Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2014 No. 189

LOCAL GOVERNMENT

The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014

Made - - - -	*30th June 2014*
Coming into operation	*1st April 2015*

The Department of the Environment, makes these Regulations in exercise of the powers conferred by Articles 9 and 14 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 [F1], and now vested in it [F2].

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.

F1 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).
F2 S.R. & O (N.I.) 1973 No. 504 Article 7(1); S.I. 1976/424 (N.I. 6).

Citation, commencement, interpretation and retrospection

1.—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 and except as provided for in paragraph (2), shall come into operation on 1st April 2015.

(2) Paragraphs 15 and 16 of Schedule 4 shall have effect from 27th March 2014.

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

(4) In these Regulations, where an expression is used in relation to provisions in the 2000 Regulations, the 2002 Regulations, the Benefits Regulations, the Administration Regulations, the Transitional Regulations 2009, the 2009 Scheme or the 2014 Regulations, those expressions are to be construed in accordance with the meaning given to those expressions in the provisions referred to, unless the context indicates otherwise.

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Revocation of Regulations

2.—(1) Except where these Regulations provide otherwise, in particular Schedule 5 (transitional and transitory provisions and savings), the Regulations listed in Schedule 2 (regulations revoked) are revoked.

(2) Accordingly, no person may become a member of the 2009 Scheme after 31st March 2015 or accrue benefits under the 2009 Scheme in respect of any service after that date.

Membership before 1st April 2015

3.—(1) Notwithstanding the revocations effected by regulation 2 and subject to this regulation, the regulations listed in Schedule 2 continue to have effect so far as is necessary—

(a) so that membership accrued in the earlier Schemes in respect of service before 1st April 2015, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2015, are preserved; and

(b) so that benefits are payable in accordance with these Regulations.

(2) In paragraph 1(a) the expression "pension rights accrued" includes any right to any pension, lump sum, grant or other benefit due to or in respect of a member.

(3) The scheme manager responsible under regulation 2(2) (introductory) of the 2014 Regulations for the local administration of pensions and other benefits payable under those Regulations is also responsible for the administration of benefits pursuant to paragraph (1) of this regulation.

(4) Where a person has been an active member of the Scheme, and retirement benefits under paragraph (1) are payable to a member in accordance with regulation 10 (retirement benefits), the benefits paid from earlier Schemes and the Scheme are, for all purposes, to be regarded as constituting a single pension scheme.

(5) But a retirement pension and any retirement grant payable to a member under paragraph (4) is subject to actuarial adjustment if it would have been subject to actuarial adjustment under the 2009 Scheme, irrespective of whether retirement pension under the Scheme payable at the same time is subject to actuarial adjustment.

(6) Where a member who has not had a disqualifying break aggregates benefits from earlier Schemes with benefits from the Scheme, the benefits from the earlier Schemes are payable as final salary benefits **[**F3or in the case of councillor members, career average pay benefits**]** .

[F4(6A) Notwithstanding paragraph (1)(a), where deferred benefits are aggregated in accordance with paragraph (6), the normal pension age in relation to deferred benefits in respect of membership that ceased before 1st October 2006, is age 65.**]**

(7) A disqualifying break for the purposes of paragraph (6) is a continuous break in active membership of a public service pension scheme of more than five years.

(8) Where a person has not been an active member of the Scheme and has benefits under the earlier Schemes, or has been an active member of the Scheme and has benefits under the earlier Schemes which have not been aggregated with the benefits in the Scheme, the benefits payable as a consequence of paragraph (1) are payable in accordance with the earlier Schemes as applied by this regulation.

(9) Any pensionable pay received or contribution paid by a member on or after 1st April 2015 which relates to work carried out before that date shall be dealt with in accordance with the 2009 Scheme.

