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STATUTORY RULES OF NORTHERN IRELAND

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**2014 No. 188**

**LOCAL GOVERNMENT**

**The Local Government Pension Scheme  
Regulations (Northern Ireland) 2014**

*Made* - - - - - *27th June 2014*

*Coming into operation* *1st April 2015*

The Department of the Environment makes these Regulations 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).

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**

**MEMBERSHIP, CONTRIBUTIONS AND BENEFITS**

**PRELIMINARY PROVISIONS**

**Citation and commencement**

**1.** (1) These Regulations may be cited as the Local Government Pension Scheme Regulations (Northern Ireland) 2014 and, save as is mentioned in paragraph (2), shall come into operation on 1st April 2015.

(2) Regulation 2(3) (introduction and interpretation, actuarial guidance) shall come into operation on 1st September 2014 for the purpose of enabling the Department to issue actuarial guidance.

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(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).

## Introduction and interpretation

2. (1) These Regulations establish a scheme for the payment of pensions and other benefits to or in respect of persons working in local government employment, and in these Regulations is referred to as “the Scheme”.

(2) The Scheme manager responsible for the administration of pensions and other benefits payable under these Regulations, is the Northern Ireland Local Government Officers’ Superannuation Committee, and in these Regulations is referred to as “the Committee”.

(3) The Department may, after consultation with the Government Actuary’s Department, issue actuarial guidance to the Committee.

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

## MEMBERSHIP

### Active membership

3. (1) Subject to regulation 6 (restriction on eligibility for active membership), a person is eligible to be an active member of the Scheme in an employment, if—

- (a) employed by an employing authority; or
- (b) employed by an admission body within the meaning of paragraph 116 of Part 1 (admission bodies) of Schedule 2 (admission agreements with admission bodies) and is designated in the admission agreement, or belongs to a class of employees that is designated in the admission agreement by the admission body as being eligible for membership of the Scheme.

(2) Subject to paragraph (3), a person eligible to be an active member of the Scheme in an employment becomes an active member on the day that person’s employment begins or (if later) the day the person becomes eligible for membership.

(3) A person who would, apart from this paragraph, be an active member of the Scheme by virtue of paragraph (2) who is employed under a contract of employment of less than three months does not become an active member on the day specified in paragraph (2) but becomes an active member—

- (a) on the member’s automatic enrolment date;
- (b) if the person applies to become a member, on the first day of the first payment period following the application; or
- (c) on the first day of the payment period following an extension to the contract of employment which means that the contract of employment is to be for three months or more;

whichever is the earlier.

(4) A person who is eligible to be an active member of the Scheme in an employment, but who is not an active member of the Scheme in that employment—

- (a) may apply in writing to the person’s employing authority to join the Scheme, and becomes an active member of the Scheme in that employment on the first day of the payment period following the application; but in any event,
- (b) becomes an active member of the Scheme in an employment on the automatic enrolment date or automatic re-enrolment date relating to that employment.

(5) Subject to paragraph (6) and regulation 7(5) (ending active membership, person whose membership is less than three months treated as never having been a member), an active member has qualifying service for a period of two years if—

- (a) that member has spent two years as an active member of the Scheme;

- (b) a transfer value payment has been received in respect of rights accrued in a different occupational pension scheme or under a European Pensions Institution and the length of service in respect of which that person accrued benefits in that scheme was two or more years;
  - (c) the aggregate of the period the person has spent as an active member of the Scheme and of a different occupational pension scheme or European Pensions Institution in respect of which a transfer value payment has been accepted, is two years;
  - (d) a transfer value payment has been received in respect of rights accrued in a scheme or arrangement that does not permit a refund of contributions to the member;
  - (e) the member has paid National Insurance contributions whilst an active member of the Scheme and ceases active membership after the end of the tax year preceding that in which the member attains pensionable age;
  - (f) the member already holds a deferred benefit or is in receipt of a pension (other than a survivor's pension or pension credit member's pension) under these Regulations;
  - (g) a transfer value payment has been made to a qualifying recognised overseas pension scheme; or
  - (h) the member ceases active membership at age 75.
- (6) The following periods do not count as periods of qualifying service for the purposes of these Regulations—
- (a) any period for which contributions have been returned to the member;
  - (b) any period of membership derived from a non-contributory pension scheme or arrangement from which a transfer value payment has been received and which is attached to the membership in respect of which contributions have been returned under regulation 20 (rights to return of contributions);
  - (c) any period in respect of which rights have been transferred to another registered pension scheme other than a qualifying recognised overseas pension scheme;
  - (d) any period in respect of which the member has been deprived of benefits under regulation 102 (forfeiture of pension rights after conviction for employment-related offences).

#### **Eligibility of councillors**

4. These Regulations apply to councillor members in respect of their councillor membership as they apply to active members with the modifications set out in Schedule 4.

#### **Employees of admission bodies**

5. (1) The Committee may make an admission agreement with any admission body.
- (2) Any such admission agreement with an admission body shall make provision for the relevant matters set out in Part 2 (admission agreements) of Schedule 2 (admission agreements with admission bodies).
- (3) 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 an employing authority.

#### **Restriction on eligibility for active membership**

6. (1) If a person's employment entitles that person to belong to another public service pension scheme, or would so entitle that person were it not for the person's age, that employment does not

entitle that person to be a member, unless that other scheme was made under Article 9 of the 1972 Order.

(2) An employee of an employing authority may not be a member of the Scheme if that employee is a member of another occupational pension scheme in relation to that employment.

(3) A person shall not become a member of the Scheme after the day before that person's 75th birthday.

(4) Retained or volunteer membership with a fire and rescue authority (within the meaning given to that term by Article 3 of the Fire and Rescue Services (Northern Ireland) Order 2006(3)) on terms under which the retained or voluntary member is or may be required to engage in fire-fighting does not entitle the retained or voluntary member to be a member of the Scheme.

(5) Any person who, as a member of staff of the University of Ulster, is eligible to participate in the Universities' Superannuation Scheme is not entitled to be a member of the Scheme.

(6) Paragraph (1) does not apply to a member on reserve forces service leave who is entitled to be a member of the Armed Forces Pension Scheme, if that member makes an election to that member's employing authority to remain a member of the Scheme.

### **Ending active membership**

7. (1) A person ceases to be an active member in an employment if that person ceases to be eligible for membership of the Scheme through that employment, and membership in that employment ceases from the date that eligibility ceases.

(2) A person ceases to be an active member in an employment from the date specified in a written notice that the person wishes to leave the Scheme, given by that person to that person's employing authority.

(3) But an active member who gives notice under paragraph (2) specifying no date, or a date earlier than the date the notice is given, or a date prior to the end of a payment period for which the payroll has already closed, ceases to be an active member in that employment at the end of the payment period during which the notice is given.

(4) A person ceases to be an active member when that person attains the age of 75.

(5) A person who, by virtue of a written notice given under paragraph (2), ceases to be an active member of the Scheme before being an active member of the Scheme for three months is to be treated as not having been an active member, except where the employment is one in which the member is working reduced hours or is employed on a reduced grade following an election under regulation 31(6) (retirement benefits, flexible retirement pensions).

### **Deferred members**

8. (1) A person is a deferred member of the Scheme, in relation to an employment, if—

- (a) the person has qualifying service for a period of at least two years;
- (b) the person is no longer an active member of the Scheme in relation to that employment;
- (c) the person has not started to receive any pension under the Scheme in relation to that employment; and
- (d) the person has not reached the age of 75.

(2) A person may be a deferred member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member, in the same or a different category of membership, in relation to a different period of membership.

### **Pensioner members**

9. (1) A person is a pensioner member of the Scheme if that person—

- (a) was an active member of the Scheme;
- (b) was a deferred member of the Scheme; or
- (c) was a pension credit member of the Scheme,

and is in receipt of a benefit from the Scheme relating to that membership.

(2) A person may be a pensioner member of the Scheme in relation to one period of membership notwithstanding the fact that the same person is a member, in the same or a different category of membership, in relation to a different period of membership.

### **Pension credit members and survivor members**

10. (1) A person is a pension credit member of the Scheme if that person has been given a pension credit in the Scheme as a consequence of a pension debit in relation to a member of the Scheme.

(2) A person is a survivor member of the Scheme if that person is entitled to a benefit under regulations 41, 43 to 45, 47 to 50 or 52 to 55 (survivor benefits).

## **CONTRIBUTIONS**

### **Contributions**

11. (1) Subject to regulation 12 (temporary reduction in contributions), an active member shall pay contributions to the Scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment, for each employment in which the member is an active member (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement date of that membership).

(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate (specified in the third column) applicable to the band of pensionable pay (specified in the second column) into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

**Table 1**

<i>Band</i>	<i>Pensionable pay range for an employment</i>	<i>Contribution rate for that employment</i>
1	£0 - £14,000	5.5%
2	£14,001 to £21,300	5.8%
3	£21,301 to £35,600	6.5%
4	£35,601 to £43,000	6.8%
5	£43,001 to £85,000	8.5%
6	More than £85,000	10.5%

(3) Where there is a change in employment, or a material change to the terms and conditions of a member's employment, which affects the member's pensionable pay in the course of a financial year, the employing authority may determine that a contribution rate reflecting the different pay

range should be applied and the employing authority shall inform the member of the contribution rate applicable and the date from which it is to be applied.

(4) On the first day of the pay period in which 1st April 2016 falls, and on the first day of the pay period in which each subsequent 1st April falls, the figures in the second column of the table in paragraph (2) are increased by applying the appropriate increase, rounding the result down to the nearest £100 and adding £1 to the first figure in each band apart from band 1.

(5) In paragraph (4) “the appropriate increase” means the amount (where it is greater than zero) by which the figures would be increased with effect from the first Monday falling on or after 6th April of the relevant year if they were pensions beginning on 1st April 2015 to which the 1971 Act applied.

(6) For the purposes of identifying which is the applicable contribution rate under this regulation or regulation 12 (temporary reduction in contributions) any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave; or
- (g) absence due to a trade dispute.

### **Temporary reduction in contributions**

**12.** (1) An active member may elect to pay reduced contributions in an employment for a period by giving written notice to that active member’s employing authority that the active member wishes to do so.

(2) Where a notice is given under paragraph (1), from the next available payment period following the giving of the notice, the contribution rate payable by the active member on that active member’s pensionable pay in relation to that employment is 50% of that which would otherwise be payable under regulation 11 (contributions).

(3) An active member may cancel the election under paragraph (1) at any time by giving written notice to that active member’s employing authority to this effect.

(4) Where a notice is given under paragraph (3), the contribution rate payable on the active member’s pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from the next available payment period following the giving of the notice.

(5) An active member’s election under paragraph (1) is cancelled from the first available pay period after—

- (a) the automatic re-enrolment date; and
- (b) going on to no pay as a result of sickness or injury provided that the active member is still on no pay at the beginning of that pay period,

and the contribution rate payable on the active member’s pensionable pay in relation to that employment is as provided by regulation 11 (contributions) from that date.

(6) An active member may make a further election under paragraph (1) at any time when that active member is liable to make contributions as is provided by regulation 11 (contributions).

(7) The employing authority of any active member who elects to pay reduced contributions under paragraph (1) shall give that active member information about the effect on that active member’s likely benefits consequent to that election.

### **Contributions during absence from work**

13. (1) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work on child-related leave in accordance with regulation 14 (contributions during child-related leave).

(2) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence on reserve forces service leave in accordance with regulation 15 (contributions during reserve forces service leave).

(3) An active member shall pay contributions under regulation 11 (contributions) or regulation 12 (temporary reduction in contributions) during an absence from work because of illness or injury in accordance with regulation 16 (contributions during absence for illness or injury).

(4) A person remains an active member of the Scheme during any absence from work—

- (a) of the description mentioned in paragraphs (1) to (3);
- (b) due to a trade dispute; or
- (c) with permission from the member's employing authority;

and if in receipt of pay, continues to accrue earned pension in accordance with regulation 25(4) or (5) (active member's pension accounts).

### **Contributions during child-related leave**

14. (1) An active member on child-related leave shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received (including statutory pay).

(2) The pay in paragraph (1) does not include any amount that reduces the active member's actual pensionable pay on account of possible entitlement to statutory pay.

(3) If an active member is on ordinary maternity leave, paternity leave or ordinary adoption leave and is not entitled to receive pensionable pay (including statutory pay) for any of that period, that active member is treated for the purposes of these Regulations as if that active member had paid contributions for that unpaid period under paragraphs (1) and (2).

### **Contributions during reserve forces service leave**

15. (1) An active member on reserve forces service leave shall pay contributions in accordance with regulation 11 (contributions) or regulation 12 (temporary reduction in contributions).

(2) The contributions under paragraph (1) are payable on the active member's assumed pensionable pay calculated under regulation 23 (assumed pensionable pay).

### **Contributions during absence for illness or injury**

16. (1) An active member away from employment by reason of illness or injury shall pay contributions in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) on any pensionable pay received, including statutory pay but that pay does not include any amount that reduces the active member's actual pensionable pay on account of possible entitlement to statutory pay.

(2) If an active member is absent from employment by reason of illness or injury and is not entitled to receive pensionable pay (including statutory pay) for any period, that active member—

- (a) is treated for the purposes of these Regulations as if that active member had paid contributions for that period under paragraph (1); and

- (b) if that active member has an arrangement under regulation 18 (additional pension contributions) which was entered into prior to the commencement of the period of absence, that active member is treated for the purposes of these Regulations as if that active member had paid contributions under regulation 18.

### **Employing authority contributions during absences**

17. (1) An employing authority shall, in respect of an active member on child-related leave, pay contributions in accordance with regulation 73(4) (contributing body's contributions) on the assumed pensionable pay of that member.

(2) An employing authority shall pay contributions in accordance with regulation 73(4) where an active member is absent from employment by reason of illness or injury.

(3) When an active member goes on reserve forces service leave—

- (a) the employing authority shall give the following information in writing to the member—
  - (i) the assumed pensionable pay on which the member is liable to pay contributions in accordance with regulation 11 (contributions) or 12 (temporary reduction in contributions),
  - (ii) details of any pensionable pay being paid by the employing authority to the member during the absence,
  - (iii) the rate of the employer's contribution, being the common rate of the employer's contribution as adjusted by the individual adjustment of that employer's contribution, as specified for the time being in the employing authority's current rates and adjustment certificate, and
  - (iv) details of the Committee;
- (b) employer contributions at the rate of the employer's contribution specified in the employing authority's rates and adjustment certificate are payable to the Committee on the member's assumed pensionable pay less any pensionable pay being paid to the member during the absence.

(4) Where an active member—

- (a) on reserve forces service leave;
- (b) on child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the member receives no pay;
- (c) absent from work due to illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; or
- (d) absent from work with permission from the member's employing authority,

has an arrangement under regulation 18 (additional pension contributions) the employing authority's contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) shall remain payable if that regulation applies; or has a SCAVC arrangement under regulation 19 (additional voluntary contributions) the employing authority's contributions to that SCAVC shall continue to be paid.

(5) Subject to paragraph (6), if an active member who is absent from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave, elects to enter into an arrangement to pay additional contributions under regulation 18 (additional pension contributions), the member's employing authority shall pay contributions under regulations 18(2)(e) or 18(4)(d) (additional pension contributions, shared cost) to meet two-thirds of the cost of the arrangement.

(6) The amount that an employing authority can be required to pay under paragraph (5) may not exceed the cost of an arrangement which would give rise to additional pension accrual equivalent to that which a member would have accrued if treated as receiving assumed pensionable pay for the period of absence from work up to a maximum period of thirty-six months.

(7) In paragraphs (4)(d) and (5) the expression “absent from work with permission” does not include an absence due to a trade dispute.

### **Additional pension contributions**

**18.** (1) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay additional pension contributions (“APCs”) by regular contributions in accordance with paragraph (2), and a member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work), unless the Committee determines in any particular case that it would not be practical to allow APCs to be paid by regular contributions.

(2) Where APCs are to be paid by regular contributions, the arrangements mentioned in paragraph (1)—

- (a) shall, when entered into, be for a complete year or number of years with a minimum period of one year;
- (b) shall specify the amount of extra contribution to be paid each Scheme year;
- (c) shall, where the active member has more than one active member’s pension account, specify which account the APC is to be attached to;
- (d) shall specify the amount of additional pension to be credited to the active member’s pension account at the end of the scheme year; and
- (e) may be funded in whole or in part by the member’s employing authority.

(3) Subject to paragraph (15), an active member who is paying contributions under regulation 11 (contributions) may enter into arrangements to pay APCs by lump sum contribution in accordance with paragraph (4), and an active member who is paying contributions under regulation 12 (temporary reduction in contributions) may do so if the arrangement is to cover a period of absence of the description in regulation 13(4)(b) or 13(4)(c) (contributions during absence from work).

(4) Where APCs are to be paid by a lump sum contribution, the arrangements mentioned in paragraph (3)—

- (a) shall specify the amount of extra contribution to be paid;
- (b) shall, where the active member has more than one active member’s pension account, specify which account the APC is to be attached to;
- (c) shall specify the amount of additional pension to be credited to the active member’s pension account at the end of the scheme year; and
- (d) may be funded in whole or in part by the active member’s employing authority.

(5) The amount of additional annual pension that is to be credited to the active member’s pension accounts pursuant to arrangements under this regulation shall not exceed the additional pension limit.

(6) The additional pension limit is £6,500 from 1st April 2015 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2014 to which the 1971 Act applied.

(7) The amount of the contributions to be paid in respect of arrangements under this regulation is to be determined in accordance with actuarial guidance issued by the Department based on—

- (a) the age of the active member at the time the arrangements commence; and

(b) the gender of the active member.

(8) Actuarial guidance issued by the Department under paragraph (7) may be revised at any time and if so, from the 1st April following any such revision, any contributions payable are to be based on the revised actuarial guidance.

(9) An application by an active member to make arrangements under this regulation shall—

- (a) be made in writing to the Committee, and a copy sent to the active member's employing authority if that active member is not employed by the Committee; and
- (b) where those arrangements are under paragraph (1), state the length of the period, in whole years ending before the active member's normal pension age, over which the active member wishes to pay additional pension contributions.

(10) The Committee may require an active member to produce a report by a registered medical practitioner of the results of a medical examination, undertaken at the active member's own expense, and may refuse an application to make arrangements under paragraphs (1) to (4) if it is not satisfied that the active member is in reasonably good health.

(11) Arrangements made under paragraph (1) continue until any of the following occurs—

- (a) the period entered into has expired;
- (b) they are terminated by the active member giving one month's written notice to the Committee;
- (c) the member begins to pay reduced contributions under regulation 12 (temporary reduction in contributions) unless the arrangement was to cover a period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work);
- (d) the member ceases to be an active member of the Scheme;
- (e) the member draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions);
- (f) the member leaves the employment; or
- (g) the active member dies.

(12) If arrangements entered into under paragraph (1) terminate for any reason and new arrangements are entered into under that paragraph, the amount of contributions payable is determined under paragraph (7) in accordance with the age of the member at the date the new arrangements are entered into and the actuarial guidance issued by the Department in force at that date.

(13) If additional contributions are paid in accordance with arrangements made under this regulation, and are not refunded under regulation 20 (rights to return of contributions), that member's active member's pension account shall be credited with the amount specified in those arrangements as additional pension at the end of the Scheme year in which the contributions are paid, or at the date the arrangements terminate, if earlier.

(14) If an active member who is paying APCs is granted ill-health retirement benefits in relation to the pension account to which the arrangements are attached, before the end of the period the arrangements made under paragraph (1) were due to cease ("the APC period"), that member is to be treated as having paid the contributions required from the date the active member is granted ill-health retirement benefits, up to the end of the APC period and the additional pension bought by those contributions is to be included in the active member's pension account for the year of leaving.

(15) If an active member fails to pay all the additional contributions due under arrangements made under paragraph (1), and paragraph (14) does not apply to that member, that member's active member's pension account shall be credited, in the scheme year when the contributions ceased, with additional pension of an amount to reflect the pension acquired in that year calculated in accordance with actuarial guidance issued by the Department.

(16) Where an arrangement is one to which regulation 17(5) (employing authority contributions during absences) applies, application by an active member to make the arrangements under this regulation shall be made before the expiry of a period of thirty days beginning with the day on which the active member returns to work.

(17) Where an active member to whom regulation 13(4) (contributions during absence from work) applies has an arrangement under this regulation which was entered into prior to the commencement of the period of absence, the APCs under that arrangement—

- (a) shall be paid by the active member during any period of child-related leave, which for this regulation includes any period of additional maternity leave, additional adoption leave, or additional paternity leave during which the active member receives no pensionable pay;
- (b) shall be paid by the active member during any period of reserve forces service leave where regulation 15(1) (contributions during reserve forces service leave) applies;
- (c) shall be paid by the active member during any period of absence for illness or injury where regulation 16(1) (contributions during absence for illness or injury) applies; and
- (d) shall be paid by the active member during any period of absence of the description in regulations 13(4)(b) or 13(4)(c) (contributions during absence from work).

#### **Additional voluntary contributions**

19. (1) An active member may enter into arrangements to pay additional voluntary contributions (“AVCs”) or to contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”) in respect of an employment.

(2) The arrangements mentioned in paragraph (1) shall be a scheme established under an agreement between the Committee and a body approved for the purposes under the 2004 Finance Act (“the AVC provider”), registered in accordance with the 2004 Finance Act and administered in accordance with the 2004 Finance Act, the 2004 Pensions Act and the Pensions (Northern Ireland) Order 2005(4).

(3) Where an active member wishes to make contributions to an arrangement under paragraph (1) that active member, or the AVC provider authorised by the active member to act on that active member’s behalf, shall specify in a written notice given both to the Committee and the active member’s employing authority, if the active member is not employed by the Committee—

- (a) the percentage of pensionable pay or the amount that the member wishes to contribute from pensionable pay in respect of an employment in each pay period (but see paragraph (4)); and
- (b) whether any of the contributions are to be used to provide life assurance benefits payable upon death in service as an active member and, if so, the proportion or amount to be so used.

(4) Where a member is paying AVCs for life assurance and where the pensionable pay in a pay period, net of any deductions made by the employing authority, is less than the AVC due, the member may pay the contribution due by way of a payment directly to the AVC provider or to the employing authority for onward transmission to that body in order to ensure that the life assurance cover continues.

(5) A member may vary the amount specified in, or cease contributing to, an arrangement by service of a further written notice given to the member’s employing authority and the Committee by the member or by the AVC provider authorised by that member to act on that member’s behalf.

(6) For the purposes of regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014(5) the retirement date used for the

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(4) S.I. 2005/255 (N.I. 1).

(5) S.R. 2014 No. 79

purposes of Schedule 6 to those regulations is, where no acceptable date has been specified for that purpose by the member, normal pension age or, if the member has already attained normal pension age, age 75.

(7) If a member draws benefits under regulation 31(1), (2), (4), (5), (7), (10), (11), (12) (retirement benefits) or regulation 36 (early payment of retirement pension on ill-health grounds: active members) or, if a member who draws benefits under regulation 31(6) (retirement benefits, flexible retirement pensions) makes an election to draw the realisable value in the AVC arrangement at the same time, that member shall notify the Committee in writing that the realisable value, under arrangements made under this regulation,—

- (a) is to be taken in full or in part by the member as a lump sum, and where only part is taken as a lump sum, the member shall specify the amount to be so taken; or
- (b) to the extent that the realisable value has not been taken as a lump sum, it is to be used—
  - (i) to purchase additional pension under the Scheme, the amount of which is to be determined by the Committee in accordance with actuarial guidance issued by the Department; or
  - (ii) to purchase an annuity from one or more insurance companies (within the meaning of section 275 of the 2004 Finance Act).

