

2005 No. 274

LOCAL GOVERNMENT

**Local Government Pension Scheme (Amendment No. 2)
Regulations (Northern Ireland) 2005**

Made - - - - - *26th May 2005*

Coming into operation *1st June 2005*

The Department of the Environment, in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(a) and now vested in it(b) and of every other power enabling it in that behalf and after consultation with the Northern Ireland Local Government Association, the Northern Ireland Local Government Officers' Superannuation Committee and such representatives of other persons likely to be affected by the Regulations as appeared to it to be appropriate, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2005.

(2) These Regulations shall come into operation on 1st June 2005.

(3) In these Regulations, “the principal Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(c).

Amendment of principal Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 27.

General eligibility for membership: employees of Scheme employers etc.

3. In regulation 3(1), after “regulation 4” there shall be inserted “, regulation 4A”(d).

Periods of membership: “total membership”

4. In regulation 8(2), after “regulations 9, 10” there shall be inserted “, 31”.

General qualification for benefits

5. In regulation 18 –

(a) in paragraph (1)(a), for “two years” there shall be substituted “three months”; and

(b) in paragraph (2)(a), there shall be deleted “or under regulation 29(2) (ill-health grants)”.

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

(b) S.R. & O. (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6)

(c) S.R. 2002 No. 352

(d) Regulation 4A was inserted by S.R. 2005 No. 206

Calculations

6. In regulation 19(6), sub-paragraph (a) shall be omitted.

Amounts of ill-health pension and grant

7. In regulation 30, for paragraphs (4) and (5) there shall be substituted –

“(4) Subject to paragraph (5), where a member becomes entitled to a further ill-health pension and grant (because of having been a member in two employments) the multiplier for the further ill-health pension and grant will be the total membership without enhancement.

(5) Paragraph (4) does not apply to a member who becomes entitled to a further ill-health pension and grant as a result of being in concurrent employments which cease simultaneously.”.

Re-employed pensioners

8. For regulation 31, there shall be substituted –

“31. Where a pensioner member becomes an active member again, his former membership shall be taken into account only for the purpose of calculating –

- (a) whether he has the necessary total membership referred to in –
 - (i) regulation 18(1)(a) to be entitled to benefits under this Chapter; and
 - (ii) regulation 30(1) to be entitled to calculate his ill-health pension and grant by reference to the enhanced membership period; and
- (b) total membership in regulation 54 (power of employing authority to increase total membership).”.

Other early leavers: deferred retirement benefits and elections for early payment

9. In regulation 33(8) at the end there shall be added “and an election made under paragraph 6(a) must be made to the Committee.”.

Re-employed and rejoining deferred members

10. In regulation 34 –

- (a) after paragraph (1), there shall be inserted –

“(1A) A member cannot elect to aggregate any period of former membership which he could have elected to aggregate with another period of former membership but did not before the expiry of the period in paragraph (7A).”;

- (b) in paragraph (5), for sub-paragraph (b) there shall be substituted –

- “(b) for the purpose only of calculating –
- (i) whether the member has the necessary total membership referred to in regulation 18(1)(a) to be entitled to benefits under this Chapter and regulation 30(1) to be entitled to calculate his ill-health pension and grant by reference to the enhanced membership period; and
 - (ii) total membership in regulation 54 (power of employing authority to increase total membership),

the unaggregated periods of membership shall be taken into account, and”;

- (c) after paragraph (7), there shall be inserted –

“(7A) The notice under paragraph (7) must be given before the expiry of the period of 12 months beginning with the date that he became an active member again (or such longer period as the Committee may allow).”.

Guaranteed minimum pensions etc.

