STATUTORY RULES OF NORTHERN IRELAND

2010 No. 410

LOCAL GOVERNMENT

Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2010

Made - - - -	*8th December 2010*
Coming into operation	*17th January 2011*

The Department of the Environment makes these Regulations in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972(**1**) and now vested in it(**2**).

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.

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2010 and shall come into operation on 17th January 2011 except as provided for in paragraphs (2) to (6).

(2) Regulations 2 to 5, 7 and 8 shall have effect from 1st April 2006.

(3) Regulation 6 shall have effect from 1st August 2007.

(4) Regulations 9 to 14, 16 to 24, 26, 31, 33 to 40, 42, 44(a), 44(c), 44(d) and 45 to 49 shall have effect from 1st April 2009.

(5) Regulation 43 shall have effect from 6th April 2009.

(6) Regulations 15, 25, 27 to 30, 32, 41 and 44(b) shall have effect from 31st December 2009.

Amendment of the Local Government Pension Scheme Regulations (Northern Ireland) 2002

2. Regulations 3 to 8 have effect in relation the Local Government Pension Scheme Regulations (Northern Ireland) 2002(**3**) to the extent that those Regulations continue in force by virtue of

(**1**) 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).
(**2**) S.R. & O (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6).
(**3**) S.R. 2002 No. 352; relevant amending regulations are S.R. 2005 No. 206, S.R. 2005 No. 274, S.R. 2007 No. 152 and S.R. 2009 No. 34.

the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009(**4**).

3. In regulation 4B (requirements for admission agreements) after paragraph (8) insert—

"(9) A body designated under the provisions of the Local Government (Superannuation) Act (Northern Ireland) 1950(**5**) shall be deemed to have an admission agreement under regulation 4 (employees of community admission bodies) for as long as that body continues to employ active members of the Scheme.".

4. In regulation 77 (actuarial valuations and certificates)—

(a) in paragraph (3) for sub-paragraphs (a) and (b) substitute—

"(a) the common rate of employer's contribution;

(b) any individual adjustment; and

(c) the total contribution rate payable,";

(b) for paragraph (6) substitute—

4.—"(6) An individual adjustment is—

(a) any percentage or amount by which, in the actuary's opinion contributions at the common rate should in the case of—

(i) a particular contributing body;

(ii) a particular guarantor; or

(iii) both employing authority and inheriting body if agreed under regulation 78A (apportionment of liabilities),

be increased or reduced by reason of any circumstances peculiar to that contributing body, guarantor or both of them; and

(b) any other amount (whether or not expressed as a percentage of the pay of their employees who are active members) which, in the actuary's opinion,

(i) a contributing body;

(ii) guarantor; or

(iii) both employing authority and inheriting body if agreed under regulation 78A,

should pay, by reason of any circumstances peculiar to that contributing body, guarantor or employing authority and inheriting body under regulation 78A or by reason of any liabilities in the Scheme for which responsibility rests with the contributing body, guarantor or both of them."; and

(c) in paragraph (7) for sub-paragraphs (a) and (b) substitute—

"(a) the number of members who will become entitled to payment of pensions under the provisions of the Scheme;

(b) the amount of liabilities arising in respect of such members; and

(c) such other information that the actuary considers relevant,".

5. In regulation 78 (special circumstances where revised actuarial valuations and certificates must be obtained)—

(a) for paragraphs (1) to (4) substitute—

(**4**) S.R. 2009 No. 34.
(**5**) 1950 c. 10.

"**78.**—(1) Where a contributing body ceases to employ active members or an admission agreement otherwise ceases to have effect, then unless approval is given under paragraph (6) the Committee must obtain—

(a) an actuarial valuation on an appropriate basis determined by the fund's actuary as agreed with the Committee as at the date on which the contributing body ceases to employ active members or its admission agreement otherwise ceases to have effect, of the liabilities of the fund in respect of that contributing body ("the outgoing contributing body");

(b) a revision of any rates and adjustments certificate provided under regulation 77(3), showing the contributions due from or surplus due to the outgoing contributing body;

(c) such revised contributions due to the fund or surplus due to the outgoing contributing body from the fund will be paid as a lump sum within 1 month of the date of the rates and adjustments certificate or such longer period as the Committee and the outgoing contributing body agree; and

(d) the liabilities under sub-paragraph (a) include, but are not limited to, liabilities in respect of current and former employees of the outgoing contributing body, liabilities which the outgoing contributing body has accepted, and liabilities which the outgoing contributing body has become responsible for by the operation of a scheme of reorganisation which has been created and approved in accordance with legislation, by the operation of law, because of the provisions of any legislation, or by an order of the Court.

(2) Where, for any reason, it is not possible to obtain the revised contributions from the outgoing contributing body or from an insurer or any person providing an indemnity or bond on behalf of that body, the Committee may obtain a further revision of any rates and adjustments certificate for the fund, showing—

(a) in the case where that outgoing contributing body is a transferee admission body within regulation 5(2)(a) or 5(2)(b) (employees of transferee admission bodies), the revised contributions due from the employing authority, or as the case may be, guarantor in relation to that outgoing contributing body; and

(b) in any other case, the revised contributions due from each employing authority which contributes to the fund.

