STATUTORY RULES OF NORTHERN IRELAND

2002 No. 353

LOCAL GOVERNMENT

Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002

Made - - - -	*19th November 2002*
Coming into operation	*1st February 2003*

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**) 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:–

Preliminary provisions

Citation, commencement and retrospection

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment No. 2 and Transitional Provisions) Regulations (Northern Ireland) 2002 and shall come into operation on 1st February 2003 and except as provided for in paragraphs (2) and (3) shall have effect from that date.

(2) Paragraphs 3 and 4(a) of Schedule 3 shall have effect from and including 1st April 1998.

(3) Paragraphs 2 and 4(b) of Schedule 3 shall have effect from and including 15th December 1999.

Interpretation

2.—(1) In these Regulations–

"the 2002 provisions" means the 2002 Regulations, these Regulations and the Investment Regulations;

(**1**) S.I. 1972/1073 (N.I. 10); Article 14 was amended by Article 12 of the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990 (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)

"the 2002 Regulations" means the Local Government Pension Scheme Regulations (Northern Ireland) 2002(**3**);

"the common provisions" means regulations 51 and 52 and Part IV of the 2002 Regulations and the Investment Regulations;

"the Investment Regulations" means the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(**4**);

"the old provisions" means the 2000 Regulations, the additional regulations specified in Schedule 1 (so far as they relate to the Scheme) and any other regulations relating to the Scheme and made under Article 9 or 14 of the Superannuation (Northern Ireland) Order 1972, so far as they continue in effect;

"the replaced provisions" means regulations C21, C26A, H1, H3 to H7, M2, M3, M4 and Parts J, K L, and N of and Schedules K1, K2, L1 and L2 to the 2000 Regulations;

"the saved provisions" means the old provisions (other than the replaced provisions), in so far as they remain capable of having effect and subject to the provisions of these Regulations and, in particular, the amendments specified in Schedules 3 and 4.

(2) For these Regulations, a member must be treated as remaining an active member throughout–

(a) a period of maternity absence;

(b) any period which is treated as membership by virtue of regulation B13(1)(b) of the 2000 Regulations (absence for illness or injury); and

(c) any period as respects which a notice under regulation C7(2) of those Regulations (trade disputes absence) has been given,

whether or not he or she otherwise would be so treated.

(3) Paragraph (2) shall not apply as respects any part of such a period which falls after a time when the member ceases to be an active member by virtue of regulation B11 of the 2000 Regulations (leaving the Scheme).

(4) Subject to the previous provisions of this regulation, expressions used in these Regulations and in the 2002 Regulations have the same meaning as in those Regulations.

(5) So far as is necessary for the purposes of regulation 1(2) and (3) these Regulations shall be deemed to have effect from and including 1st April 1998.

Application of 2002 Regulations and old provisions

Cessation of old provisions for active members

3.—(1) Any person who is an active member of the Scheme immediately before the commencement date shall continue to be an active member on that date and, subject to the provisions of these Regulations, the old provisions shall cease to apply to him.

(2) Paragraph (1) shall not apply to any person who ceases to be an active member on the day before the commencement date–

(a) by virtue of regulation B11 of the 2000 Regulations (leaving the Scheme); or

(b) by virtue of leaving local government employment on that date and becoming a pensioner member on the commencement date,

and these Regulations shall apply to any such person as if he had already so ceased immediately before the commencement date.

(**3**) S.R. 2002 No. 352
(**4**) S.R. 2000 No. 178 as amended by S.R. 2001 No. 61 and S.R. 2001 No. 62

(3) If any person has notified his employer under regulation B11(2) of the 2000 Regulations before the commencement date that he wishes to cease to be an active member, but would not (apart from this paragraph) have ceased to be an active member immediately before the commencement date–

(a) paragraph (1) shall not apply to him;

(b) he shall cease to be such a member on the day before the commencement date; and

(c) these Regulations shall apply to him as if he had already so ceased immediately before the commencement date.

(4) Where (apart from these Regulations) a person away on relevant reserve forces service would be treated under the 2000 Regulations as an active member on the commencement date, paragraph (1) shall apply to him, unless as a result of a cancelling notice his relevant reserve forces service on and after the commencement date is not to be treated as such service.

(5) Where such a notice is served, these Regulations shall apply to such a person as if he had already ceased to be an active member immediately before the commencement date.

Deferred members and pensioners: general

4.—(1) Except where these Regulations provide otherwise, in relation to the persons specified in paragraph (2)–

(a) the saved provisions shall continue to apply;

(b) the common provisions shall apply; and

(c) Part II (except regulations 51 and 52) and Parts III and V of the 2002 Regulations shall not apply (except in so far as they affect the common provisions).

(2) Those persons are–

(a) any person who immediately before the commencement date was a deferred member or a pensioner member and does not on or after that date become an active member; or

(b) any person who is or may become entitled to any benefit under the Scheme in respect of such a person; or

(c) any other person whose entitlement to the payment of any pension or other benefit has arisen before that date or who may become so entitled by virtue of the death of any person who has died before that date.

Re-employment of members (Schedule D5 to the 2000 Regulations etc.)

5. Schedule 2 shall have effect for the purpose of making provision concerning cases where members are re-employed and regulations 3(1) and 4 are subject to that Schedule.

Counting old membership of existing members under 2002 Regulations

Entitlement of active members to count old membership

6. Any person who continues as an active member of the Scheme on the commencement date by virtue of regulation 3 may count for regulation 8(1)(d) of the 2002 Regulations the same length of membership as the total period he was entitled to count under the old provisions immediately before that date (but see regulations 8 to 11 and Schedule 2).