(8) Where a member chooses to take some or all of the benefits referred to in paragraph (7) in the form of a lump sum, that sum does not form part of the total amount referred to in regulation 34(2) (election for lump sum instead of pension).

(9) A person with an arrangement under paragraph (1) who becomes a deferred member of the Scheme is entitled to a deferred AVC account with the AVC provider.

(10) A member shall transfer the realisable value in a deferred AVC account to another registered pension scheme or qualified recognised overseas pension scheme if making a transfer under regulation 108 (rights to payment out of pension fund).

(11) Where a member aggregates a deferred member's pension account or a deferred refund account with an active member's pension account, the realisable value in any deferred AVC account shall be transferred to an arrangement under this regulation and the member may make an election to make further payments to the arrangement.

(12) If—

- (a) an active member who is paying contributions to an AVC or SCAVC for the purpose of life assurance dies;
- (b) an active member who is paying contributions to an AVC or SCAVC other than for the purpose of life assurance dies;
- (c) a deferred member dies and has a deferred AVC account attached to the deferred member's pension account;
- (d) a pension credit member, who has been awarded a share of a member's AVC account, dies before drawing benefits; or
- (e) a member who has made an election under paragraph (7)(b)(ii) dies before the annuity has been purchased,

the Committee shall decide that any life assurance sum due under sub-paragraph (a), and the realisable value of any arrangement under sub-paragraphs (b) to (e) should be paid to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.

(13) Where a member has attained the age of 75 at the date of death, any tax chargeable under section 206 of the 2004 Finance Act (special lump sum death benefits charge) is to be deducted from the payment due under paragraphs (12) or (14).

(14) If the total of payments due under paragraph (12) have not been paid before the expiry of two years beginning with the date of the member's death or, where the Committee did not know about the member's death within that period, beginning with the date on which the Committee could reasonably have been expected to have become aware of the member's death, an amount equal to the shortfall shall be paid to the member's personal representatives.

(15) Regulations 80 (first instance decisions - general) and 102 (forfeiture of pension rights after conviction for employment-related offences) do not apply in relation to an annuity purchased under paragraph (7)(b)(ii) and regulation 21(1)(b) (exclusion of rights to return of contributions) does not apply to any AVCs paid by the member.

### **Rights to return of contributions**

**20.** (1) If a person's qualifying service in the Scheme determined under regulation 3(5) (active membership) is for less than two years, that person is entitled, when that active membership ceases, to be repaid by the Committee—

- (a) any contributions paid under or in accordance with regulations 11 (contributions) or 12 (temporary reduction in contributions) in relation to that active membership;
- (b) any additional contributions paid by the person under regulation 18 (additional pension contributions) in relation to that active membership;
- (c) the realisable value of any AVC or SCAVCs paid by the person, or SCAVCs paid by the employing authority under a salary sacrifice scheme, under regulation 19 (additional voluntary contributions) in relation to that active membership (other than such contributions paid for life assurance cover or additional survivor benefits); and
- (d) any contributions included in a transfer value payment received from a registered pension scheme or from a pension scheme or arrangement of a European Pensions Institution that could have been refundable under that arrangement.

(2) Where a person is entitled to repayment under paragraph (1)(c), the realisable value of any SCAVC contributions paid by the employing authority are repayable to the employing authority (other than contributions specifically paid for additional life assurance cover, in respect of additional survivor benefits or paid by the employing authority under a salary sacrifice scheme).

(3) A person entitled to repayment under paragraph (1)(a), (b) or (d) is also entitled to interest on the sum due under those paragraphs if repayment is not made before the expiry of one year beginning with the date active membership ceased.

(4) Interest due under paragraph (3) is calculated at one per cent above base rate on a day to day basis from the date active membership ceased and compounded with three-monthly rests.

(5) The Committee shall refund contributions to a person entitled under paragraph (1) when the person requests payment, or on the expiry of a period of five years beginning with the date the person's active membership ceased if no request is made before then or, if the person attains age 75 before then, on the day before attaining age 75.

(6) If a person entitled to a repayment under paragraph (1) dies before the payment is made, the Committee shall pay the sum due to the person's estate.

(7) The Committee may deduct any tax due under the 2004 Finance Act or certified amount due under section 57 (deduction of contributions equivalent premium from refund of scheme contributions) of the 1993 Act from any repayment under paragraph (1) and where any such deduction is made shall ensure that the money withheld is used to discharge the tax liability or is included in the contributions equivalent premium liability due under section 51 (payment of state scheme premiums on termination of certified status) of the 1993 Act.

(8) This regulation is subject to regulation 21 (exclusion of rights to return of contributions).

### **Exclusion of rights to return of contributions**

**21.** (1) A person is not entitled to a return of contributions under regulation 20 (rights to return of contributions) if that person—

- (a) becomes an active member of the Scheme again within one month and one day of ceasing active membership in an employment, or before the date a return of contributions has been issued by the Committee, whichever is the later;
- (b) left the employment because of—
  - (i) an offence of a fraudulent character; or
  - (ii) grave misconduct,
 in connection with the employment;
- (c) benefits from a transfer value payment to another registered pension scheme or to a qualifying recognised overseas pension scheme;
- (d) continues as an active member in another employment held concurrently with the employment in which that person has ceased to be an active member; or
- (e) is an active member and dies in service.

(2) Where paragraph (1)(e) applies the employing authority may direct payment out of the pension fund of a sum equal to all or part of the member's contributions to the member, the member's spouse, civil partner, nominated co-habiting partner or any of the member's dependants.

### **Meaning of “pensionable pay”**

**22.** (1) Subject to regulation 23 (assumed pensionable pay), an employee's pensionable pay is the total of—

- (a) all the salary, wages, fees and other payments paid to the employee; and
  - (b) any benefit specified in the employee's contract of employment as being a pensionable emolument.
- (2) But an employee's pensionable pay does not include—
- (a) any sum which has not had income tax liability determined on it;
  - (b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
  - (c) any payment in consideration of loss of holidays;
  - (d) any payment in lieu of notice to terminate a contract of employment;
  - (e) any payment as an inducement not to terminate employment before the payment is made;
  - (f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
  - (g) any payment in consideration of loss of future pensionable payments or benefits;
  - (h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation of other employees; or
  - (i) any payment made by the employing authority to a member on reserve forces service leave.

### **Assumed pensionable pay**

**23.** (1) During the period the circumstances specified in paragraph (2) apply in relation to an employment, the pensionable pay that an active member is, in relation to that employment, treated as receiving for the purposes of these Regulations (including this regulation), other than regulations 11

to 16 (contributions), is that member's assumed pensionable pay calculated in accordance with paragraphs (4) and (5).

- (2) The circumstances are that the member—
  - (a) is on leave due to sickness or injury and is on reduced contractual pay or no pay;
  - (b) is on child-related leave; or
  - (c) is absent on reserve forces service leave.
- (3) Paragraph (2)(c) does not apply in respect of any period of employment which qualifies the member for benefits under any other occupational pension scheme in respect of that employment.
- (4) The annual rate of assumed pensionable pay for an employment for a scheme year is—
  - (a) where the member is paid monthly—
    - (i) the pensionable pay the member received relating to that employment in the three most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
    - (ii) less any lump sum received, during that period, that is not payable every pay period;
    - (iii) with the resulting sum being grossed up to an annual figure;
    - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(a)(i) should be added.
  - (b) where the member is paid otherwise than monthly—
    - (i) the pensionable pay the member received relating to that employment in the twelve most recent pay periods in which the member received pay preceding the commencement of the pay period in which the circumstance specified in paragraph (2) began or, for the purposes of regulations 39(2)(a) (calculation of ill-health pension amounts) and 40(3) (death grants: active members), the pay period in which, respectively, the ill-health retirement or death occurred;
    - (ii) less any lump sum received, during that period, that is not payable every pay period;
    - (iii) with the resulting sum being grossed up to an annual figure;
    - (iv) to which any regular lump sum payment received in the twelve months preceding the date specified in paragraph (4)(b)(i) should be added.
- (5) For the purposes of paragraph (4) a “regular lump sum” is a payment for which the member's employer determines there is an expectation that such a payment would be paid on a regular basis.
- (6) The assumed pensionable pay that a member is treated as receiving is adjusted by the revaluation adjustment on the first day of the second Scheme year which commenced after the first date on which the member is treated as receiving assumed pensionable pay.

## PENSION ACCOUNTS

### Pension accounts

24. (1) The Committee shall open and maintain one or more pension accounts for each member of the Scheme.
- (2) A separate pension account shall be opened in relation to each employment where a member is or was employed in two or more Scheme employments.
- (3) A pension account—

- (a) shall contain such matters as are required by these Regulations;
  - (b) shall identify which one of the following categories of pension account it is—
    - (i) an active member’s pension account;
    - (ii) a deferred member’s pension account;
    - (iii) a deferred refund account;
    - (iv) a retirement pension account;
    - (v) a flexible retirement pension account;
    - (vi) a pension credit account; or
    - (vii) a survivor member’s pension account,
 but subject to that,
  - (c) may be kept in any form that the Committee considers appropriate.
- (4) The Committee shall close a pension account if—
- (a) a transfer value payment is made in respect of the member if the effect of the transfer is that the member is no longer entitled to benefits from the account;
  - (b) a refund of contributions is paid under regulation 20 (rights to return of contributions);
  - (c) all the benefits in the account are forfeited under regulation 102 (forfeiture of pension rights after conviction for employment-related offences);
  - (d) the member dies;
  - (e) the last survivor entitled to a benefit from a survivor member’s pension account ceases to be entitled to a benefit from that survivor member’s pension account (by reason of death or upon ceasing to be an eligible child); or
  - (f) due to aggregation of the benefits in the pension account with a different pension account, it is no longer required.
- (5) Where a member with an active member’s pension account also has a deferred refund account, the benefits in the deferred account shall be aggregated with the active member’s pension account and the deferred refund account closed.
- (6) Where an active member with concurrent employments ceases an employment and does not have qualifying service for a period of two years, the active member’s pension account in respect of that employment shall be closed and the benefits in that active member’s pension account shall be aggregated with the ongoing active member’s pension account and, if there is more than one such account, the one chosen by the member.
- (7) Where an active member with concurrent employments ceases an employment with entitlement to a deferred pension, the benefits in the deferred member’s pension account shall be aggregated with those in the ongoing active member’s pension account and, if there is more than one such active member’s pension account, the one chosen by the member unless—
- (a) within twelve months of the date the concurrent employment ceased; or
  - (b) within such longer period as the employing authority in relation to the ongoing active member’s pension account permits,
- the member makes an election to the Committee to retain the deferred member’s pension account.
- (8) Where a deferred member again becomes an active member, the benefits in the deferred member’s pension account shall be aggregated with those in the active member’s pension account unless—
- (a) within twelve months of the active member’s pension account being opened; or

- (b) within such longer period as the employing authority in relation to that active member's pension account permits,

the member makes an election to the Committee to retain the deferred member's pension account.

(9) The member's choice of pension account under paragraphs (6) or (7) shall be made in writing, by the member to the Committee, within twelve months of the closure of the active member's pension account and, in the absence of an election from the member, the Committee may make the determination on the member's behalf.

(10) Where a deferred member's pension account or a deferred refund account is to be aggregated with an active member's pension account, and the gap between the member's last day of membership to which the deferred member's pension account or deferred refund account relates and the first day of active membership to which the active member's pension account relates does not exceed five years, the balance in the deferred member's pension account or deferred refund account shall be recalculated, before aggregation, as if the amount in that account had been increased by the revaluation adjustment and not the index rate adjustment.

#### **Active member's pension accounts**

**25.** (1) At the beginning of each Scheme year, an active member's pension account in relation to an employment shall specify the opening balance for that year.

(2) At the end of each Scheme year—

- (a) the balance mentioned in paragraph (1); plus
- (b) the amount of earned pension, if any, for the Scheme year; plus
- (c) the amount of any additional member pension acquired during the Scheme year pursuant to arrangements made under regulation 18(1) or (3) (additional pension contributions); plus or minus, as the case may be;
- (d) the sum resulting from any pension account adjustment during the Scheme year;

shall be aggregated and the revaluation adjustment for that Scheme year shall be applied at the beginning of the next Scheme year in accordance with actuarial guidance issued by the Department.

(3) The revalued balance calculated under paragraph (2) becomes the new opening balance for the following Scheme year.

(4) Except where regulation 12 (temporary reduction in contributions) applies, the amount of earned pension for a Scheme year is 1/49th of the member's pensionable pay received in that year (irrespective of whether it relates to work carried out in that year).

(5) Where regulation 12 (temporary reduction in contributions) applies, the amount of earned pension for a Scheme year is 1/98th of the member's pensionable pay received in that year while that regulation applies (irrespective of whether it relates to work carried out during that year).

(6) Other than to correct an error in a pension account, an adjustment to a pension account ("pension account adjustment") can only arise as a consequence of—

- (a) an award of additional pension under regulation 32 (award of additional pension);
- (b) a transfer value payment being made or received;
- (c) a pension debit being made;
- (d) a Scheme pays election;
- (e) a transfer into the member's pension account from a different account upon aggregation of those accounts; or
- (f) an adjustment of the description mentioned in regulation 105 (adjustment of accounts following forfeiture, etc.);

(7) If an active member's pension account is closed before the end of a Scheme year, any pension account adjustment applicable to that active member's pension account shall be made immediately before the date that account is closed, but no revaluation adjustment is to be made to that account for that Scheme year.

(8) If a member starts to draw benefits under regulation 31(6) (retirement benefits, flexible retirement pensions) any pension account adjustment applicable to the active member's pension account if appropriate, shall be made immediately before the date on which benefits start to be paid.

(9) Where—

- (a) a pension debit as is mentioned in paragraph (6)(c) is made, or
- (b) the joint liability amount specified in a notice given in relation to an election as mentioned in paragraph (6)(d) is met by the pension fund,

the Committee shall reduce the balance in the member's account to reflect the reduction in the value of the member's rights, calculated in accordance with actuarial guidance issued by the Department.

(10) Where pensionable pay relating to a period before a member ceased to be an active member is paid after the period of active membership has ended, it is to be treated as if it were received on the day before the active member's account was closed.

#### **Deferred member's pension account and deferred refund account**

**26.** (1) If a member ceases to be an active member and becomes a deferred member in relation to an employment—

- (a) the active member's pension account shall be closed; and
- (b) a deferred member's pension account shall be opened.

(2) The deferred member's pension account shall specify the opening balance in that account.

(3) On the day the deferred member's pension account is opened, the opening balance is the amount of pension the member has accrued.

(4) The amount of pension the member has accrued is—

- (a) the opening balance for the member's last active Scheme year; plus
- (b) the amount of earned pension, if any, from the first day of the member's last active Scheme year until the last day of active membership; plus
- (c) any additional pension acquired during that period pursuant to arrangements made under regulation 18(1) or (3) (additional pension contributions); plus or minus, as the case may be,
- (d) any pension account adjustment applicable during that period.

(5) Except where regulation 12 (temporary reduction in contributions) applied, the amount of earned pension for the period mentioned in paragraph (4)(b) is 1/49th of the pensionable pay received during that period (irrespective of whether it relates to work carried out in that period).

(6) Where regulation 12 (temporary reduction in contributions) applied to any of the period mentioned in paragraph (4)(b), the amount of earned pension is 1/98th of the member's pensionable pay received while that regulation applied (irrespective of whether it relates to work carried out in that period).

(7) The balance in the member's account at the end of the Scheme year in which the member becomes a deferred member is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became a deferred member, in accordance with actuarial guidance issued by the Department.

(8) The revalued balance calculated under paragraph (7) is the opening balance for the following Scheme year and thereafter, subject to paragraph (9), the balance in the account is adjusted each

year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(9) If a deferred member's pension account is closed before the end of a Scheme year, any pension account adjustment applicable to the pension account shall be made immediately before the date the pension account is closed.

(10) Other than to correct an error in a deferred member's pension account, the only pension account adjustment that can arise under this regulation is an adjustment as a consequence of a matter specified in regulation 25(6) (active member's pension accounts, adjustments).

(11) If a member ceases to be an active member without becoming entitled to any benefits because that member has less than two years qualifying service—

- (a) the active member's pension account shall be closed; and
- (b) a deferred refund account shall be opened.

(12) Paragraphs (3) to (10) of this regulation apply to deferred refund accounts as they apply to deferred member's pension accounts.

#### **Retirement pension accounts: active members**

27. (1) When an active member becomes entitled to immediate payment of a full retirement pension in relation to an employment—

- (a) the active member's pension account shall be closed; and
- (b) a retirement pension account shall be opened.

(2) The retirement pension account shall specify—

- (a) the amount of accrued pension;
- (b) the amount of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (c) the early payment reduction or deferred payment enhancement (if any) and the amount of pension to which that reduction or enhancement is to be applied;
- (d) the commutation amount (if any);
- (e) the amount of any pension adjustment; and
- (f) the amount of pension payable from time to time and the date from which it is to be paid.

(3) Subject to paragraph (4), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount that would have been specified under regulation 26(4) (deferred member's pension account and deferred refund account) if a deferred member's pension account had been opened for that member.

(4) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in paragraph (2)(d).

(5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax) or as a result of a pension sharing order.

(6) The balance in the member's retirement pension account at the end of the Scheme year in which the member becomes a pensioner member is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became a pensioner member, in accordance with actuarial guidance issued by the Department.

(7) The revalued balance calculated under paragraph (6) is the opening balance for the following Scheme year and, thereafter, the balance is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(8) For the purposes of this regulation a full retirement pension means a retirement pension other than a pension payable under regulation 31(6) (retirement benefits, flexible retirement pensions).

### **Retirement pension accounts: deferred members and pension credit members**

**28.** (1) When a deferred member becomes entitled to immediate payment of a retirement pension

- (a) the deferred member's pension account shall be closed; and
- (b) a retirement pension account shall be opened.

(2) The retirement pension account shall specify—

- (a) the amount of accrued pension;
- (b) the amount of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (c) the early payment reduction, or deferred payment enhancement (if any), and the amount of pension to which that reduction or enhancement applies;
- (d) the commutation amount (if any);
- (e) the amount of any pension adjustment; and
- (f) the amount of pension payable from time to time and the date from which it is to be paid.

(3) Subject to paragraph (4), the amount of accrued pension for the purposes of paragraph (2)(a) is the amount specified in that member's deferred member's pension account immediately before it was closed.

(4) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in paragraph (2)(d).

(5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for—

- (a) any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax); or
- (b) a pension sharing order.

(6) The balance in the member's retirement pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) This regulation applies in relation to pension credit members who become entitled to immediate payment of a retirement pension as it applies to deferred members with the following modifications—

- (a) all references to deferred members are to be read as references to pension credit members; and
- (b) the reference to accrued pension in paragraph (2)(a) is to be read as a reference to the amount of pension credit in the pension credit member's account.

### **Flexible retirement pension accounts**

**29.** (1) When an active member is entitled to immediate payment of a retirement pension under regulation 31(6) (retirement benefits, flexible retirement pensions) in relation to an employment—

- (a) a flexible retirement pension account shall be opened; and
- (b) the balance in the active member's pension account shall be reduced by the amount of accrued pension transferred into the member's flexible retirement pension account.

(2) The flexible retirement pension account shall specify—

- (a) the amount of accrued pension transferred from the active member's pension account;
- (b) the amount of any additional pension (if any) purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (c) the early payment reduction or deferred payment enhancement (if any) and the amount of pension to which that reduction or enhancement is to be applied;
- (d) the commutation amount (if any);
- (e) the amount of any pension adjustment; and
- (f) the amount of pension payable from time to time and the date from which it is to be paid.

(3) The amount of accrued pension specified in paragraph (2)(a) shall be reduced to take account of the commutation amount (if any) in (2)(d).

(4) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes of paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Department to account for an adjustment as a consequence of a matter specified in regulations 25(6) (active member's pension accounts) and 27(5) (retirement pension accounts: active members).

(5) The balance in the member's flexible retirement pension account at the end of the Scheme year in which the member became entitled to the immediate payment of a retirement pension under regulation 31(6) (retirement benefits, flexible retirement pensions), is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member became entitled to that retirement pension, in accordance with actuarial guidance issued by the Department.

(6) The revalued balance calculated under paragraph (5) is the opening balance for the following Scheme year and, thereafter, the balance in the account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

### **Pension credit accounts**

**30.** (1) When a person becomes a beneficiary of a pension sharing order, a pension credit account shall be opened.

(2) The pension credit account at the date it is opened shall be credited, from the member's pension account that is to be debited, with an amount in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Department.

(3) The amount credited under paragraph (2) is the opening balance for the following Scheme year and, thereafter, the balance in the pension credit account each year is adjusted by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(4) The amount in a pension credit account may be adjusted by amounts calculated in accordance with actuarial guidance issued by the Department as a result of a further pension sharing order.

(5) The pension credit account shall be debited by the amount calculated in accordance with actuarial guidance issued by the Department to account for any tax to which the Committee may become chargeable under the 2004 Finance Act in accordance with regulation 97 (tax).

## BENEFITS

### Retirement benefits

**31.** (1) Subject to paragraph (3) a member who attains normal pension age and is not an employee in local government employment is entitled to, and shall take, immediate payment of a retirement pension without reduction.

(2) A member to whom paragraph (1) applies and who has concurrent employments may draw a pension in relation to an employment so long as the member is not an employee in local government employment.

(3) A member to whom paragraph (1) applies may elect to defer payment of a retirement pension to a date after that member's normal pension age up to the date when that member attains the age of 75.

(4) A member who starts to receive payment of a retirement pension from a date after that member's normal pension age is entitled to enhancement of the pension by the amount shown as appropriate in actuarial guidance issued by the Department.

(5) A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government employment in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Department.

(6) An active member who has attained the age of 55 or over who reduces working hours or grade of an employment may, with the employing authority's consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in local government employment on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Department.

(7) Where an active member who has attained the age of 55 or over is dismissed from an employment by reason of redundancy or business efficiency, or whose employment is terminated by mutual consent on grounds of business efficiency, that member is entitled to, and shall take immediate payment of—

- (a) retirement pension relating to that employment payable under regulation 18 (additional pension contributions), adjusted by the amount shown as appropriate in actuarial guidance issued by the Department; and
- (b) any other retirement pension relating to that employment payable under these Regulations, without reduction.

(8) An employing authority, former employer which is an employing authority or, where a member's employer or former employer has ceased to be an employing authority, the Committee, may agree to waive in whole or in part any reduction that would, apart from this paragraph, be required by paragraphs (5) or (6).

(9) In paragraphs (1) to (7) of this regulation the expression "member" means a member with qualifying service for a period of two years and does not include a pension credit member.

(10) Subject to paragraph (11), a pension credit member who attains normal pension age is entitled to, and shall take, immediate payment of a retirement pension deriving from the pension credit, without reduction, irrespective of whether that pension credit member is also an employee in local government employment.

(11) A pension credit member may elect to defer payment of a retirement pension deriving from a pension credit to a date after that member's normal pension age and, if the member does so, is entitled to immediate payment of a retirement pension from any date up to the date when that member attains the age of 75, enhanced by the amount shown as appropriate in actuarial guidance issued by the Department, irrespective of whether the pension credit member is also an employee in local government employment.

