

**2007 No. 152**

**LOCAL GOVERNMENT**

**Local Government Pension Scheme (Amendment) Regulations  
(Northern Ireland) 2007**

*Made* - - - - *9th March 2007*

*Coming into operation in accordance with regulation 1*

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).

In accordance with Article 9 of that Order the Department has consulted 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:

**PART 1  
GENERAL**

**Citation, commencement, interpretation and retrospection**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2007 and shall come into operation in accordance with paragraph (2).

(2) These Regulations shall come into operation as follows—

- (a) Parts 1, 2 and Part 4 on 6th April 2006;
- (b) Part 3 on 1st October 2006;
- (c) Part 5 and regulation 63 on 1st April 2007; and
- (d) Part 6 (except regulation 63) on 1st July 2006.

(3) In these Regulations—

“the 2000 Regulations” mean the Local Government Pension Scheme Regulations (Northern Ireland) 2000(c);

“the principal Regulations” mean the Local Government Pension Scheme Regulations (Northern Ireland) 2002(d); and

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(a) S.I. 1972/1073 (N.I. 10); Art. 9 was amended by Art. 34 S.I. 2005/1968 (N.I. 18); Art. 14 was amended by Art. 12 S.I. 1990/1509 (N.I. 13).  
(b) S.R. & O (N.I.) 1973 No. 504 Article 7 (1); S.I. 1976/424 (N.I. 6).  
(c) S.R. 2000 No. 177; relevant amending Regulations are S.R. 2001 No. 61 and S.R. 2002 No. 353.  
(d) S.R. 2002 No. 352; relevant amending Regulations are S.R. 2005 No.206, S.R. 2005 No. 274, S.R. 2006 No. 6 and S.R. 2006 No. 112.

“the Scheme” means the occupational pension scheme constituted by the principal Regulations, the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002(a) and the 2000 Regulations (so far as they operate).

### **Amendment of the principal Regulations**

2. The principal Regulations shall be amended in accordance with regulations 3 to 8(1), 9 to 30(1), 31(1), 32 to 57 and 60 to 64.

## **PART 2**

### **THE TAX REGIME**

#### **Requirements for admission agreements**

3. Regulation 4B(4) (requirements for admission agreements) shall be deleted.

#### **Further restrictions on eligibility**

4. At regulation 5(3) (further restrictions on eligibility) for the words “his 65th birthday” there shall be substituted “the day before his 75th birthday”.

#### **Periods of membership: “total membership”**

5. In regulation 8(2) (periods of membership: “total membership”) for the words “regulations 9, 10, 31 and 34, Schedule 4 and the Transitional Regulations” there shall be substituted “regulations 9, 10, 10A, 31 and 34 and the Transitional Regulations”.

#### **High earners**

6. After regulation 10 (length of period of membership: calculation of benefit) there shall be inserted—

##### **“High earners**

**10A.**—(1) This regulation applies to a member who was subject to regulation 15(1) before 6th April 2006 and whose pay (calculated in accordance with regulation 12) in the year ending 5th April 2006 exceeds £105,600.

(2) In such a case, his period of membership for calculating his benefits payable is obtained by aggregating his period of membership after that date with the period obtained by applying the formula set out in paragraph (3).

(3) That formula is—

$$\left( M \times \frac{105,600}{P} \right) + T$$

where—

M is his period of membership after 5th April 1989 and before 6th April 2006 (excluding any membership credited by virtue of a transfer under regulation 124 (inward transfer of pension rights));

P is his pay as mentioned in paragraph (1); and

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(a) S.R. 2002 No. 353 to which there are amendments not relevant to these Regulations.

T is the aggregate of his period of membership before 6th April 1989 and any membership credited by virtue of a transfer under regulation 124.”.

### **Members’ contributions**

7. In regulation 11 (members’ contributions)—

- (a) in paragraph (1) the words “(but see regulation 14)” shall be deleted; and
- (b) in paragraph (7) for the words “Regulations 15 to 17” there shall be substituted “Regulations 16 and 17”.

### **Employer’s discretion to reduce member’s contribution rate**

8.—(1) Regulation 14 (employer’s discretion to reduce member’s contribution rate) shall be deleted.

(2) Where, before its deletion by paragraph (1), a member’s liability to make contributions to the Scheme has been reduced or, as the case may be, extinguished in accordance with regulation 14, his employing authority may recover any such contributions as would otherwise have been made.