11. In regulation 39(9)(c), for “two years” there shall be substituted “three months”.

Surviving spouse's long-term pension

12. In regulation 43, in paragraphs (4) and (5), for “two years” there shall be substituted “three months”.

Power of employing authority to increase total membership

13. In regulation 54 –

- (a) in the heading, there shall be deleted “of members leaving employment at or after 50”;
- (b) in paragraph (1), for “a member who leaves his employment on or after his 50th birthday” there shall be substituted “an active member”;
- (c) for paragraph (2) there shall be substituted –

“(2) A member’s total additional membership (including additional membership in respect of different employments) must not exceed –

- (a) $6^{243/365}$ years;
- (b) the period by which the member’s total membership falls short of 40 years; or
- (c) the period by which the member’s total membership falls short of the total membership the member will have if he continues as an active member until he is 65,

whichever is the shortest.”;

- (d) in paragraph (7), for sub-paragraph (b) there shall be substituted –

“(b) such longer period as the employing authority and the Committee agree.”.

Elections as to use of accumulated value of AVCs

14. In regulation 68(7), sub-paragraph (a) shall be omitted.

Funding strategy statement

15. After regulation 76, there shall be inserted –

“Funding strategy statement

76A.—(1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out its funding strategy.

(2) In preparing and maintaining the statement the Committee shall have regard to –

- (a) the guidance set out in the document published in March 2004 by CIPFA, the Chartered Institute of Public Finance and Accountancy and called “CIPFA Pensions Panel Guidance on Preparing and Maintaining a Funding Strategy Statement” (Guidance note issue No. 6); and
- (b) the statement of investment principles published by the Committee under regulation 10 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(a).

(3) The first such statement shall be published on or before 31st March 2006.

(4) The statement shall be revised and published by the Committee following, and in accordance with, any –

- (a) material change in its policy on the matters set out in the statement; and
- (b) material change to the statement of investment principles under regulation 10(4) of the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000.”.

(a) S.R. 2000 No. 178, regulation 10 was amended by S.R. 2003 No. 433

Actuarial valuations and certificates

16. After regulation 77(5), there shall be inserted –

“(5A) The actuary must have regard to the Committee’s funding strategy statement published under regulation 76A.”.

Employer’s further payments

17. In regulation 80(4) –

(a) for “, 54, 55, or 130” there shall be substituted “and 54”; and

(b) for “(but, in the case of resolutions” to the end of the paragraph there shall be substituted “(but, in the case of a resolution under regulation 54, only so far as not paid under paragraph (1)).”.

Interest

18. In regulation 82(2), for “88(1) and (3)” there shall be substituted “88(3)”.

Discontinuance of additional contributions

19. In regulation 84(9)(b), there shall be deleted “and has not made an election under regulation 31”.

Rights to return of contributions

20. In regulation 88 –

(a) in paragraph (1), for “2 years” there shall be substituted “three months” and there shall be deleted “with interest calculated to the date he ceased to be employed”;

(b) in paragraph (3), there shall be deleted “(with interest due under paragraph (1), if applicable)”.

Exclusion of rights to return of contributions

21. In regulation 89(3), sub-paragraph (a) shall be omitted.

Commencement of pensions

22. In regulation 94(2)(a) for “under paragraph 1” there shall be substituted “under paragraph 1 or paragraph 6(a)”.

First instance decisions

23.—(1) In regulation 98(3) there shall be deleted “the following questions” and for sub-paragraphs (a) and (b) there shall be substituted “as to whether in his opinion the member is permanently incapable of discharging efficiently the duties of the relevant local government employment because of ill-health or infirmity of mind or body.”.

(2) In regulation 98(4) there shall be deleted “on the questions referred to him”.

(3) In regulation 98(6), there shall be omitted sub-paragraph (a).

Annual benefit statements

24. After regulation 108 there shall be inserted –

“Annual benefit statements

108A.—(1) The Committee shall issue an annual benefit statement to each of its active, deferred and pension credit members.

(2) The first such statement[s] must be issued on or before 1st April 2006 and subsequent statements must be issued on or before each 1st April thereafter.