(12) A pension credit member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension deriving from the pension credit, reduced by the amount shown as appropriate in actuarial guidance issued by the Department, irrespective of whether the pension credit member is also an employee in local government employment.

(13) In this regulation references to the amount—

- (a) “reduced” at paragraphs (5) and (12) and “adjusted” at paragraph (6), refer to the “early payment reduction”; and
- (b) “enhancement” at paragraph (4) and “enhanced” at paragraph (11), refer to the “deferred payment enhancement”.

#### **Award of additional pension**

32. (1) An employing authority may resolve to award—

- (a) an active member; or
- (b) a member who was an active member who was dismissed by reason of redundancy, or business efficiency, or whose employment was terminated by mutual consent on grounds of business efficiency,

additional annual pension of, in total (including any additional pension purchased by the employing authority under regulation 18 (additional pension contributions)), not more than the additional pension limit payable under other provisions of these Regulations from the pension account to which the additional pension is attached, provided that, in the case of a member falling within sub-paragraph (b), the resolution to award additional pension is made within six months of the date the member's employment ended.

(2) The additional pension limit is £6,500 from 1st April 2015 and that figure is increased on 1st April 2016, and each subsequent 1st April, by the amount (where it is greater than zero) by which it would be increased if it were a pension beginning on 1st April 2014 to which the 1971 Act applied.

(3) An award of addition pension under—

- (a) paragraph (1)(a) is to be credited to the relevant active member's pension account in the Scheme year in which the resolution to award the additional pension is made; and
- (b) paragraph (1)(b) is to be treated as credited to the relevant active member's pension account on the day before the date of termination of employment.

#### **Commencement of pensions**

33. (1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable, begins with the day after the date on which the employment ends.

(2) Subject to paragraphs (3) and (4), in the case of a deferred member, the first period for which payment begins is the member's normal pension age unless that member gives written notice to the Committee to defer payment (but any such deferral shall not extend beyond the day before the member's 75th birthday).

(3) Where a member elects under regulation 31(3), (5), (11) or (12) (retirement benefits) to have a pension paid from a date other than normal pension age, the first period for which retirement pension is payable begins on the date the member specifies in a written notice to the Committee.

(4) When, in a written notice to the Committee, a member elects under regulation 31(6) (retirement benefits, flexible retirement pensions) to receive immediate payment of all or part of that member's benefits, if the member's employing authority consents to the payment, the first period for which retirement pension is payable begins on the date of the reduction in hours or grade.

(5) A notice given under paragraph (3) shall be given not less than three months before the beginning of the period specified, and a notice given under paragraph (4) shall be given within three months of the reduction in hours or grade.

(6) A member may give a further notice under paragraph (3) altering the date specified in an earlier notice, but any such further notice shall be given not less than three months before the beginning of the period specified in the further notice.

(7) The Committee may agree to accept different time limits to those specified in paragraphs (5) and (6).

(8) Where a member is entitled to early payment of pension due to ill-health under regulation 36 (early payment of retirement pension on ill-health grounds: active members), the first period for which retirement pension is payable is the day after the date on which the member's employment is terminated.

(9) Where a member is entitled to early payment of pension due to ill-health under regulation 37 (early payment of retirement pension on ill-health grounds: deferred members), the first period for which the retirement pension is payable begins on the date of the determination that the member is permanently incapable under that regulation.

### **Election for lump sum instead of pension**

**34.** (1) Subject to paragraph (5), a member entitled to a retirement pension under the Scheme may by written notice given to the Committee before any benefits in relation to the benefit crystallisation event become payable, commute the retirement pension payable, or part thereof, at a rate of £12 for every £1 of annual pension commuted.

(2) But the total amount of the member's commuted sum shall not exceed 25% of the capital value of the member's accrued rights under all local government pension provision in relation to that benefit crystallisation event, excluding any sum received as benefits provided in the form of a lump sum from any AVC arrangement entered into before 1st April 2015 referred to in regulation 19(7)(a) (additional voluntary contributions).

(3) For the purpose of paragraph (2), an AVC arrangement is to be regarded as entered into on whichever is the earlier of the date the AVC election form is received by the Committee or the date the AVC election form is received by the member's employing authority.

(4) The capital value of a member's accrued rights shall be calculated in accordance with actuarial guidance issued by the Department.

(5) Paragraph (1) does not apply to—

- (a) a pension credit member where the member of the Scheme to whom the pension sharing order applied has made an election under this regulation before the valuation date used when implementing the pension sharing order; or
- (b) any additional pension purchased by the member under regulation 19(7)(b)(i) (additional voluntary contributions).

### **Commutation and small pensions**

**35.** (1) Any authorised payments within the meaning of section 164 (authorised member payments) of the 2004 Finance Act listed in sub-paragraphs (a) to (c) may be paid in accordance with the rules relating to the payment of such benefits under that Act or relevant regulations under that Act—

- (a) a lump sum which is a trivial commutation lump sum within the meaning of section 166 (lump sum rule) of that Act;
- (b) a trivial commutation lump sum death benefit within the meaning of section 168 (lump sum death benefit rule) of that Act; or
- (c) a commutation payment under regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(6)</sup>.

(2) Any payment under paragraph (1) shall be calculated in accordance with actuarial guidance issued by the Department.

(3) If a member receives a payment under this regulation, any pension account relating to that payment shall be closed and the member is entitled to no further benefits in relation to that pension account and no survivor benefits are subsequently payable upon the death of the member.

### **ILL-HEALTH RETIREMENT**

#### **Early payment of retirement pension on ill-health grounds: active members**

**36.** (1) Where an active member who has qualifying service for a period of two years or more ceases local government employment on the grounds that—

- (a) the member's ill-health or infirmity of mind or body renders the member permanently incapable of discharging efficiently the duties of the employment the member was engaged in; and
- (b) the member, as a result of ill-health or infirmity of mind or body, has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age,

the Committee may, at the request of the employing authority, determine that the member's retirement pension comes into payment before the member's normal pension age in accordance with this regulation.

(2) If a member satisfies the conditions in paragraphs (1)(a) and (1)(b) then the member shall take early payment of a retirement pension.

(3) The amount of the retirement pension that a member who satisfies the conditions mentioned in paragraphs (1)(a) and (1)(b) receives is determined by which of the benefit tiers specified in paragraphs (4) and (5) that member qualifies for, calculated in accordance with regulation 39 (calculation of ill-health pension amounts).

(4) A member is entitled to Tier 1 benefits if that member is unlikely to be capable of undertaking any gainful employment before normal pension age.

(5) A member is entitled to Tier 2 benefits if that member—

- (a) is not entitled to Tier 1 benefits; and
- (b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.

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<sup>(6)</sup> S.I. 2009/1171; regulations 11 and 12 were amended by S.I. 2011/1751

(6) Before determining whether a member who has ceased to hold a local government employment is entitled to a benefit under this regulation, the Committee shall obtain a certificate, in accordance with regulation 38 (role of the IRMP), from an IRMP qualified in occupational health medicine who is appointed by the Committee.

#### **Early payment of retirement pension on ill-health grounds: deferred members**

37. (1) Where a deferred member who has qualifying service for a period of two years or more, because of ill-health or infirmity of mind or body—

- (a) becomes permanently incapable of discharging efficiently the duties of the employment that the member was engaged in at the date the member became a deferred member; and
- (b) has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age,

may make a written request to the Committee to receive payment of a retirement pension immediately, whatever the member's age.

(2) In order to consider a request under paragraph (1), the Committee shall obtain a certificate, in accordance with regulation 38 (role of the IRMP), from an IRMP qualified in occupational health medicine who is appointed by the Committee.

#### **Role of the IRMP**

38. (1) A decision as to whether a member is entitled to early payment of retirement pension under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or 37 (early payment of retirement pension on ill-health grounds: deferred members), shall be made by the Committee after it has obtained a certificate from an IRMP as to—

- (a) whether or not the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the employment the member was engaged in, because of ill-health or infirmity of mind or body;
- (b) whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age, and how long the member is unlikely to be capable of undertaking gainful employment; and
- (c) where a member had reduced working hours and had reduced pay as a consequence, whether that reduction in working hours was wholly or partly as a consequence of the ill-health or infirmity of mind or body.

(2) Where the IRMP is considering an application under regulation 36 (early payment of retirement pension on ill-health grounds: active members), the IRMP shall further determine whether, as a result of that condition, the member—

- (a) is unlikely to be capable of undertaking any gainful employment before reaching normal pension age; or
- (b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.

(3) A certificate from an IRMP, obtained under paragraphs (1) and (2), shall include a statement that—

- (a) that IRMP has not previously advised, or given an opinion on or otherwise been involved in the particular case for which the certificate has been requested; and
- (b) that IRMP is not acting, and has not at any time acted, as the representative of the member, the employing authority or any other party in relation to the same case.

(4) The Committee and the IRMP shall have regard to guidance given by the Department when carrying out their function under this regulation, when making an ill-health determination.

### **Calculation of ill-health pension amounts**

**39.** (1) Subject to paragraphs (4) and (5), Tier 1 benefits are calculated by adjusting the active member's pension account as follows—

- (a) An amount is added to the balance in the account for the year in which the member's employment was terminated, equivalent to the amount of earned pension the member would have accrued between the day following the date of termination and normal pension age, if that member had been treated as receiving assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay), for each year and fraction of a year in that period and treating any election under regulation 12 (temporary reduction in contributions) as lapsed at the date of the termination of the member's employment; and
- (b) retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.

(2) Subject to paragraphs (4) and (5), Tier 2 benefits are calculated by adjusting the active member's pension account as follows—

- (a) for the year in which the member's employment was terminated, by adding one quarter of the sum calculated in accordance with paragraph (1)(a); and
- (b) retirement pension is payable to the member as if the member had reached normal pension age on the date the member's employment was terminated.

(3) Benefits payable under regulation 37 (early payment of retirement pension on ill-health grounds: deferred members) are the retirement pension that would be payable to the member if that member had reached normal pension age on the date from which benefits are awarded.

(4) Where a member entitled to Tier 1 benefits subsequently becomes an active member of the Scheme, no addition is to be made under paragraph (1)(a) or (2)(a) to any Tier 1 or Tier 2 benefits that the member becomes entitled to after that subsequent period of membership.

(5) Where a member entitled to Tier 2 benefits ("the initial ill-health retirement") subsequently becomes an active member of the Scheme, the addition made under paragraph (1)(a) or (2)(a) to any Tier 1 or Tier 2 benefits that the member becomes entitled to after that subsequent period of membership is modified in accordance with paragraph (6).

(6) The number of years for which a member to whom paragraph (5) applies is treated as having received assumed pensionable pay for the purposes of paragraph (1)(a) or (2)(a) shall not exceed—

- (a) the number of years at the date of the initial ill-health retirement up to the member's normal pension age at that time, less
- (b) a quarter of the number of years calculated in accordance with sub-paragraph (a), less
- (c) the number of years during which the member has been an active member of the Scheme after the initial ill-health retirement.

(7) For the purposes of this regulation—

- (a) in calculating assumed pensionable pay in accordance with regulation 23(4) (assumed pensionable pay), account is only taken of any reduction in the pensionable pay the member received if an IRMP has certified that the member was working reduced contractual hours as a consequence of ill-health or infirmity of mind or body; and
- (b) no adjustment is to be made to any sum by virtue of regulation 23(6) (assumed pensionable pay, adjustments) for any period after the date of termination of employment under regulation 36 (early payment of retirement pension on ill-health grounds: active members).

## SURVIVOR BENEFITS

### *Survivor benefits: active members*

#### **Death grants: active members**

**40.** (1) If an active member dies before attaining the age of 75 the Committee shall pay a death grant.

(2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member at any time.

(3) The death grant is three times the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death.

(4) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—

- (a) beginning with date of the member's death; or
- (b) where the Committee did not know about the member's death within that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

#### **Survivor benefits: partners of active members**

**41.** (1) If an active member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The Committee shall close the active member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
  - (i) the member had been entitled to draw a pension on the date of the member's death,
  - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme Pays Election;
  - (iii) the pension excluded additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
  - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
- (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's

death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.

(5) The balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's pension account was opened, in accordance with actuarial guidance issued by the Department.

(6) The revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year and, thereafter, the balance in that survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

### **Meaning of "nominated co-habiting partner"**

**42.** (1) "Nominated co-habiting partner" means a person nominated by a member in accordance with the terms of this regulation.

(2) A member (A) may nominate another person (B) to receive benefits under the Scheme by giving the Committee a declaration signed by both A and B that the condition in paragraph (3) has been satisfied for a continuous period of at least two years which includes the day on which the declaration is signed.

(3) The condition is that—

- (a) A is able to marry, or form a civil partnership with, B;
- (b) A and B are living together as if they were husband and wife or as if they were civil partners;
- (c) neither A nor B is living with a third person as if they were husband and wife or as if they were civil partners; and
- (d) either B is financially dependent on A or A and B are financially interdependent.

(4) A nomination has no effect if the condition in paragraph (3) has not been satisfied for a continuous period of at least two years which includes the day on which the declaration is signed.

(5) A nomination ceases to have effect if—

- (a) either A or B gives written notice of revocation to the Committee;
- (b) A makes a subsequent nomination under this regulation;
- (c) either A or B marries, forms a civil partnership or lives with a third person as if they were husband and wife or as if they were civil partners; or
- (d) B dies.

(6) B is A's surviving nominated partner if—

- (a) the nomination has effect at the date of A's death; and
- (b) B satisfies the Committee that the condition in paragraph (3) was satisfied for a continuous period of at least two years immediately prior to A's death.

(7) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.

(8) In this regulation “member” means an active member or a former active member who has become a deferred or pensioner member in accordance with these Regulations or the 2009 Regulations.

**Survivor benefits: children of active members**

43. (1) If an active member dies leaving one or more eligible children, those eligible children are entitled to a children’s pension which shall come into payment on the day following the member’s death.

(2) The Committee shall open a survivor member’s pension account for the eligible child or children, in accordance with regulation 44 (survivor benefits: children of active member where pension is payable to partner of an active member) or regulation 45 (survivor benefits: children of active member where no pension is payable to partner of active member) from the day following the member’s death.

(3) The children’s pension shall be calculated in accordance with regulation 44 or regulation 45.

(4) The balance in the survivor member’s pension account, at the end of the Scheme year in which the survivor member’s pension account was opened, is adjusted at the beginning of the following Scheme year by the valuation adjustment applicable to the Scheme year in which the survivor member’s pension account was opened, in accordance with actuarial guidance issued by the Department.

(5) The revalued balance calculated under paragraph (4) is the opening balance of the survivor member’s pension account for the following Scheme year and, thereafter, the balance in that survivor member’s pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

**Survivor benefits: children of active member where pension is payable to partner of an active member**

44. (1) If a pension is payable to a partner of an active member under regulation 41(1) (survivor benefits: partners of active members), the Committee shall open a survivor member’s pension account for the eligible child or children from the day following the member’s death.

(2) The opening balance of a survivor member’s pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4), but if the pension payable under regulation 41(1) (survivor benefits: partners of active members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 45(3) or (4) as from the day following the date the pension under regulation 41(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
  - (i) the member had been entitled to draw a pension on the date of the member’s death;
  - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn, or following a Scheme Pays Election, or any pension debit applied on account of a pension sharing order;
  - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (iv) the member’s earned pension had accrued at a rate of 1/320th of pensionable pay; and

- (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320;
  - (b) a sum equivalent to 1/320th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is calculated by adding together the amounts in sub-paragraphs (a) and (b), and is payable to those children in equal shares—
- (a) the pension that the member would have been entitled to draw if—
    - (i) the member had been able to draw a pension on the date of the member's death;
    - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial reduction relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
    - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
    - (iv) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
    - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
  - (b) a sum equivalent to 1/160th of the member's annual assumed pensionable pay calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.
- (5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 41(1) (survivor benefits: partners of active members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

**Survivor benefits: children of active member where no pension is payable to partner of active member**

45. (1) If, on the day following the member's death, no pension is payable to a partner of an active member under regulation 41(1) (survivor benefits: partners of active members), the Committee shall close the active member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the amounts in sub-paragraphs (a) and (b)—

- (a) the pension that the member would have been entitled to draw if—
  - (i) the member had been entitled to draw a pension on the date of the member's death;
  - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;

- (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (iv) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
  - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240;
- (b) a sum equivalent to 1/240th of the member's annual assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is calculated by adding together the amounts in sub-paragraphs (a) and (b), and is payable to those children in equal shares—
- (a) the pension that the member would have been entitled to draw if—
    - (i) the member had been entitled to draw a pension on the date of the member's death;
    - (ii) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
    - (iii) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
    - (iv) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and
    - (v) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120;
  - (b) a sum equivalent to 1/120th of the member's annual assumed pensionable pay, calculated in accordance with regulation 23(4) (assumed pensionable pay) as at the date of the member's death, for each year or fraction of a year between the date of the member's death and the member's normal pension age.
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3).

*Survivor benefits: deferred members*

**Death grants: deferred members and pension credit members**

- 46.** (1) If a deferred member dies the Committee shall pay a death grant.
- (2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.
- (3) The death grant is the amount the member would have been entitled to receive as retirement pension annually if—
- (a) the member had been able to draw a pension on the date the member died; and
  - (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn,

multiplied by five.

(4) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—

- (a) beginning with the member's death; or
- (b) where the Committee did not know about the member's death before the expiry of that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

(5) This regulation applies to pension credit members (including persons entitled to a pension credit who die before the Committee awards a pension credit) as it applies to deferred members with the modification that for the amount of death grant calculated under paragraph (3), the amount calculated under paragraph (3)(a) and (b) is multiplied by five.

### **Survivor benefits: partners of deferred members**

47. (1) If a deferred member dies leaving a surviving spouse, civil partner or nominated cohabiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The Committee shall close the deferred member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been able to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment either relating to the age at which it was drawn or following a Scheme pays election,
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (d) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
- (e) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.

(5) If the member ceased to be an active member, became a deferred member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(6) Where—

- (a) paragraph (5) applies, the revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year;
- (b) paragraph (5) does not apply, the balance under paragraph (3) is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

#### **Survivor benefits: children of deferred members**

**48.** (1) If a deferred member dies leaving one or more eligible children, they are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) The Committee shall open a survivor member's pension account for the eligible child or children, in accordance with regulation 49 (survivor benefits: children of deferred member where pension is payable to a partner of deferred member) or regulation 50 (survivor benefits: children of deferred member where no pension is payable to partner of deferred member) from the day following the deferred member's death.

(3) The children's pension shall be calculated in accordance with regulation 49 or regulation 50.

(4) If the member ceased to be an active member, became a deferred member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the member died, in accordance with actuarial guidance issued by the Department.

(5) Where—

- (a) paragraph (4) applies, the revalued balance calculated under paragraph (4) is the opening balance of the survivor member's pension account for the following scheme year;
- (b) paragraph (4) does not apply, the balance under regulation 49(2) (survivor benefits: children of deferred member where pension is payable to partner of deferred member) or 50(2) (survivor benefits: children of deferred member where no pension is payable to partner of deferred member), as the case may be, is the opening balance of the survivor member's pension account for the following scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

#### **Survivor benefits: children of deferred member where pension is payable to partner of deferred member**

**49.** (1) If a pension is payable to a partner of a deferred member under regulation 47(1) (survivor benefits: partners of deferred members), the Committee shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1), is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4) but if the pension payable under regulation 47(1) (survivor benefits: partners of deferred members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 50(3) or (4) (survivor benefits: children of deferred member where no pension is payable to partner of deferred member) as from the day following the date the pension under regulation 47(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date the member died;

- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (d) the pension included 15.3125% of any pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
  - (e) the member's earned pension had accrued at a rate of 1/320th of pensionable pay; and
  - (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320.
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—
- (a) the member had been entitled to draw a pension on the date of the member's death;
  - (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (d) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
  - (e) the member's earned pension had accrued at a rate of 1/160th of pensionable pay; and
  - (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.
- (5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 47(1) (survivor benefits: partners of deferred members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

**Survivor benefits: children of deferred member where no pension is payable to partner of deferred member**

**50.** (1) If, on the day following the member's death, no pension is payable to a partner of a deferred member under regulation 47(1) (survivor benefits: partners of deferred members), the Committee shall close the deferred member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw if—

- (a) the member had been entitled to draw a pension on the date the member died;
- (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to

- the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
- (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (d) the pension included 20.41667% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
  - (e) the member's earned pension had accrued at a rate of 1/240th of pensionable pay; and
  - (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240.
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—
- (a) the member had been entitled to draw a pension on the date the member died;
  - (b) the pension the member would have been able to draw on that date had not been subject to any restriction on the age at which it could be drawn, or actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (c) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
  - (d) the pension included 40.8333% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions);
  - (e) the member's earned pension had accrued at a rate of 1/120th of pensionable pay; and
  - (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120.
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

*Survivor benefits: pensioner members*

**Death grants: pensioner members**

**51.** (1) If a pensioner member dies before attaining the age of 75, the Committee shall pay a death grant.

(2) The Committee may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the Committee to have been a relative or dependent of the member.

(3) Subject to paragraph (4), the death grant is ten times the annual amount the member would have been entitled to receive as retirement pension at the date of death if there had been no commutation under regulation 34 (election for lump sum instead of pension), reduced by the amounts of any such commuted lump sum and any pension paid to the member.

(4) Where any pension paid to a member derived from a pension credit, the death grant is ten times the annual amount the member would have been entitled to receive as that pension at the date of death if there had been no commutation under regulation 34 (election for lump sum instead of

pension) reduced by the amounts of any such commuted lump sum and any pension paid to that member.

(5) If the Committee has not made payments under paragraph (1) equalling in aggregate the member's death grant before the expiry of two years—

- (a) beginning with the member's death; or
- (b) where the Committee did not know about the member's death before the expiry of that period, beginning with the date on which the Committee could reasonably be expected to have become aware of the member's death,

it shall pay an amount equal to the shortfall to the member's personal representatives.

### **Survivor benefits: partners of pensioner members**

**52.** (1) If a pensioner member (other than a pensioner member where the pension the member was in receipt of was derived from a pension credit) dies leaving a surviving spouse, civil partner or nominated co-habiting partner, that person is entitled to a pension which shall come into payment on the day following the member's death.

(2) The Committee shall close the pensioner member's pension account and shall open a survivor member's pension account from the day following the member's death.

(3) The opening balance of the survivor member's pension account is the amount of pension payable to the survivor calculated in accordance with paragraph (4).

(4) The amount of a pension payable under paragraph (3) is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;
- (b) the pension had not been subject to any actuarial adjustment relating either to the age at which it was drawn or following a Scheme Pays Election;
- (c) there had been no commutation under regulation 34 (election for lump sum instead of pension);
- (d) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension);
- (e) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions); and
- (f) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160.

(5) If the member ceased to be an active member, became a pensioner member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(6) Where—

- (a) paragraph (5) applies, the revalued balance calculated under paragraph (5) is the opening balance of the survivor member's pension account for the following Scheme year;
- (b) paragraph (5) does not apply, the balance under paragraph (3) is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

(7) If there is more than one surviving spouse, they become jointly entitled in equal shares under paragraph (1).

**Survivor benefits: children of pensioner members**

**53.** (1) If a pensioner member (other than a pensioner member where the pension the member was in receipt of was derived from a pension credit) dies leaving one or more eligible children, the eligible children are entitled to a children's pension which shall come into payment on the day following the member's death.

