

SCHEDULE 1

Regulation 2(1) to (3)

INTERPRETATION

In these Regulations –

“the 1965 Act” means the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965(1);

“the 1971 Act” means the Pensions (Increase) Act (Northern Ireland) 1971(2);

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972(3);

“the 1972 Order” means the Superannuation (Northern Ireland) Order 1972(4);

“the 1965 Regulations” means the Contracts of Employment and Redundancy Payments (Pensions) Regulations (Northern Ireland) 1965(5);

“the 1992 Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1992(6);

“the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996(7);

“the 2000 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(8);

“the 2001 Regulations” means the Local Government (Discretionary Payments) Regulations (Northern Ireland) 2001(9);

“annual compensation”, except in Parts VI to VIII, means compensation under regulation 9 ignoring the effect of any provision of Part V or Part VI;

“annual rate” –

(a) of annual compensation and of any other official pension, includes increases under the 1971 Act;

(b) of an occupational pension which is not an official pension, includes increases under any enactment, contract, scheme or other arrangement;

“appropriate percentage” means the percentage specified in the Table in Schedule 2 in relation to a person of the person’s age and sex;

“assumed member” means a person in respect of whom his employing authority is satisfied that, but for a relevant disqualification, he would be, or be treated as, a Scheme member;

“basic entitlement” means the amount to which a person is entitled under regulation 10, ignoring the effect of any provision of Part V;

“calculated amount” means the amount calculated in accordance with regulation 12(4);

“concurrent employment” means employment with a Scheme employer held concurrently with a terminated employment and during the period of 12 months ending immediately before the termination date;

“credited period” in relation to a person, means a period with which he is credited under regulation 7;

(1) 1965 c. 19 (N.I.)

(2) 1971 c. 35 (N.I.)

(3) 1972 c. 9 (N.I.)

(4) S.I. 1972/1073 (N.I. 10)

(5) S.R. & O. (N.I.) 1965 No. 246

(6) S.R. 1992 No. 547 as amended by other instruments listed in Schedule M3 to S.R. 2000 No. 177

(7) S.I. 1996/1919 (N.I. 16)

(8) S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353

(9) S.R. 2001 No. 279

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“earlier cessation” means the cessation of an employment which began before the employment which ended on the termination date;

“earlier extra service” means –

- (a) a period by which a person’s total membership has been increased; or
- (b) a period of service with which he has been credited,

before the termination date, for the purpose of calculating a retirement payment or, if more than one period has been granted, the total of them;

“employing authority”, in relation to a person, means an employer listed in Schedule 3 by whom he is employed immediately before the termination date;

“excepted payment”, in relation to a person’s terminated employment, means –

- (a) a redundancy payment to which he is entitled under the 1965 Act or Part XII of the 1996 Order or compensation under Part II of these Regulations in respect of that employment (including, in each case, any amount by which that payment is reduced in accordance with the 1965 Regulations); or
- (b) a payment in respect of that employment under regulations, or under provisions having effect as provisions of regulations, under Article 9 of the 1972 Order; or
- (c) a payment in lieu of annual or other leave to which he is entitled in respect of that employment; or
- (d) so much of any payment in lieu of notice of termination of that employment as is equal to or less than the pay that he would have received if he had remained in that employment for three months after the termination date;

“excluded employment” means a period of employment in relation to which a pension or other benefits (other than a refund of contributions) is being or has been paid under an occupational pension scheme;

“lump sum compensation” means compensation under regulation 9;

“new employment” means employment with a Scheme employer which a person enters after his termination date and, for the purposes of this definition, the words “by whom he is employed immediately before the termination date” shall be omitted from the definition of “employing authority”;

“occupational pension”, in relation to a person, means a pension, other than a lump sum, to which he has become entitled (whether or not it is being paid) which is –

- (a) an employment-linked pension which is payable under an enactment (other than the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁰⁾, the 2000 Regulations, or the Pension Regulations), contract, scheme or other arrangement, including a personal pension scheme in relation to which the Department for Social Development⁽¹¹⁾ has paid contributions under Article 3 of the Social Security (Northern Ireland) Order 1986⁽¹²⁾ or section 39 of the Pension Schemes (Northern Ireland) Act 1993⁽¹³⁾; or
- (b) a pension derived from the payment of a transfer value calculated by reference to pension rights (contingent or otherwise) arising under the 2000 Regulations or the Pension Regulations, or arising with respect to a pension of a kind mentioned in paragraph (a);

(10) 1992 c. 7

(11) See S.R. 1999 No. 283 (N.I.) Article 3(1) and S.R. 1999 No. 481, Article 8 and Schedule 6 Part II

(12) S.I. 1986/1888 (N.I. 18); Articles 3–16 were repealed by the Pension Schemes (Northern Ireland) Act 1993 c. 49 Schedule 4 Part 1