### **Inland revenue limits on contributions**

9. Regulation 15 (inland revenue limits on contributions) shall be deleted.

### **Limit on total amount of benefits and deduction of tax**

10. After regulation 18 (general qualification for benefits) there shall be inserted—

#### **“Limit on total amount of benefits**

18A.—(1) A member and any dependant of his shall not be entitled, under any provision, to receive benefits the capital value of which exceeds his lifetime allowance, increased where applicable by his primary protection or enhanced protection, except in accordance with guidance issued by the Government Actuary.

(2) In this regulation, “lifetime allowance”, “primary protection” and “enhanced protection” are to be construed in accordance with section 218 of, and Schedule 36 to, the Finance Act 2004(a).

(3) Any calculation of the capital value of a member’s benefits is to be carried out in accordance guidance issued by the Government Actuary.

#### **Deduction of tax**

18B. The Committee is responsible for deducting from any payments of benefits under the Scheme any tax to which they may become chargeable under the Finance Act 2004.”.

### **Calculations**

11. In regulation 19 (calculations)—

- (a) after paragraph (3) there shall be inserted—

“(3A) A member in respect of whom a benefit crystallisation event occurs after 5th April 2006 may elect in writing to the Committee before any benefits become payable to increase the retirement grant payable under paragraph (3) by commuting his pension, or a part thereof, at a rate of £12 for every £1 of annual pension entitlement surrendered.

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(a) 2004 c.12; relevant provisions of Schedule 36 are amended by the Finance Act 2005 (c.7), Schedule 10, paragraphs 52 to 54 and modified by S.I. 2006/572.

(3B) But the total amount of the member's retirement grant, including any sum received—

- (a) in accordance with an election under paragraph (3A);
- (b) as benefits provided in the form of a lump sum in accordance with regulation 66 (retirement benefits); or
- (c) as additional lump sum benefits in accordance with regulation 68 (elections as to use of accumulated AVCs)

shall not exceed 25% of the capital value of his accrued rights.

(3C) For the purposes of this regulation, a member's accrued rights include rights accrued in respect of any payments made by him or on his behalf in accordance with Chapter IV of Part III (Additional Voluntary Contributions).

(3D) Any calculation of the capital value of a person's accrued rights shall be carried out in accordance with guidance issued by the Government Actuary.

(3E) In paragraph (3A), "member" includes a deferred member to whom regulation 4 (deferred members and pensioners: general) of the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002 applies.

(3F) A member may make an election under paragraph (3A) in respect of his pension, or any part thereof, payable by virtue of an election under regulation 68 (elections as to use of accumulated value of AVCs) notwithstanding any provision to the contrary in the former provisions of regulation 68 treated as continuing to have effect under paragraph (8) of that regulation.”;

(b) after paragraph (4) there shall be inserted—

“(4A) Where no benefit crystallisation event has occurred before the day after a member's 65th birthday in respect of any benefits payable under the Scheme, those benefits shall be increased at such a rate as is shown as appropriate in guidance issued by the Government Actuary.”; and

(c) in paragraph (6) sub-paragraphs (c), (e) and (f) shall be deleted.

#### **Final pay**

12. At regulation 22(1) (final pay) the words “and Schedule 4” shall be deleted.

#### **Revenue restrictions**

13. Regulation 25 (revenue restrictions) shall be deleted.

#### **Retirement after normal retirement date**

14. In regulation 27 (retirement after the normal retirement date) after the words “from service” there shall be inserted “or, if earlier, on the day before his 75th birthday”.

#### **Re-employed and rejoining deferred members**

15. Regulation 34(2) (re-employed and rejoining deferred members) shall be deleted.

#### **Surrenders of pensions**

16. Regulation 36 (surrenders of pensions) shall be deleted.

#### **Requirements as to time of payment**

17. In regulation 38 (requirements as to time of payment)—

(a) after paragraph (1) there shall be inserted—

“(1A) But where, after 5th April 2006, a member who has attained the age of 50, with his employer’s consent, reduces the hours he works, or the grade in which he is employed, he may elect in writing to the Committee and such benefits may, with his employer’s consent, be paid to him notwithstanding that he has not retired from that employment.