(2) The Committee shall open a survivor member's pension account for the eligible child or children, in accordance with regulation 54 (survivor benefits: children of pensioner member where pension is payable to a partner of pensioner member) or regulation 55 (survivor benefits: children of pensioner member where no pension is payable to a partner of pensioner member) from the day following the deferred member's death.

(3) The children's pension shall be calculated in accordance with regulation 54 or regulation 55.

(4) If the member ceased to be an active member, became a pensioner member and died all within the same Scheme year, the balance in the survivor member's pension account at the end of the Scheme year in which the survivor member's pension account was opened is adjusted at the beginning of the following Scheme year by the revaluation adjustment applicable to the Scheme year in which the survivor member's account was opened, in accordance with actuarial guidance issued by the Department.

(5) Where—

- (a) paragraph (4) applies, the revalued balance calculated under paragraph (4) is the opening balance of the survivor member's pension account for the following Scheme year;
- (b) paragraph (4) does not apply, the balance under regulation 54(2) or 55(2), as the case may be, is the opening balance of the survivor member's pension account for the following Scheme year,

and, thereafter, the balance in the survivor member's pension account is adjusted each year by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the 1971 Act applied.

**Survivor benefits: children of pensioner member where pension is payable to partner of pensioner member**

**54.** (1) If a pension is payable to a partner of a pensioner member under regulation 52(1) (survivor benefits: partners of pensioner members), the Committee shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1), is the amount of pension payable to the eligible child or children calculated in accordance with paragraph (3) or (4) but if the pension payable under regulation 52(1) (survivor benefits: partners of pensioner members) ceases to be paid, the pension payable to the eligible child or children is recalculated in accordance with regulation 55(3) or 55(4) from the day following the date the pension under regulation 52(1) ceased to be paid.

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/320th of pensionable pay;
  - (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/320;
  - (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme pays election or any pension debit applied on account of a pension sharing order;
  - (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
  - (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
  - (f) the pension included 15.3125% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—
- (a) the member's earned pension had accrued at a rate of 1/160th of pensionable pay;
  - (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/160;
  - (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
  - (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
  - (f) the pension included 30.625% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).
- (5) At the point at which the number of eligible children is reduced to one, if a pension is still payable to a surviving partner under regulation 52(1) (survivor benefits: partners of pensioner members), the pension payable to that eligible child is recalculated in accordance with paragraph (3) as from the day following the date the other eligible child's or children's pension ceased to be paid.

**Survivor benefits: children of pensioner member where no pension is payable to partner of pensioner member**

55. (1) If, on the day following the member's death, no pension is payable to a partner of a pensioner member under regulation 52(1) (survivor benefits: partners of pensioner members), the Committee shall close the pensioner member's pension account and shall open a survivor member's pension account for the eligible child or children from the day following the member's death.

(2) The opening balance of a survivor member's pension account opened under paragraph (1) is the amount of pension payable to the eligible child or children, calculated in accordance with paragraph (3) or (4).

(3) The amount of pension payable under paragraph (2) where there is only one such eligible child is calculated by adding together the pension that the member would have been entitled to draw on the date of the member's death if—

- (a) the member's earned pension had accrued at a rate of 1/240th of pensionable pay;

- (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/240;
  - (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
  - (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
  - (f) the pension included 20.41667% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).
- (4) The amount of pension payable under paragraph (2) where there is more than one such eligible child, is payable to those children in equal shares and is calculated by adding together the pension that the member would have been entitled to draw if—
- (a) the member's earned pension had accrued at a rate of 1/120th of pensionable pay;
  - (b) the amount of earned pension credited under regulation 113(1) (effect of acceptance of transfer value payment) had been multiplied by 49/120;
  - (c) the member's pension had not been subject to any actuarial adjustment relating to the age at which it was drawn or following a Scheme Pays Election or any pension debit applied on account of a pension sharing order;
  - (d) there had been no commutation under regulation 34 (election for lump sum instead of pension);
  - (e) the pension excluded any additional pension purchased under regulation 18 (additional pension contributions) and any additional pension awarded under regulation 32 (award of additional pension); and
  - (f) the pension included 40.8333% of any additional pension purchased under regulation 19(7)(b)(i) (additional voluntary contributions).
- (5) At the point at which the number of eligible children is reduced to one, the pension payable to that child is recalculated in accordance with paragraph (3) as from the date the other child's or children's pension ceased to be paid.

#### ADJUSTMENTS OF BENEFITS

##### **No double entitlement**

- 56.** (1) Where apart from this regulation any member would be entitled to a pension or lump sum under two or more regulations by reason of the same period of membership—
- (a) that member shall be entitled to benefits under only one regulation;
  - (b) the member may choose under which provision benefits are to be paid; and
  - (c) if the member does not choose the Committee shall choose, and shall notify the member in writing of the provision under which benefits are to be paid.
- (2) A member's choice shall be by notice in writing given to the Committee before the expiry of three months beginning with the day on which the member becomes entitled to choose under which provision the pension or lump sum is to be paid.
- (3) Paragraph (1) does not affect the member's rights under the 1993 Act.

(4) This regulation also applies to any survivor benefits payable under regulation 41 (survivor benefits: partners of active members), 43 to 45 (survivor benefits: children of active members), 47 (survivor benefits: partners of deferred members), 48 to 50 (survivor benefits: children of deferred members), 52 (survivor benefits: partners of pensioner members), and 53 to 55 (survivor benefits: children of pensioner members).

### **Limit on total amount of benefits payable**

57. (1) No person is entitled under any provision of these Regulations to receive benefits the capital value of which exceed that person's lifetime allowance, except in accordance with actuarial guidance issued by the Department, and any benefits to which a person is entitled are reduced accordingly.

(2) In this regulation "lifetime allowance" is to be construed in accordance with section 218 of, and Schedule 36 to, the 2004 Finance Act and, where applicable, is to include primary protection, enhanced protection or fixed protection within the meaning of those provisions.

(3) The capital value of a person's benefits shall be calculated in accordance with actuarial guidance issued by the Department.

### **Guaranteed minimum pensions**

58. (1) Where a member's local government employment is contracted-out employment and that member has a guaranteed minimum, the member is entitled from the date of attaining pensionable age to payment of a pension at a weekly rate equal to not less than that guaranteed minimum.

(2) But if the member attains pensionable age while in local government employment, the member is not so entitled until leaving that employment, unless paragraph (3) or (4) applies.

(3) If the member—

- (a) continues in local government employment for a further period of five years after attaining pensionable age; and
- (b) does not then leave that employment,

the member is entitled from the end of the period mentioned in sub-paragraph (a) to payment of so much of the retirement pension as equals that guaranteed minimum.

(4) If the member attains pensionable age while in local government employment but subsequently changes employment to employment which is not local government employment, the member is entitled.

(5) If the member changes employment to employment which is not local government employment and the member attains pensionable age while in that employment, the member is entitled.

(6) Subject to regulation 31(3) (retirement benefits, retirement after normal pension age), where paragraph (3), (4) or (5) applies, the member may consent to a postponement of the entitlement.

(7) For the purposes of this regulation, a person has a guaranteed minimum if that person has such a minimum under section 10 (earner's guaranteed minimum) of the 1993 Act in relation to benefits under these Regulations, and references to entitlement are to the entitlement to payment of a pension in accordance with paragraph (1).

(8) Where the guaranteed minimum pension rule applies, the pension to which a person is entitled under regulations 41 (survivor benefits: partners of active members), 47 (survivor benefits: partners of deferred members) and 52 (survivor benefits: partners of pensioner members) shall be no less than the surviving spouse's, nominated co-habiting partner's or civil partner's guaranteed minimum.

(9) The guaranteed minimum pension rule applies if—

- (a) the employment in which the deceased was a member was contracted-out employment; and
  - (b) the deceased had a guaranteed minimum in relation to benefits under these Regulations.
- (10) Paragraph (8) overrides any contrary provision in these Regulations except—
- (a) regulation 35 (commutation and small pensions);
  - (b) regulation 102 (forfeiture of pension rights after conviction for employment-related offences); and
  - (c) regulation 103 (interim payments directions)

of these Regulations.

(11) In this regulation “contracted out employment” shall be construed in accordance with section 4 of the 1993 Act.

### **Pension debits**

59. (1) The Committee shall have regard to actuarial guidance issued by the Department as to the reduction of benefits payable under these Regulations in consequence of a pension debit.

(2) The Committee shall make such adjustments to a member’s pension accounts as are required to give effect to a pension debit.

## **PART 2**

### **ADMINISTRATION**

#### **MANAGEMENT, FUNDS AND ACCOUNTS AND AUDIT**

### **Scheme administration and management**

60. (1) For the purposes of these Regulations, the Committee shall be constituted in accordance with Part 1 of Schedule 3 (constitution of the Committee).

(2) The Committee shall have the powers specified in Part 2 of Schedule 3 (powers of the Committee).

(3) The expenses and allowances payable by the Committee shall be in accordance with Part 3 of Schedule 3 (expenses and allowances payable by the Committee).

(4) The Committee is responsible for managing and administering the Scheme.

### **The fund and the admission agreement fund**

61. (1) The Committee shall maintain a pension fund for the Scheme (“the fund”).

(2) Where the Committee has made an admission agreement, it may establish and maintain a further fund (an “admission agreement fund”) in addition to the fund maintained under paragraph (1).

(3) Immediately after the Committee establishes an admission agreement fund, it shall give the Department written notice that it has done so.

(4) The notice shall specify the admission bodies whose employees are eligible for benefits from the admission agreement fund.

(5) Where an admission agreement fund is established—

- (a) the liabilities of the fund as respects membership in employment with those specified bodies become liabilities of the admission agreement fund; and

- (b) assets of such value as an actuary appointed by the Committee determines to be appropriate shall be transferred from the fund to the admission agreement fund.
- (6) When valuations under regulation 68 (actuarial valuations and certificates) of both the fund and the admission agreement fund are first obtained after the admission agreement fund is established, the Committee shall obtain from the actuary it has appointed—
  - (a) a transfer statement; and
  - (b) a rates and adjustment certificate for the admission agreement fund for each remaining year of the period covered by the most recent such certificate for its fund.
- (7) The transfer statement shall specify whether, in the actuary's opinion, there is a need for further assets to be transferred from the fund to the admission agreement fund, or vice versa, and if so, their value.
- (8) Where the transfer statement specifies that assets of a specified value need to be transferred, the Committee shall arrange for assets of that value to be transferred as soon as is reasonably practicable.

### **Governance policy statement**

62. (1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out—
- (a) whether the Committee delegates its function, or part of its function in relation to maintaining a pension fund to a sub-committee or an officer of the Committee; and
  - (b) if the Committee delegates that function or part of that function, to a sub-committee or an officer of the Committee—
    - (i) the frequency of any sub-committee meetings;
    - (ii) the terms of reference, structure and operational procedures of the delegation; and
    - (iii) whether the sub-committee includes representatives of employing authorities or members, and if so, whether those representatives have voting rights.
- (2) A statement prepared under paragraph (1) shall be revised and published by the Committee following a material change in its policy on any of the matters referred to in that paragraph.

### **Accounts and audit**

63. (1) The Committee shall keep accounts of all financial transactions of the fund and any admission agreement fund it establishes.
- (2) The Secretary of the Committee shall prepare the financial statements for the financial year ended the 31st March 2015 and subsequent financial years in accordance with paragraph (3) and shall forward three copies of the financial statements duly signed and dated by the Secretary of the Committee to the Department no later than the 30th June after the expiration of the financial year to which the financial statements relate.
- (3) The financial statements shall comprise—
- (a) a Foreword;
  - (b) a Statement of the Committee's Responsibilities;
  - (c) an Accounting Officer's Statement;
  - (d) a Fund Account;
  - (e) a Net Assets Statement; and

shall be prepared in accordance with guidance for the time being issued by the Department of Finance and Personnel.

(4) The financial statements shall give a true and fair view of the Fund Account for the financial year, and the Net Assets Statement as at the end of the financial year.

(5) The financial statements kept by the Committee shall be audited annually by the local government auditor who shall report on the financial statements audited and shall send that report, together with two audited copies of the financial statements duly signed and dated by the local government auditor, to the Department within fourteen days after completion of the audit.

(6) The Department on receipt of the local government auditor's report and the audited copies of the financial statements shall send a copy of such report and financial statements to the Secretary of the Committee who shall—

- (a) lay such copy of the report and financial statements before the next meeting of the Committee; and
- (b) forward a copy of such report and financial statements to each employing authority.

(7) The local government auditor may require—

- (a) the production before the local government auditor of all documents and financial records of the Committee which are thought necessary for the purpose of the audit;
- (b) any person holding or accountable for any such documents or financial records to appear before the local government auditor at the audit or any adjournment thereof; and
- (c) any such person to make and sign a declaration as to the correctness of the documents or financial records.

(8) The Committee shall annually, at such time as the Department may direct, make to it a report of its proceedings during the preceding year, and the Department shall lay a copy of such a report before the Northern Ireland Assembly.

## STRATEGIES, STATEMENTS AND REPORTS

### Funding strategy statement

**64.** (1) The Committee shall, after consultation with such persons as it considers appropriate, prepare, maintain and publish a written statement setting out its funding strategy.

(2) The statement shall be published no later than 31st March 2015.

(3) The Committee shall keep the statement under review and, after consultation with such persons as it considers appropriate, make such revisions as are appropriate following a material change in its policy set out in the statement and, if revisions are made publish the statement as revised.

(4) In preparing, maintaining and reviewing the statement, the Committee shall have regard to—

- (a) the guidance set out in the document published in October 2012 by CIPFA, the Chartered Institute of Public Finance and Accountancy and called “Preparing and Maintaining a Funding Strategy Statement in the Local Government Pension Scheme 2012”(7); and
- (b) the statement of investment principles published by the Committee under regulation 10 (statement of investment principles) of the 2000 Regulations.

### Pension administration strategy

**65.** (1) The Committee may prepare a written statement of its policies in relation to such of the matters mentioned in paragraph (2) as it considers appropriate (“its pension administration strategy”) and, where it does so, paragraphs (3) to (7) apply.

(2) The matters are—

- (a) procedures for liaison and communication with employing authorities;
  - (b) the establishment of levels of performance which the Committee and employing authorities are expected to achieve in carrying out their Scheme functions by—
    - (i) the setting of performance targets,
    - (ii) the making of agreements about levels of performance and associated matters, or
    - (iii) such other means as the Committee considers appropriate;
  - (c) procedures which aim to secure that the Committee and the employing authorities comply with statutory requirements in respect of those Scheme functions and with any agreement about levels of performance;
  - (d) procedures for improving the communication by the Committee and employing authorities, to each other, of information relating to those Scheme functions;
  - (e) the circumstances in which the Committee may consider giving written notice to any employing authority under regulation 76 (additional costs arising from employing authority's level of performance) on account of that employing authority's unsatisfactory performance in carrying out its Scheme functions when measured against levels of performance established under sub-paragraph (b);
  - (f) the publication by the Committee of annual reports dealing with—
    - (i) the extent to which the Committee and employing authorities have achieved the levels of performance established under sub-paragraph (b), and
    - (ii) such other matters arising from its pension administration strategy as it considers appropriate; and
  - (g) such other matters as appear to the Committee, after consulting employing authorities and such other persons as it considers appropriate to be suitable for inclusion in that strategy.
- (3) The Committee shall—
- (a) keep its pension administration strategy under review; and
  - (b) make such revisions as are appropriate following a material change in its policies in relation to any of the matters contained in the strategy.
- (4) In preparing or reviewing and making revisions to its pension administration strategy, the Committee shall consult employing authorities and such other persons as it considers appropriate.
- (5) The Committee shall publish—
- (a) its pension administration strategy; and
  - (b) where revisions are made to it, the strategy as revised.
- (6) When the Committee publishes its pension administration strategy, or that strategy as revised, it shall send a copy of it to each employing authority and to the Department as soon as is reasonably practicable.
- (7) The Committee and employing authorities shall have regard to the current version of the pension administration strategy when carrying out their Scheme functions under these Regulations and the former regulations.
- (8) In this regulation references to the functions of the Committee include, where applicable, its functions as an employing authority.

### **Statements of policy about exercise of discretionary functions**

**66.** (1) Each employing authority shall prepare a written statement of its policy in relation to the exercise of its functions under regulations—

- (a) 18(2)(e) and 18(4)(d) (additional pension contributions, funding of additional pension);

- (b) 31(6) (retirement benefits, flexible retirement);
- (c) 31(8) (retirement benefits, waiving of actuarial reduction); and
- (d) 32 (award of additional pension),

and the Committee shall prepare such a statement in relation to the exercise of its functions under regulation 31(8) (retirement benefits, waving reduction) in cases where a former employing authority has ceased to be an employing authority.

(2) Each employing authority shall send a copy of its statement to the Committee before 31st July 2015, and shall publish its statement.

(3) Each employing authority required to prepare a statement under paragraph (1), shall—

- (a) keep its statement under review; and
- (b) make such revisions as are appropriate following a change in its policy.

(4) Where an employing authority makes revisions to the statement as required by paragraph (3) (b) it shall before the expiry of one month beginning with the date upon which the revisions are made—

- (a) send a copy of the revised statement to the Committee; and
- (b) publish the revised statement.

(5) In preparing, or reviewing and making revisions to its statement, the employing authority required to prepare a statement under paragraph (1) shall consider whether and to what extent the exercise of any of the functions set out in paragraph (1), in accordance with that statement, might lead to a serious loss of confidence in the public service.

#### **Statements of policy concerning communications with members and employing authorities**

67. (1) The Committee shall prepare, maintain and publish a written statement setting out its policy concerning communications with—

- (a) members;
- (b) representatives of members;
- (c) prospective members; and
- (d) employing authorities.

(2) In particular the statement shall set out its policy on—

- (a) the provision of information and publicity about the Scheme to members, representatives of members and employing authorities;
- (b) the format, frequency and method of distributing such information or publicity; and
- (c) the promotion of the Scheme to prospective members and their employing authorities.

(3) The statement shall be revised and published by the Committee following a material change in its policy on any of the matters referred to in paragraph (2).

#### **ACTUARIAL VALUATIONS**

##### **Actuarial valuations and certificates**

68. (1) The Committee shall obtain—

- (a) an actuarial valuation of the assets and liabilities of the pension fund, as at 31st March 2016 and on 31st March in every third year afterwards;
- (b) a report by an actuary in respect of the valuation; and
- (c) a rates and adjustments certificate prepared by an actuary.

(2) Each of those documents shall be obtained before the first anniversary of the date (“the valuation date”) as at which the valuation is made or such later date as the Department may agree.

(3) A report under paragraph (1)(b) shall contain a statement of the demographic assumptions used in making the valuation and the statement shall show how the assumptions relate to the events which have actually occurred in relation to members of the Scheme since the last valuation.

(4) A rates and adjustments certificate is a certificate specifying—

- (a) the common rate of employers’ contribution;
- (b) any individual adjustments; and
- (c) any amount calculated in accordance with paragraph (8),

for each year of the period of three years beginning with 1st April in the year following that in which the valuation date falls.

(5) The common rate of employers’ contribution is the amount, if any, which in the actuary’s opinion, should be paid to the pension fund so as to secure the fund’s solvency by all contributing bodies whose employees contribute to it expressed as a percentage of the pay of their employees who are active members, or for any other employing authority or former employing authority which does not employ active members but is liable to contribute to the fund under regulation 70(12) and (13) (special circumstances where revised actuarial valuations and certificates shall be obtained) is such amount as is payable under regulation 70(13).

(6) The actuary shall have regard to—

- (a) the existing and prospective liabilities arising from circumstances common to all those bodies;
- (b) the desirability of maintaining as nearly constant a common rate of employers’ contribution as possible;
- (c) the current version of the Committee’s funding strategy statement mentioned in regulation 64 (funding strategy statement); and
- (d) the desirability of securing long term cost efficiency of the pension fund.

(7) An individual adjustment is any percentage or amount by which, in the actuary’s opinion, contributions at the common rate of employer’s contribution should, in the case of—

- (i) a particular contributing body;
- (ii) a particular guarantor; or
- (iii) both employing authority and inheriting employer if agreed under regulation 71 (apportionment),

be increased or reduced by reason of any circumstances peculiar to that contributing body, guarantor or both of them and, where necessary, reflects inherited liabilities being attributable or no longer attributable.

(8) Where inherited liabilities are attributable to a guarantor or any other person which is not an employing authority, at the direction of the Committee, the actuary shall calculate such amount which in the actuary’s opinion such a guarantor or other person that is not an employing authority should pay by reason of its assumption of responsibility for these inherited liabilities.

(9) A rates and adjustments certificate shall contain a statement of the assumptions on which the certificate is given as respects—

- (a) the number of members who will become entitled to payment of pensions under the provisions of the Scheme; and
- (b) the amount of the liabilities arising in respect of such members,

during the period covered by the certificate.

(10) The Committee shall provide the actuary preparing a valuation or a rates and adjustments certificate with the consolidated revenue account of the pension fund and such other information as the actuary requests.

### **Scheme costs**

**69.** (1) The Committee and employing authorities shall have regard to any guidance issued by the Department about how future costs of the Scheme will be met.

(2) To enable the Department to calculate those costs for the purposes of that guidance, the Committee shall provide to the Department by 31st August 2016, and by 31st August in every third year afterwards, all the information used for the purposes of providing an actuarial valuation under regulation 68 (actuarial valuations and certificates).

### **Special circumstances where revised actuarial valuations and certificates shall be obtained**

**70.** (1) If a contributing body—

- (a) ceases to be an employing authority (including ceasing to be an admission body participating in the Scheme), or
- (b) was an employing authority, but no longer has an active member contributing to a pension fund,

that contributing body becomes “an exiting employer” for the purposes of this regulation.

(2) When a contributing body becomes an exiting employer, the Committee shall obtain—

- (a) subject to paragraphs (5) and (6), an actuarial valuation determined by an actuary appointed by the Committee at the exit date of the liabilities of the pension fund in respect of benefits in respect of the exiting employer’s current and former employees and any inherited liabilities;
- (b) an exit certificate showing any exit payment due from the exiting employer or any surplus due to the exiting employer from the pension fund in respect of those benefits as calculated by an actuary appointed by the Committee, on a basis consistent with the actuarial valuation in paragraph (a); and
- (c) where relevant, a revised rates and adjustments certificate to reflect the certificate produced pursuant to paragraph (b).

(3) An amount equal to any exit payment shall immediately become due from that exiting employer to the pension fund and shall be payable as a lump sum within one month of the date of the exit certificate or such longer period as the Committee and the exiting employer agree, regardless of whether or not there has been any revision of the rates and adjustments certificate after the exit date.

(4) An amount equal to any surplus due to the exiting employer shall be payable by the Committee as a lump sum within one month of the date of the exit certificate or such longer period as the Committee and the exiting employer agree, regardless of whether or not there has been any revision of the rates and adjustments certificate after the exit date.

(5) Where in respect of an exiting employer its entire liabilities to the pension fund in respect of benefits due to the exiting employer’s current and former employees and any inherited liabilities attributable to it, have transferred and become attributable to another person in accordance with regulation 71, paragraphs (2)(a) and (b) shall be modified so that no actuarial valuation needs to be carried out in respect of the exiting employer and the exit debt shall be zero.

