2) But a person is not entitled to interest on his contributions under paragraph (1) if he ceased to be a member by reason of a notification under regulation 7(2) or on leaving his employment by reason of his resignation, or by reason of his dismissal because of inefficiency, an offence of a fraudulent character or because of grave misconduct in either case in connection with that employment.

(3) If repayment of the contributions (with interest due under paragraph (1), if applicable) has not been made before the expiry of the period of one year beginning with the date when active membership ceases, the person is entitled to interest on the repayment which should have been made, calculated as provided in regulation 82(2), the due date being the date when active membership ceased.

(4) A person who is entitled to a repayment of contributions under paragraph (1) may waive his entitlement for any period and, if he becomes an active member again before the expiry of that period, he shall cease to be so entitled (but without prejudice to any entitlement arising later under that paragraph in respect of those contributions).

(5) A person who continues as an active member in another employment he held concurrently with the employment in which he has ceased to be an active member may elect for an amount equal to the repayment to be treated as contributions to the Scheme as respects his membership in that concurrent employment, entitling him to a period of membership equal to the period of membership in the employment which has ceased, as reduced under regulation 10 (4) if the employment which has ceased was part-time, multiplied by the fraction –

$$\frac{\text{whole-time rate of employment which has ceased}}{\text{whole-time rate of employment which is continuing}}$$

where

the rate of pay in each case is the annual rate of pay on the last day of employment in the employment which has ceased.

(6) A person who elects under paragraph (5) ceases to be entitled to that repayment (but without prejudice to any entitlement arising later in respect of the concurrent employment).

(7) The Committee must deduct from any repayment under this regulation any tax to which it may become chargeable under section 598 of the Taxes Act (charge to tax on repayment of employee's contributions).

(8) The contributions which must be repaid under paragraph (1) are any contributions or payments paid by the member to any pension fund under Part II or Chapter III of Part III or by way of additional contributory payments or added period payments, or paid under any of the relevant old provisions (unless already returned and not repaid), which are attributable to a period of membership which might have counted under these Regulations in relation to the employment in which he has ceased to be a member, but not to any earlier period of membership in respect of which a benefit or transfer value has been paid.

(9) The relevant old provisions are regulations C3, C5, C6, C7, C13 and C14 of the 2000 Regulations and regulations C1, C2, C3, C6, C7, and C9 of the 1992 Regulations.

(10) Added period payments are payments made for the purposes of the former regulations.

(11) "Additional contributory payment" has the meaning given in Schedule A1 to the 2000 Regulations.

Exclusion of rights to return of contributions

89.—(1) A person is not entitled to a repayment under regulation 88(1) if –

- (a) he becomes a member again within one month and one day (otherwise than in employment he held concurrently with the employment in which he was previously a member);
- (b) he left his employment because of –
 - (i) an offence of a fraudulent character, or
 - (ii) grave misconduct,
 in either case in connection with that employment, or
- (c) regulation 120(2) applies.

(2) But where paragraph (1)(b)(ii) applies, the employing authority may direct the payment out of the fund to him or, where paragraph (1)(b)(i) applies, to him or to his spouse or any dependant of his, of a sum equal to all or part of his contributions.

(3) A person is not entitled to a repayment under regulation 88(1) if –

- (a) he is for the time being entitled to be paid, or has been paid, a benefit under regulation 29(3) (ill-health grant) or an ill-health retirement grant under regulation D8 of the 2000 Regulations;
- (b) a transfer value has been credited to the fund for him.

(4) A person who is entitled to a repayment under regulation 88(1)(a) ceases to be entitled to it if he returns to local government employment before receiving it.

Deduction and recovery of member's contributions

90.—(1) An employing authority may deduct from a person's pay any contributions payable by him under these Regulations.

(2) Sums payable under regulation 16(5) or (8)(c) (reserve forces) may be deducted by the member's former employer from any payment made to him under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) Order 1953(2), to the extent that they are payable in respect of the same period.

(3) The Committee may recover any such sum remaining due and not deducted under paragraph (1) or (2) –

- (a) as a simple contract debt in any court of competent jurisdiction; or
- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these Regulations.

(4) But the sums mentioned in paragraph (2) are only recoverable under paragraph (3) if unpaid for 12 months after the person ceases to perform relevant reserve forces service.

(5) If –

- (a) an employing authority deducts any amount in error from a person’s pay or any other sum due to him in respect of contributions, other than contributions due to be repaid to him by virtue of his having left without any rights under the Scheme, (which are dealt with under regulation 88); and
- (b) the amount has not been repaid to him before the expiry of the period of one month beginning with the date of deduction,

the appropriate body must pay him interest on that amount calculated as provided in regulation 82(2), the due date being the date of deduction.

(6) Where the employee’s contributions have been paid into the fund, the repayment and interest shall be made out of the fund.

(7) “The appropriate body” for the purpose of paragraph (5) is –

- (a) the Committee where the employee’s contributions have been paid into the fund; and
- (b) the person’s employing authority where the employee’s contributions have not yet been paid into the fund.