
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 352

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

PART V

SPECIAL CASES

CHAPTER 1

ELIGIBILITY

Separate employments etc.

129.—(1) Where a person holds separate employments under one Scheme employer, 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⁽¹⁾ shall, in relation to those functions, be treated as if he were employed by that district council and any fees paid to him in connection with those functions shall be treated as remuneration paid to him by that district council.

CHAPTER II

*CONVERSION OF DISCRETIONARY PAYMENTS
REGULATIONS PERIODS INTO MEMBERSHIP*

Conversion of periods credited under Discretionary Payments Regulations etc. into membership

130.—(1) Where, apart from paragraph (9) of regulation 54, an employing authority could pass a resolution under that regulation to increase a person's total membership, it may resolve that his total membership be increased by the whole or part of the period credited to him as mentioned in that paragraph.

(2) Where –

- (a) any person has been credited by an employer (“the transferor employer”) under any scheme, the terms of which correspond to Part III of the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001⁽²⁾ with a period of service in respect of a former employment;
- (b) the transferor employer's liability in respect of payments falling due to that person as respects that credited period has been transferred to an employing authority;

(1) [S.I. 1972/1264 \(N.I. 13\)](#) as amended by the Local Government (Postponement of Elections and Reorganisation) (Northern Ireland) Order 1972 ([S.I. 1972/1998 \(N.I. 21\)](#))

(2) [S.R. 2001 No. 279](#)

(c) apart from paragraph (9) of regulation 54, if –

- (i) the person’s employment with the transferor employer had been employment with the employing authority, and
- (ii) any actions taken by the transferor employer under the scheme mentioned in sub-paragraph (a) had been taken by that authority,

that authority could pass a resolution under regulation 54 to increase his total membership, it may resolve that his total membership be increased by the whole or part of the period credited to him.

(3) The additional period must not exceed the period which would be the maximum additional period under regulation 54 if –

- (a) a resolution under that regulation could be passed in relation to him; and
- (b) the period of 10 years were substituted for the period of 6 243/365 years in paragraph (2) (d) of that regulation.

(4) The additional period may only be counted as a period of membership if –

- (a) the employing authority and the Committee agree that the employing authority will pay increased contributions under regulation 79 to meet the cost of the increase in membership; or
- (b) the employing authority makes the payment which is required by regulation 80(2) within the period specified in that regulation,

but it may be so counted as from the date from which the resolution has effect.

(5) If the employing authority fails to pay those increased contributions or make that payment, the resolution shall cease to have effect.

(6) Where the resolution has effect, the period credited as mentioned in regulation 54(9) is reduced or extinguished accordingly (but without prejudice to any payments which have fallen due or have been made before that date).

(7) No resolution may be passed under this regulation, the result of which would be to place any individual in a worse position than he would otherwise be.

(8) If the person was credited as mentioned in regulation 54(9) on or after the commencement date, this regulation only applies if –

- (a) the employing authority is an authority which has reasonable grounds to believe that it will cease to exist as a result of a provision made by or under an enactment; or
- (b) the employing authority has ceased to exist as a result of any such provision;

and where sub-paragraph (b) applies “employing authority” includes the body to which the former employing authority’s functions as respects the former employee in question have been transferred in connection with its cessation.

CHAPTER III

RIGHTS UNDER ARTICLE 14 OF THE SUPERANNUATION (NORTHERN IRELAND) ORDER 1972

Rights under Article 14 of the Superannuation (Northern Ireland) Order 1972

131.—(1) If, apart from this regulation, any provision of these Regulations, which re-enacts with any modification any provision of the Scheme which ceases to have effect by virtue of the Transitional Regulations in relation to any person to whom a relevant benefit is or may become payable, would place him in a worse position in relation to that benefit than that he would have been in if that modification had not been made and he makes an election under this paragraph, these

Regulations shall have effect, in relation to him and to that benefit, as if these Regulations had re-enacted that provision of the Scheme without modification (but see paragraph (4)).

(2) An election under paragraph (1) must be made by notice in writing given to the Committee within the period of six months beginning with the commencement date.

(3) In this regulation –

“relevant benefit” means a benefit payable to, or in respect of, a person who before the commencement date –

- (a) ceased to hold an employment in which he was an active member (whether or not he has subsequently become an active member again); or
- (b) died while in such employment; and

“benefit” includes a return of contributions and any pension payable to a widow, widower or any dependant by virtue of a surrender.

(4) If an election under paragraph (1) is made in relation to a benefit in respect of a person who is an active member, or subsequently becomes an active member again –

(a) the election shall have effect in relation to the benefit only to the extent that it accrues or has accrued by virtue–

- (i) of periods of membership before the cessation referred to in paragraph (3) (or, if there has been more than one such cessation, the last of them before the commencement date); or
- (ii) of contributions paid in respect of such periods of membership; and

(b) in determining entitlement to, or the amount of, the benefit to that extent, he shall be treated as if he had never become an active member again at any time after the cessation referred to in paragraph (3) (but without prejudice to the application of this paragraph);

and these Regulations shall have effect accordingly.