Entitlement of re-employed members to count old membership

7.—(1) Any member to whom regulation 3 does not apply who becomes an active member again on or after the commencement date may count for regulation 8(1)(d) of the 2002 Regulations the same length of membership as he would have been entitled to count for that regulation if regulation 6 had applied to him (but see Schedule 2).

(2) Where paragraph (1) applies to a member who is entitled to count a period of membership under regulation B13(1)(a) of the 2000 Regulations by virtue of regulation 9(5)(c) of these Regulations, for paragraph (1) the member shall be deemed to have been entitled to count that period immediately before the commencement date.

Membership before 1st April 1972

8.—(1) If immediately before the commencement date a member–

(a) was entitled to count a period of membership before 1st April 1972; and

(b) had not, being eligible to do so, made a relevant election; or

(c) having made such an election ceased to make payments under it,

for regulation 6 that period of membership or, as the case may be, the unpaid part of it must be reduced to 89 per cent. of its length.

(2) Paragraph (1) only applies to a female member if she duly elected under regulation E12(1)(b) or (2)(b) of the 1992 Regulations (election by wife of dependent and permanently incapacitated husband).

(3) A relevant election is an election wholly or partly in respect of membership before 1st April 1972, made or having effect as if made under regulation C13 of the 2000 Regulations or made under regulation C9 of the 1992 Regulations (payments to avoid reduction of retirement grant and death grant).

(4) Where a member to whom paragraph (1) would have applied if he had been married immediately before the commencement date marries on or after that date while he is an active member and before he becomes entitled to benefits under the Scheme, paragraph (1) shall apply to him as if he had been married immediately before that date.

(5) Despite anything in these Regulations, a relevant election under which payments were being made immediately before the commencement date shall continue to have effect on and after that date to the extent that it relates to a period of membership before 1st April 1972 (subject to the continuation of payments under it at the same rate as they were made before the commencement date) whether or not immediately before the commencement date the election also related to a later period.

(6) But if a member to whom paragraph (1) would have applied apart from his continuing to make payments under a relevant election until the commencement date ("a continuing member"), fails after that date to complete the payments due under that election in respect of membership before 1st April 1972 (otherwise than by virtue of his death or his becoming entitled to a retirement pension under regulation 29 of the 2002 Regulations), paragraph (1) shall apply to him as if he had so ceased before the commencement date.

(7) If a continuing member–

(a) completes the payments due under the election in respect that membership; or

(b) fails to complete them by virtue of his death or his becoming entitled to a retirement pension under regulation 29 of the 2002 Regulations,

for regulation 8(1)(d) of those Regulations he may count the full period of membership in relation to which he made the election.

(8) For paragraph (1) the unpaid part of the period is the part of it in respect of which payments (including payments by instalments of a lump sum) have not been made.

(9) Where paragraph (1) applies by virtue of paragraph (6) any payments made on or after the commencement date must be taken into account for paragraph (8).

Rights under old provisions affecting membership periods (extra payments, absences etc.)

9.—(1) Any notice given or having effect as if given or deemed to have been given under–

(a) regulation C5(3) or (4) of the 2000 Regulations (payments in respect of leave of absence);

(b) regulation C6(5) of those Regulations (payments in respect of maternity absence);

(c) regulation C7(2) of those Regulations (payments in respect of absence owing to trade dispute); or

(d) regulation C9 of those Regulations (payments to increase membership),

by a member to whom regulation 3(1) applies shall cease to have effect (but see regulation 12).

(2) Where a member to whom paragraph (1) applies has made any payment under regulation C5(3) or, as the case may be, regulation C6(4), C7(2) or C9(2) of the 2000 Regulations in pursuance of the notice, the Committee must calculate the period as respects which payment has been made.

(3) The Committee must notify the member of that period as soon as practicable after the commencement date.

(4) The period the member may count for regulation 8(1)(d) of the 2002 Regulations includes the period calculated under paragraph (2).

(5) Nothing in these Regulations affects–

(a) any right of any person who has ceased to be employed before the commencement date to give a notice under regulation C5(3) or C6(5) of the 2000 Regulations not later than 30 days after he ceased to be employed;

(b) any right of any person who has ceased to be employed before the commencement date (or his personal representatives) to give a notice under paragraph (2) of regulation C7 of the 2000 Regulations within the period mentioned in paragraph (4) of that regulation; or

(c) if such a person as is specified in sub-paragraph (a) or (b) makes a payment in pursuance of the notice, his right to count the period as respects which the payment is made under regulation B13(1)(a) of the 2000 Regulations.

(6) In the case of a notice served under regulation C7(2) of the 2000 Regulations where the member has died, references in this regulation to the member shall be taken where appropriate as references to the member's personal representatives.

Rights under Schedule C5 to the 2000 Regulations: counting of membership

10.—(1) Where any member to whom regulation 3(1) applies has any rights to make any payments which remain payable immediately before the commencement date by virtue of paragraph 1(3) of Schedule C5 to the 2000 Regulations–

(a) those rights shall cease (but see regulation 13);

(b) the Committee must calculate the period as respects which payment has been made and notify the member of that period as soon as practicable after the commencement date; and

(c) the period the member may count for regulation 8(1)(d) of the 2002 Regulations includes the period so calculated.

(2) The period mentioned in paragraph (1)(c) is such period as the Committee determines to be appropriate.