STATUTORY RULES OF NORTHERN IRELAND

2009 No. 33

LOCAL GOVERNMENT

Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009

Made - - - - 25th February 2009

Coming into operation 1st April 2009

The Department of the Environment make these Regulations in exercise of the powers conferred by Article 9 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.

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 and shall come into operation on 1st April 2009.

Interpretation

2.—(1) Schedule 1 (interpretation) contains definitions of expressions used in these Regulations which apply for their interpretation unless the context indicates they have a different meaning.

(2) Unless that is so, references to members or membership generally refer to active members or active membership respectively unless otherwise stated or the context indicates a different meaning.

(**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. 504Article 7(1); S.I. 1976/424 (N.I. 6).

PART 2

MEMBERSHIP OF SCHEME

General eligibility for membership

3.—(1) A person may only be an active member of the Scheme if—

(a) this regulation, or any of regulations 4 (employees of community admission bodies) to 6 (admission agreements – further provisions) enables him to be one; or

(b) he is employed under a contract of employment of more than 3 months,

and he is not prevented by regulation 8 (further restrictions on eligibility).

(2) A person may be an active member if he is employed by an employing authority.

Employees of community admission bodies

4.—(1) Subject to the requirements of this regulation and regulation 6 (admission agreements – further provisions), the Committee may make an admission agreement with any community admission body.

(2) The following are community admission bodies—

(a) a body which provides a public service in the United Kingdom otherwise than for the purposes of gain and which either—

(i) has sufficient links with an employing authority for the body and the employing authority to be regarded as having a community of interest whether because the operations of the body are dependent on the operations of the employing authority or otherwise, or

(ii) is approved by the Department for the purpose of admission to the Scheme;

(b) a body to the funds of which any employing authority contributes;

(c) a body representative of—

(i) local authorities;

(ii) local authorities and officers of local authorities;

(iii) officers of local authorities where it is formed for the purpose of consultation on the common interests of local authorities and the discussion of matters relating to local government; or

(iv) employing authorities;

(d) a statutory undertaker;

(e) a non-statutory undertaker;

(f) the managers of a voluntary school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986(**3**); and

(g) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(**4**).

(3) Approval under paragraph (2)(a)(ii) may be subject to such conditions as the Department thinks fit and it may withdraw approval at any time if such conditions are not met.

(4) Where, at the date that an admission agreement is made with a body mentioned in paragraph (2)(b), the funding contributions paid to the body by one or more employing authorities

(**3**) S.I. 1986/594 (N.I. 3) as amended by S.I. 1993/2810 (N.I. 12) and S.I. 1997/1772 (N.I. 15).
(**4**) S.I. 1997/1772 (N.I. 15).

equal in total 50% or less of the total amount it receives from all sources, it must be a term of the admission agreement that the employing authority which provides funding (or, if more than one, all of them) guarantees the liability of the body to pay all amounts due from it under these Regulations or the Benefits Regulations.

(5) In this regulation—

(a) "a non-statutory undertaker" means a body who, though not authorised by any statutory provision to do so, is primarily engaged in carrying on—

(i) any railway, light railway, road transport, water transport, canal, inland navigation, dock harbour or pier; or

(ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic; and

(b) "a statutory undertaker" means a body authorised by any statutory provision to carry on—

(i) any railway, light railway, road transport, water transport, canal, inland navigation, dock harbour or pier; or

(ii) any undertaking for the promotion of industrial development or the promotion of the development of tourist traffic.

Employees of transferee admission bodies

5.—(1) Subject to the requirements of this regulation and regulation 6 (admission agreements – further provisions), the Committee may make an admission agreement with any transferee admission body.

(2) A transferee admission body is a body, other than a community admission body, that is providing or will provide—

(a) a service or assets in connection with the exercise of a function of an employing authority as a result of the transfer of the service or assets by means of a contract or other arrangement; or

(b) a public service and which is approved by the Department for the purposes of admission to the Scheme.

(3) In the case of an admission agreement with a transferee admission body under paragraph (2)(a) the employing authority, if it is not also the Committee, must be a party to the admission agreement.

(4) Approval under paragraph (2)(b) may be subject to such conditions as the Department thinks fit and it may withdraw approval at any time if such conditions are not met.

(5) An admission agreement with a transferee admission body shall require that—

(a) in the case of a body under—

(i) paragraph (2)(a), the employing authority; or

(ii) paragraph (2)(b), the transferee admission body, to the satisfaction of the Committee,

shall carry out an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of the service or assets by reason of the insolvency, winding up or liquidation of the transferee admission body; and

(b) where the level of risk identified by the assessment is such as to require it, the transferee admission body shall enter into an indemnity bond to meet the level of risk identified.

