

EXPLANATORY MEMORANDUM TO

The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2022

S.R. 2022 No. 163

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”) and is subject to the negative resolution procedure. The Department of Finance has consented to the making of these Regulations.

2. Purpose

- 2.1. These Regulations amend the Local Government Pension Scheme (Northern Ireland) (“LGPS (NI)”) Regulations to cover both the changes required by an Employment Tribunal ruling in relation to survivor benefits, and a number of technical amendments and minor policy updates.
- 2.2. The following Regulations are amended-
 - 2.2.1. The Local Government Pension Scheme Regulations (Northern Ireland) 2014 (S.R. 2014 No. 188) (“the Principal Regulations”);
 - 2.2.2. The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 S.R. 2014 No. 189) (“the Transitional Regulations”);
 - 2.2.3. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (S.R. 2009 No. 32) (“the Benefits Regulations”); and
 - 2.2.4. The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016 No. 128).
- 2.3. These Regulations are made under the powers contained in the Public Service Pensions Act (Northern Ireland) 2014 (“the 2014 Act”). Section 3(3)(b) of that Act provides that scheme regulations may make retrospective provision.
- 2.4. Regulation 2 introduces changes to the Principal Regulations.
- 2.5. Regulation 3 amends regulation 2 (introduction and interpretation) to enable the Department to issue guidance to the administering authority on the administration and management of the Scheme.
- 2.6. Regulation 4 amends regulation 16A (contributions during absences with permission) to clarify when contributions should be made during absences with permission (the 30 day rule).
- 2.7. Regulation 5 removes the 50% limit of pensionable pay on contributions to additional voluntary contributions and it also brings these regulations into

line with section 206 of Finance Act 2004 in relation to defined benefit lump sum death grant by deleting “Where the member has attained the age of 75” from regulation 19(13) (additional voluntary contributions).

- 2.8. Regulation 6 amends regulation 20(5) (rights to return of contributions) to give the Committee the discretion to refund contributions outside of the five year limit.
- 2.9. Regulation 7 amends regulation 28 (retirement pension accounts: deferred members and pension credit members) to clarify the administrative arrangements required where a member ceased to be an active member, became a deferred member and a pensioner member all within the same Scheme year.
- 2.10. Regulations 8, 9 and 23 amend regulations 40(1) (death grants: active members), 51(1) (death grants: pensioner members) in the Principal Regulations and regulation 35(1) (death grants: pensioner members) in the Benefits Regulations, respectively, to remove the age qualification from the criteria for the award of death grants.
- 2.11. Regulation 10 amends regulation 70 (special circumstances where revised actuarial valuations and certificates shall be obtained) to give the Department the power, subject to such conditions as it considers appropriate, to approve the issue of an exit certificate by the Committee on an interim basis.
- 2.12. Regulation 11 amends regulations 85 and 87 to extend the period within which a decision under the internal dispute resolution procedure must be issued from 2 months to 4 months.
- 2.13. Regulation 12 amends regulation 102(2) (forfeiture of pension rights after conviction for employment-related offences) to clarify the definition of a relevant offence.
- 2.14. Regulation 13 amends the definitions of “local government employment”, “public service pension scheme” and “survivor pension” in Schedule 1 (interpretation).
- 2.15. Regulation 14 makes a minor amendment to Part 1 (admission bodies) of Schedule 2 (admission agreements with admission bodies).
- 2.16. Regulation 15 substitutes paragraph 13 in Part 2 (powers of the Committee) of Schedule 3 (the committee: preliminary provisions) to remove the obsolete reference to Regional Health and Social Care Board.
- 2.17. Regulation 16 introduces amendments to Transitional Regulations.
- 2.18. Regulation 17 amends regulation 16 (death grants) to remove the 2 year limit within which a death grant had to be paid in order to be considered an authorised payment where the member’s eligibility for a death grant accrued under the earlier schemes.
- 2.19. Regulation 18 amends regulation 17 (survivor benefits) to bring members’ eligibility to survivor pensions in to line with recent court judgments to ensure that all survivors’ pensions of post retirement marriages and civil partnerships are calculated on the same basis.

- 2.20. Regulation 19 clarifies the definition of “survivor pension” in Schedule 1 (interpretation) to ensure it includes any survivor pension payable under the former Regulations.
- 2.21. Regulation 20 amends paragraph 1(3)(a) in Schedule 3 (the 85 year rule: transitional provisions and savings) to clarify the criteria for eligibility for the 85 year rule.
- 2.22. Regulation 21 introduces amendments to the Benefits Regulations.
- 2.23. Regulation 22 amends regulation 11 to clarify the calculation of fluctuating emoluments.
- 2.24. Regulation 24 revokes an earlier amendment at regulation 29(a) of The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2016.

3. Background

- 3.1. The 2014 Act sets out the framework for public service pensions from 1 April 2015. Section 3(3)(b) of the 2014 Act provides that scheme regulations may make retrospective provision. The retrospective provisions contained in these Regulations do not appear to the Department to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme, or members of previous schemes. Accordingly, the procedures set out in section 23 of the 2014 Act (procedure for retrospective provision) are not applicable in relation to these Regulations.
- 3.2. The Principal Regulations were made under Article 9 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972 (“the 1972 Order”). Section 28 of the 2014 Act provides for regulations made under Article 9 of the 1972 Order in respect of a person’s pensionable service on or after 1 April 2015, to have effect as if they were scheme regulations under the 2014 Act, provided the Regulations could have been made under the powers contained in the 2014 Act. Article 9 of the 1972 Order provides that regulations may include all or any of the provisions (including transitional provisions) referred to in Schedule 3 to that Order.

4. Consultation

- 4.1. As required by section 21 of the 2014 Act, the Department has consulted with such persons or representatives of such persons as appeared to the Department to be appropriate. A total of 13 responses were received. Of the 13 responses, 10 were from employing authorities, 2 from other organisations, and one from the administering authority, all of which were supportive of the proposed changes. The LGPS (NI) Advisory Board considered these Regulations and is content.
- 4.2. Copies of the consultation paper and the Department’s Response can be found at [Home | Department for Communities \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk)

5. Equality Impact

- 5.1. The Department has given consideration to compliance with section 75 of the Northern Ireland Act 1998 and has conducted a screening analysis to identify any significant discriminatory or negative differential impact on any particular section 75 group. The screening analysis was published alongside the consultation. The screening analysis concluded that a full equality impact assessment is not required as no adverse impacts have been identified. The screening analysis concluded that the changes will result in a minor positive impact to LGPS (NI) members in relation to the section 75 categories in respect of age, marital status, sexual orientation, men and women generally and dependents.

6. Regulatory Impact

- 6.1. The Department has conducted a screening analysis for regulatory impact and concluded that a full regulatory impact assessment was not required because no adverse impact on businesses, the voluntary/community sector (including charities) and the social economy sector were identified.

7. Financial Implications

- 7.1. No Executive expenditure required.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department is satisfied that the Regulations comply with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable.

10. Parity or Replicatory Measure

- 10.1. Not applicable.

11. Additional Information

- 11.1. Not applicable.