(6) Where in respect of an exiting employer, part but not all of its liabilities to the pension fund have been transferred and become attributable to another person in accordance with regulation 71, paragraphs (2)(a) and (b) shall be modified so that the reference to liabilities of the pension fund in respect of benefits due to the exiting employer’s current and former employees and any inherited

liabilities shall exclude any part of such liabilities which have transferred to and become attributable to the other person under regulation 71, and the exit payment shall be calculated accordingly.

(7) Where for any reason it is not possible to obtain all or part of the exit payment due from the exiting employer, or from an insurer, or any person providing an indemnity, bond or guarantee on behalf of that exiting employer, the Committee shall obtain a further revision of any rates and adjustments certificate for the pension fund showing—

- (a) in the case where the exiting employer is an admission body falling within paragraph 116(1)(h)(i) of Part 1 of Schedule 2 to these Regulations (admission agreements with admission bodies: bodies providing services as a result of transfer of a service), the revised contribution due from the body which is the related employer in relation to that admission body; and
- (b) in any other case, the revised contributions due from each employing authority which contributes to the pension fund,

with a view to providing that assets equivalent to the exit payment due from the exiting employer are provided to the pension fund over such period of time as the Committee considers reasonable.

(8) Where in the opinion of the Committee there are circumstances which make it likely that an employing authority (including an admission body) will become an exiting employer, the Committee may obtain from an actuary a certificate specifying the percentage or amount by which, in the actuary's opinion—

- (a) the contribution at the common rate of employers' contribution should be adjusted; or
- (b) any prior individual adjustment should be increased or reduced,

with a view to providing that assets equivalent to the exit payment that will be due from the employing authority are provided to the pension fund by the likely exit date or, where the employing authority is unable to meet that liability by that date, over such period of time thereafter as the Committee considers reasonable.

(9) When an exiting employer has paid an exit payment into the pension fund, no further payments are due from that exiting employer in respect of any liabilities relating to the benefits in respect of any current or former employees of that exiting employer as a result of these Regulations.

(10) Paragraph (11) applies where—

- (a) an employing authority agrees to pay increased contributions to meet the cost of an award of additional pension under regulation 32 (award of additional pension); or
- (b) it appears likely to the Committee that the amount of the liabilities arising or likely to arise in respect of members in employment with an employing authority exceeds the amount specified, or likely as a result of the assumptions stated, for that employing authority, in a rates and adjustments certificate by virtue of regulation 68(9) (actuarial valuations and certificates, assumptions).

(11) The Committee shall obtain a revision of the rates and adjustments certificate concerned, showing the resulting changes as respects that employing authority.

(12) Where a contributing body becomes an exiting employer the Committee may, with the approval of the Department, defer obtaining an actuarial valuation and exit certificate under paragraph (2) and determine the date at which the actuarial valuation and exit certificate shall be obtained and the dates from which it will be effective, and paragraph (2) will be modified to the extent necessary so that it applies as if the contributing body became an exiting employer on such date as is determined by the Committee in accordance with this regulation.

(13) During any period of deferral under paragraph (12) the exiting employer will continue to pay contributions under regulation 73 (contributing body's contributions) in respect of liabilities of the pension fund relating to benefits due to the exiting employer's current and former employees and any inherited liabilities which it may have (but excluding any part of such liabilities which have

transferred to and become attributable to the other person under regulation 71 (apportionment of liabilities)) and the contributions shall be calculated by the actuary taking account of the amount of those liabilities and the period of deferral.

(14) For the purposes of this regulation—

“exit certificate” means a certificate produced in accordance with paragraph (2);

“exit date” means the date on which the employer becomes an exiting employer;

“exit payment” means the amount specified in an exit certificate as being due from an exiting employer in accordance with this regulation;

“exiting employer” means an employer of any of the descriptions specified in paragraph (1); and

“related employer” means any employing authority or other such contracting body which is a party to the admission agreement (other than the Committee).

### **Apportionment of liabilities**

**71.** (1) The Committee may agree with any inheriting employer or guarantor that with effect from a specific date, some or all of the liabilities in relation to benefits for or in respect of members in connection with their employment with a current employing authority or former employer shall transfer to and be attributable to the inheriting employer in accordance with the terms of this regulation (the “inherited liabilities”).

(2) The agreement under paragraph (1) (“the apportionment agreement”) shall be recorded in writing between the Committee and the inheriting employer or guarantor and shall specify—

- (a) its effective date, which may be a date before the date of the apportionment agreement;
- (b) the liabilities attributable to the original employer which will transfer;
- (c) the manner and time in which those liabilities will be discharged; and
- (d) any other conditions to protect the solvency of the pension fund that the Committee considers necessary.

(3) As soon as is practicable after an apportionment agreement is made under paragraph (1) the Committee, after seeking advice from an actuary may—

- (a) unless paragraph (6) applies, vary the rates and adjustments certificate currently in place in respect of contributions payable by the original employer and, or if appropriate, obtain an actuarial valuation and exit certificate in accordance with regulation 70;
- (b) vary the rates and adjustments certificate currently in place in respect of contributions payable by the inheriting employer or guarantor; and
- (c) where a rates and adjustments certificate is not currently in place in respect of the inheriting employer or guarantor, produce a rates and adjustments certificate.

to reflect the transfer of liabilities under paragraph (1).

(4) Any future rates and adjustment certificate in respect of any inheriting employer or guarantor under regulation 68 (actuarial valuations and certificates) and any revision of the rates and adjustments certificate in respect of the inheriting employer under regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) shall be calculated to reflect the transfer of liabilities under paragraph (1).

(5) For the purposes of paragraphs (3) and (4) the transfer of liabilities shall be reflected in a rates and adjustments certificate in—

- (a) the calculation of the individual adjustment of employer contributions in respect of the original employer and, as the case may be, any inheriting employer under regulation 68(7);

- (b) the calculation of the amount payable by a guarantor or other non-employer under regulation 68(8); and
  - (c) any exit payment calculation in respect of the original employer and, as the case may be, any inheriting employer under regulation 70(2).
- (6) Where the apportionment agreement under this regulation is entered into after the original employer has become an exiting employer in accordance with regulation 70(1) (special circumstances where revised actuarial valuations and certificates shall be obtained), the effect of that regulation shall, with the agreement of the Committee, be modified so that either—
- (a) there is no longer a requirement to obtain an actuarial valuation and no exit payment is treated as coming due in respect of the exiting employer; or
  - (b) the actuarial valuation and exit payment shall be recalculated so that they relate only to the liabilities in respect of members' benefits which continue to be attributable to that exiting employer and exclude the liabilities in respect of members' benefits which have become attributable to another person in accordance with the apportionment agreement under paragraph (1).
- (7) Where a guarantor has agreed to accept liabilities under paragraph (1) the apportionment agreement shall state the manner and time in which the guarantor will discharge those liabilities.
- (8) Any agreement entered into prior to the introduction of this regulation shall be treated as an agreement under this regulation.
- (9) Any question which may arise between the parties to an apportionment agreement relating to the construction of the agreement or the rights and obligations under that agreement shall be referred in writing to the Department for determination.
- (10) Liabilities in relation to benefits for or in respect of members in connection with their employment with a current or former employing authority may for the purposes of these Regulations be attributable to a person other than that employing authority either—
- (a) as a result of an agreement to that effect to which that person and the Committee are parties (whether made under these Regulations or otherwise);
  - (b) by the operation of a scheme of reorganisation which has been created and approved in accordance with legislation;
  - (c) by a transfer of engagements in accordance with the provisions of legislation;
  - (d) because of the provisions of any other legislation; or
  - (e) by an order of the Court.
- (11) Where liabilities become attributable under paragraph 10 to a person other than an employing authority they shall constitute inherited liabilities.

**Supply of copies of valuations, certificates, etc.**

72. (1) The Committee shall send copies of any valuation, report, certificate or revised certificate obtained under regulation 68 (actuarial valuations and certificates) to—

- (i) the Department;
- (ii) each contributing body with employees who contribute to the pension fund in question; and
- (iii) any other contributing body, guarantor or inheriting employer which is or may become liable to make payments to that pension fund.

(2) The Committee shall send copies of any revised actuarial valuation or certificate obtained under regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) to—

- (i) the Department; and

- (ii) each contributing body, guarantor or inheriting employer to which the revised actuarial valuation or certificate relates.
- (3) The Committee shall also send to the Department—
  - (a) a copy of the consolidated revenue account with which the actuary was provided under regulation 68(10) (actuarial valuations and certificates, information provided to actuary); and
  - (b) a summary of the assets of the pension fund at the valuation date (unless such a summary is contained in the report under regulation 68(1)(b) (actuarial valuations and certificates, report by actuary)).

## PAYMENTS

### Contributing body's contributions

73. (1) A contributing body shall contribute to the pension fund in each year covered by a rates and adjustment certificate under regulation 68 (actuarial valuations and certificates), regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) or regulation 71 (apportionment of liabilities) the amount appropriate for that contributing body as calculated in accordance with the certificate and paragraph (4).

(2) During each of those years a contributing body shall make payments to the pension fund on account of the amount required for the whole year.

- (3) Those payments on account shall—
  - (a) where the contributing body employs active members of the Scheme, be paid at the end of the intervals determined under regulation 75 (payment by employing authorities to the Committee) and where the contributing body does not employ active members of the Scheme, be paid at intervals of not greater than twelve months as the Committee may determine; and
  - (b) equal the appropriate proportion of the whole amount due under paragraph (1) for the year in question.
- (4) A contributing body's contribution for any year is the common percentage for that year of—
  - (a) the pensionable pay on which contributions have been paid into the pension fund by active members in accordance with regulations 11 to 14 and 16 (contributions), except where sub-paragraph (b) applies, and
  - (b) the assumed pensionable pay in respect of members on child-related leave or on leave due to sickness or injury on reduced contractual pay or no pay,

increased or reduced by any individual adjustments specified for that contributing body for that year in the rates and adjustments certificate.

(5) The common percentage is the common rate of the employer's contribution specified in that certificate expressed as a percentage of the pensionable pay of its employees who are active members of the Scheme.

(6) A person to whom regulation 68(1) (actuarial valuations and certificates) applies shall contribute to the pension fund such amount as is specified in any exit certificate in accordance with regulation 70.

(7) A contributing body shall also contribute to the pension fund in each year, any employing authority contributions made under regulation 18 (additional pension contributions).

(8) A guarantor or other person which is not an employing authority shall pay sums specified pursuant to regulation 71 or which arise as a result of a revision of a rates and adjustments certificate in accordance with regulation 71 at such times as is specified by the Committee.

### **Employing authority's further payments**

74. (1) Any extra charge on the pension fund resulting from a member becoming entitled to benefits under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or 37 (early payment of retirement pension on ill-health grounds: deferred members) shall be paid into the pension fund by the employing authority concerned.

(2) The Committee may require the employing authority concerned to make additional payments to the pension fund in respect of any extra charge on that pension fund resulting from retirement benefits becoming immediately payable to a member under regulation 31(6) (retirement benefits, flexible retirement) or 31(7) (retirement benefits, early leavers on grounds of redundancy or business efficiency), including the cost as calculated by an actuary appointed by the Committee, as a result of a waiver of any reduction under regulation 31(8) (retirement benefits, waiver of reductions).

(3) Other than where regulation 70(10) (special circumstances where revised actuarial valuations and certificates shall be obtained) applies, an employing authority making an award under regulation 32 (award of additional pension) shall pay a sum into the pension fund to meet the cost of any additional pension, in accordance with actuarial guidance issued by the Department.

### **Payment by employing authorities to the Committee**

75. (1) Every employing authority shall pay to the Committee on or before such dates falling at intervals of not more than twelve months as the Committee may determine—

- (a) all amounts received from time to time from employees under regulations 11 to 16 and 18 (contributions);
- (b) any charge payable under regulation 74 (employing authority's further payments) of which it has been notified by the Committee during the interval;
- (c) a contribution towards the cost of the administration of the pension fund; and
- (d) any amount specified in a notice given in accordance with regulation 76 (additional costs arising from employing authority's level of performance).

(2) But—

- (a) an employing authority shall pay the amounts mentioned in paragraph (1)(a) within the prescribed period referred to in Article 49(8) of the Pensions (Northern Ireland) Order 1995(8); and
- (b) paragraph (1)(c) does not apply where the cost of the administration of the pension fund is paid out of the pension fund under regulation 5(4) (management of the fund) of the 2000 Regulations.

(3) Every payment under paragraph (1)(a) shall be accompanied by a statement showing—

- (a) the total pensionable pay received by members during the period covered by the statement whilst regulation 11 (contributions) applied (including the assumed pensionable pay members were, in accordance with regulation 23 (assumed pensionable pay), treated as receiving during that period whilst regulation 11 applied);
- (b) the total employee contributions (if any) deducted from the pensionable pay under subparagraph (a);
- (c) the total pensionable pay received by members during the period covered by the statement whilst regulation 12 (temporary reduction in contributions) applied (including the assumed pensionable pay members were, in accordance with regulation 23, treated as receiving during that period whilst regulation 12 applied);

- (d) the total employee contributions (if any) deducted from the pensionable pay under sub-paragraph (c);
  - (e) the total employing authority contributions in respect of the pensionable pay under sub-paragraphs (a) and (c);
  - (f) the total additional pension contributions (if any) paid by members under regulation 18 (additional pension contributions) during the period covered by the statement; and
  - (g) the total additional pension contributions (if any) paid by the employing authority under regulation 18 during the period covered by the statement.
- (4) The Committee may direct that the information mentioned in paragraph (3) shall be given to it in such form, and at such intervals (not exceeding twelve months) as it specifies in the direction.
- (5) If an amount payable under paragraph (1)(c) or (d) cannot be settled by agreement, it shall be determined by the Department.

#### **Additional costs arising from employing authority's level of performance**

76. (1) This regulation applies where, in the opinion of the Committee, it has incurred additional costs which should be recovered from an employing authority because of that employing authority's level of performance in carrying out its functions under these Regulations.

- (2) The Committee may give written notice to the employing authority stating—
  - (a) the Committee's reasons for forming the opinion mentioned in paragraph (1);
  - (b) the amount the Committee has determined the employing authority should pay under regulation 75(1)(d) (payment by employing authorities to the Committee, additional costs arising from employing authority's level of performance) in respect of those costs and the basis on which the specified amount is calculated; and
  - (c) where the Committee has prepared a pension administration strategy under regulation 65 (pension administration strategy), the provisions of the strategy which are relevant to the decision to give the notice and to the matters in sub-paragraphs (a) or (b).

#### **Interest on late payments**

77. (1) The Committee may require any person from whom any payment due under regulations 73 to 76 (employing authority's contributions or payments) is overdue to pay interest on that amount.

(2) The date on which any amount due under regulations 73 (contributing body's contributions), 74 (employing authority's further payments), 76 (additional costs arising from employing authority's level of performance) is overdue is one month from the date specified by the Committee for payment.

(3) The date on which any amount due under regulation 75 (payment by employing authorities to the Committee) (other than an extra charge payable under regulation 74 and referred to in regulation 75(1)(b)) is overdue is the day after the date when that payment is due.

(4) Interest payable under this regulation shall be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.

#### **Contributions Equivalent Premium**

78. (1) Where the Committee pays a contributions equivalent premium under section 51 of the 1993 Act in respect of any member, it is entitled to retain from the pension fund a sum not exceeding the contributions equivalent premium.

(2) Where the Committee may retain any sum under section 57 of that Act in respect of the premium, then only the balance may be retained under paragraph (1).

(3) Where the contributions equivalent premium is refunded under regulation 54(1)(c) (re-entry into employment which is contracted out by reference to the same scheme) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996<sup>(9)</sup>, the Committee shall credit to the pension fund a sum equal to the amount of the premium.

## DECISIONS

### First instance decisions

**79.** For regulations 79 to 89 (decisions), a reference to the employing authority of a prospective member is a reference to the body that would be the prospective member's employer, if that prospective member were to become an active member in the employment by virtue of which the prospective member would be eligible to join the Scheme.

### First instance decisions - general

**80.** (1) Any question concerning the rights or liabilities under the Scheme of any person, other than an employing authority, shall be decided in the first instance by the person specified in this regulation.

(2) Subject to regulation 81 (first instance decisions: ill-health) the Committee shall decide any question concerning—

- (a) a person's previous service or employment;
- (b) whether a payment in lieu of contributions has been made or equivalent pension benefits have been assured under Part III of the National Insurance Act (Northern Ireland) 1966<sup>(10)</sup> in respect of any period of non-participating employment;
- (c) the crediting of additional pension under regulation 18 (additional pension contributions); and
- (d) the amount of any benefit or return of contributions that a person is or may become entitled to out of the pension fund.

(3) The employing authority shall decide any question regarding any other matter relating to a person's rights or liabilities under the Scheme.

(4) The questions specified in paragraphs (2) and (3) shall be decided as soon as is reasonably practicable.

(5) Any question as to whether a person is entitled to a benefit under the Scheme shall be decided by the Committee.

(6) Where a person is or may become entitled to benefit payable out of the pension fund, the Committee shall decide the amount of the benefit.

(7) The decision under paragraph (5) shall be made as soon as is reasonably practicable after the cessation of the employment or, as the case may be, the death of the employee and that under paragraph (6) as soon as is reasonably practicable after the occurrence of the event by virtue of which the entitlement arises or may arise.

(8) In this regulation—

- (a) "benefit" includes a return of contributions and a benefit specified in regulation F6(11) or (14) of the Local Government (Superannuation) Regulations (Northern Ireland) 1992<sup>(11)</sup>,

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<sup>(9)</sup> S.R. 1996 No. 493

<sup>(10)</sup> 1966 c.6 (N.I.)

<sup>(11)</sup> S.R. 1992 No. 547; as amended by other instruments listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

Part N (pension sharing) of the Local Government Pension Scheme Regulations (Northern Ireland) 2000(12) and Part VI (pension sharing) of the 2002 Regulations; and

- (b) “employing authority” includes a body that is an employing authority of a prospective member.

#### **First instance determinations: ill-health**

**81.** (1) Where the Committee is considering whether a person who has ceased to hold a local government employment is entitled to a benefit under regulation 36 (early payment of retirement pension on ill-health grounds: active members) or regulation 37 (early payment of retirement pension on ill-health grounds: deferred members), it shall refer for decision to the IRMP, who is qualified in occupational health medicine and who has been appointed by the Committee under regulation 36(6) and 37(2).

(2) The IRMP, in accordance with regulation 38 (role of the IRMP), shall supply to the Committee, when requested by the Committee, a certificate regarding its ill-health determination.

#### **Notification of first instance decisions**

**82.** (1) Every person whose rights or liabilities are affected by a decision under regulation 80 (first instance decisions: general) or 81 (first instance determinations: ill-health) shall be notified of it by the Committee or the employing authority which made it as soon as is reasonably practicable.

(2) A notification shall include—

- (a) in the case of a decision that the person is not entitled to a benefit, the grounds for the decision;
- (b) in the case of a decision as to the amount of a benefit, a statement showing how the amount is calculated;
- (c) in the case of a notification under paragraphs (a) or (b) a conspicuous statement directing the person’s attention to—
  - (i) the address from which that person may obtain further information about the decision, including details of any calculation of employment or benefits;
  - (ii) that person’s right under regulation 84 (right to apply for an appointed person to review a decision) to make an application to an appointed person within the time limit referred to in that regulation, the address at which the appointed person may be contacted and the appointed person’s job title; and
  - (iii) that person’s right under regulation 86 (reference of disagreement to the Committee) to apply to the Committee for a reconsideration of the matter within the time limit referred to in that regulation; and
- (d) in the case of a decision by an employing authority made under regulation 80, a conspicuous statement directing the person’s attention to—
  - (i) the employing authority’s address from which the person may obtain further information about the decision; and
  - (ii) the person’s right of appeal to the county court under regulation 89 (referral of decisions under regulation 80(1) to the county court).

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(12) S.R. 2000 No. 177; as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353.

### **Appointment of persons to resolve disputes**

**83.** (1) The Committee shall appoint a panel of persons it considers to be suitably qualified for the purpose of resolving disagreements in respect of which an application is made under regulation 84 (right to apply for an appointed person to review a decision).

(2) For this Part the persons appointed under paragraph (1) are “appointed persons”.

(3) An application under regulation 84 may be decided by one or more appointed persons (and references to “the appropriate appointed person”, in relation to any application, are to the appointed person or persons to whom the application in question is referred).

(4) An application shall not be referred to a person who has previously been involved in the subject matter of the disagreement.

(5) An appointed person shall hold and vacate office under the terms of that appointment.

(6) An appointed person may resign by notice in writing to the Committee.

(7) The Committee shall determine—

- (a) the procedure to be followed by the persons appointed by it when exercising their functions as appointed persons; and
- (b) the manner in which those functions are to be exercised.

### **Right to apply for an appointed person to review a decision**

**84.** (1) Where there is a disagreement about a matter in relation to the Scheme between a member or an alternative applicant and the Committee, the member or, as the case may be, the alternative applicant may—

- (a) apply directly to the appropriate appointed person to decide a disagreement; or
- (b) apply to the Committee for it to refer the disagreement to an appointed person for decision.

(2) These persons are alternative applicants—

- (a) a widow, widower, surviving civil partner or nominated co-habiting partner of a deceased member;
- (b) a dependant of a deceased member or any other person to whom benefits in respect of the deceased member may be paid;
- (c) a prospective member;
- (d) a pension credit member;
- (e) a person entitled to a pension credit;
- (f) a person who ceased to be a member, or to fall within sub-paragraph (a), (b), (c), (d) or (e) during the period of six months ending with the date of the application; and
- (g) in the case of a disagreement relating to the question as to whether a person claiming to be a member or to fall within sub-paragraph (a), (b), (c), (d), (e) or (f) does so, the claimant.

(3) The application for a decision shall set out particulars of the disagreement, including a statement as to its nature with sufficient details to show why the applicant is aggrieved.

(4) An application by—

- (a) a member or a prospective member;
- (b) a person who has ceased to be a member or prospective member during the period of six months ending with the date of the application; or
- (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address, date of birth, national insurance number (if any) and the name of the person's employing authority.

- (5) An application by—
- (a) a person entitled to a pension credit or a pension credit member;
  - (b) a person who ceased to be such a person or member during the period of six months ending with the date of the application; or
  - (c) a person claiming to be a person within paragraph (a) or (b),

shall set out that person's full name, address and date of birth.

- (6) An application by any other person shall set out—
- (a) that person's full name, address and date of birth;
  - (b) that person's relationship to the member; and
  - (c) the member's full name, address, date of birth, national insurance number and the name of the member's employing authority.

(7) The application shall be signed by or on behalf of the applicant.

(8) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(9) The application shall be made before the end of the period of six months beginning with the relevant date or such further period as the appropriate appointed person considers reasonable.

(10) Where the disagreement relates to a decision under regulation 81 (first instance determinations: ill-health), the relevant date is the date notification of it is given under regulation 82.

(11) Otherwise, the relevant date is the date of the act or omission which is the cause of the disagreement or, if there is more than one, the last of them.

#### **Notice of decisions by the appointed person under regulation 84**

**85.** (1) A decision on the matters raised by an application under regulation 84 (right to apply for an appointed person to review a decision) shall be issued by the appropriate appointed person—

- (a) to the applicant; and
- (b) to the Committee,

by notice in writing before the expiry of the period of two months beginning with the date the application was received.

(2) But, if no such notice is issued before the expiry of that period, an interim reply shall immediately be sent to the persons mentioned in paragraph (1) setting out the reasons for the delay and an expected date for issuing the decision.

