STATUTORY RULES OF NORTHERN IRELAND

1998 No. 337

LOCAL GOVERNMENT

Local Government (Superannuation) (Interchange) Regulations (Northern Ireland) 1998

Made - - - -	*28th September 1998*
Coming into operation	*16th November 1998*

The Department of the Environment in exercise of the powers conferred by Articles 9 and 14 of 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 such associations of local authorities as appeared to it to be concerned, the local authorities with whom consultation appeared to it to be desirable 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:

Part I

General

Citation, commencement and retrospection

1.—(1) These regulations may be cited as the Local Government (Superannuation) (Interchange) Regulations (Northern Ireland) 1998 and shall come into operation on 16th November 1998 and, except as provided in paragraphs (2) and (3), shall have effect from that date.

(2) Regulations 3, 4(*a*), (*f*) and (*g*), 5(1) and 6 to 23 shall have effect as from 6th April 1988.

(3) Regulations 25 and 26 shall have effect from 1st October 1989.

(4) Regulations 4(*b*), (*c*), (*d*) and (*e*) and 5(2) shall have effect as from 28th February 1991.

Interpretation

2.—(1) In these regulations "the principal Regulations" means the Local Government (Superannuation) Regulations (Northern Ireland) 1992(**3**).

(**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)
(**3**) S.R. 1992 No. 547

(2) So far as is necessary for the purpose of these regulations, the principal Regulations shall be deemed to have effect from and including 6th April 1988.

Part II

Interchange Provisions

AVC Transfers

3. Regulation C11 of the principal Regulations is amended by adding the following paragraph—

"(3) Schedule 6 shall also apply in relation to receipt of a transfer value in respect of an additional voluntary contributions provision or an additional voluntary contributions scheme.".

Return of employee's contributions in certain cases

4. Regulation C15 of the principal Regulations is amended—

(a) by substituting for paragraph (1) the following paragraph—

"(1) This regulation applies to a person who—

(a) (i) ceases to be employed by a scheduled body, and

(ii) on so ceasing to be employed does not become entitled to a retirement pension;

or

(b) (i) ceases to be a pensionable employee by virtue of a notification under regulation B3, and

(ii) on so ceasing to be a pensionable employee has completed less than an aggregate of 2 years' reckonable service and qualifying service; and does not, within one month and one day thereafter become a pensionable employee with any scheduled body; or

(c) though not ceasing to be employed, ceases to be a pensionable employee.";

(b) by deleting paragraphs (4) and (5);

(c) in paragraph (7), by substituting for the words "paragraphs (3) and (4) do" the words "paragraph (3) does";

(d) in paragraph 10(*a*), by deleting the words " and not having given a notice under paragraph (4)";

(e) by deleting paragraph 10(*b*);

(f) by inserting after paragraph (10)(*d*) the following paragraph—

"or

(e) to a person in relation to whom a transfer value from the trustees or managers of a personal pension scheme or self-employed pension arrangement has been and remains credited to the fund.";

(g) in paragraph (11)—

by inserting after the words "one month and two days after the termination of the employment" the words "or, in the case of a person referred to in paragraph (1)(*b*), after the notification given under regulation B3.".

Entitlement to retirement pension and retiring allowance

5.—(1) Regulation E2(1) of the principal Regulations is amended—

(a) in sub-paragraph (*b*), by substituting for the word "and" after the words "2 years" the words "or regulation C15(10)(*e*) applies to him and in either case";

(b) by inserting after sub-paragraph (*c*)(ii) the following "(iii) regulation C15(10)(*e*) applies to him; or"

(2) Regulation E2(2)(*a*) is amended by deleting the words "or he is entitled under paragraph (1)(*c*) but makes an election under regulation C15(4).".

Ill-health retirement grant

6. Regulation E4(1) of the principal Regulations is amended by adding after sub-paragraph (*e*) the following—

"; and

(f) to whom regulation C15(10)(*e*) did not apply when he ceased to hold that employment.".

Entitlement to widow's short-term and long-term pensions

7. Regulation E5(1) of the principal Regulations is amended by inserting after sub-paragraph (*c*)(ii) the following—

"; or

(iii) a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the fund in relation to him,".

Entitlement to children's short-term and long-term pensions

8. Regulation E8(1) of the principal Regulations is amended by inserting after sub-paragraph (*c*) the following—

"; or

(d) was in a local government employment and a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been made and remains credited to the fund in relation to him,".

Children's special short-term pension

9. Regulation E10(1)(*a*) of the principal Regulations is amended by inserting after the words "2 years" the words "and regulation E8(1)(*d*) does not apply to him".

