STATUTORY RULES OF NORTHERN IRELAND

2005 No. 206

LOCAL GOVERNMENT

Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*8th April 2005*
Coming into operation	*1st May 2005*

The Department of the Environment, 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**) and of every other power enabling it in that behalf and after consultation 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, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2005.

(2) These Regulations shall come into operation on 1st May 2005.

(3) In these Regulations "the principal Regulations" means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(**3**).

Amendment of Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 9.

Employees of non-Scheme employers: community admission bodies

3. For regulation 4 there shall be substituted the following regulation –

"**Employees of non-Scheme employers: community admission bodies**

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

(**1**) S.I.1972/1073 (N.I. 10)
(**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

(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 a Scheme employer for the body and the Scheme employer to be regarded as having a community of interest, whether because the operations of the body are dependent on the operations of the Scheme employer 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 Scheme employer contributes;

(c) a body representative –

(i) of local authorities,

(ii) of local authorities and officers of local authorities,

(iii) of officers of local authorities which is formed for the purpose of consultation as to the common interests of local authorities, and the discussion of matters relating to local government, or

(iv) of Scheme employers;

(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(**4**);

(g) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997(**5**).

(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 the admission agreement is made with a body referred to in paragraph (2)(b), the contributions paid to the body by any one or more Scheme employers 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 Scheme employer who provides funding (and, if more than one, all of them) guarantees the liability of the body to pay all amounts due from it under the 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;

(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

(**4**) 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)
(**5**) S.I. 1997/1772 (N.I. 15)

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

Employees of non-Scheme employers: transferee admission bodies

4A.—(1) Subject to the requirements of this regulation and regulation 4B, 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 a Scheme employer as a result of the transfer of the service or assets by means of a contract or other arrangement;

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

(3) Only those employees of the transferee admission body who are employed in connection with the provision of the service or assets referred to in paragraph (2) are eligible to be members of the Scheme.

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

(5) 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.

(6) An admission agreement with a transferee admission body shall require that:

(a) in the case of a body under –

(i) paragraph (2)(a), the Scheme employer; 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) that where the level of risk identified by the assessment is such as to require it, the transferee admission body shall enter into an indemnity or bond to meet the level of risk identified.

(7) The indemnity or bond must be with –

(a) a person who has permission under Part IV of the Financial Services and Markets Act 2000(**6**) 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.

(**6**) 2000 c. 8

(8) An admission agreement with a transferee admission body shall make provision for the relevant matters set out in Schedule 2.

(9) Where a transferee admission body undertakes to meet the relevant requirements of this regulation, and –

(a) in the case of a body under paragraph (2)(a), the Scheme employer undertakes to meet the relevant 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;

the Committee must admit to the Scheme the eligible employees of the transferee admission body specified by the body and where it does so, the terms on which it does so are the admission agreement for the purposes of these Regulations.

Requirements for admission agreements

4B.—(1) In regulations 4 and 4A an admission agreement is an agreement that all or any specified class of the admission body's employees may be members.

(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 the date the agreement takes effect, the admission body's name and, in the case of an admission agreement with a transferee admission body under regulation 4A (2) (a), the name of the relevant Scheme employer.

(4) The Committee must notify the Commissioners of the Inland Revenue of the admission of an admission body within the time prescribed in regulations made under section 605 of the Taxes Act(**7**) and provide such information as may be so prescribed.

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

(6) 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 for determination to the Department.

(7) An employee of an admission body may not be a member if he is a member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes (Northern Ireland) Act 1993(**8**) other than where the accrual of benefits under the occupational pension scheme would not affect approval of the Scheme as an approved scheme.

(8) These 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 a Scheme employer.".

Further restriction on eligibility

4. For regulation 5(6) there shall be substituted –

(**7**) 1988 c. 1 The current regulations are the Retirement Benefit Schemes (Information Powers) Regulations 1995, S.I. 1995/3103, as amended

(**8**) 1993 c. 49, as amended by S.I. 1993/3147(N.I. 11)