STATUTORY RULES OF NORTHERN IRELAND

2015 No. 272

PENSIONS

The Funded Public Service Pension Schemes (Reduction of Cash Equivalents) Regulations (Northern Ireland) 2015

Made - - - -	*11th June 2015*
Coming into operation	*7th July 2015*

The Department of Finance and Personnel, in exercise of the powers conferred by sections 93B, 177(1), (2), (3) and (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993(**1**), make the following Regulations.

These Regulations were not subject to consultation because in this case the Department of Finance and Personnel considered consultation to be inexpedient because of urgency.

Citation and commencement

1.—(1) These Regulations may be cited as the Funded Public Service Pension Schemes (Reduction of Cash Equivalents) Regulations (Northern Ireland) 2015 and shall come into operation on 7th July 2015.

Interpretation

2. In these Regulations—

"the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993;

"the 1996 Regulations" means the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**2**);

"actuary" means –

(a) a Fellow of the Institute and Faculty of Actuaries(**3**); or

(b) a person with other actuarial qualifications who is approved, at the request of the trustees or managers of the scheme in question, by the Secretary of State as being a proper person to act for the purposes of the 1996 Regulations in connection with that scheme;

(**1**) 1993 c. 49. Section 93B was inserted by the Pension Schemes Act 2015 c. 8, section 72(4).
(**2**) S.R. 1996 No. 619 as amended by S.R. 2008 No. 370 regulations 4 and 8 and Schedule 1.
(**3**) The Institute and Faculty of Actuaries can be contacted at 7th floor, Holborn Gate, 326-330 High Holborn, London, WC1V 7PP and at www.actuaries.org.uk.

"cash equivalent" means a cash equivalent mentioned in section 90(1) or (2) (right to cash equivalent) of the 1993 Act(**4**);

"designated" means designated under section 93A(1) (designation of funded public service defined benefits schemes)(**5**), and related expressions are to be construed accordingly;

"discount rate" means the interest rate used to discount future payments of benefit for the purposes of placing a current value on them;

"effective date" means –

(a) in relation to a transfer report, the date as at which the assets and liabilities are valued for the purposes of the transfer report; and

(b) in relation to any other report of an actuarial valuation of the scheme, the date as at which the assets and liabilities are valued for the purposes of the valuation;

"extension of a designation" means the extension of a designation under section 93A(5)(a) (designation of funded public service defined benefits schemes) of the 1993 Act, and related expressions are to be construed accordingly;

"flexible benefit" has the meaning given in section 74 (meaning of "flexible benefit") of the Pension Schemes Act 2015(**6**);

"funded public service defined benefits scheme" has the meaning given by section 93A(9) of the 1993 Act;

"guaranteed minimum pension" has the meaning given by section 4(2) (meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment") of the 1993 Act(**7**);

"initial cash equivalent" means the amount calculated in accordance with paragraphs 4 and 5 of the Schedule;

"the insufficiency percentage" is the percentage referred to in paragraph 1(b) of the Schedule;

"official pension" has the meaning given by section 5(1) and (2) (scope of Act, and general powers to extend and adapt increases) of the Pensions (Increase) Act (Northern Ireland) 1971(**8**);

"payment out of public funds" has the meaning given by section 93A(9) of the 1993 Act;

"percentage P" has the meaning given in regulation 4;

"the relevant Department" has the meaning given by section 93A(9) of the 1993 Act;

"report of an actuarial valuation of the scheme" includes in particular any report of an actuarial valuation of the scheme–

(a) to which article S2 (actuarial valuations) of the Assembly Members Pension Scheme (Northern Ireland) 2012(**9**) applies;

(b) to which Department of Finance and Personnel directions made under section 11 (valuations) of the Public Service Pensions Act (Northern Ireland) 2014(**10**) apply; or

(**4**) Sections 90(1) and (2) were substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 54
(**5**) Section 93(A) was inserted by the Pension Schemes Act 2015 c.8, section 72(3).
(**6**) 2015 c. 8.
(**7**) Section 4(2) was amended by the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005 (S.R. 2005 No. 433), article 2(1), the National Insurance Contributions Act 2008 (c.16) section 4(1), the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)) section 13 and Schedule 4 paragraph 3 and the Pensions (No.2) Act (Northern Ireland) 2008 (c.13 (N.I.)) section 102 and Schedule 7 paragraph 8.
(**8**) 1971 c.35 (N.I.).
(**9**) See www.niassembly.gov.uk.
(**10**) 2014 c. 2 (N.I.).