(1B) If the payment of benefits referred to in paragraph (1A) takes effect before the member’s 65 birthday, the benefits payable are reduced in accordance with guidance issued by the Government Actuary.

(1C) But the employer may choose to waive, in whole or in part, any such reduction.

(1D) Where the employer so chooses, it shall pay to the fund the cost incurred as a result of such waiver as calculated by the fund’s actuary.

(1E) Any benefits paid following an election under paragraph (1A) are not subject to abatement under regulation 113 (application of abatement policy in individual cases) in respect of any subsequent employment with the person who is his employer at the date of his election.”; and

(b) for paragraph (2) there shall be substituted—

“(2) In any event, retirement benefits under this Chapter must begin to be paid not later than the day before the member’s 75th birthday even if he has not retired (and see regulation 39(3)).”.

#### **Guaranteed minimum pensions etc.**

18. Regulation 39(7), (8) and (9) (guaranteed minimum pensions etc.) shall be deleted.

#### **Surviving spouse’s or civil partner’s long-term pension**

19. In regulation 43 (surviving spouse’s or civil partner’s long-term pension)—

(a) in paragraph (7) after the word “death” there shall be inserted “or half his pension before any commutation under regulation 19(3A), whichever is greater”; and

(b) in paragraph (8)(b) the words “or 36 (surrender)” shall be deleted.

#### **Reduction of some surviving spouses’ pensions**

20. In regulation 44(4)(c) (reduction of some surviving spouses’ pensions) the words “or paragraph 7 of Schedule 4 (or treated by the Transitional Regulations as so made)” shall be deleted.

#### **Meaning of “eligible child”**

21. In regulation 46 (meaning of “eligible child”)—

(a) at the beginning of paragraph (2) there shall be inserted “Subject to paragraph (2A)”; and

(b) after paragraph (2) there shall be inserted—

“(2A) Notwithstanding paragraph (2)(b), a pension coming into payment after 5th April 2006 which would otherwise be payable by virtue of that paragraph shall only continue while the child is aged under 23.”.

#### **Children’s long-term pensions**

22. For regulation 48(7)(b) (children’s long-term pensions) there shall be substituted—

“(b) any reduction made under regulation 19(3A) or regulation 33, and”.

### **Commutation: small pensions**

23. For regulation 51 (commutation: small pensions) there shall be substituted—

#### **“Commutation: small pensions**

51.—(1) Where a member has become entitled to a retirement pension and the capital value of that pension and of any benefits that might otherwise have become payable on his death would be a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to the Finance Act 2004, the Committee may pay to him a lump sum representing such capital value.

(2) No payment may be made under paragraph (1) if the pension includes a guaranteed minimum unless the member to whom it is paid has reached state pensionable age or any pension in respect of the guaranteed minimum is otherwise payable.

(3) Where a member has died and the capital value of any long-term pension which is payable to any surviving spouse or civil partner or to or in respect of an eligible child or children would be a trivial commutation lump sum death benefit as defined in paragraph 20 of Schedule 29 to the Finance Act 2004, the Committee may pay to the dependant or dependants a lump sum representing such capital value.

(4) The capital value of a pension must be calculated in accordance with guidance issued by the Government Actuary.

(5) The Committee must deduct from any payment under this regulation any tax for which it may become liable under Part 9 of the Income Tax (Earnings and Pensions) Act 2003(a).”.

### **Commutation: exceptional ill-health**

24. In regulation 52 (commutation: exceptional ill-health)—

(a) in paragraph (1) for the words “by which the annual” to “guaranteed minimum” there shall be substituted “of his retirement pension”;

(b) after paragraph (1) there shall be inserted—

“(1A) The Committee cannot be satisfied as mentioned in paragraph (1) unless they have first obtained a certificate from a fully registered person within the meaning of the Medical Act 1983(b) to the effect that the member’s life expectancy is less than one year.”;

(c) in paragraph (2) in both places where it occurs, the words “(except the guaranteed minimum)” shall be deleted; and

(d) in paragraph (3) for the words “section 599 of the Taxes Act” there shall be substituted “Part 9 of the Income Tax (Earnings and Pensions) Act 2003”.