(13) 1993 c. 49 section 39 was amended by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) Article 147 and Schedule 3 paragraph 34

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“official increases”, in relation to a pension or pay, means the increases (if any) by which an annual pension of an amount equal to the annual rate of that pension or pay would have been increased under the 1971 Act during the period ending immediately before the day preceding that on which the person in question entered the new employment, on the assumptions –

- (a) that the pension was specified in Part II of Schedule 2 to the 1971 Act and began for the purposes of that Act on the day the pension actually began or, as the case may be, the day after that on which he ceased to hold the employment; and
- (b) that he was 55 on that day;

“official pension” has the same meaning as in the 1971 Act;

“paying authority” means –

- (a) if regulation 30(2) applies, the Committee;
- (b) in any other case, the Scheme employer;

“Pension Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002⁽¹⁴⁾;

“periodic payment” –

- (a) in relation to a surviving spouse or a child (see regulations 21, 22 and 23), means an instalment of an allowance for life or other period granted to or in respect of the spouse or the child by the deceased’s employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of the deceased’s terminated employment;
- (b) in relation to any other person, means an instalment of an allowance granted to him by his employing authority under an enactment, contract, scheme or arrangement with that authority in consequence of, or as compensation for, the loss of a terminated employment, but in neither case includes annual compensation or a payment which is an excepted payment in relation to that employment;

“relevant amount” –

- (a) if a retirement grant under Part II of the Pension Regulations is payable, means one half of the sum of –
 - (i) the amount of his pensionable pay; and
 - (ii) the amount of the official increases by which an official pension at the annual rate of that pensionable pay would have been increased, if it had begun and first qualified for such increases on the day after the termination date;
- (b) if no such grant is payable, means two thirds of that sum;

“relevant assumptions” means that it is to be assumed that –

- (a) during any period of special service a person was a Scheme member;
- (b) a person’s total period of membership included any periods of special service other than unpaid periods of absence from duty;
- (c) with respect to a period of special service (applying the preceding assumptions), an election or determination under paragraph 2 of Schedule D1 to the 2000 Regulations (optional alternative relevant periods for calculating pensionable remuneration)⁽¹⁵⁾ –
 - (i) had been made in a case within paragraph 3 of that Schedule (other than a case within paragraph 4 or 5 of that Schedule); and

⁽¹⁴⁾ S.R. 2002 No. 352

⁽¹⁵⁾ Schedule D1 continues to have effect as mentioned in S.R. 2002 No. 353

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- (ii) had not been made in a case within paragraph 4 or 5 of that Schedule or regulation 23 (other final pay periods) or 24 (permanent reductions in pay; certificates of protection of pension benefits) of the Pension Regulations; and
- (d) paragraph 6(b) (periods of absence) of Schedule D1 to the 2000 Regulations did not apply with respect to any period of special service;

“relevant credited period” means the period awarded in accordance with regulation 7(2);

“relevant disqualification” –

- (a) in relation to an occupational pension scheme which applies to qualifying employment, means any of sub-paragraphs (i) to (v), as the result of which (either alone or taken together) a person has not become, has ceased to be or has been treated as ineligible to be, a Scheme member –
 - (i) the failure of a medical examination required for such membership;
 - (ii) the making of any election to opt out of, or the absence of an election to opt into, such membership with respect to any period of employment;
 - (iii) a restriction excluding some part-time employment from being employment to which the Scheme applies;
 - (iv) in the case of the Scheme, ineligibility under regulation B2(2) of the 2000 Regulations as in operation before 2nd April 2001;
 - (v) in the case of the Scheme and a manual worker, failure to complete a period of continuous employment required for membership of the Scheme;
- (b) in any other context, means any of sub-paragraphs (i) to (v), as the result of which (either alone or taken together) a person has not become, has ceased to be, or has not been treated as, a Scheme member –
 - (i) the failure of a medical examination required under regulation B1(6) of the 1992 Regulations⁽¹⁶⁾;
 - (ii) the absence of an election under regulation B2 of those Regulations;
 - (iii) the absence of an application under regulation B9 of the 2000 Regulations or regulation 6 of the Pension Regulations for membership;
 - (iv) the giving of a notification under regulation B3 of the 1992 Regulations, regulation B11 of the 2000 Regulations or regulation 7 of the Pension Regulations;
 - (v) the making or absence of an election under regulation 15 of the Local Government (Superannuation) (Amendment) Regulations (Northern Ireland) 1989⁽¹⁷⁾;

“relevant fraction” –

- (a) in regulation 21, means –
 - (i) if the deceased was entitled to lump sum compensation, one half;
 - (ii) if not, three eighths;
- (b) in regulation 23, means –
 - (i) where there is a surviving spouse to whom surviving spouse’s short-term or long-term compensation is payable (or would be payable but for regulation 20(5)) and one eligible child, one quarter;
 - (ii) where there is such a surviving spouse and two or more eligible children, one half;