- (3) An annual benefit statement shall contain an illustration of the amount of benefit entitlement, in respect of the rights that may arise under the Scheme, which –
- (a) has been accrued by the member at the relevant date, and
 - (b) in the case of an active member, is capable of being accrued by the member if he remains in the Scheme until his normal retirement date.
- (4) The illustration shall be calculated –
- (a) in the case of active members, on the member’s pensionable pay (or, in the case of part-time employees, the whole-time equivalent) for the twelve-month period ending with the relevant date;
 - (b) in the case of deferred members, on the member’s final pay; and
 - (c) in the case of pension credit members, in accordance with regulation 139, as if the “normal benefit age” is the relevant date.
- (5) The relevant date –
- (a) is 31st March prior to the date that the statement is issued, or
 - (b) such later date as the Committee may choose.”.

Interpretation

25. In Schedule 1, for the definition of “permanently incapable” there shall be substituted the following –

““permanently incapable” means the member will, more likely than not, be incapable, until at the earliest, his 65th birthday;”.

Revenue restrictions

26. In Schedule 4 –

- (a) in the heading above paragraph 8, for “regulations 55 and 57” there shall be substituted “regulation 57”;
- (b) in paragraph 8(1), there shall be deleted “55 or”; and
- (c) in paragraph 8(3), there shall be omitted sub-paragraph (a).

Revocations

27. The following provisions of the principal Regulations that is to say –

- (a) regulation 12(5), (6) and (7) (meaning of pay);
- (b) regulation 22(9) (final pay);
- (c) regulation 29(2) and (3) (ill-health);
- (d) regulation 30(11) (amounts of ill-health pension and grant);
- (e) regulation 32 (further provisions about elections under regulation 31);
- (f) regulation 50 (dependants of re-employed pensioners);
- (g) regulation 54(3), (4) and (5) (power of employing authority to increase total membership of members leaving employment at or after 50);
- (h) regulation 55 (power of employing authority to increase total membership of new members);
- (i) regulation 80(2) (employers further payments);
- (j) regulation 88(2) (rights to return of contributions);

are hereby revoked.

Transitional provisions

28.—(1) Nothing in paragraphs (a) and (b) of regulation 27 will affect the amount of pay or final pay determined in accordance with an agreement made under regulation 12(5) of the principal Regulations prior to these Regulations coming into operation.

(2) This paragraph applies to a member who is an active member on the date these Regulations came into operation and who on that date –

- (a) has less than two years' total membership, and
- (b) does not have a transfer value credited to him.

(3) Subject to paragraph (4), nothing in these Regulations shall prevent a member to whom paragraph (2) applies from opting to receive a return of contributions (with interest calculated to the date he ceased to be employed) in accordance with regulation 88 of the principal Regulations.

(4) A member to whom paragraph (2) applies is not entitled to receive a return of contributions if –

- (a) he is for the time being entitled to be paid, or has been paid, a benefit under Chapter IV of Part II of the principal Regulations; or
- (b) he is for the time being entitled to be paid, or has been paid, a benefit under regulation 29(2) of the principal Regulations (ill-health grant),

and a member is not entitled to interest if he would not have been entitled under regulation 88(2) of the principal Regulations.

(5) This paragraph applies to a member, who was a re-employed pensioner member on the date these Regulations came into operation, where the member –

- (a) has written to the Committee within six months of that date to elect that the amendments in these Regulations in relation to regulations 31, 32 and 50 of the principal Regulations do not apply to him; and
- (b) has remained in the same employment, unless subject to a transfer, from the date these Regulations came into force operation until he retired or died.

(6) Nothing in these Regulations shall prevent a member to whom paragraph (5) applies from electing for a single pension in accordance with regulations 31 and 32 of the principal Regulations.

(7) Nothing in these Regulations shall affect the calculation of benefits under regulation 50 of the principal Regulations in respect of a member to whom paragraph (5) applies.

(8) In relation to deferred members who have become active members again prior to these Regulations coming into operation (but have not yet made an election under regulation 34 of the principal Regulations), regulation 34(7A) of the principal Regulations (as inserted by regulation 9 of these Regulations) shall have effect as if “the date he became an active member again” reads “1st June 2005.”.

(9) So far as it is necessary to give effect to the entitlements in this regulation and to make provision for any matters incidental to them, the principal Regulations shall be treated as if they had continued in effect without the amendments made by these Regulations.