### **Scope of Part III: limits on benefits**

25. Regulation 53(2) (scope of part III: limits on benefits) shall be deleted.

### **Power of employing authority to increase total membership**

26. In regulation 54 (power of employing authority to increase total membership)—

(a) in paragraph (2)—

(i) in sub-paragraph (a) after the word “years;” there shall be inserted “or”; and

(ii) sub-paragraph (b) shall be deleted;

(b) after paragraph (10) there shall be inserted—

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(a) 2003 c. 1; relevant provisions of Part 9 are amended by 2004 c. 12, 2005 c. 5 and 2005 c. 7.  
(b) 1983 c.54.

“(11) An additional period arising from a resolution under this regulation after 31 March 2008 shall be treated as a period of membership after that date.”.

#### **Effect of increases under this Chapter for older members**

27. Regulation 56 (effects of increases under this chapter for older members) shall be deleted.

#### **Payments to increase total membership**

28. For regulation 57(2) (payments to increase total membership) there shall be substituted—

“(2) That period must not exceed  $6\frac{243}{365}$  years.”.

#### **Effect of increases under this Chapter for older members**

29. Regulation 59 (effects of increases under this chapter for older members) shall be deleted.

#### **Election for pension in lieu of retirement grant**

30.—(1) Regulation 60 (election for pension in lieu of retirement grant) shall be deleted.

(2) Where, before its deletion by paragraph (1), a deferred member, who was a member before 1st February 2003, has become entitled to the immediate payment of a pension under Part D of the 2000 Regulations, he may make an election under this regulation, subject to regulation 19 of the principal Regulations, for the whole or part of the retirement grant or, in the case where the entitlement to pension is under regulation D7 of the 2000 Regulations, of the ill-health retirement grant to be used instead by the Scheme to provide pension for him.

#### **Election for lump sum in lieu of pension**

31.—(1) Regulation 61 (election for lump sum in lieu of pension) shall be deleted.

(2) Where, before its deletion by paragraph (1), a deferred member, who was a member before 1st February 2003, has become entitled to the immediate payment of a pension under Part D of the 2000 Regulations, he may make an election under this regulation, subject to regulation 19 of the principal Regulations, for part of the pension or, in the case where the entitlement to pension is under regulation D7 of the 2000 Regulations, of the ill-health pension to be used instead by the Scheme to provide a lump sum for him.

#### **Retirement benefits**

32. Regulation 66(5) and (6) (retirement benefits) shall be deleted.

#### **Elections as to use of accumulated value of AVCs**

33. Regulation 68(6) (elections as to use of accumulated value of AVCs) shall be deleted.

#### **Application and investment of SCAVCs**

34. In regulation 72(3) for the words “66(2) to (6)” there shall be substituted “66(2) to (4)”.

#### **Accounts and audit**

35. After regulation 76(2) (accounts and audit) there shall be inserted—

“(2A) The input period for the purposes of section 238 of the Finance Act 2004 is the year ending 31st March 2007 and each year ending 31st March thereafter.”.

### **Employer's further payments**

36. In regulation 80(4)—

- (a) in sub-paragraph (a) the words “14 and” shall be deleted; and
- (b) in sub-paragraph (c) after the words “(other early leavers, etc)” there shall be inserted “or regulation 38(1A) (requirements as to time of payment)”.

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

37. Regulation 86 (over-provision: calculation and return of surplus AVC and SCAVC funds) shall be deleted.

### **Rights to return of contributions**

38. In regulation 88(7), for the words “under section 598 of the Taxes Act (charge to tax on repayment of employee's contributions)” there shall be substituted “as a short service refund lump sum charge under section 205 of the Finance Act 2004”.

### **Commencement of pensions**

39. For regulation 94(2)(c) (commencement of pensions) there shall be substituted—

- “(c) otherwise, unless he elects to defer payment, with his normal retirement date (but any such deferral shall not extend beyond the day before his 75th birthday).”.

### **Treatment of other benefits**

40. After regulation 97 (non-assignability) there shall be inserted—

#### **“Treatment of other benefits**

97A. Any payment of employment-related benefits made to a member by an employing authority in accordance with regulations made under Article 19 of the Order of 1972 shall be treated as if it had been made under the Scheme.”.

### **Decisions as to status of employees and decisions as to benefits**

41. In regulation 99(2) (decisions as to status of employees and decisions as to benefits)—

- (a) in sub-paragraph (f)(ii) for the words “period; and” there shall be substituted “period.”; and
- (b) sub-paragraph (g) shall be deleted.