(3) The Committee may obtain from the fund actuary a certificate specifying the percentage or amount by which, in the fund actuary's opinion, that contributing body's —

(a) contribution at the common rate of employer's contribution should be adjusted; or

(b) any prior individual adjustment should be increased or decreased,

with a view to providing that the value of the assets of the fund in respect of the liabilities of that contributing body is neither materially more or materially less than the anticipated share of the liabilities of the fund in respect of that contributing body at the date it ceases to employ active members or its admission agreement ceases to have effect ("the calculation date").

(3A) The Committee may determine a nominated calculation date, where it reasonably believes that a contributing body is to cease to employ active members in the near future but the actual calculation date is not known and such date will be the calculation date in substitution for the actual date on which the contributing body ceases to employ active members or its admission agreement otherwise ceases to have effect.

(3B) Where paragraph (3A) applies, the Committee—

(a) will assess on or as soon as practicable after the date on which the contributing body actually ceases to employ active members or its admission agreement otherwise ceases to have effect whether it should obtain a further revision of the rates and adjustments certificate under paragraph (1)(a) as at that date; and

(b) may subsequently ask the fund actuary to revise or withdraw and reissue the rates and adjustments certificate if it considers it is reasonable to do so.

(3C) Where a revised rates and adjustments certificate is obtained under paragraph (3B)(a), it will take account of any contributions already received from the contributing body further to the rates and adjustments certificate obtained under paragraph (3A).

(4) Paragraph (5) applies where—

(a) the Committee agrees with an employing authority that the employing authority will pay increased contributions under regulation 54(6) (power of employing authority to increase total membership);

(b) it appears to the Committee that the amount of liabilities arising or likely to arise in respect of members in employment with an employing authority differs from the amount specified in, or likely as a result of, the assumptions stated for that employing authority in the actuary's report by virtue of regulation 77(1); or

(c) an admission body has previously ceased to employ any active members and no actuarial valuation or rates and adjustments certificate has been obtained by the Committee in accordance with paragraph (6) but where that admission agreement still allows it to employ active members and it once again starts to employ active members.";

(b) in paragraph (5) for "employing authority" substitute "contributing body"; and

(c) for paragraph (6) substitute—

"(6) Where a contributing body ceases to employ any active members of the Scheme the Committee may, with the approval of the Department, defer obtaining an actuarial valuation and a revision of the rates and adjustments certificate and determine the date as at which the actuarial valuation and a revision of the rates and adjustments certificate will be obtained and the dates from which it will be effective and at which it will be reviewed.

(7) During any period of deferral under paragraph (6) the contributing body will continue to pay contributions under regulation 79 (employer's contributions) in respect of the liabilities of the fund which are attributable to it.

(8) The Committee may, with the approval of the Department, if it thinks necessary to protect the solvency of the fund or prevent liabilities in relation to one contributing body falling onto other contributing bodies, require active members employed by a particular contributing body to cease future accrual with effect from a date specified by the Committee so that the contributing body no longer employs active members.".

6. After regulation 78, insert—

"**Apportionment of liabilities**

78A.—(1) In the event of a relevant transfer the Committee, the employing authority and the inheriting body, may agree with effect from a specific date, that some or all of the

liabilities of the employing authority shall transfer to and be attributable to the inheriting body ("the apportionment agreement").

(2) The apportionment agreement under paragraph (1) must specify—

(a) its effective date;

(b) on the advice of an actuary, the specific amount of the liabilities attributable to the contributing body which will transfer;

(c) the manner and time in which those liabilities will be discharged; and

(d) any other conditions to protect the solvency of the fund that the Committee considers necessary.

(3) The Committee, after seeking advice from an actuary—

(a) may vary the rates and adjustments certificate currently in place in respect of the contributing body; and

(b) where a rates and adjustments certificate is not currently in place in respect of the inheriting body, may produce a rates and adjustments certificate,

to reflect the transfer of liabilities when realised under paragraph (1).

(4) The transfer of liabilities in accordance with any apportionment agreement under paragraph (1) shall be reflected in—

(a) the calculation of the individual adjustment in respect of the employing authority and, as the case may be, any inheriting body under regulation 77(6); and

(b) any calculation in respect of the employing authority and, as the case may be, any inheriting body under regulation 78.

(5) Where a guarantor has agreed to accept liabilities under paragraph (1) the apportionment agreement must state the manner and time in which the guarantor will discharge those liabilities.

(6) Any agreement entered into prior to the introduction of this regulation shall be treated as an agreement under this regulation.

(7) Any question which may arise between the parties to an apportionment agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred in writing to the Department for determination.".

7. In regulation 79 (employer's contributions)—

(a) in the heading for "Employer's" substitute "Contributing body's";

(b) in paragraph (1)—

(i) for "An employing authority" substitute "A contributing body"; and

(ii) for "authority" substitute "contributing body";

(c) in paragraph (2) for "an employing authority" substitute "a contributing body";

(d) in paragraph (3) for sub-paragraph (a) substitute—

"(a) where the contributing body employs active members of the Scheme be paid at the end of the intervals determined under regulation 81 (payments by employing authorities to the Committee) and where the contributing body does not employ active members of the Scheme, be paid at intervals of not greater than 12 months as the Committee may determine; and"; and

(e) for paragraph (4) substitute—

"(4) A contributing body's contribution for any year is the sum of—