(10) Any increase in membership may be awarded to a member under regulation 12(4) (power of employing authority to increase total membership of active members) of the Benefits Regulations after 31st March 2015 if the member's relevant date for the purposes of that regulation is before 1st

April 2015 and that increase is in membership of the 2009 Scheme notwithstanding the fact that the award may occur after 31st March 2015.

(11) Where an employing authority grants an increase in membership under regulation 12A [F5] (duty of employing authority to increase total membership: enhanced protection) of the Benefits Regulations following a notice served by a member before 6th April 2010, that increase shall be an increase in membership of the 2009 Scheme notwithstanding the fact that the grant may occur after 31st March 2015.

(12) Any guidance issued by the Government Actuary in accordance with any provision in the former regulations is to be treated as actuarial guidance issued by the Department as defined in Schedule 1 to the 2014 Regulations and any reference to guidance issued by the Government Actuary in the former regulations is to be construed as a reference to actuarial guidance issued by the Department.

(13) Regulations 67 and 68 (abatement) of the Administration Regulations continue to have effect in relation to pensions in payment deriving from the earlier Schemes regardless of when payment of those pensions commenced.

(14) In these Regulations, where final pay is to be calculated in accordance with regulation 8 to 11 (calculation of final pay) of the Benefits Regulations if a certificate has been issued under regulation 24 (permanent reductions in pay: certificates of protection of pension benefits) of the 2002 Regulations, that certificate continues to have effect as if regulation 24 were still in operation.

[[F6](15) Where final pay is to be calculated for any qualifying members or newly qualifying members or the Agreement No. 2 qualifying member, in accordance with regulation 8(3) (final pay: general) of the Benefits Regulations, that calculation is completed as if regulations 10 (length of period of membership: calculation of benefit), 19 (calculations) and 22 (final pay) of the 2002 Regulations continue to have effect.

(16) In this Regulation—

"qualifying member" means a member who was party to the Agreement;

"newly qualifying member" means a member who is employed as a classroom assistant by a voluntary grammar school or a grant maintained integrated school within the meaning of the Education Reform (Northern Ireland) Order 1989;

"the Agreement" means the Collective Agreement for the Joint Negotiating Council of the Education and Library Boards dated 30th November 2007;

"the Agreement No. 2" means the Collective Agreement for the Joint Negotiating Council of the Education and Library Boards reached on 27th March 2015; and

"the Agreement No. 2 qualifying member" means a member who was party to the Agreement No. 2.**]**

F3 Words in reg. 3(6) inserted (1.4.2015) by The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2015 (S.R. 2015/162), regs. 1(2), **27**

F4 Reg. 3(6A) inserted (18.11.2019) by The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/206), regs. 1(1), **85**

F5 Regulation 12A was inserted by S.R. 2010 No. 410.

F6 Reg. 3(15)(16) inserted (with effect in accordance with reg. 2(b) of the amending Rule) by The Local Government Pension Scheme (Nursery Assistants) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/329), regs. 1, **12**

Statutory underpin

4.—(1) This regulation applies to a person who—

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(a) was an active member of the 2009 Scheme on the 31st March 2012 and who, on 1st April 2012, was 10 years or less from the normal retirement age applicable to that member under the 2009 Scheme;

(b) was an active member immediately before the underpin date and who receives payment of benefits under the Scheme on or after the underpin date;

(c) does not have a disqualifying break in service;

(d) has not, prior to the underpin date, drawn benefits under the 2014 Regulations in relation to that employment; and

(e) is not a councillor member.

(2) The underpin date for the purposes of this regulation is the earlier of—

(a) the date the member—

(i) attained the normal retirement age applicable to that member under the 2009 Scheme; or

(ii) died in service;

(b) the date the member ceased to be an active member **[**F7of**]** the Scheme with an immediate entitlement to a pension, including a member who may elect to receive immediate payment of a pension under regulation **[**F8 31(5)**]** (early retirement) of the 2014 Regulations and a member who with the employing authority's consent, elects to receive immediate payment under regulation **[**F9 31(6)**]** (flexible retirement) of 2014 Regulations.