### **Statements of policy concerning exercise of discretionary functions**

42. In regulation 108(1) (statements of policy concerning exercise of discretionary functions) after the words “regulation 33 (early leavers)” there shall be inserted “, regulation 38 (requirements as to time of payment)”.

### **Commutation: small pensions**

43. For regulation 142 (commutation: small pensions) there shall be substituted—

#### **“Commutation: small pensions**

142.—(1) If the capital value of the pension to which a pension credit member is entitled would be a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to the



Finance Act 2004, the Committee may pay to him a lump sum representing such capital value.

(2) If the pension credit member is entitled to more than one pension under the Scheme a lump sum is only payable if the capital value of the aggregate amount payable to that member would be a trivial commutation lump sum as defined in paragraph 7 of Schedule 29 to the Finance Act 2004.

(3) The capital value of the pension must be calculated in accordance with guidance issued by the Government Actuary.

(4) The payment of a trivial commutation lump sum in respect of a pension due to the pension credit member under this regulation discharges the Committee from its liability for the pension.

(5) The Committee must deduct from any payment under this regulation any tax for which it may become liable under Part 9 of the Income Tax (Earnings and Pensions) Act 2003.”.

### **Commutation: serious ill-health**

**44.** In regulation 143(7) (commutation: serious ill-health) for the words “section 599 of the Income and Corporation Taxes Act 1988” there shall be substituted “Part 9 of the Income Tax (Earnings and Pensions) Act 2003”.

### **Interpretation**

**45.** In Schedule 1 (interpretation)—

- (a) the definition of “additional voluntary contributions provisions” shall be deleted;
- (b) for the definition of “additional voluntary contributions scheme” there shall be substituted—

““additional voluntary contributions scheme” means—

- (a) in the case of a scheme established on or after 6th April 2006, is registered for the purposes of section 150 of the Finance Act 2004; or
- (b) which on 6th April 2006 became a registered scheme for the purposes of section 150 of the Finance Act 2004 and which immediately before that date was approved under section 591 of the Taxes Act;

and to which an employer is not a contributor and which provides benefits additional to those provided by an occupational pension scheme;”;

- (c) for the definition of “approved non-local government scheme” there shall be substituted—

““approved non-local government scheme” means—

- (a) in the case of a non-local government scheme established before 6th April 2006, a scheme approved under Part XIV of the Taxes Act;
- (b) a non-local government scheme which on 6th April 2006 became a registered scheme for the purposes of section 150 of the Finance Act 2004; or
- (c) a non-local government scheme approved by the Commissioners for Her Majesty’s Revenue and Customs<sup>(a)</sup> for the purposes of these Regulations;”;

- (d) for the definition of “approved scheme” there shall be substituted—

““approved scheme” means—

- (a) in the case of a scheme established on or after 6th April 2006, is registered for the purposes of section 150 of the Finance Act 2004; or

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(a) The functions of the Commissioners for Inland Revenue were transferred to the Commissioners for Her Majesty’s Revenue and Customs by the Commissioners for Revenue and Customs Act 2005 (c.11), section 5.