⁽¹⁶⁾ See Schedule M2 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

⁽¹⁷⁾ S.R. 1989 No. 345: revoked by S.R. 1992 No. 547

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- (iii) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and one eligible child, one third;
- (iv) where there is no such surviving spouse, or in respect of any period after the death of such a surviving spouse, and two or more eligible children, two thirds;

“relevant period” –

- (a) in relation to lump sum compensation, means one month;
- (b) in relation to other compensation, means one year;

“retirement payment” means one of the following –

- (a) retirement compensation under an Act, under regulations under section 137 of the 1972 Act, or a similar instrument, on account of loss of employment;
- (b) compensation under any scheme under Article 3 of the 1972 Order, or a similar instrument, on account of his retirement in the public interest;
- (c) compensation under an Act or under these Regulations or any other regulations under Article 19 of the 1972 Order, or a similar instrument, on account of his ceasing to hold an employment with an employing authority for any of the reasons referred to in paragraph (a) or (b),

and in this definition “similar instrument” means any instrument to similar effect made under any statutory provision;

“retirement pension” means a pension under regulation 26, 28, 29 or 33 of the Pension Regulations, a single pension under regulation 31 of those Regulations or an occupational pension;

“Scheme employer” means an employing authority and, in relation to any person who is an admission agreement employee, his admission body;

“Scheme member” means a person who is a member of the Scheme;

“special service” means –

- (a) any period of employment with respect to which the employing authority is satisfied that –
 - (i) but for a relevant disqualification, the person concerned would have been, or would have been treated as, a member of the Scheme; or
 - (ii) sub-paragraph (i) would have applied but for the fact that the employment was qualifying part-time employment within the meaning of Part III of Schedule 2 to the 1992 Regulations; and
- (b) any period of former employment ending before the person concerned began the terminated employment, but only if any interval between the end of that former employment and the beginning of the terminated employment during which he was not employed by an employing authority was shorter than one month and two days;

“terminated employment” means employment which is terminated in one of the circumstances set out in regulation 3(1);

“termination date” means the date on which a person leaves his terminated employment;

“termination payment” means the total amount of any lump sums, other than lump sum compensation or any payment which is an excepted payment in relation to a terminated employment, paid under an enactment, contract, scheme or arrangement to a person in consequence of, or as compensation for, the loss of a terminated employment;

“total membership” includes any period of special service (other than special service consisting of periods of unpaid leave or other unpaid absence from duty); and

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“Transitional Regulations” means the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002(18).

SCHEDULE 2

Regulation 2(3) and Schedule 1

TABLE FOR DETERMINATION OF “APPROPRIATE PERCENTAGE”

<i>Age last birthday</i>	<i>Appropriate percentage Male</i>	<i>Appropriate percentage Female</i>
50	6.04	5.61
51	6.12	5.66
52	6.21	5.72
53	6.31	5.80
54	6.45	5.90
55	6.59	6.02
56	6.75	6.13
57	6.92	6.26
58	7.10	6.40
59	7.30	6.55
60	7.51	6.70
61	7.73	6.87
62	7.97	7.05
63	8.23	7.24
64	8.51	7.45

SCHEDULE 3

Schedule 1

EMPLOYERS TO WHICH PARTS IV TO VIII APPLY

A district council;
Northern Ireland Local Government Officers' Superannuation Committee;
Northern Ireland Housing Executive;
An Education and Library Board;
Fire Authority for Northern Ireland;
Local Government Staff Commission;
Staff Commission for Education and Library Boards;

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University of Ulster, except that these regulations apply only to a person who was employed immediately before 1st October 1984 by the Governors of the Ulster Polytechnic;

The governing body of a college of education as defined in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986⁽¹⁹⁾;

The Management Board of a training school set up under the provisions of section 138 of the Children and Young Persons Act (Northern Ireland) 1968⁽²⁰⁾;

Probation Board for Northern Ireland;

Northern Ireland Fishery Harbour Authority;

The governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997⁽²¹⁾;

Laganside Corporation; and

The Board of Governors of –

- (a) a grammar school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 which is a voluntary school within the meaning of that Order; or
- (b) a grant maintained integrated school within the meaning of Article 65(3) of the Education Reform (Northern Ireland) Order 1989⁽²²⁾.

⁽¹⁹⁾ S.I. 1986/594 (N.I. 3) as amended by S.I. 1989/2406 (N.I. 20) (Article 166 and Schedule 9)

⁽²⁰⁾ 1968 c. 34 (N.I.) as substituted by Schedule 16 to S.I. 1972/1265 (N.I. 14) and replaced by Article 51 of and Schedule 4 to S.I. 1998/1504 (N.I. 9)

⁽²¹⁾ S.I. 1997/1772 (N.I. 15)

⁽²²⁾ S.I. 1989/2406 (N.I. 20)