(3) A disqualifying break in service for the purposes of paragraph (1)(c) is a continuous break, after 31st March 2012 of more than five years in active membership of a public service pension scheme.

(4) The active member's pension account is to be increased at the underpin date by the amount by which the underpin amount exceeds the assumed benefits on the underpin date.

(5) The assumed benefits are calculated by assessing the benefits the member would have been entitled to under the Scheme if—

(a) the member had paid contributions under regulation 11 (contributions) of the 2014 Regulations from 1st April 2015 to the underpin date, but excluding—

(i) any period when the member was not an active member;

(ii) any period of absence from work with no pensionable pay in consequence of a trade dispute which the member has not covered by additional pension under regulation 18 (additional pension) of the 2014 Regulations; and

(iii) any period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave which the member has not covered by additional pension under regulation 18 (additional pension) of the 2014 Regulations;

(b) the member had in the period between 1st April 2015 and the underpin date paid no additional contributions under—

(i) regulation 18 (additional pension contributions) of the 2014 Regulations, other than additional contributions paid under that regulation to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of absence from work with permission with no pensionable pay otherwise that because of illness or injury, child-related leave or reserve forces service leave; or

(ii) regulation 19 (additional voluntary contributions) of the 2014 Regulations;

(c) the member has not been awarded additional annual pension under regulation 32 (award of additional pension) of the 2014 Regulations during that period;

(d) the Scheme had received no transfer value payment in respect of the member relating to rights accrued under a registered pension scheme or European Pensions Institution;

(e) the revaluation adjustment [F10] made to the active member's account had been made up to and including the beginning of the Scheme year in which the member's underpin date fell; and

(f) the balance in the active member's pension at the member's underpin date had been adjusted on account of any pension debit or Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

(6) The underpin amount is calculated by assessing the benefits the member would have been entitled to under the 2009 Scheme if—

(a) the member had continued to accrue membership under the 2009 Scheme rather than benefits in the Scheme from 1st April 2015 to the underpin date;

(b) the period of membership taken into account for the purposes of sub-paragraph (a) were—

(i) the period during which the member has paid, or is treated as having paid contributions under regulations 11 (contributions) and 12 (temporary reduction in contributions) of the 2014 Regulations;

(ii) any period of unpaid absence due to industrial action, or absence from work with permission otherwise that because of illness or injury, child-related leave or reserve forces service leave, if that period was covered by additional pension purchased under regulation 18 (additional pension contributions) of the 2014 Regulations; and

(iii) where the member's assumed benefits include an adjustment under regulation 39 (calculation of ill-health pension amounts) of the 2014 Regulations, any additional period of membership that would have been added to the member's total membership under regulation 20 (early leavers: ill-health) of the Benefits Regulations had that regulation applied at the underpin date;

(c) the final pay was calculated in accordance with regulations 8 to 11 (calculation of final pay) of the Benefits Regulations, as if those Regulations were still in force at the underpin date; and

(d) the member's benefits at the member's underpin date had been adjusted on account of any pension debit or a Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

F7 Word in reg. 4(2)(b) substituted (1.4.2015) by The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2015 (S.R. 2015/162), regs. 1(2), **28(a)**

F8 Word in reg. 4(2)(b) substituted (1.4.2015) by The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2015 (S.R. 2015/162), regs. 1(2), **28(b)**

F9 Word in reg. 4(2)(b) substituted (1.4.2015) by The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2015 (S.R. 2015/162), regs. 1(2), **28(c)**

F10 S.R 2014 No. 188; Revaluation adjustment is defined in Schedule 1 (interpretation) of the Local Government Pension Scheme Regulations (Northern Ireland) 2014.

Membership of the Scheme

5.—(1) A person who is an active member of the 2009 Scheme in an employment immediately before 1st April 2015 becomes an active member of the Scheme on 1st April 2015 in that employment provided the person is eligible for membership of the Scheme on that date.