STATUTORY RULES OF NORTHERN IRELAND

2016 No. 128

LOCAL GOVERNMENT

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016

Made - - - -	*8th March 2016*
Coming into operation	*1st April 2016*

The Department of the Environment, with the consent of the Department of Finance and Personnel, makes these Regulations in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014(**1**).

In accordance with section 21 of that Act, the Department has consulted with such persons or representatives of such persons as appears to the Department likely to be affected by these Regulations.

Citation, commencement, interpretation and retrospection

1.—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016 and except as provided for by paragraph (2), shall come into operation on 1st April 2016.

(2) These Regulations shall come into effect from 1st April 2015.

(3) In these Regulations—

(a) "the 2000 Regulations" means the Local Government Pension Scheme Regulations (Northern Ireland) 2000(**2**);

(b) "the 2002 Regulations" means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(**3**);

(c) "the Administration Regulations" means the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009(**4**);

(**1**) 2014 c. 2 (N.I).
(**2**) S.R. 2000 No. 177 as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R 2001 No. 64, and S.R. 2002 No. 115.
(**3**) S.R. 2002 No. 352 as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R . 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479, S.R. 2010 No. 164, S.R. 2012 No. 183 and S.R. 2014 No. 189.
(**4**) S.R. 2009 No. 33 as amended by S.R. 2010 No. 164, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 1873

(d) "the Benefits Regulations" means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009(**5**);

(e) "the Principal Regulations" means The Local Government Pension Scheme Regulations (Northern Ireland) 2014(**6**); and

(f) "the Transitional Regulations" means The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014(**7**).

Amendment of the Principal Regulations

2. The Principal Regulations shall be amended in accordance with regulations 3 to 26.

3. For regulation 3(3)(b) (active membership) substitute—

"(b) where regulation 7(2) (ending active membership) applies, on the person's automatic re-enrolment date or if the person applies to become a member on the first day of the first payment period following the application; or";

4. After regulation 10 (pension credit members and survivor members) insert—

"**Separate employments, etc.**

10A.—(1) Where a person holds separate employments under one employing authority, 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(**8**) shall, in relation to those functions, be treated as if that person were employed by that district council and that person's pay in relation to those functions shall be treated as pensionable pay by that district council.".

5. For regulation 17(6) (employing authority contributions during absences), substitute—

"(6) The amount that an employing authority can be required to pay under paragraph (5) must not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving pensionable pay for the period of absence from work up to a maximum period of 36 months, which amount shall be calculated in accordance with actuarial guidance issued by the Department where the amount of pensionable remuneration cannot be readily determined.".

6. In regulation 18(11) (additional pension contributions), at the end of sub-paragraphs (d) and (e) insert "in the employment to which the APC is attached.".

7. In regulation 19 (additional voluntary contributions)—

(a) after paragraph (5) insert—

"(5A) The maximum a member may specify under paragraph (3)(a) or notify as a varied amount under paragraph (5) in respect of each employment for which the member makes an election is 50% of the pensionable pay of that employment in each pay period or an amount equal to 50% of the pensionable of that employment in each pay period.";

(b) in paragraph (7)—

(**5**) S.R. 2009 No. 32 as amended by S.R. 2010 No. 164, S.I. 2010/234, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 85, S.R. 2012 No. 183, S.R. 2013 No. 71 and S.R. 2014 No. 189.
(**6**) S.R. 2014 No. 188 as amended by S.R. 2015 No. 77 and S.R. 2015 No. 162.
(**7**) S.R 2014 No. 189 as amended by S.R. 2015 No. 162.
(**8**) S.I. 1972/1264 (N.I. 13) as amended by S.I. 1972/1998 (N.I. 21).

(i) after "or regulation 36 (early payment of pension on ill-health grounds: active members)" insert "or regulation 37 (early payment of pension on ill-health grounds: deferred members)"; and

(ii) at the end of sub-paragraph (a) for "; or" substitute "; and";

(c) for paragraph (8), substitute—

"(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of lump sum, that sum shall not result in the total lump sum payable to the member exceeding 25% of the capital value of LGPS benefits taken at that crystallisation event and forms part of the total amount referred to in regulation 34(2) (election for lump sum instead of pension).";

(d) for paragraph (10) substitute—

"(10) A member may transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme."; and

(e) in paragraph (12) after "the Committee shall" insert "at its discretion".

8. In regulation 23 (assumed pensionable pay)—

(a) in paragraph (2)(a) for "sickness" substitute "illness";

(b) in paragraph (2)(b) after "child related leave" insert "other than any part of that leave period where the pensionable pay received is greater than the assumed pensionable pay that the member would otherwise have been treated as receiving for that part of the leave period";

(c) in paragraph (4) for "The annual rate of assumed pensionable pay" substitute "Subject to paragraph (4A), the annual rate of assumed pensionable pay";

(d) in paragraph (4)(a)(i) for "most recent pay periods in which the member received pay" substitute "months";

(e) in paragraph (4)(b)(i) for "most recent pay periods in which the member received pay" substitute "weeks";

(f) in paragraph (4)(a)(i) and (4)(b)(i) for "regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members)" substitute "regulations 39(1)(a) (calculation of ill-health pension amounts), 40(3) (death grants: active members), 41(4)(b) (survivor benefits: partners of active members), 44(3)(b), 44(4)(b), 45(3)(b) and 45(4)(b) (survivor benefits: children of active members)."; and

(g) after paragraph (4) insert—

"(4A) If the pensionable pay the member received in the periods specified in paragraph (4)(a)(i) or (4)(b)(i) was reduced as a result of absence due to a trade dispute or absence with permission from the member's employing authority, such reduction is to be ignored for the purposes of calculating that member's assumed pensionable pay.".