- (3) A notice under paragraph (1) shall include—
- (a) a statement of the decision;
  - (b) reference to any legislation or provisions of the Scheme relied upon;
  - (c) in the case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;
  - (d) a reference to the rights of the applicant to refer the disagreement for reconsideration by the Committee under regulation 86 (reference of disagreement to the Committee), specifying the time within which the applicant may do so; and
  - (e) a statement that the Pensions Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved and the address at which it may be contacted.

### **Reference of disagreement to the Committee**

**86.** (1) Where an application about a disagreement has been made under regulation 84 (right to apply for an appointed person to review a decision), an application may be made to the Committee to reconsider the disagreement by the person who applied under regulation 84.

(2) The application shall set out particulars of the grounds on which it is made, including a statement that the applicant under this regulation wishes the disagreement to be reconsidered by the Committee.

(3) An application made by the person who applied under regulation 84 shall set out the matters required by paragraph (4), (5) or (6) as the case may be, of that regulation to be included in that person's application.

(4) The application shall be accompanied by a copy of any written notification issued under regulation 82 (notification of first instance decisions).

(5) Where notice of a decision on the application under regulation 84 has been issued, the application under this regulation shall state why the applicant is dissatisfied with that decision and be accompanied by a copy of that notice.

(6) The application shall be signed by or on behalf of the person making it.

(7) An application for reconsideration may only be made before the expiry of the period of six months beginning with the relevant date.

(8) Where notice of a decision on the matters raised by the application under regulation 84 has been issued, the relevant date is the date of that notice.

(9) Where—

(a) an interim reply has been sent out under regulation 85(2) (notice of decisions by the appointed person under regulation 84); but

(b) no notice of decision has been issued before the expiry of the period of one month beginning with the date specified in the reply as the expected date for issuing the decision,

the relevant date is the date with which that period expires.

(10) Where no notice of decision has been issued or interim reply has been sent before the expiry of the period of three months beginning with the date the application under regulation 84 was made, the relevant date is the date with which that period expires.

### **Notice of decisions by the Committee under regulation 86**

**87.** (1) The Committee shall issue its decision on the matters raised by an application under regulation 86 (reference of disagreement to the Committee) to the parties to the disagreement by notice in writing before the expiry of the period of two months beginning with the date the application was received (but see paragraph (2)).

(2) If no such notice is issued before the expiry of that period, an interim reply shall be sent immediately to those parties, setting out the reasons for the delay and the expected date for issuing the decision.

(3) A notice under paragraph (1) shall include—

(a) a statement of the decision;

(b) in a case where there has been a decision made under regulation 85 (notice of decisions by the appointed person under regulation 84), an explanation as to whether and, if so, to what extent that decision is confirmed or replaced;

(c) a reference to any legislation or provisions of the Scheme relied upon;

- (d) in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme conferring the discretion;
- (e) a statement that the Pension Advisory Service is available to assist members and beneficiaries of the Scheme in connection with any difficulties with the Scheme which remain unresolved and of the address at which the Pension Advisory Service may be contacted; and
- (f) a statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to the Scheme made or referred in accordance with the 1993 Act and of the address at which the Pensions Ombudsman may be contacted.

### **Rights of representation**

**88.** (1) An application under regulation 84 (right to apply for an appointed person to review a decision) or 86 (reference of disagreement to the Committee) may be made or continued on behalf of the applicant by a representative nominated by the applicant.

(2) Where a person who has the right to make or has made such an application dies, the application may be made or continued on that person's behalf by the person's personal representative.

(3) Where such a person is a minor or is or becomes otherwise incapable of acting on that person's own behalf, the application may be made or continued by a member of that person's family or some other person suitable to represent that person.

(4) Where a representative is nominated before an application is made, the application shall specify that representative's full name and address and whether that is to be used for service on the applicant of any documents in connection with the application.

(5) Where a representative's address is not to be so used, the appropriate appointed person or the Committee, as the case may be, shall send to the applicant a copy of a decision under regulation 85(1) (notice of decisions by the appointed person under regulation 84) or 87(1) (notice of decisions by the Committee under regulation 86) or an interim reply under regulation 85(2) or 87(2).

### **Referral of decisions under regulation 80(1) to the county court**

**89.** Where an employing authority has either decided or failed to decide such question as is mentioned in regulation 80(1) (first instance decisions: general), that question shall be determined by the county court having jurisdiction in the county court division in which such member as is mentioned in regulation 80(1) is employed or was last employed or, where that member is or was last employed in two or more county court divisions, in one of those divisions.

### **Exchange of information**

**90.** (1) An employing authority which is not the Committee shall—

- (a) inform the Committee of all decisions, concerning members, made by the employing authority under regulations 65 to 67, 79 to 90 and 99 to 101; and
- (b) give the Committee such other information as it requires for discharging its statutory Scheme functions.

(2) If—

- (a) the Committee makes any decision under regulations 65 to 67, 79 to 90 or 99 to 101 about a person for whom it is not the employing authority; and
- (b) information about that decision is required by the person's employing authority for discharging that employing authority's Scheme functions,

the Committee shall give that employing authority that information if asked to supply it.

(3) Within three months of the end of each Scheme year, each employing authority shall send to the Committee a statement showing the following details in respect of each employee who has been an active member during the Scheme year—

- (a) the employee's name and gender;
  - (b) the employee's date of birth and national insurance number;
  - (c) a unique reference number relating to each employment in which the employee has been an active member; and
  - (d) the information relating to the employee for the Scheme year in question for each employment which is specified in paragraph (4).
- (4) The information required by paragraph (3)(d) is—
- (a) the dates of active membership;
  - (b) the pensionable pay received and employee contributions deducted while regulation 11 (contributions) applied;
  - (c) the pensionable pay received and employee contributions deducted while regulation 12 (temporary reduction in contributions) applied;
  - (d) any contributions by the employer in relation to the employee's pensionable pay;
  - (e) any contributions by employee or employer under regulation 18 (additional pension contributions);
  - (f) any contributions by employee or employer under regulation 19 (additional voluntary contributions).

### **Interest on late payment of certain benefits**

**91.** (1) Where all or part of a pension or lump sum payment due under these Regulations (other than a payment due under regulation 19 (additional voluntary contributions)) is not paid within the relevant period after the due date, the Committee shall pay interest on the unpaid amount to the person to whom it is payable.

(2) The unpaid amount includes any increase due in accordance with regulation 98 (pension increases).

(3) The relevant period is—

- (a) in the case of a survivor pension, the period ending one month after the date on which the Committee receives notification of the member's death;
- (b) in the case of any other pension, one year; or
- (c) in the case of a lump sum payment, one month.

(4) The due date is—

- (a) in the case of a pension, the date on which it becomes payable;
- (b) in the case of a lump sum under regulation 34 (election for lump sum instead of pension) the benefit crystallisation event date;
- (c) in the case of a death grant, the date on which the member dies or, where notification of death is received more than two years after the date of death, the date of notification; or
- (d) in the case of a lump sum under regulation 35 (commutation and small pensions) the date of the commutation election or, if later, the nominated date within the meaning of paragraph 7(3) of Part 1 of Schedule 29 to the 2004 Finance Act.

(5) Interest payable under this regulation is calculated at one per cent above base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

### **Payments due in respect of deceased persons**

**92.** (1) Paragraph (2) applies if, when a person dies, the total amount due to that person's personal representatives under the Scheme (including anything due at that person's death) does not exceed the amount specified in any order for the time being in force under section 6 of the Administration of Estates (Small Payments) (Northern Ireland) Act 1967<sup>(13)</sup> and applying in relation to that person's death.

- (2) The Committee may pay the whole or part of the amount due from the pension fund to—
- (a) a person's personal representatives, or
  - (b) any person or persons appearing to the Committee to be beneficially entitled to the estate, without the production of probate or letters of administration of the person's estate.
- (3) Such a payment discharges the Committee from accounting for the amount paid.

### **Payments for persons incapable of managing their affairs**

**93.** If it appears to the Committee that a person other than an eligible child is entitled to payment of benefits under the Scheme but is, by reason of mental disorder or otherwise, incapable of managing that person's own affairs—

- (a) the Committee may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the Committee may determine, to be applied for the benefit of the person entitled; and
- (b) in so far as the Committee does not pay the benefits in that manner, the Committee may apply them in such manner as it may determine, for the benefit of the person entitled, or any beneficiaries of the person entitled.

### **Non-assignability**

**94.** (1) Every benefit to which a person is entitled under the Scheme is payable to or in trust for that person.

(2) No such benefit is assignable or chargeable with that person's, or any other person's, debts or other liabilities.

(3) On the bankruptcy of a person entitled to a benefit under the Scheme no part of the benefit passes to any trustee or other person acting on behalf of the creditors, except in accordance with an income payments order or an income payments agreement under Article 283 or 283A of the Insolvency (Northern Ireland) Order 1989<sup>(14)</sup>.

### **Deduction and recovery of member's contributions**

**95.** (1) An employing authority may deduct from a person's pay any contributions payable by that person under these Regulations or the former regulations.

(2) Sums payable under regulation 15 (contributions during reserve forces service leave) may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951<sup>(15)</sup>, to the extent that they are payable in respect of the same period.

(3) The Committee may recover any contributions or sum remaining due and not deducted under paragraph (1) or (2)—

- (a) as a simple contract debt in a court of competent jurisdiction; or

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<sup>(13)</sup> 1967 c.5 (N.I.)

<sup>(14)</sup> S.I. 1989/2405 (N.I. 12)

<sup>(15)</sup> 1951 c. 65 as amended by S.I. 1979/291

- (b) by deducting it from any payment by way of benefits to or in respect of the person in question under these Regulations.
- (4) But the sums mentioned in paragraph (2) are only recoverable under paragraph (3) if unpaid for twelve months after the person ceases to perform relevant reserve forces service.
- (5) If—
  - (a) an employing authority deducts in error any amount in respect of contributions from a person's pay or any other sum due to that person; and
  - (b) the amount has not been repaid before the expiry of the period of one month beginning with the date of the deduction,the appropriate body shall pay interest on the amount, and the due date for the calculation of the interest payable is the date of the deduction.
- (6) Where the employee's contributions have been paid into a pension fund, the repayment and any interest shall be made out of that pension fund.
- (7) Interest shall be calculated at one per cent above base rate on a day to day basis from the due date to the date of payment and compounded with three-monthly rests.
- (8) The "appropriate body" for the purposes of paragraph (5) is—
  - (a) the Committee, where the employee's contributions have been paid into the pension fund; and
  - (b) the person's employing authority, where the employee's contributions have not yet been paid into the pension fund.

#### **Joint liability in respect of annual allowance charge**

- 96.** (1) This regulation applies where a member gives notice to the Committee of joint and several liability under section 237B (liability of scheme administrator) of the 2004 Finance Act in respect of the member's annual allowance charge.
- (2) Where the joint liability amount specified in the notice is met by the pension fund, the Committee shall reduce the value of the member's rights accrued under the Scheme in accordance with actuarial guidance issued by the Department.

#### **Tax**

- 97.** The Committee is responsible for deducting from any payment of benefits under the Scheme any tax to which it may become chargeable under the 2004 Finance Act.

#### **Pension increases**

- 98.** (1) Where a pension to which the 1971 Act applies is payable out of the pension fund any increase under that Act or the Pensions (Increase) (Northern Ireland) Order 1974<sup>(16)</sup> shall be paid from that pension fund.
- (2) Any increase in a pension required by reason of Chapter 3 of Part 4 of the Pension Schemes (Northern Ireland) Act 1993 (Protection of Increases in Guaranteed Minimum Pensions: "Anti-Frinking")<sup>(17)</sup> shall be paid from the pension fund.

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<sup>(16)</sup> 1974 No. 1267 (N.I. 2)  
<sup>(17)</sup> 1993 c. 49

### **Annual benefit statements**

**99.** (1) The Committee shall issue an annual benefit statement to each of its active, deferred, and pension credit members.

(2) Subject to paragraph (3), the annual benefit statement shall be issued no later than six months after the end of the Scheme year to which it relates.

(3) A statement shall be issued before the end of the six month period mentioned in paragraph (2) where a member makes a request in writing to the Committee, unless the Committee is unable to comply with the request because relevant data is not available.

(4) A statement shall contain the amount of benefit entitlement in respect of the rights that may arise under the Scheme which has been accrued by the member at the relevant date.

(5) The relevant date is 31st March before the date that the statement is issued, or such later date as the Committee may choose.

### **Pension savings statements**

**100.** (1) The Committee shall issue a pension savings statement to a member who has—

- (a) been an active member for all or part of the pension input period; and
- (b) exceeded the annual allowance in respect of the pension input period,

by 6th October following the end of each tax year in compliance with regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006(18).

(2) Where paragraph (1) does not apply, a member may request in writing, a pension savings statement from the Committee and the Committee shall provide it by the later of—

- (a) three months from the date of receiving the request; or
- (b) 6th October following the end of the relevant tax year,

and in compliance with regulation 14B of the Registered Pension Schemes (Provision of Information) Regulations 2006.

(3) In this regulation—

- (a) “annual allowance” has the meaning given to that expression by section 228 of the 2004 Finance Act;
- (b) “pension input period” has the meaning given to that expression by section 238 of the 2004 Finance Act; and
- (c) “pension savings statement” has the meaning given to the expression by regulation 14A of the Registered Pension Schemes (Provision of Information) Regulations 2006.

### **Information to be supplied by employees**

**101.** (1) Before the expiry of three months beginning with the date on which a person becomes a member, the employing authority shall ask the member in writing for the documents specified in paragraph (2).

(2) Those documents are—

- (a) a statement in writing listing all that member’s previous periods of employment; and
- (b) copies of all notifications previously given to that member under these Regulations and the former regulations.

(3) A request under this regulation shall contain a conspicuous statement that it is important that the member gives full and accurate information, especially for ascertaining the member's rights under the Scheme.

(4) The employing authority need not request any documents if it is satisfied that it, or the Committee (if different), already has all material information.

## FORFEITURE

### **Forfeiture of pension rights after conviction for employment-related offences**

**102.** (1) If a member is convicted of a relevant offence, the former employing authority may apply to a Minister of the Crown who may issue a forfeiture certificate.

(2) A relevant offence is an offence committed in connection with an employment in which the person convicted is a member and because of which the member left that employment.

(3) Where a former employing authority applies for a forfeiture certificate, it shall at the same time send the convicted person and the Committee a copy of the application.

(4) Where a forfeiture certificate is issued, the member's former employing authority may direct that any of the member's rights under these Regulations as respects that member's previous membership are forfeited.

(5) The former employing authority shall serve a notice of its decision to make a direction on the member.

(6) A forfeiture certificate is a certificate that the offence—

(a) was gravely injurious to the State, or

(b) is liable to lead to a serious loss of confidence in the public service.

(7) If the former employing authority incurred loss as a direct consequence of the relevant offence, it may only give a direction under paragraph (4) if it is unable to recover its loss under regulation 104 (recovery or retention where former member has misconduct obligation) or otherwise, except after an unreasonable time or at disproportionate cost.

(8) A direction under paragraph (4) may only be given if an application to a Minister of the Crown for a forfeiture certificate has been made by the former employing authority before the expiry of the period of three months beginning with the date of conviction.

### **Interim payments directions**

**103.** (1) If—

(a) a person leaves an employment in which that person was a member of the Scheme because of an offence in connection with that employment; and

(b) a forfeiture certificate has been issued under regulation 102(1) (forfeiture of pension rights after conviction for employment-related offences) in respect of that offence,

the former employing authority may give an interim payments direction to the Committee.

(2) But that former employing authority may not give such a direction under paragraph (1) if it has given any direction under regulation 102(4) ("a forfeiture direction").

(3) An interim payments direction is a direction to make interim payments to any person who appears to the former employing authority to be a person who would be entitled to receive payment of a benefit under the Scheme if no forfeiture direction were given.

(4) The person to whom payments shall be made, and the amounts, shall be specified in the direction.

(5) The amounts shall not exceed the amounts which the person specified would be entitled to be paid if no forfeiture direction were given.

(6) An interim payments direction is not a decision under regulation 80 (first instance decisions - general) as to any person's entitlement to a benefit.

(7) Payments in accordance with an interim payments direction shall be deemed to be payments in respect of a benefit to which the recipient was entitled (regardless of any contrary forfeiture direction or decision under regulation 80).

### **Recovery or retention where former member has misconduct obligation**

**104.** (1) This regulation applies where a person—

- (a) has left an employment in which that person was or had at some time been a member of the Scheme, in consequence of grave misconduct or a criminal, negligent or fraudulent act or omission in connection with that employment;
- (b) has incurred some monetary obligation, arising out of that misconduct, act or omission, to the body that was the employing authority in that employment; and
- (c) is entitled to benefits under these Regulations which, for the purposes of this regulation, includes entitlement to a refund of contributions.

(2) The former employing authority may recover or retain out of the pension fund, the lesser of—

- (a) the amount of the monetary obligation; or
- (b) the value at the time of recovery or retention of all benefits in respect of the former employee with respect to that person's previous membership (as determined by an actuary, except where the benefit is a refund of contributions).

(3) The rights specified in paragraph (2)(b) do not include earned pension credited under regulation 113 (effect of acceptance of transfer value payment), additional pension purchased by the member under regulation 18 (additional pension contributions) or AVCs paid by the member under regulation 19 (additional voluntary contributions).

(4) The former employing authority shall give the former employee—

- (a) not less than three months' notice of the amount to be recovered or retained under paragraph (2); and
- (b) a statement showing the amount recovered or retained, how it is calculated and the effect on the person's benefits or prospective benefits.

(5) If there is any dispute over the amount of the monetary obligation specified in paragraph (1)(b), the former employing authority may not recover or retain any amount under paragraph (2) until the obligation is enforceable under an order of a competent court or the award of an arbitrator.

### **Adjustment of accounts following forfeiture, etc.**

**105.** (1) Where a forfeiture direction is issued under regulation 102 (forfeiture of pension rights after conviction for employment-related offences) the Committee shall transfer out of the member's pension account the benefits which are forfeited.

(2) Where an amount is recovered or retained under regulation 104 (recovery or retention where former member has misconduct obligation), the Committee shall transfer out of the member's pension account the amount recovered or retained and pay it to the relevant employing authority.

(3) If the effect of a forfeiture direction, or of the recovery or retention of an amount, is to extinguish the member's entitlement to benefits, the Committee shall close the member's pension account.

### Protection of guaranteed minimum pension rights

**106.** (1) The power to direct forfeiture of benefits under regulation 102 (forfeiture of pension rights after conviction for employment-related offences) or to recover or retain amounts under regulation 104 (recovery or retention where former member has misconduct obligation) may not be exercised so as to deprive a person of—

- (a) that person's guaranteed minimum pension; or
- (b) any widow's, widower's or surviving civil partner's guaranteed minimum pension.

(2) But such a power may be exercised if the person is convicted—

- (a) of the offence of treason; or
- (b) of one or more offences under the Official Secrets Acts 1911 to 1989<sup>(19)</sup> for which the person has been sentenced on the same occasion—
  - (i) to a term of imprisonment of at least ten years, or
  - (ii) to two or more consecutive terms amounting in the aggregate to at least ten years.

### Revaluation of guaranteed minimum

**107.** (1) Where the guaranteed minimum of a person who has ceased to be an active member is appropriately secured, that persons earning factors for the purposes of section 10(2) of the 1993 Act shall be determined—

- (a) by reference to the last order under Article 23 of the Social Security Pensions (Northern Ireland) Order 1975<sup>(20)</sup> or section 130 of the Social Security Administration (Northern Ireland) Act 1992<sup>(21)</sup> (revaluation orders) to come into force before the end of the tax year in which the person ceased to be an active member; and
- (b) without reference to the last such order to come into force before the end of the final relevant year.

(2) For such a person the weekly equivalent mentioned in section 10(2) of the 1993 Act is to be increased—

- (a) by at least the prescribed percentage for each relevant year after the end of the tax year in which the person ceased to be an active member; and
- (b) in accordance with such additional requirements as may be prescribed for the purposes of section 12(3) of the 1993 Act.

(3) In this regulation—

- “appropriately secured” has the meaning given in section 15(3) of the 1993 Act;
- “final relevant year” has the meaning given in section 12(5) of that Act;
- “relevant year” has the meaning given in section 10(8) of that Act; and
- “prescribed percentage” has the meaning given in regulation 62 of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996.

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<sup>(19)</sup> Section 16(2) of the Official Secrets Act 1989 (c. 6) provides that that Act and the Official Secrets Acts 1911 to 1989 may be cited together as the Official Secrets Acts 1911 to 1989.

<sup>(20)</sup> 1975 No.1503 (N.I. 15)

<sup>(21)</sup> 1992 c.8

## TRANSFERS

### Rights to payment out of pension fund

**108.** (1) A member may apply for a transfer under Chapter 4 or 5 of Part 4 of the 1993 Act (transfer values and early leavers) and where the member does so the amount of any transfer value payment due in respect of the member under the relevant transfer may only be paid by the Committee from the pension fund if the transfer value payment is a recognised transfer (within the meaning of section 169 (recognised transfers) of the 2004 Finance Act).

(2) Where such a transfer value payment is to be or has been paid from the pension fund, no other payment or transfer of assets may be made from the pension fund as respects the accrued rights covered by the transfer value payment.

(3) Paragraph (2) overrides anything to the contrary in these Regulations, the Transitional Regulations or the former regulations.

### Contracting-out requirements affecting transfers out

**109.** (1) There shall be deducted from the transfer value payment to be made in respect of any person to a contracted-in defined benefit registered pension scheme—

- (a) the amount of any contributions equivalent premium payable pursuant to section 51 (payment of state scheme premiums on terminations of certified status) of the 1993 Act; or
- (b) an amount sufficient to meet the liability in respect of the person's contracted-out rights.

(2) Where the amount mentioned in paragraph (1)(a) is deducted, the Committee shall use that amount to pay the premium.

(3) Where the amount mentioned in paragraph (1)(b) is deducted, the Committee may use the amount in preserving the liability mentioned in that paragraph in the pension fund unless the member wishes a transfer value payment in respect of it to be paid to the trustees or managers of a contracted-out defined benefit or contracted-in defined contribution registered pension scheme.

(4) Contracted-out rights, in relation to a member, are—

- (a) the member's, and the member's surviving spouse's, civil partner's or nominated co-habiting partner's rights to guaranteed minimum pensions; and
- (b) the member's section 5(2B) rights as defined in regulation 1(2) of the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996.

### Bulk transfer (transfers of undertakings, etc.)

**110.** (1) This regulation applies where—

- (a) two or more members' active membership ends on their joining a registered non-local government scheme ("the new scheme");
- (b) it is agreed by—
  - (i) the Committee;
  - (ii) the members' employing authorities (if different); and
  - (iii) the trustees or managers of the new scheme;

that a payment should be made under this regulation; and

- (c) the members—

- (i) agree in writing that that payment should be made instead of any payment which they otherwise might require to be made under Chapter 4 or 5 of Part 4 of the 1993 Act; and
- (ii) waive any rights they might have under those Chapters by virtue of the cessation of their active membership.

(2) The Committee shall not give its agreement under paragraph (1)(b) unless it is satisfied that the rights that each of the members will acquire under the new scheme are at least equivalent to those which they each would have obtained if the transfer value payment had been paid to the same scheme under Chapter 4 or 5 of Part 4 of the 1993 Act, as they apply as modified by these Regulations (assuming in any case where a member would not be entitled to such a payment that the member was so entitled).