- (b) which on 6th April 2006 became a registered scheme for the purposes of section 150 of the Finance Act 2004 and which before that date had the same meaning as that given in section 612 of the Taxes Act;”;
- (e) after the definition of “The Belfast Corporation Superannuation Scheme” there shall be inserted—
  - ““benefit crystallisation event” shall be construed in accordance with section 216 of the Finance Act 2004;”;
- (f) the definitions of “Class A member”, “Class B member” and “Class C member” shall be deleted;
- (g) in the definition of “club scheme” for sub-paragraph (b) there shall be substituted—
  - “(b) (except where it is established and maintained in the Channel Islands or the Isle of Man) is—
    - (i) in the case of a scheme established before 6th April 2006, is approved by the Commissioners of Her Majesty’s Revenue and Customs under Chapter I of Part XIV of the Taxes Act; or
    - (ii) a scheme, which on 6th April 2006 became a registered scheme for the purposes of section 150 of the Finance Act 2004;”;
- (h) the definition of “continuity conditions” shall be deleted;
- (i) for the definition of “FSAVC scheme” there shall be substituted—
  - ““FSAVC scheme” means—
    - (a) in the case of a scheme established on or after 6th April 2006, is registered for the purposes of section 150 of the Finance Act 2004; or
    - (b) which on 6th April 2006 became a registered scheme for the purposes of section 150 of the Finance Act 2004 and which immediately before that date was approved under section 591(2)(h) of the Taxes Act;”;
- (j) for the definition of an “occupational pension scheme” there shall be substituted—
  - ““occupational pension scheme” means an occupational pension scheme within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993 other than—
    - (a) in the case of a scheme established on or after 6th April 2006 is a registered pension scheme for the purposes of section 150 of the Finance Act 2004 and which the Committee agree to recognise as a transferring scheme for the purposes of Chapter VI of Part IV (transfers); and
    - (b) in the case of a scheme established before that date—
      - (i) approved by the Commissioners for Her Majesty’s Revenue and Customs for the purposes of Chapter I of Part XIV of the Taxes Act (retirement benefits schemes) or whose application for approval was under consideration;
      - (ii) a statutory scheme as defined in section 612(1) of the Taxes Act (interpretation); or
      - (iii) a scheme to which section 608 of the Taxes Act applied (superannuation funds approved before 6th April 1980), and on 6th April 2006 became a registered pension scheme for the purposes of the Finance Act 2004;”;
- (k) for the definition of “personal pension scheme” there shall be substituted—
  - ““personal pension scheme” means—
    - (a) in the case of such a scheme established on or after 6th April 2006 is a registered pension scheme for the purposes of the Finance Act 2004 and which the Committee agree to recognise as a transferring scheme for the purposes of Chapter I of Part XIV (transfers); and
    - (b) in the case of such a scheme established before that date, was—

- (i) approved by the Commissioners for Her Majesty’s Revenue and Customs for the purposes of Chapter IV of Part XIV of the Taxes Act (personal pension schemes); and
  - (ii) on 6th April 2006 became a registered pension scheme for the purpose of the Finance Act 2004;”;
- (l) the definition of “Revenue agreement” shall be deleted; and
  - (m) the definition of “Revenue permitted maximum” shall be deleted.

**Matters to be included in an admission agreement in certain cases**

46. In Schedule 2 (matters to be included in an admission agreement in certain cases), paragraph 4 shall be deleted.

**Excluded membership**

47. In Schedule 3 (excluded membership)—

- (a) in the Table—
  - (i) paragraphs 1, 3 and 4 shall be deleted;
  - (ii) in paragraph 5, in the second column, for the word “36” there shall be substituted “24, 26 to 31 and 33 to 35”.
- (b) the notes 3 to 5 shall be deleted.

**Revenue restrictions**

48. Schedule 4 (revenue restrictions) shall be deleted.

**PART 3**  
**THE 85 YEAR RULE**

**Normal retirement**

49. Regulation 26(3) (normal retirement) shall be deleted.

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

50. In regulation 33 (other early leavers: deferred retirement benefits and elections for early payment)—

- (a) for paragraph (4) there shall be substituted—
  - “(4) His retirement pension and grant must be reduced by the amounts shown as appropriate in guidance issued by the Government Actuary (but see paragraphs (5) and (6) and regulation 39(5)) (guaranteed minimum pensions).”; and
- (b) for paragraph (7) there shall be substituted—
  - “(7) If a member does not elect for immediate payment under this regulation, he is entitled to receive a pension and grant without reduction payable from his normal retirement date.”.

**Re-employed and rejoining deferred members**

51. In regulation 34(5)(a) (re-employed and rejoining deferred members) for the words “, 31 and 33(4)” there shall be substituted “and 31”.

### **Payments to increase total membership**

**52.** For regulation 57(9) (payments to increase total membership) there shall be substituted—

“(9) If a member continues paying additional contributions until his last birthday before his normal retirement date (or if his normal retirement date is his birthday, that date), the whole of the additional period may be counted as part of his total membership.”.

### **Commencement of pensions**

**53.** Regulation 94(2)(b) (commencement of pensions) shall be deleted.

### **Right to count a credited period**

**54.** In regulation 125 (right to count a credited period)—

(a) in paragraph (4) the words from “or, if earlier” to “years or more” shall be deleted; and

(b) after paragraph (6) there shall be inserted—

“(6A) A credited period arising from a request to accept a transfer value under regulation 124 which is made by a person who was an active member before 1st April 2008 shall be treated as a period of membership before that date.