9. In regulation 24 (pension accounts)—

(a) in paragraph (4) delete "or" after sub-paragraph (e) and for sub-paragraph (f) substitute—

"(f) due to aggregation of benefits in the pension account with a different pension account, it is no longer needed; or

(g) the member's benefits are commuted under regulation 35 (commutation and small pensions).";

(b) in paragraph (5) for "deferred account" substitute "deferred refund account"; and

(c) for paragraph (8) substitute—

"(8) Subject to paragraph 8A, where a deferred member again becomes an active member, the member may make an election to aggregate the benefits in the deferred member's pension account with those in the active member's pension account within—

(a) twelve months of the active member's pension account being opened;

(b) twelve months from 1st April 2016; or

(c) such longer period as the employing authority in relation to that active member's pension account may permit.

(8A) Where a member is entitled to deferred benefits as a consequence of a notice served under regulation 7(2) (ending active membership) and becomes an active member again in the same employment, that member cannot make an election to aggregate benefits from a deferred member's pension account under paragraph (8).

(8B) But paragraphs (7) and (8) do not apply to a member who is the subject of—

(a) a transfer to which the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the TUPE Regulations") apply; or

(b) a transfer which is treated as if it were a relevant transfer within the meaning of regulations 2(1) and 3 of the TUPE Regulations, notwithstanding regulation 3(5) of those Regulations.".

10. In regulation 33 (commencement of pensions) after paragraph (5) insert—

"(5A) A notice may be given under paragraph (3) before the date the member fulfils any qualifying criteria for an election so long as that member fulfils the qualifying criteria on the date specified in the notice.".

11. In regulation 34 (election for lump sum instead of pension)—

(a) in paragraph (2)—

(i) for "excluding" substitute "including any retirement grant, standard retirement grant, retiring allowance and"; and

(ii) delete "entered into before 1st April 2015 referred to in regulation 19(7)(a) (additional voluntary contributions)".

(b) delete paragraph (3).

12. In regulation 38 (role of the IRMP)—

(a) for paragraph (1)(c) substitute—

"(c) where a member has been working reduced contractual hours or at a lower grade and had reduced pay as a consequence of the reduction in contractual hours or grade, whether that member was wholly or temporarily in part time service as a result of the condition that caused or contributed to the member's ill-health retirement."; and

(b) after paragraph (4) insert—

"(5) Where an IRMP is part of an occupational health provider, the IRMP is not to be treated as having advised, given an opinion on or otherwise been involved in a particular case because another IRMP from the same occupational health provider has advised, given an opinion on or otherwise been involved in that case.".

13. For regulation 39(7)(a) (calculation of ill-health pension amounts)—

"(a) in calculating assumed pensionable pay in accordance with regulation 23(4) (assumed pensionable pay), no account is to be taken of any reduction in the pensionable pay the member received if an IRMP has certified that the member was working reduced contractual hours or at a lower grade, wholly or temporarily as a

result of the condition that caused or contributed to the member's ill-health retirement; and".

14. In regulation 40 (death grants: active members)—

(a) in paragraph (3) at the end insert ",but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade, as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition"; and

(b) after paragraph (4) insert—

"(5) Where an active member is also a deferred member or a pensioner member of the Scheme or both, the death grant payable upon the death of an active member shall be the higher of—

(a) a death grant calculated in accordance with regulation 40(3); or

(b) the aggregate of all death grants payable under regulations 46 (death grants: deferred members and pension credit members) and 51 (death grants: pensioner members),

and no other death grant shall be payable.".

15. At the end of regulation 41(4) (survivor benefits: partners of active members)—

(a) at the end of sub-paragraph (a)(iv) delete "and";

(b) at the end of sub-paragraph (a)(v) insert "and";

(c) after sub-paragraph (a)(v) insert—

"(vi) the amount of earned pension credited under regulation 21(3) (councillors' pensions) of the Transitional Regulations had been multiplied by 49/160th;"; and

(d) in sub-paragraph (b) after "normal pension age" insert ", but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.".

16. In regulation 44 (survivor benefits: children of active members where a pension is payable to partner of an active member) at the end of paragraphs (3)(b) and (4)(b), insert ", but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.".

17. In regulation 45 (survivor benefits: children of active members where no pension is payable to partner of an active member) at the end of paragraphs (3)(b) and (4)(b), insert ", but where, in the opinion of an IRMP the member was, at the date of death, wholly or temporarily in part time service or working at a lower grade as a result of the condition that caused or contributed to the member's death, no account shall be taken of any reduction in pensionable pay due to such reduction in service as is attributable to that condition.".

18. For regulation 66(2) (statements of policy about the exercise of discretionary functions), substitute—

"(2) Each employing authority shall send a copy of its statement to the Committee and shall publish its statement—

(a) before 31st July 2015; or