(3) The Committee shall provide each member with sufficient information in writing to check that the requirement of paragraph (2) is satisfied before the member agrees as mentioned in paragraph (1)(c).

(4) The Committee shall—

- (a) set aside (whether in cash or in assets or both) such part of the pension fund (“the transfer value payment”) as an actuary appointed by it and an actuary appointed by the trustees or managers of the new scheme for the purpose may agree as appropriate for the acquisition of such rights in that new scheme as they may so agree; and
- (b) pay or transfer it to the trustees or managers of the new scheme for the benefit of the relevant members.

(5) The Committee shall certify to the new scheme’s trustees or managers the amount included in the transfer value payment which represents each member’s contributions and interest on them.

(6) Where a transfer value payment is to be or has been made under this regulation, no other payment or transfer of assets shall be made from the pension fund by reason of membership covered by the transfer value payment.

(7) Paragraph (6) overrides anything to the contrary in these Regulations, the Transitional Regulations or the former regulations.

### **Calculation of amount of transfer value payment**

**111.** (1) The amount of the transfer value payment to be paid under regulation 110 (bulk transfer (transfers of undertakings, etc.)) is the amount determined by an actuary appointed by the Committee to be equal to the value at the date those members join the new scheme of the actual and potential liabilities payable from the pension fund which have then accrued in respect of the members and the persons who are or may become entitled to benefits under the Scheme through them.

(2) The actuary may make such adjustments as the actuary thinks fit in calculating that amount and in particular as respects the period from that date to the date of actual payment of the transfer value.

(3) The actuary shall specify in the valuation, the actuarial assumptions used in making it.

(4) The employing authority shall bear the costs of determining the appropriate part of the pension fund and apportioning that pension fund.

(5) If there is more than one employing authority involved, each shall bear such part of the costs as the actuary determines to be appropriate.

### **Inward transfers of pension rights**

**112.** (1) An active member with relevant pension rights may request the Committee to accept a transfer value payment for some or all of those rights from the relevant transferor.

(2) Relevant pension rights are—

- (a) accrued rights under a registered pension scheme other than rights to benefits under the scheme which are attributable (directly or indirectly) to a pension credit; and
- (b) accrued rights under a European pensions institution.

(3) Accrued rights under a registered pension scheme include rights to preserved benefits and rights appropriately secured under section 15 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) of the 1993 Act.

(4) The relevant transferor is the trustees or managers of the scheme under which the transferring person's relevant pension rights arise.

(5) But the relevant transferor for the rights specified in paragraph (3) is the trustees or managers of the scheme, or the insurance company, to which a payment in respect of the person's accrued rights has been made.

(6) A request from a transferring person under paragraph (1) shall be made by notice in writing given before the expiry of the period of twelve months beginning with the date on which the person first became an active member in an employment (or such longer period as the Committee may allow).

(7) Where a request under paragraph (1) is duly made, the Committee may accept the transfer value payment and credit it to the pension fund.

### **Effect of acceptance of transfer value payment**

**113.** (1) Where a transfer value payment has been accepted under regulation 112 (inward transfers of pension rights), the Committee shall credit the active member's pension account with the appropriate amount of earned pension.

(2) The calculation of the appropriate amount of earned pension for the purposes of paragraph (1) is to be in accordance with actuarial guidance issued by the Department.

### **EU scheme transfers**

**114.** (1) The persons mentioned in paragraph (2) are entitled to such rights under the Scheme as are specified in actuarial guidance issued by the Department.

(2) Those persons are—

- (a) a person who became employed by an EU institution after having been employed in local government employment; or
- (b) a surviving spouse, civil partner, nominated co-habiting partner, dependant or eligible child of such a person.

(3) In this regulation—

- (a) "EU institution" means a body treated as one of the EU's institutions for the purposes of the European Union's scheme; and
- (b) "the European Union's scheme" means the pension scheme provided for officials and other servants of the European Union in accordance with regulations adopted by the Council of the European Union.

Sealed with the Official Seal of the Department of the Environment on 27th June 2014

*Elizabeth Loughran*  
A senior officer of the Department of the  
Environment

## SCHEDULES

### SCHEDULE 1

Regulation 2

#### INTERPRETATION

- “the 1971 Act” means the Pensions (Increase) (Northern Ireland) Act 1971**(22)**
- “the 1972 Order” means the Superannuation (Northern Ireland) Order 1972**(23)**;
- “the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993**(24)**;
- “the 1995 Order” means the Pensions (Northern Ireland) Order 1995**(25)**;
- “the 1996 Order” means the Employment Rights (Northern Ireland) Order 1996**(26)**;
- “the 1999 Act” means the Welfare Reform and Pensions Act 1999**(27)**;
- “the 1999 Order” means the Welfare Reform and Pensions (Northern Ireland) Order 1999**(28)**;
- “the 2002 Regulations” means the Local Government Pension Scheme Regulations (Northern Ireland) 2002**(29)**;
- “the 2004 Finance Act” means the Finance Act 2004**(30)**;
- “the 2004 Pensions Act” means the Pensions Act 2004**(31)**;
- “the 2008 Act” means the Pensions (No. 2) Act (Northern Ireland) 2008**(32)**;
- “the 2009 Regulations” means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009**(33)**, the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009**(34)**, and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009**(35)**;
- “active member” means a person who is in an employment, and is—
- (a) paying contributions to the Scheme;
  - (b) treated as paying contributions to the Scheme; or
  - (c) absent from that employment for one of the reasons mentioned in regulation 13 (contributions during absence from work) and entitled to pay contributions to the Scheme;

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**(22)** 1971 Chapter 35 (N.I.)

**(23)** 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).

**(24)** 1993 c. 49

**(25)** S.I. 1995/3213 (N.I. 22)

**(26)** S.I. 1996/1919 (N.I. 16)

**(27)** 1999 c. 30

**(28)** S.I. 1999/3147 (N.I. 11)

**(29)** S.R. 2002 No. 352; as amended by S.R. 2002 No. 353, S.R. 2004 No. 139, S.R. 2005 No. 206, S.R. 2005 No. 274, S.R. 2006 No. 6, S.R. 2006 No. 112, S.R. 2007 No. 152, S.R. 2007 No. 448, S.R. 2007 No. 479 and S.R. 2009 No. 34

**(30)** 2004 c. 12

**(31)** 2004 c. 35; section 293(8) was amended by S.I. 2007/3014

**(32)** 2008 c. 13 (N.I.)

**(33)** S.R. 2009 No. 32; as amended by S.R. 2010 No. 164, S.I. 2010/234, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 85, S.R. 2012 No. 183 and S.R. 2013 No. 71

**(34)** S.R. 2009 No. 33; as amended by S.R. 2010 No. 164, S.R. 2010 No. 410, S.R. 2011 No. 117, S.R. 2012 No. 183 and S.R. 2013 No. 71

**(35)** S.R. 2009 No. 34; as amended by S.R. 2010 No. 410 and S.R. 2013 No. 71

“additional maternity or adoption leave” means leave under Article 105 or 107B of the 1996 Order;

“additional paternity leave” means leave under the Additional Paternity Leave Regulations (Northern Ireland) 2010(36);

“additional pension” means pension under these Regulations other than earned pension;

“admission agreement” means an agreement between the Committee and an admission body that named individuals, or all or any specified class of the admission body’s employees, may be members of the Scheme;

“admission agreement fund” means a fund established in accordance with regulation 61(2);

“admission body” has the meaning given to that expression at paragraph 2 of Part 1 of Schedule 2 (admission agreements with admission bodies) to these Regulations;

“amount of accrued pension” means the earned pension in a member’s pension account adjusted to take account of any revaluation adjustment applicable;

“amount of pension payable” means the earned and additional pension in a member’s pension account adjusted to take account of any revaluation adjustment, index rate adjustment, commutation amount or pension account adjustment applicable;

“annual allowance charge” has the meaning given to that expression by section 227 of the 2004 Finance Act;

“assumed pensionable pay” has the meaning given by regulation 23;

“automatic enrolment date” means the automatic enrolment date within the meaning of section 3 of the 2008 Act;

“automatic re-enrolment date” means the automatic re-enrolment date chosen by a member’s employing authority in accordance with section 5 of the 2008 Act and regulation 12 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 for those of its eligible jobholders who are not active members of the Scheme (or the date the employing authority would have chosen if the employing authority does not have any such employees);

“AVCs” means payment of additional voluntary contributions made under regulation 19;

“base rate” means the base rate for the time being quoted by the reference banks or, where there is for the time being more than one such base rate, the rate which, when the base rate quoted by each bank is ranked in a descending sequence of seven, is fourth in the sequence;

“benefit crystallisation event” has the meaning given by section 7 of the 2004 Finance Act;

“child-related leave” means—

- (a) ordinary adoption leave;
- (b) ordinary maternity leave;
- (c) additional maternity or adoption leave during which the member receives some pensionable pay;
- (d) paternity leave; or
- (e) additional paternity leave during which the member receives some pensionable pay;

“children’s pension” means a pension payable to an eligible child in accordance with regulations 43, 44, 45, 48, 49, 50, 53, 54 or 55;

“the Committee” means the Northern Ireland Local Government Officers’ Superannuation Committee established under section 1 of the Local Government (Superannuation) Act (Northern Ireland) 1950(37);

“commutation amount” means the amount of pension a member has elected to give up in return for a lump sum, in accordance with regulation 34;

“contract of employment” includes terms of office;

“contributing body” means an employing authority, an admission body or a body which is responsible for liabilities under the Scheme, whether pursuant to legislation, pursuant to an agreement with the Committee or pursuant to a statutory transfer or by any other means whatsoever;

“councillor” means a member of a new council or a member of an existing council;

“councillor member” means a person who is a member of the Scheme by reason of being a councillor;

“councillor membership” means any period of membership which counts in respect of service as a member of a council and not other local government employment;

“deferred member” has the meaning given by regulation 8;

“deferred payment enhancement” means the amount by which a member’s entitlement to retirement pension is increased on account of late payment, in accordance with regulation 31(4) or (11);

“the Department” means the Department of the Environment;

“dependent”, in relation to a person, means that in the opinion of the Committee, at the date of the member’s death—

- (a) the person was financially dependent on the member;
- (b) the person’s financial relationship with the member was one of mutual dependence; or
- (c) the person was dependent on the member because of physical or mental impairment;

“early payment reduction” means the amount by which a member’s entitlement is reduced pursuant to regulation 31(5), (6) or (12);

“earned pension” means pension accrued from the member’s pensionable pay pursuant to regulation 25(4) or 25(5), or credited pursuant to regulation 113(1) (effect of acceptance of transfer value payment);

“eligible child”, in relation to a deceased member, means—

- (a) a natural or adopted child of a member who meets any of conditions A to C and who was born before, on, or in the case of a natural child, within twelve months of the member’s death; or
- (b) a step-child or child accepted by the deceased as a member of the family (excluding a child sponsored by the member through a registered charity) who—
  - (i) meets any of conditions A to C; and
  - (ii) was dependent on the member at the date of death.

Condition A is that the person is aged under 18.

Condition B is that the person is in full-time education or vocational training and has not reached the age of twenty-three (but the Committee may continue to treat a person as fulfilling Condition B notwithstanding any break in a course of education or vocational training, although the person does not fulfil Condition B during such a break).

Condition C is that the person is unable to engage in gainful employment because of physical or mental impairment and either—

- (i) has not reached the age of twenty-three; or
- (ii) the impairment is in the opinion of an IRMP likely to be permanent and the person was dependent on the member at the date of the member's death because of that physical or mental impairment.

“employment” includes office;

“employing authority” means a body employing an employee who is eligible to be a member or is a local authority as defined in Article 2 of the 1972 Order;

“employing authority's consent” includes the consent of the Committee in circumstances where the member's employer or former employer is no longer an employing authority;

“European Pensions Institution” has the same meaning as in Article 269(8) of the Pensions Order (Northern Ireland) 2005(38);

“existing council” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972(39) as in force immediately prior to the making of the Local Government (Boundaries) (2008 Act) (Commencement, Transitional Provision and Savings) Order (Northern Ireland) 2013(40);

“former regulations” means the 2009 Regulations, the 2002 Regulations, the Local Government Pension Scheme Regulations (Northern Ireland) 2000(41), or as the circumstances require, the Local Government (Superannuation) Regulations (Northern Ireland) 1992(42), the Local Government (Superannuation) Regulations (Northern Ireland) 1981(43), the Local Government (Superannuation) Regulations (Northern Ireland) 1962(44) or the Local Government (Superannuation) Regulations (Northern Ireland) 1950(45) and shall be deemed also, in the case of a member who immediately before 1st April 1973 was subject to the Belfast Corporation Superannuation Scheme to include the provisions of that Scheme;

“the fund” means a superannuation fund established under the Local Government (Superannuation) Regulations (Northern Ireland) 1950;

“gainful employment” means paid employment for not less than thirty hours in each week for a period of not less than twelve months;

“guarantor” means a person which is not an inheriting employer and which has agreed in accordance with regulation 71 to accept responsibility for some or all of the liabilities of the Scheme attributable to an original employer;

“index rate adjustment” means the percentage increase that would apply if the balance in the member's pension account were a pension in payment eligible for increase under the 1971 Act;

“inheriting employer” means an employing authority which employs active members at the date at which the original employer withdraws from the Scheme and which has agreed in accordance with Regulation 71 to accept responsibility for some or all of the liabilities of an original employer towards the Scheme;

“inherited liabilities” has the meaning given to it in regulation 70 or 71 as applicable;

(38) 2005 No. 255 (N.I. 1)

(39) 1972 c. 9 (N.I.)

(40) S.R. 2013 No. 238 (C.15)

(41) S.R. 2000 No. 177; as amended by S.R. 2001 No. 61, S.R. 2001 No. 63, S.R. 2001 No. 64, S.R. 2002 No. 115 and S.R. 2002 No. 353

(42) S.R. 1992 No. 547; as amended by other instruments listed in Schedule M3 to the Local Government Pension Scheme Regulations (Northern Ireland) 2000 (S.R. 2000 No. 177)

(43) S.R. 1981 No. 96; as amended by other instruments listed in Schedule 21 to the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 547)

(44) S.R. & O. (N.I.) 1962 No. 210

(45) S.R. & O. (N.I.) 1950 No. 103 (p. 423)

“IRMP” means an independent registered medical practitioner who is registered with the General Medical Council and—

- (a) holds a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA state; and for the purposes of this definition, “competent authority” has the meaning given by section 55(1) of the Medical Act 1983<sup>(46)</sup>; or
- (b) is an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA state;

“joint liability amount” has the meaning given to that expression by section 237B(3) of the 2004 Finance Act;

“liabilities” means, where it occurs in regulations 61 (the fund and the admission agreement fund), 68 (actuarial valuations and certificates), 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) and 71 (apportionment of liabilities), the liabilities attributable to any employing authority or admission body by virtue of its participation in the Scheme whether it employs active members or not and these include not only liabilities which are directly attributable to its current or former employees but also any liabilities for which the employing authority or admission body is otherwise responsible;

“local government employment” means an employment by virtue of which the person employed is or has been a member of the Scheme;

“membership” is to be construed in accordance with Article 121(1) of the 1995 Order;

“new council” means a district council constituted under section 1 (district councils) of the Local Government Act (Northern Ireland) 1972<sup>(47)</sup> as amended by section 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008<sup>(48)</sup>;

“nominated co-habiting partner” has the meaning given by regulation 42;

“normal pension age” means the pensionable age of a person as specified from time to time in Schedule 2 to the 1995 Order, or if higher, 65;

“occupational pension scheme” has the meaning given by section 150(5) of the 2004 Finance Act;

“ordinary adoption leave” means leave under Article 107A of the 1996 Order;

“ordinary maternity leave” means leave under Article 103 of the 1996 Order;

“original employer” means an employing authority in respect of whom an apportionment agreement under regulation 71 has been made so that an inheriting employer or guarantor has assumed to accept responsibility for some or all of the liabilities previously attributable to that employing authority;

“partner” in relation to an active member means a spouse, civil partner or nominated co-habiting partner;

“paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002<sup>(49)</sup>;

“payment period” means a period of employment to which an employee’s wages or salary payments relate;

“pension account” means an account of the description in regulation 24;

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order or under section 29(1)(b) of the 1999 Act;

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<sup>(46)</sup> 1983 c. 54, the definition of “competent authority” was inserted by S.I. 2007/3101

<sup>(47)</sup> 1972 Chapter 9 (N.I.)

<sup>(48)</sup> 2008 c.7 (N.I.)

<sup>(49)</sup> S.R. 2002 No. 377

“pension credit member” has the meaning given by regulation 10(1) (pension credit and survivor members);

“pension debit” means a debit under Article 26(1)(a) of the 1999 Order or under section 29(1)(a) of the 1999 Act;

“pension debit member” means a member, whether an active member, a deferred member or a pensioner member, whose shareable rights under the Scheme are subject to a pension debit;

“pension fund” refers to the fund or, where applicable the admission agreement fund;

“pension sharing order” means an order or provision by virtue of which Article 26 of the 1999 Order or section 29 of the 1999 Act takes effect;

“pensionable age” has the meaning given in section 176 of the 1993 Act;

“pensionable pay” has the meaning given by regulation 22 but if the circumstances specified in regulation 23(2) apply, references in these Regulations to a member’s pensionable pay are references to that member’s assumed pensionable pay;

“pensioner member” has the meaning given by regulation 9(1);

“Pensions Regulator” means the body corporate established under section 1 of the 2004 Pensions Act;

“permanently incapable” means that the member will, more likely than not, be incapable until at the earliest, the member’s normal pension age;

“public service pension scheme” means has the same meaning as in section 150(3) of the 2004 Finance Act;

“qualifying recognised overseas pension scheme” has the same meaning as in section 169(2) of the 2004 Finance Act;

“qualifying service for a period of two years” has the meaning given in regulation 3(5);

“reference banks” means the seven largest persons for the time being who—

- (a) have permission under Part 4 of the Financial Services and Markets Act 2000(50) to accept deposits;
- (b) are incorporated in the United Kingdom and carry on there a regulated activity of accepting deposits; and
- (c) quote a base rate in sterling;

and for the purposes of this definition, the size of the person at any time is to be determined by reference to the gross assets denominated in sterling of that person, together with any subsidiary (as defined in section 1159 of the Companies Act 2006(51), or before the commencement of section 1159, as defined by Article 4 of the Companies (Northern Ireland) Order 1986(52), as shown in the audited end-of-year accounts last published before that time, and this definition shall be read with—

- (i) section 22 of the Financial Services and Markets Act 2000(53);
- (ii) any relevant order under that section; and
- (iii) Schedule 2 to that Act;

“registered pension scheme” has the same meaning as in section 150(2) of the 2004 Finance Act;

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(50) 2000 c. 8  
(51) 2006 c. 46  
(52) S.I. 1986/1032 (N.I. 6)  
(53) 2008 c. 8

“reserve forces service leave” means absence from duty because of being called out or recalled for permanent service in Her Majesty’s armed forces pursuant to a call-out notice served, or a call-out or recall order made, under the Reserve Forces Act 1996<sup>(54)</sup>;

“retirement pension” includes earned pension and additional pension;

“revaluation adjustment” means the consumer prices index of annual inflation published by the Office of National Statistics for the September preceding the end of a Scheme year which is to be applied to the sum in a pension account at the beginning of the next Scheme year;

“the Scheme” means the occupational pension scheme constituted by these Regulations and the Transitional Regulations;

“Scheme employment” means an employment by virtue of which a person is entitled to be a member of the Scheme;

“Scheme manager” has the meaning given by regulation 2(2);

“Scheme pays election” means a member giving the Committee notice of joint and several liability under section 237B of the 2004 Finance Act in respect of the member’s annual allowance charge;

“Scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“service” means service or employment with an employing authority, and service rendered by an employee of an employing authority whose services are placed at the disposal of a Minister of the Crown or a Government department in pursuance of any enactment is to be treated as service with an employing authority;

“shareable rights” has the same meaning as in Article 24(2) (scope of mechanism) of the 1999 Order or under section 27(2) of the 1999 Act;

“shared cost additional voluntary contribution arrangement” means an arrangement established under regulation 19 to which both the employing authority and the active member contribute;

“statutory pay” means any statutory maternity, paternity or adoption pay payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(55)</sup>;

“survivor member” has the meaning given by regulation 10(2);

“survivor pension” means a pension payable under regulations 41, 43, 44, 45, 47, 48, 49, 50, 52, 53, 54 or 55;

“Tier 1 benefits” has the meaning given by regulation 36(4) calculated in accordance with regulation 39;

“Tier 2 benefits” has the meaning given by regulation 36(5) calculated in accordance with regulation 39;

“total membership” means the aggregate of periods of membership which count as such under regulation 3;

“trade dispute” has the meaning given in Article 127 of the Trade Union and Labour Relations (Northern Ireland) Order 1995<sup>(56)</sup>;

“transfer value payment” means a payment made from the Scheme to another registered pension scheme or qualifying recognised overseas pension scheme, or a payment received by the Scheme from a registered pension scheme or from a European Pensions Institution; and

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<sup>(54)</sup> 1996 c. 14

<sup>(55)</sup> 1992 c. 7

<sup>(56)</sup> S.I. 1995/1980 (N.I. 12)

“Transitional Regulations” means the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014<sup>(57)</sup>.

## SCHEDULE 2

Regulations 3 and 5

### ADMISSION AGREEMENTS WITH ADMISSION BODIES

#### PART 1

##### Admission Bodies

1. Subject to the requirements of regulations 3(1)(b) (active membership, employed by an admission body) and 5 (employees of admission bodies) and this Schedule the Committee may make an admission agreement with any admission body.

2. (1) An admission body is—
- (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 an employing authority for the body and the employing authority to be regarded as having a community of interest whether because the operations of the body are dependent on the operations of the employing authority 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 employing authority contributes;
  - (c) a body representative of—
    - (i) local authorities;
    - (ii) local authorities and officers of local authorities;
    - (iii) officers of local authorities where it is formed for the purpose of consultation on the common interests of local authorities and the discussion of matters relating to local government; or
    - (iv) employing authorities;
  - (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<sup>(58)</sup>;
  - (g) the governing body of an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997<sup>(59)</sup>; and
  - (h) a body that is providing or will provide—
    - (i) a service or assets in connection with the exercise of a function of an employing authority as a result of the transfer of the service or assets by means of a contract or other arrangement; or

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<sup>(57)</sup> S.R. 2014 No. 189

<sup>(58)</sup> 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).

<sup>(59)</sup> S.I. 1997/1772 (N.I. 15).

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

(2) In this paragraph—

(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; and

(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

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

3. An approval under paragraph 2(1)(a)(ii) of this Part of this Schedule, or an approval under paragraph 2(1)(h)(ii) of this Part of this Schedule 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. In the case of an admission agreement with an admission body under paragraph 2(1)(h)(i) of this Part of this Schedule, the employing authority, if it is not also the Committee, shall be a party to the admission agreement.

5. Where, at the date that an admission agreement is made with a body mentioned in paragraph 2(1)(b) of this Part of this Schedule, the funding contributions paid to the body by one or more employing authorities equal in total 50% or less of the total amount it receives from all sources, it shall be a term of that admission agreement that the employing authority which provides the funding (or, if more than one, all of them) guarantees the liability of the body to pay all amounts due from it under the Scheme.