Right to opt out

29.—(1) Where –

- (a) apart from this regulation, the amendments made by these Regulations would place any relevant beneficiary in a worse position than he would otherwise be, and
- (b) that relevant beneficiary so elects by notice in writing given to the Committee within the period of six months beginning with the date on which these Regulations come into operation,

then the principal Regulations shall have effect in relation to him as if those amendments had never been made.

(2) For the purposes of paragraph (1), a relevant beneficiary is a person to whom any benefit is or may become payable being a benefit payable to or in respect of a person who –

- (a) ceased to hold an employment in respect of which he was a member (whether or not he had subsequently recommenced any such employment), or
- (b) dies while in such employment,

before the date on which these Regulations come into operation.

Sealed with the Official Seal of the Department of the Environment on 26th May 2005.

(L.S.)

J. Ritchie

A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make various amendments to the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (the “principal Regulations”) to have effect from 1st June 2005. The main changes are as follows –

- regulation 5 amends regulation 18 of the principal Regulations to reduce the total membership required to become entitled to benefits from two years to three months;
- regulation 7 amends regulation 30 of the principal Regulations to provide that where a member becomes entitled to a second ill-health pension and grant (unless by virtue of being in concurrent employments which cease simultaneously), the multiplier for that pension and grant will be his total membership without enhancement;
- regulation 8 removes provisions in regulation 31 of the principal Regulations relating to re-employed pensioners’ entitlement to elect for a single new pension and provides for when periods of former membership may be taken into account when calculating the total membership of a re-employed pensioner;
- regulation 10 amends regulation 34 of the principal Regulations so as to provide that where a deferred member becomes an active member again and wants to elect to have his former membership aggregated with his current membership, he must give notice of his election within 12 months of the date he became an active member again or such longer period as his employer may allow and makes provision for when the unaggregated periods of membership should be taken into account;
- regulation 12 amends regulation 43 of the principal Regulations to alter, from two years to three months, the amount of total membership required to determine the applicable calculation for surviving spouses long-term pension;
- regulation 13 amends regulation 54 of the principal Regulations to provide that employing authorities may increase an active member’s total membership;
- regulations 15 and 16 make provision for the Northern Ireland Local Government Officers’ Superannuation Committee (NILGOSC) to prepare, maintain and publish a written funding strategy statement, which must be taken into account by the actuary in specifying the common rate of employer’s contribution;
- regulations 20 and 21 amend regulations 88 and 89 of the principal Regulations so that members with less than three months’ membership may be entitled to a refund of contributions if they cease to be employed by a Scheme employer;
- regulation 24 inserts provisions for the issue of benefit statements;
- regulation 25 amends Schedule 1 of the principal Regulations to clarify the definition of “permanently incapable”;
- regulation 27 revokes a number of provisions of the principal Regulations consequential to the above. It also revokes certain other provisions of the principal Regulations as follows:
 - regulation 12 of the principal Regulations is amended to delete provisions for Scheme employers and employee representatives to agree a method of determining employees’ pay;
 - regulation 29 of the principal Regulations is amended to provide that a member with over three months’ total membership will be entitled to an ill-health pension and grant;
 - regulation 50 of the principal Regulations is revoked and removes calculations in relation to re-employed pensioners;
- regulation 28 makes transitional provisions and regulation 27 allows certain persons who would be placed in a worse position by amendments made by these Regulations to elect for the amendments not to apply in their case.

A number of minor amendments have been made (regulations 9, 21, 22(a) and (b)) to the conditions for early payment of preserved benefits on the grounds of ill-health.

The remaining regulations make other amendments to the principal Regulations consequential to the main changes above.

The guidance published by CIPFA, the Chartered Institute of Public Finance and Accountancy, referred to in regulation 18, can be purchased from CIPFA, 3 Robert Street, London WC2N 6RL, tel. 020 7543 5605. The publication costs £50 to members of the public, £25 to local authorities and £12.50 to NILGOSC.

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