Death grant

10. Regulation E11 of the principal Regulations is amended—

(a) in paragraph (1), by adding after sub-paragraph (*e*) the following paragraphs—

"; or

(f) was in a local government employment and a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the fund in relation to him, but

was not a pensionable employee by virtue of a notification under regulation B3,";

(b) in paragraph (9), by substituting for the words "paragraph (1)(*d*) or (*e*)" the words "paragraph (1)(*d*), (*e*) or (*f*)";

(c) in paragraph (10), by substituting for the words "paragraph (1)(*a*), (*d*) or (*e*)" the words "paragraph (1)(*a*), (*d*), (*e*) or (*f*)".

Outward transfers

11. Regulation J2 of the principal Regulations is amended—

(a) by substituting for paragraphs (1) to (4) the following paragraphs—

"(1) Subject to paragraphs (6) and (7), where a person has ceased to be a pensionable employee by virtue of—

(a) his ceasing to be employed in local government employment, or

(b) a notification under regulation B3,

and the conditions in paragraph (2) are satisfied, the Committee shall, in relation to that person, pay a transfer value to be used in accordance with section 91 of the Act of 1993 at the person's option in one or more of the ways specified in section 91(2) of the Act of 1993.

(2) The conditions are that—

(a) he ceased to be a pensionable employee as described in paragraph (1) at least one year before he would have attained pensionable age, or, where the transfer value is to be paid to a superannuation scheme, before he would have attained pensionable age; and

(b) he is a person—

(i) who is entitled to reckon an aggregate of not less than 2 years' reckonable service and qualifying service, or

(ii) in relation to whom a transfer value from the trustees or managers of a personal pension scheme or a self-employed pension arrangement has been and remains credited to the fund, or

(iii) who after ceasing to be a pensionable employee as described in paragraph (1) has taken up non-local government employment in which he participates in a superannuation scheme and he has, within 12 months after taking up that employment, made an application, such as is mentioned in sub-paragraph (*c*), for a transfer value to be paid, or

(iv) who after ceasing to be a pensionable employee as described in paragraph (1) enters into a contract for a personal pension scheme or a self-employed pension arrangement or an appropriate policy and has, within 12 months of that contract, made an application, such as is mentioned in sub-paragraph (*c*), for a transfer value to be paid; and

(c) he has—

(i) if the request is for the transfer value to be paid to a superannuation scheme, before attaining pensionable age, or

(ii) in any other case, at least one year before he would have attained pensionable age or not later than 6 months after the date on which he ceased to be a pensionable employee, whichever is the later,

made an application in writing to the Committee for a transfer value to be paid, and has not subsequently withdrawn it in accordance with paragraph (10)(*a*); and

(d) in the case of a person who ceased to be employed in his local government employment before 31st March 1972, the Committee has consented to the payment of the transfer value.

(3) The Committee may in any particular case extend the period of 12 months referred to in paragraphs (2)(*b*)(iii) and (iv).";

(b) in paragraph (5), by substituting for the words "paragraph (3)(*d*)" the words "paragraph (2)(*d*)";

(c) in paragraph (6), by deleting sub-paragraphs (*c*) and (*f*);

(d) by adding after paragraph (7) the following paragraphs—

"(8) Subject to paragraph (9), the Committee shall, if it receives an application under paragraph (2)(*c*), pay a transfer value not later than—

(a) 12 months after the date on which it receives the application, or

(b) where the person in relation to whom the transfer value is paid—

(i) ceased to be a pensionable employee as described in paragraph (1) on a date at least one year before he would have attained pensionable age, and

(ii) made his application under paragraph (2)(*c*) not later than 6 months after that date, the date on which he attains pensionable age,

whichever is earlier.

(9) Where proceedings before a court have been commenced against a person at any time before the expiry of the period of 12 months beginning with the date on which he ceased to be a pensionable employee, and it appears to the Committee that the proceedings may lead to all or any part of the benefits payable under these regulations to or in respect of that person being forfeited under regulation M1, the date by which the Committee shall pay a transfer value in relation to that person shall be—

(a) the date by which it would be required to do so under paragraph (8), or

(b) the end of the period of 3 months after the conclusion of the court proceedings (including any proceedings on appeal),

whichever is the later.

(a) (10) A person who has made an application under paragraph (2)(*c*) may withdraw that application by giving notice in writing to the Committee, but such a notice will be of no effect if, before receiving it, the Committee has entered into an agreement with a third party to use the whole or part of that person's transfer value in one or more of the ways specified in section 91(2) of the Act of 1993.

(b) A person who withdraws an application may make another.

(11) Where a person is entitled to separate preserved benefits by virtue of regulation E2(8)(*c*) he may make an application under paragraph (2)(*c*) in respect of all or any of those separate entitlements and, where his application does not relate to all of them, he may make a further application in respect of all or any of the remainder.".