STATUTORY RULES OF NORTHERN IRELAND

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(**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

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(**3**);

(**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. 2000 No. 177; relevant amending Regulations are S.R. 2001 No. 61 and S.R. 2002 No. 353.

"the principal Regulations" mean the Local Government Pension Scheme Regulations (Northern Ireland) 2002(**4**); and

"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(**5**) 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—



where—

(**4**) S.R. 2002 No. 352; relevant amending Regulations are S.R. 2005 No.206, S.R. 2005 No. 274, 2006 No. 6 and S.R. 2006 No. 112.
(**5**) S.R. 2002 No. 353 to which there are amendments not relevant to these Regulations.

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

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(**6**).

(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.".

(**6**) 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.

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.

(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")—