(6B) A credited period arising from a request to accept a transfer value under regulation 124 which is made by a person who becomes a member after 31st March 2008 shall be treated as a period of membership after that date.”.

### **Credited periods for transferring members with mis-sold pension rights**

**55.** In regulation 126(3) after the words “pension period” there shall be inserted “(and regulation 125(6A) does not apply to a transfer value credited under this regulation)”.

### **Rights as to service not matched by credited period**

**56.** Regulation 127(2)(b) (rights as to service not matched by credited period) shall be deleted.

### **Interpretation**

**57.** In Schedule 1 (interpretation), in the definition of “normal retirement age” for the word “26(3)” there shall be substituted “26(4)”.

## **PART 4**

### **TRANSITIONAL PROVISIONS**

#### **Transitional provisions and savings**

**58.** The Schedule (transitional provisions and savings) shall have effect.

#### **Right to opt out**

**59.**—(1) Where—

(a) apart from this regulation, these provisions 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 on 1st October 2006,

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 any 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 6th April 2006, in respect of amendments made by Parts 2 and 4.

## PART 5

### GOVERNANCE AND COMMUNICATION POLICY STATEMENTS

#### **Governance policy statement**

**60.** After regulation 75 (the fund) there shall be inserted—

##### **“Governance policy statement**

**75A.**—(1) The Committee must, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out—

- (a) whether the Committee delegates its function or part of its function in relation to maintaining a pension fund to a sub-committee or an officer of the Committee; and
- (b) if it delegates that function or part of that function to a sub-committee or an officer of the Committee—
  - (i) the frequency of any sub-committee meetings;
  - (ii) the terms of reference, structure and operational procedures of the delegation; and
  - (iii) whether the sub-committee includes representatives of employing authorities or members, and if so, whether those representatives have voting rights.

(2) The first such statement must be published before 1st April 2007.

(3) The statement must be revised and published by the Committee following a material change in their policy on any of the matters referred to in paragraph (1).”.

#### **Communication policy statements**

**61.** After regulation 108A (annual benefit statements) there shall be inserted—

##### **“Communication policy statements**

**108B.**—(1) The Committee must prepare, maintain and publish a written statement setting out its policy concerning communications with—

- (a) members;
- (b) representatives of members;
- (c) prospective members; and
- (d) employing authorities.

(2) In particular, the statement must set out its policy on—

- (a) the provision of information and publicity about the Scheme to members, representatives of members and employing authorities;
- (b) the format, frequency and method of distributing such information or publicity; and

- (c) the promotion of the Scheme to prospective members and their employing authorities.
- (3) The first such statement must be published before 1st April 2007.
- (4) The statement must be revised and published by the Committee following such material change in their policy on any of the matters referred to in paragraph (2).”.

## PART 6

### MINOR TECHNICAL AMENDMENTS

#### **Further restrictions on eligibility**

**62.** For regulation 5(4) (further restrictions on eligibility) there shall be substituted—

“(4) Retained or volunteer membership with a fire and rescue authority (within the meaning given to that term by Article 3 of the Fire and Rescue Services (Northern Ireland) Order 2006(a)) on terms under which the retained or volunteer member is or may be required to engage in fire-fighting does not entitle the retained or volunteer member to be a member of the Scheme.”.

#### **First instance decisions**

**63.** For regulation 98(6)(b) (first instance decisions) there shall be substituted—

“(b) “qualified in occupational health medicine” means—

- (i) holding a diploma in occupational medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State; and for the purposes of this definition, “competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualification) Order 2003(b); or
- (ii) being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine(c) or an equivalent institution of an EEA State.”.

#### **Interpretation**

**64.** In Schedule 1 (interpretation) at the definition of “Scheme managers” in paragraph (a) after the word “fire” there shall be inserted “and rescue”.

Sealed with the Official Seal of the Department of the Environment on 9th March 2007.



*J Ritchie*  
A senior officer of the Department of the Environment

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(a) S.I. 2006/1254 (N.I. 9)  
(b) S.I. 2003/1250 as amended by S.I. 2004/1947.  
(c) The Faculty of Occupational Medicine is a registered charity no. 1035415.