(6) The indemnity or bond must be with—

(a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000(**5**) to accept deposits or to effect and carry out contracts of general insurance;

(b) an EEA firm of the kind mentioned in paragraph 5(b) and (d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or to effect and carry out contracts of general insurance; or

(c) a person who does not require permission under that Act to accept deposits, by way of business, in the United Kingdom.

(7) An admission agreement with a transferee admission body shall make provision for the relevant matters set out in Schedule 2 (matters to be included in admission agreements with transferee admission bodies).

(8) This paragraph applies where a transferee admission body undertakes to meet the requirements of this regulation and—

(a) in the case of a body under paragraph (2)(a), the employing authority undertakes to meet the requirements of this regulation; or

(b) in the case of a body under paragraph (2)(b), the Department approves the body for admission to the Scheme and the conditions, if any, to which the approval is subject, have been met.

(9) Where paragraph (8) applies—

(a) the Committee must admit to the Scheme the eligible employees of the transferee admission body specified by the body; and

(b) where it does so, the terms on which it does so are the admission agreement for the purposes of these Regulations and the Benefits Regulations.

(10) Only those employees of the transferee admission body who are employed in connection with the provision of a service or assets mentioned in paragraph (2) are eligible to be designated, under regulation 6(1), members of the Scheme.

Admission agreements – further provisions

6.—(1) A person employed by a community admission body or an eligible person employed by a transferee admission body may only be a member if he, or a class of employees to which he belongs, is designated in an admission agreement by the body as being eligible for membership of the Scheme.

(2) An admission agreement must terminate if the admission body ceases to be such a body and may make such other provision about its termination as the parties consider appropriate.

(3) When the Committee makes an admission agreement, it must promptly inform the Department of—

(a) the date the agreement takes effect;

(b) the admission body's name; and

(c) in the case of an agreement with a transferee admission body under regulation 5(2)(a) (employees of transferee admission bodies), the name of the relevant employing authority.

(4) The Committee and an admission body may make an admission agreement despite the fact they do not exercise their functions or provide services or assets in areas that overlap or adjoin each other.

(**5**) 2000 c. 8.

(5) Any question which may arise between the parties to an admission 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.

(6) These Regulations and the Benefits Regulations apply to employment with an admission body in which the employee is an active member in the same way as if the admission body were an employing authority.

Separate employments, etc.

7.—(1) Where a person holds separate employments under one employing authority, these Regulations and the Benefits Regulations apply as if each of them were with a different employer.

(2) For the purposes of these Regulations and the Benefits 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(**6**) shall, in relation to those functions, be treated as if he were employed by that district council and his pay shall be treated as fluctuating emoluments by that district council.

Further restrictions on eligibility

8.—(1) If a person's employment entitles him to belong to another public service pension scheme, or would so entitle him were it not for his age, that employment does not entitle him to be a member, unless that other scheme was made under Article 9 of the Order of 1972.

(2) "Public service pension scheme" has the meaning given by section 150 (meaning of "pension scheme") of the Finance Act 2004(**7**).

(3) An employee of an admission body may not be a member if he is a member of another occupational pension scheme in relation to the employment in respect of which he would otherwise be eligible to be a member of the Scheme under regulation 6(1) (admission agreements – further provisions).

(4) A person can not become a member after the day before his 75th birthday.

(5) 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(**8**)) on terms under which the retained or voluntary member is or may be required to engage in fire-fighting does not entitle the retained or voluntary member to be a member of the Scheme.

(6) Any person who as a member of staff of the University of Ulster is eligible to participate in the Universities' Superannuation Scheme is not entitled to be a member of the Scheme.

Joining the Scheme

9.—(1) A person who is eligible to be an active member of the Scheme on the day his employment begins becomes an active member on that day unless he notifies his employer in writing before his employment begins that he does not wish to become a member on that date.

(2) A person who applies to become a member after the date he would otherwise become a member under paragraph (1) becomes a member on the first day of the first payment period following the application.

(3) An application for membership may be withdrawn before membership begins.

(4) A former active member who is eligible for membership may reapply for membership of the Scheme and he becomes an active member on the first day of the first payment period following the application.

(**6**) S.I.1972/1264 (N.I. 13) as amended by S.I. 1972/1998 (N.I. 21).
(**7**) 2004 c. 12.
(**8**) S.I. 2006/1254 (N.I. 9).