(c) to which regulation 68 (actuarial valuations and certificates) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014(**11**) applies;

"scheme", in a case where part and not all of a scheme is or may subsequently be designated, means that part of the scheme, unless the context requires otherwise;

"transfer report" means a report concerning a scheme requested by the trustees or managers and prepared by the actuary in accordance with regulation 2 and the Schedule;

"trustees or managers" means –

(a) in relation to a scheme established under a trust, the trustees; and

(b) in relation to any other scheme, the managers;

"working day" means a day which is not—

(a) Saturday,

(b) Sunday,

(c) Christmas Day,

(d) Good Friday, or

(e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**12**) in the case of a scheme to which section 93A (designation of funded public service defined benefits schemes) of the 1993 Act applies.

(2) Where a scheme has more than one pension fund, each pension fund of the scheme is a part of that scheme for the purpose of these Regulations.

(3) In the application of these Regulations to a pension fund that is or may subsequently be designated–

(a) references to the scheme's assets are to be read as references to the pension fund's assets; and

(b) references to the scheme's liabilities are to be read as references to the pension fund's liabilities.

Transfer report

3.—(1) The trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, may request an actuary to prepare a report (a "transfer report") if they consider that—

(a) there may now or in the future be an increased likelihood of payments out of public funds, or of increased payments out of public funds, having to be made into the scheme so that it can meet its liabilities, and

(b) the increased likelihood may be connected with the exercise or expected future exercise of rights to take a cash equivalent acquired under section 90 (right to cash equivalent) of the 1993 Act(**13**).

(2) The trustees or managers of a funded public service defined benefits scheme, or part of such a scheme, which is designated or the designation of which is extended, must request an actuary to prepare a report (a "transfer report") unless—

(a) they have already requested a report under paragraph (1) and that report has not been completed; or

(b) they already have a transfer report for the scheme which remains current.

(**11**) S.R. 2014 No.188.
(**12**) 1971 c. 80.
(**13**) Sections 90(1) and (2) were substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 54.

(3) A transfer report for a scheme remains current if—

(a) it still has an effective date which is no earlier than the effective date of the most recent report of an actuarial valuation of the scheme;

(b) the determinations used by the actuary (under paragraph 4(2) of the Schedule) who prepared the report are still the most recent determinations for the scheme as a whole made by the trustees or managers of that scheme under regulation 7A(3) (manner of calculation of initial cash equivalents for salary related benefits) of the 1996 Regulations; and

(c) the assumptions used by the actuary (under paragraph 5(2) of the Schedule) who prepared the report are still the assumptions for the scheme as a whole most recently determined by the trustees or managers of that scheme under regulation 7B (initial cash equivalents for salary related benefits: assumptions and guidance) of the 1996 Regulations.

(4) Where the trustees or managers make a request under paragraph (2), they must make the request within three working days of—

(a) the scheme's being designated or the designation of the scheme being extended, in a case where the trustees or managers are the relevant Department; or

(b) the trustees or managers receiving notice of a designation of the scheme or its extension, in a case where the trustees or managers are not the relevant Department.

(5) Where an actuary has been requested to prepare a transfer report and—

(a) the request was made under paragraph (1), and the scheme is subsequently designated or the designation of the scheme is subsequently extended; or

(b) the request was made under paragraph (2) following a designation or extension of a designation of the scheme,

the actuary must complete the transfer report within two months of the designation or extension.

(6) The Schedule (transfer report) has effect.

Reduction of cash equivalent

4.—(1) Where, under section 91(1) (ways of taking right to cash equivalent) of the 1993 Act(**14**), a member of a scheme to which this regulation applies requires the trustees or managers to use a cash equivalent for acquiring a right or entitlement to flexible benefits under the rules of another pension scheme, the cash equivalent must be reduced by percentage P, unless paragraph (4) applies.

(2) This regulation applies to a scheme which is a funded public service defined benefits scheme, or part of such a scheme, that is designated on the date of the application under section 91(1) of the 1993 Act.

(3) A cash equivalent may be reduced by percentage P under paragraph (1) only to the extent that it relates to benefits which are not money purchase benefits (within the meaning of the 1993 Act) or injury or compensation benefits (within the meaning of the Public Service Pensions Act (Northern Ireland) 2014(**15**)).

(4) This paragraph applies where a scheme ceases to be designated before the date on which the trustees or managers do what is needed to carry out what the member required by making an application under section 91(1) of the 1993 Act.

(5) Where paragraph (4) applies, no reduction of the member's cash equivalent is to be made under these Regulations.

(**14**) Section 91(1) was substituted by the Pension Schemes Act 2015 c. 8, section 67, Schedule 4, paragraph 55.
(**15**) 2014 c. 2 (N.I.).