## Transitional Provisions and Savings

**1.** Where a member —

- (a) elects to receive the immediate payment of retirement benefits under regulation 33(1) (other early leavers: deferred retirement benefits and elections for early payment) of the principal Regulations; and
- (b) satisfies the 85 year rule;

that part of his retirement pension and grant which is calculated by reference to any period of membership before the relevant date shall not be reduced in accordance with regulation 33(4) of the principal Regulations (as amended by regulation 50).

**2.** For the purposes of paragraph 1, the relevant date, for a member who was a member before 1st October 2006 is —

- (a) in the case of a member who will be aged 60 or more on 31st March 2016, the earlier of—
  - (i) 31st March 2016; and
  - (ii) the date on the day after the day on which the member leaves local government employment; or
- (b) in any other case, 1st April 2008.

**3.** For the purposes of this Schedule, a member satisfies the 85 year rule if the sum of —

- (a) his age in whole years on the date his local government service ends or the date he elects under regulation 33(1) of the principal Regulations if later;
- (b) his total membership in whole years;
- (c) in a case where he elects after his local government employment ends, the period beginning with the end of that employment and ending with the date he elects; and
- (d) in the case of a person who was a member before 1st February 2003, any qualifying period counted by virtue of regulation 127 (rights as to service not matched by credited period) which was awarded before 1st April 2008,

is 85 years or more.

**4.** Where a member who may elect under regulation 34(1) (re-employed and rejoining deferred members) of the principal Regulations does not do so or does not so elect as respects all periods of his membership, in applying paragraph 2 as respects any later membership, his total membership excludes unaggregated periods.

**5.—(1)** This paragraph applies to a member who was an active member before 1st October 2006 who—

- (a) before 1st October 2006 elected to make additional contributions to the Scheme to increase his total membership under regulation 57(1) (payments to increase total membership) of the principal Regulations; and
- (b) was assumed to retire from a local government employment on a date before his 65th birthday (“the assumed date”) for the purposes of calculating his additional contributions under regulation 57(5) of the principal Regulations.

**(2)** Where a member to whom this paragraph applies —

- (a) continues paying the additional contributions until the assumed date; and
- (b) retires on or after the assumed date,

he shall not pay any additional contributions after that date and the whole of the additional period may be counted as part of his total membership.

(3) An additional period counted as a period of total membership as a result of this paragraph shall be treated as a period of membership before 1st April 2008.

6.—(1) This paragraph applies to a member who retires, having reached the age of 60, between 1st April 2016 and 31st March 2020, and who would (but for the provisions of paragraphs 1 and 2) have satisfied the 85 year rule before the latter date.

(2) That part of his retirement pension and grant which is calculated by reference to any period of membership after 31st March 2008 shall be reduced in accordance with guidance issued by the Government Actuary.



## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make a number of amendments to the Local Government Pension Scheme (“the Scheme”) constituted by the Local Government Pension Scheme Regulations, as amended (“the principal Regulations”).

Article 14 of the Superannuation (Northern Ireland) Order 1972 confers express powers to make regulations retrospective in effect. These Regulations are retrospective, however, no one will be adversely affected by the retrospection.

Part 2 makes a number of amendments to the principal Regulations to address changes in the tax regime consequent on the Finance Act 2004.

Part 3 deals with what has become known as the “85 year rule”. This term refers to the current provisions of the Scheme, which allow members to retire and take their pension entitlements without actuarial reduction if the sum of their age and their length of service equals 85 years or more. Members over 60 can do so as of right; members over 50 but under 60 require their employer’s consent. Part 3 makes a number of technical amendments to the principal Regulations to remove the 85 year rule.

Part 4 and the Schedule make amendments in relation to transitional provisions and savings.

Part 5 inserts the following new provisions—

- (a) Regulation 73A requires the Northern Ireland Local Government Officers’ Superannuation Committee (“the Committee”) to prepare, maintain and publish a governance policy statement as to whether they delegate their function or part of their function in relation to maintaining the pension fund to a committee, sub-committee or an officer; and
- (b) Regulation 106B requires the Committee to prepare, maintain and publish a statement concerning their policy on communicating with members, members’ representatives, prospective members and employing authorities.

Part 6 makes the following minor technical amendments—

- (a) Regulation 5 of the principal Regulations is amended to update references made by the Fire and Rescue Services (NI) Order 2006; and
- (b) Regulation 98 of the principal Regulations is amended to update the definition of “qualified in occupational health medicine” to reflect changes to European legislation.