6. Where an admission body under paragraph 2(1)(h)(i) of this Part of this Schedule is exercising the functions of an employing authority in connection with more than one contract or other arrangement under that paragraph, the Committee and the admission body shall enter into a separate admission agreement in respect of each contract or arrangement.

7. This paragraph applies where an admission body under paragraph 2(1)(h) of this Part of this Schedule undertakes to meet the relevant requirements of regulation 3(1)(b) (active membership, employed by an admission body) and this Schedule, and—

(a) in the case of a body under paragraph 2(1)(h)(i) of this Part of this Schedule, the employing authority undertakes to meet the requirements of this paragraph; or

(b) in the case of a body under paragraph 2(1)(h)(ii) of this Part of this Schedule, the Department approves the body for admission to the Scheme and the conditions, if any, to which the approval is subject, have been met.

8. Where paragraph 7 of this Part of this Schedule applies—

(a) the Committee shall admit to the Scheme the eligible employees of the admission body specified by the body; and

(b) where it does so, the terms on which it does so are the admission agreement for the purposes of the Scheme.

9. Only those employees of the admission body who are employed in connection with the provision of a service or assets mentioned in paragraph 2(1)(h) of this Part of this Schedule are

eligible to be designated, under regulation 3(1)(b) (active membership, employed by an admission body), members of the Scheme.

## PART 2

### Admission Agreements

1. An admission agreement shall require that—

- (a) in the case of a body under paragraph paragraphs 2(1)(h)(i) of Part 1 of this Schedule, the employing authority; or
- (b) in all other cases, the 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 service or assets by reason of insolvency, winding up, or liquidation of the admission body.

2. Subject to paragraph 3 of this Part of this Schedule, the admission agreement shall further provide that where the level of risk identified by the assessment is such as to require it, an admission body shall enter into an indemnity or bond in an approved form with—

- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000(60) 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 5(d) of Schedule 3 to that Act(61), which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule(62)) 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.

3. Where, for any reason, it is not desirable for an admission body to enter into an indemnity or bond, the admission agreement shall provide that the admission body secures a guarantee, in a form satisfactory to the Committee, from—

- (a) a person, or persons, who funds the admission body in whole or in part;
- (b) in the case of an admission body falling within the description in paragraph 2(1)(h)(i) of Part 1 of this Schedule, the employing authority referred to in that paragraph;
- (c) a person who—
  - (i) owns; or
  - (ii) controls the exercise of the functions of, the admission body; or
- (d) the Department, in the case of an admission body—
  - (i) which is established by or under any enactment, and
  - (ii) where that enactment enables the Department to make financial provision for that admission body.

4. An admission agreement shall include a requirement for the admission body to pay to the Committee all contributions and payments due under these Regulations.

(60) 2000 c. 8.

(61) 2000 c. 8; Paragraph 5(b) of Schedule 3 was amended by S.I. 2006/3221; paragraph 5(d) of that Schedule was amended S.I. 2004/3379.

(62) 2000 c. 8; there are amendments to paragraphs 12 and 15 of Schedule 3 which are not relevant to these Regulations.

5. An admission agreement shall include—
- (a) (i) provision for it to terminate immediately if the admission body ceases to be such a body; and  
(ii) any such other provisions about its termination as the parties consider appropriate;
  - (b) a requirement that the admission body notify the Committee as soon as reasonably practicable of any matter that may affect, or is likely to affect, its participation in the Scheme;
  - (c) a requirement that the admission body notify the Committee immediately of any actual or proposed change in its status which may give rise to a termination, including take-over, reconstruction or amalgamation, insolvency, winding up, receivership or liquidation or a material change to the body's business or constitution; and
  - (d) a right for the Committee to terminate the agreement in the event of—
    - (i) the insolvency, winding up or liquidation of the admission body;
    - (ii) a breach by the admission body of any of its obligations under the admission agreement, or these Regulations, which has not been remedied within a reasonable time; or
    - (iii) a failure by the admission body to pay any sums due to the pension fund within a reasonable period after receipt of a notice from the Committee requiring it to do so.
6. An admission agreement shall include a requirement for the admission body to pay to the Committee all contributions and payments due under these Regulations.
7. An admission agreement shall include an undertaking from the admission body that it will promptly notify the Committee in writing of any material change in the terms and conditions of employment which affect entitlement to benefits under the Scheme for its employees who are members and of any terminations of employment by virtue of redundancy or in the interests of efficiency.
8. An admission agreement shall include a requirement that the admission body notifies the Committee of each occasion on which it exercises a discretion under these Regulations or the Transitional Regulations and the manner in which it exercises that discretion.
9. An admission agreement shall include a requirement that the admission body will not do anything to prejudice the status of the Scheme as a registered scheme.
10. When the Committee makes an admission agreement, it shall promptly inform the Department of—
- (a) the date the agreement takes effect;
  - (b) that admission body's name; and
  - (c) in the case of an agreement with an admission body under paragraph 2(1)(h)(i) of Part 1 of this Schedule, the name of the relevant employing authority.
11. Where an admission body is such a body by virtue of paragraph 2(1)(h) of Part 1 of this Schedule, an admission agreement shall include—
- (a) a requirement that only employees of the body who are employed in connection with the provision of the service or assets referred to in that paragraph may be members of the Scheme;
  - (b) details of the contract or other arrangement by which the body met the requirements of that paragraph;
  - (c) a provision whereby the employing authority referred to in that paragraph may set off against any payments due to the admission body, an amount equal to any overdue

employer and employee contributions and other payments (including interest) due from the admission body under these Regulations;

- (d) a provision requiring the employing authority to keep under assessment the level of risk arising as a result of the matters mentioned in paragraph 1 of this Part of this Schedule;
- (e) a provision requiring copies of notifications due to the Committee under paragraphs 4(b), 4(c) or 10(a) of this Part of this Schedule to be given to the employing authority referred to in paragraph 2(1)(h) of Part 1 of this Schedule; and
- (f) a provision requiring the employing authority referred to in that paragraph to make a copy of the admission agreement available for public inspection at its offices.

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

13. A body designated under the provisions of the Local Government (Superannuation) Act (Northern Ireland) 1950(63) shall be deemed to have an admission agreement under regulation 5 (employees of admission bodies) and this Schedule for so long as that body continues to employ active members of the Scheme.

14. 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 to the Department in writing for determination.

15. In this Schedule “indemnity or bond in an approved form” means an indemnity or bond, payable to the pension fund, to meet a level of risk exposure arising on insolvency, winding up or liquidation of the admission body, actuarially assessed to the satisfaction of the Committee and employing authority in the case of an admission body under paragraph 2(1)(h) of Part 1 of this Schedule.

## SCHEDULE 3

Regulation 60

### THE COMMITTEE: PRELIMINARY PROVISIONS

#### PART 1

##### Constitution of the Committee

1. The Committee appointed by the Minister shall consist of—
  - (a) a chairperson;
  - (b) two members as appears to the Minister to be appropriate;
  - (c) five members appointed after consultation with such organisations as may be recognised by the Minister as representative of employing authorities; and
  - (d) five members appointed after consultation with such organisations as may be recognised by the Minister as representative of employees affected by the Scheme.

2. (1) Subject to the provisions in sub-paragraph (2) and paragraph 5, the term of office of a member of the Committee (“Committee member”) shall be four years from the date of that Committee member’s appointment.

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(63) 1950 c. 10 (N.I.)

(2) The Minister may extend the term of office of a Committee member or the chairperson of the Committee by a maximum period of eighteen months.

3. The quorum of the Committee shall be six, or such other number as the Committee may, with the approval of the Department, determine.

4. The Committee may act notwithstanding any vacancy in its numbers so long as the number of vacancies does not exceed the number of remaining Committee members.

5. A casual vacancy occurring in the membership of the Committee shall be filled by the Minister after consultation with the Committee, and a person so appointed shall hold office for the residue of the term of the Committee member in whose place that person was appointed.

6. A Committee member may resign that Committee member's membership by giving notice in writing, signed by the Committee member, to the Minister.

7. Where any Committee member is absent from the meetings thereof for more than six months consecutively (except for a reason approved by the Minister) or becomes bankrupt or makes a composition with creditors or is convicted of an indictable offence, the Committee shall forthwith by resolution declare the office to be vacant and shall notify that fact in such a manner as it thinks fit, and thereupon the office shall become vacant.

8. A Committee member on vacating office at the expiry of the term thereof shall (subject to the foregoing provisions of this Schedule) be eligible for re-appointment.

9. No defect in the appointment of any person acting as a Committee member shall vitiate any proceedings of the Committee in which that person has taken part.

## PART 2

### Powers of the Committee

1. The Committee, which shall be a body corporate with perpetual succession and a common seal, and with the capacity to acquire and hold land, shall subject to paragraphs 2 to 8 of Part 1 of this Schedule, perform such functions as may be assigned to it by these Regulations and the Transitional Regulations.

2. The Committee may appoint a sub-committee or an officer employed by the Committee to discharge, with or without restrictions or conditions as the Committee thinks fit, any of the functions assigned to the Committee by the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000(64), or these Regulations and the Transitional Regulations.

3. The number of members of a sub-committee appointed under paragraph 2 of this Part of this Schedule and their term of office shall be fixed by the Committee or, in the case of an officer, the officer's term of office shall be fixed by the Committee.

4. A sub-committee appointed under paragraph 2 of this Part of this Schedule shall consist of Committee members and may include officers of the Committee appointed under paragraphs 11 and 12 of this Part of this Schedule.

5. A sub-committee or an officer appointed under paragraph 2 of this Part of this Schedule shall report to the Committee at each of its meetings setting out all actions taken under such appointment.

6. The Committee may revoke any appointment made under paragraph 2 of this Part of this Schedule, or any restriction or condition imposed under paragraph 2 of this Part of this Schedule or anything fixed under paragraph 3 of this Part of this Schedule.

7. Any arrangements made by the Committee for the discharge of its functions specified in the Local Government Pension Scheme (Management and Investment of Funds) Regulations (Northern Ireland) 2000 or these Regulations and the Transitional Regulations, by a sub-committee or officer shall not prevent the Committee from exercising those functions.

8. The seal of the Committee shall be authenticated by the signature—

- (a) of any Committee member; or
- (b) of any other person authorised by the Committee (whether generally or specifically) for that purpose.

9. Every document purporting to be an instrument issued by the Committee and to be sealed with the seal of the Committee authenticated in the manner provided by paragraph 8 of this Part of this Schedule, or to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and, unless the contrary is proved, shall be deemed to be such instrument without further proof.

10. Subject to the provisions of these Regulations and the Transitional Regulations the Committee shall have the power to regulate its own procedures.

11. The Committee may with the approval of the Department appoint persons to hold any of the following offices—

- (a) Secretary to the Committee;
- (b) Deputy Secretary to the Committee; and
- (c) such other offices under the Committee as the Department may designate in writing.

12. In addition to the appointments mentioned in paragraph 11 of this Part of this Schedule, the Committee may appoint such other officers as may be required for the performance of the functions of the Committee.

13. (1) The Committee may make arrangements with any employing authority, admission body, Government department, district council or the Regional Health and Social Care Board, for the exercise of any pension function by the Committee on behalf of any employing authority, admission body, Government department, district council or the Regional Health and Social Care Board on such terms as may be provided for by the arrangements.

(2) For the purposes of this paragraph, “the Regional Health and Social Care Board” means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(65).

14. Section 18(2) of the Interpretation Act (Northern Ireland) 1954(66) shall apply to any appointment made by virtue of paragraph 11 or 12 of this Part of this Schedule as if each of these paragraphs was an enactment referred to in that section but a person shall not be removed from any office mentioned in paragraph 11 of this Part of this Schedule without the written concurrence of the Department.

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(65) 2009 c.1 (N.I.)

(66) 1954 c.33 (N.I.)

## PART 3

### Expense and Allowances Payable by the Committee

1. The expenses of the Committee, including payments in respect of reasonable out-of-pocket expenses incurred by the Committee members in connection with the discharge of their duties as such, shall be defrayed out of the pension fund.

2. The Committee may, with the approval of the Department, in addition to any payment made under paragraph 1 of this Part of this Schedule, pay to the Chairperson of the Committee such allowance as it considers to be reasonable.

3. (1) The Committee may, with the approval of the Department, pay to a Committee member an allowance, in addition to any payments made under paragraph 1 of this Part of this Schedule.

(2) Such allowance shall not exceed the amount as the Department may from time to time determine under section 36 of the Local Government Act (Northern Ireland) 1972<sup>(67)</sup>.

(3) The allowance shall be claimed in respect of an approved duty by a Committee member.

(4) A claim shall be made to the Secretary of the Committee in such form as the Committee may direct and shall include a declaration that the Committee member—

- (a) has not and will not make any claim for allowances from any other body in respect of the approved duty to which the claim refers; and
- (b) the amounts claimed are strictly in accordance with the provisions of this Part.

4. A claim for an allowance shall be submitted to the Committee within one month, or such longer period as the Committee may in exceptional circumstances allow, from the date of the approved duty in respect of which the allowance is claimed.

5. In this Part of this Schedule, “approved duty” means attendance at a meeting of the Committee or of any sub-committee thereof or the doing of anything approved by the Committee for the purpose of, or in connection with, the discharge of the functions of the Committee.

## SCHEDULE 4

Regulation 4

### COUNCILLOR MEMBERS

## PART 1

### Contributions

1. Delete regulation 12 (temporary reduction in contributions).
2. In regulation 19 (additional voluntary contributions)—
  - (a) in paragraph (1), delete “or contribute to shared cost additional voluntary contribution arrangements (“SCAVCs”)”; and
  - (b) where it occurs, delete “or SCAVCs”.
3. Delete regulation 21(1)(d) (exclusion of rights to return of contributions).
4. For regulation 22 (meaning of “pensionable pay”) substitute—

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<sup>(67)</sup> 1972 Chapter 9 (N.I.) as amended by the Financial Provisions (Northern Ireland) Order 1978 (S.I. 1978/1041 (N.I. 11)) and S.R. 1999 No. 449.

“22. (1) A councillor member’s pensionable pay in any year is the total of all basic allowance and special responsibility allowance paid to that councillor member by a district council under the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012(68).

(2) ”Basic allowance” and “special responsibility allowance” have the same meaning as in regulations 4 and 5 respectively of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012.

(3) All references to “pay” in these Regulations in respect of a councillor member and the councillor membership shall be construed in accordance with paragraph (1).”.

5. In regulation 23 (assumed pensionable pay)—
- (a) in paragraph (1), replace “an active” with “a councillor”;
  - (b) in paragraphs (1) and (5), insert “councillor” before “member’s”;
  - (c) in paragraphs (2) to (6), where it occurs, replace “member” with “councillor member”; and
  - (d) in paragraph (5), replace “employer” with “district council”.

## PART 2

### Pension Accounts

1. Regulation 24(5), 24(7), 24(8) and 24(10) (pension accounts), shall only apply to a councillor member in respect of any councillor membership where both the former membership and the membership as an active member referred to in those paragraphs are councillor membership.
2. Delete regulations 24(6), 24(9) (pension accounts).

## PART 3

### Benefits

1. Delete regulations 31(6) to (7) (retirement benefits: flexible retirement and redundancy).
2. Delete regulation 32 (award of additional pension).

## PART 4

### Ill-health Retirement

1. For regulation 36 (early payment of retirement pension on ill-health grounds: active members) substitute—

“36. (1) Where a councillor member who has qualifying service for a period of two years or more ceases to be a member of the councillor member’s district council on the grounds that—

- (a) the councillor member’s ill-health or infirmity of mind or body renders the councillor member permanently incapable of discharging efficiently any gainful employment; and

(b) the councillor member, as a result of ill-health or infirmity of mind or body, has a reduced likelihood of being capable of undertaking any gainful employment, whether in local government or otherwise, before reaching normal pension age, the Committee may, at the request of the employing authority, determine that the councillor member's retirement pension comes into payment before the councillor member's normal pension age in accordance with this regulation.

(2) If a councillor member satisfies the conditions in paragraphs 36(1)(a) and 36(1)(b) then the councillor member shall take early payment of a retirement pension.

(3) The amount of the retirement pension that a councillor member who satisfies the conditions mentioned in paragraphs 36(1)(a) and 36(1)(b) receives is determined by which of the benefit tiers specified in paragraphs 36(4) and 36(5) that councillor member qualifies for, calculated in accordance with regulation 39 (calculation of ill-health pension amounts).

(4) A councillor member is entitled to Tier 1 benefits if that councillor member is unlikely to be capable of undertaking any gainful employment before normal pension age.

(5) A councillor member is entitled to Tier 2 benefits if that councillor member—

(a) is not entitled to Tier 1 benefits; and

(b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.

(6) Before determining whether a councillor who has ceased to be a member of a district council is entitled to a benefit under this regulation, the Committee shall obtain a certificate, in accordance with regulation 38 (role of the IRMP), from an IRMP qualified in occupational health medicine who is appointed by the Committee.”

2. For regulation 37 (early payment of retirement pension on ill-health grounds: deferred members) substitute—

“37. (1) Subject to paragraph (2), if a councillor member who has ceased to be a member of a council before the councillor member is entitled to the immediate payment of retirement benefits (apart from under this regulation) becomes permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body the councillor member may make a written request to the Committee to receive payment of retirement benefits immediately, whatever the councillor member's age, provided the councillor member has total membership of at least two years.

(2) Before determining whether to agree to a request under paragraph (1), the Committee shall obtain a certificate from the IRMP, appointed under regulation 38, as to whether in the IRMP's opinion the councillor member is permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body and, if so, whether the councillor member has a reduced likelihood of being capable of undertaking any gainful employment (whether in local government or otherwise) before reaching normal pension age.”.

3. For regulation 38 (Role of the IRMP) substitute—

“38. (1) A decision as to whether a councillor member who has ceased to be a member of the councillor member's district council is entitled to early payment of retirement pension under regulation 36 (early payment of retirement pension on ill-health grounds: active members), shall be made by the Committee after it has obtained a certificate from an IRMP as to—

- (a) whether or not the councillor member is suffering from a condition that renders the councillor member permanently incapable of discharging efficiently the duties of that office because of ill-health or infirmity of mind or body; and
  - (b) whether as a result of that condition the councillor member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal pension age.
- (2) The IRMP shall further determine whether, as a result of that condition, the councillor member—
- (a) is unlikely to be capable of undertaking any gainful employment before reaching normal pension age; or
  - (b) is likely to become capable of undertaking any gainful employment before reaching normal pension age.
- (3) A certificate from an IRMP, obtained under paragraphs (1) and (2), shall include a statement that—
- (a) that IRMP has not previously advised, or given an opinion on or otherwise been involved in the particular case for which the certificate has been requested; and
  - (b) that IRMP is not acting, and has not at any time acted, as the representative of the councillor member, the employing authority or any other party in relation to the same case.
- (4) The Committee and the IRMP shall have regard to guidance given by the Department when carrying out their function under this regulation, when making an ill-health determination.”

4. For regulation 39 (calculation of ill-health pension amounts) substitute—

- “39. (1) Subject to paragraphs (4) and (5), Tier 1 benefits are calculated by adjusting the councillor member’s active member’s pension account as follows—
- (a) An amount is added to the balance in the account for the year in which the councillor member’s employment was terminated, equivalent to the amount of earned pension the councillor member would have accrued between the day following the date of termination and normal pension age, if that councillor member had been treated as receiving pensionable pay for each year and fraction of a year in that period; and
  - (b) retirement pension is payable to the councillor member as if the councillor member had reached normal pension age on the date the councillor member’s employment was terminated.
- (2) Subject to paragraphs (4) and (5), Tier 2 benefits are calculated by adjusting the councillor member’s active member’s pension account as follows—
- (a) for the year in which the councillor member’s employment was terminated, by adding one quarter of the sum calculated in accordance with paragraph 39(1)(a); and
  - (b) retirement pension is payable to the councillor member as if the councillor member had reached normal pension age on the date the councillor member’s employment was terminated.
- (3) Where a councillor member entitled to Tier 1 benefits subsequently becomes an active member of the Scheme, no addition is to be made under paragraph 39(1)(a) or 39(2)(a) to any Tier 1 or Tier 2 benefits that the councillor member becomes entitled to after that subsequent period of membership.

(4) Where a councillor member entitled to Tier 2 benefits (“the initial ill-health retirement”) subsequently becomes an active member of the Scheme, the addition made under paragraph 39(1)(a) or 39(2)(a) to any Tier 1 or Tier 2 benefits that the councillor member becomes entitled to after that subsequent period of membership is modified in accordance with paragraph (5).

(5) The number of years for which a councillor member to whom paragraph (4) applies is treated as having received pensionable pay for the purposes of paragraph 39(1)(a) or 39(2)(a) shall not exceed—

- (a) the number of years at the date of the initial ill-health retirement up to the councillor member’s normal pension age at that time, less
- (b) a quarter of the number of years calculated in accordance with sub-paragraph (a), less
- (c) the number of years during which the councillor member has been an active member of the Scheme after the initial ill-health retirement.”

## PART 5

### Survivor Benefits

1. For regulation 40(3) substitute—

“(3) the death grant of a councillor member is the councillor member’s assumed pensionable pay multiplied by 3.”.

## PART 6

### Transfers

1. Delete regulations 110 to 114 (bulk transfer (transfers of undertakings, etc.), calculation of amount of transfer value payment, inward transfers of pension rights, effect of acceptance of transfer value payment, and EU scheme transfers).

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## EXPLANATORY NOTE

*(This note is not part of the regulations)*

These regulations (“the Regulations”) introduce a new local government pension scheme (“the Scheme”) which comes into existence on 1st April 2015 and replaces the local government pension scheme constituted by the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (S.I. 2009/32) and the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (S.I. 2008/33) (“the 2009 Scheme”). In contrast to the 2009 Scheme which was a final salary pension scheme in which unreduced benefits were payable to members from the age of 65, the Scheme provides for members to accrue pension on a career average revalued earnings basis and for unreduced benefits to be payable from their state pension age.

Part 1 of the Regulations sets out provisions relating to benefits, membership and contributions.

Regulations 3 to 10 set out the rules for eligibility for membership and the different categories of member.

Regulations 11 to 23 set out the rules for contributions and include provision known as the “50/50” option which enables members to elect to pay half the usual rate of contribution and to accrue benefits at half the usual rate. Regulations 18 and 19 make provision for the purchase of additional benefits. Provision is also made for the payment or crediting of contributions during absences from work and for the calculation of an assumed level of pensionable pay during such absences.

Regulations 24 to 30 provide for the creation and maintenance of pension accounts.

Regulations 31 to 59 provide for the payment of benefits to members and their survivors.

Part 2 of the Regulations sets out provisions relating to the administration of the Scheme.

Regulations 60 to 78 provide for management of the Scheme including the obtaining of actuarial valuations and the calculation of employer contributions.

Regulations 79 to 101 provide for the making and notification of decisions and for challenges to those decisions, and for the supply of relevant information to enable decisions to be taken.

Regulations 102 to 107 set out provisions for forfeiture of benefits.

Regulations 108 to 114 set out provisions relating to transfers between funds.

Schedule 1 contains definitions of phrases used throughout the Regulations.

Schedule 2 sets out who can be employing authorities in the Scheme and makes provision relating to admission agreements between employers who are not listed within the Schedule and administering authorities.

Schedule 3 provides for the constitution of the Committee, the powers of the Committee and the expenses and allowances payable by the Committee.

Schedule 4 sets out the extent to which the Regulations apply to councillors.